

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 251

95TH GENERAL ASSEMBLY

1101L.03T

2009

AN ACT

To repeal section 416.440, RSMo, and to enact in lieu thereof one new section relating to the sale of milk.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 416.440, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 416.440, to read as follows:

416.440. 1. No milk processor or distributor shall, with the intent or with the effect of unfairly diverting trade from a competitor, or of otherwise injuring a competitor, or of destroying competition, or of creating a monopoly, give or offer to give any milk product purchaser any rebate, discount, free service or services, advertising allowance, pay for advertising space used jointly, donation, free merchandise, rent on space used by the retailer for storing or displaying the milk processor's or distributor's merchandise, financial aid, free equipment, or any other thing of value[; except the bona fide return by a cooperative association to its members on a patronage basis of the savings realized on products sold and distributed to the members or patrons].

2. Proof of the giving or offer to give anything of value is prima facie evidence of a violation of this section.

3. **Notwithstanding any provision of law to the contrary, the economic benefits and services provided by a cooperative association to its members, including but not limited to the bona fide return on a patronage basis of the savings realized on products sold and distributed to the members or patrons shall not be considered a violation of this section.**

4. No milk product purchaser shall accept from any milk processor or distributor any rebate, discount, free service or services, any advertising allowance, pay for advertising space

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 used jointly, donation, free merchandise, rent on space used by retailer for storing or displaying
18 the milk processor's or distributor's merchandise, financial aid, free equipment, or any other thing
19 of value[; except the bona fide receipt from a cooperative association of a patronage refund based
20 on the patronage of the purchaser with the cooperative association].

21 [4.] 5. Proof of the acceptance of any thing of value by any milk product purchaser is
22 prima facie evidence of the violation of this section.

23 **6. Notwithstanding any provision of law to the contrary, the bona fide receipt by**
24 **a member of a cooperative association of the economic benefits and services provided by**
25 **the cooperative to its members, including but not limited to receipt of a patronage refund**
26 **based on the patronage of the purchaser with the cooperative association shall not be**
27 **considered a violation of this section.**

28 [5.] 7. This section does not prevent a processor or distributor from furnishing
29 point-of-sale advertising material to a retailer without cost for the promotion of the sale of the
30 processor's or distributor's products.

31 [6.] 8. This section does not prevent a discount of two percent or less for payment on or
32 before a certain date.

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