

Approved February 23, 1988
Date

MINUTES OF THE HOUSE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

The meeting was called to order by Representative Clifford Campbell at
Chairperson

9:07 a.m./p.m. on February 17, 1988 in room 423-S of the Capitol.

All members were present except: Representatives Gross and Welles who were excused.

Committee staff present: Raney Gilliland, Legislative Research Department
Norman Furse, Revisor of Statutes Office
Marjorie Brownlee, Committee Secretary

Conferees appearing before the committee: Bob Kearns, Kansas State Fair Board
Robert Theissen, Jackson Ice Cream, Hutchinson
Jim Moore, Associated Milk Producers, Wichita
Larry Woodson, Director, Inspection Division.
Kansas State Board of Agriculture

Hearings on SB 477 were pronounced open.

Bob Kearns, member of the Kansas State Fair Board, spoke in behalf of this bill. He said it was to change a title of a position with the board involving no fiscal note necessity.

Hearings on HB 2852 were thereafter opened by the Chairman.

Robert Theissen, on behalf of the Jackson Ice Cream Company of Hutchinson, was the first presenter. He had been instrumental in introducing the bill and was present to give his reasons for it and support thereof. (Attachments I and II)

Jim Moore, of the Associated Milk Producers, Wichita, spoke briefly and supported the bill.

Larry Woodson, Director, Inspection Division of the Kansas State Board of Agriculture, spoke to the Committee concerning the bill. He stated that if the scope of the bill is limited to enforcement in conjunction with their inspection of dairies within the State and would require no additional manpower and/or funding, they would support the bill. (Attachment III)

After a question and answer period and discussion, the hearing on this bill was closed.

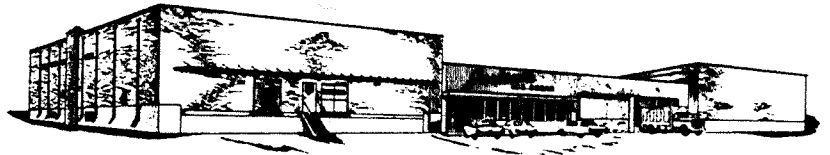
Representative Solbach made a motion to pass SB 477 out of Committee favorably. Representative Eckert seconded the motion. The motion carried.

The meeting was adjourned by the Chairman at 9:51 a.m.

The next meeting of the House Agriculture and Small Business Committee will be on February 18, 1988, at 9:00 a.m. in room 423-S.



2600 East Fourth, P.O. Box, 1386, Hutchinson, KS 67504-1386
AC 316/663-1244



ONE OF THE DILLON COMPANIES

February 18, 1988

Representative Clifford Campbell, Chairman
House Agriculture & Small Business Committee
Kansas House of Representatives
State Capitol
Topeka, Kansas 66600

Dear Sir:

House Bill # 2852 Milk Cases

I am Robert Thiessen, President of Jackson Ice Cream Company, Hutchinson, Kansas.

When I came to Kansas 18 years ago, I was employed by a milk processor currently operating here in Kansas. At that time my employer was "pure" when it came to milk cases, that is, we used only our own. Within three years they were "not pure", using any and all cases. When I inquired as to why, top management replied "we can't afford to continue to spend \$60-80,000 per year for cases while our competition doesn't buy any new ones."

In February, 1974 when I started the milk operation in Hutchinson, we started "pure". We are still pure today. We purchased a quality case for \$4.20 each. We felt we needed a quality case for a quality product. Today we are using a lightweight case costing \$2.40 each.

Jackson Ice Cream is a milk and ice cream processor that sells ice cream throughout the country, however, we have only one milk customer, that being Dillon Stores. We serve them with Dillon and Jackson label milk, juice and water. Since 1974, we have sought to control our case losses by instilling on our stores people the importance and value of these cases. In a vertically integrated company, we can have some impact in this area. I can tell you that even with this working for us, we lost 10,510 cases in the last two years. This becomes a cost that is ultimately passed on to the consumer.

ATTACHMENT I

We asked Rep. Mike O'Neal to introduce this milk case bill. It is patterned after an Oklahoma case law. Our interest in this today is that due to competitive changes in our state, we would like to consider entering the milk business outside of our own stores. One of the factors is the cost of lost cases, a cost that without this bill, will be considerably higher than our current losses.

We feel that this bill would not place an undo hardship on any processor that wouldn't be fair and equitable to all. It simply makes the processor use their own cases.

We urge your support of this bill.

Thank you,

JACKSON ICE CREAM CO., INC.


Robert Thiessen, President

RT/lh

Encl.

cc: Rep. Mike O'Neal

In response to questions raised.

What about how the other dairies feel?

Abigail Highshoe contacted us about the bill and stated she was contacting all processors. Jim Moore, AMPI also contacted Mid-Am and no one opposed this bill.

Can the dairies get together and work this out?

Can we charge the customer for the cases?

With the current emphasis on colusion by the government, we are reluctant to talk to our competitors about things like this. We would all have to charge for cases to make it work.

What will it cost the State?

Larry Woodson stated that "If the scope of HB-2852 is limited to enforcement in conjunction with our inspection of dairies within the state, then we would not request additional manpower nor funds."

Do we expect the State to pursue the individual who has a case or two?

No. The main thrust would be the processors, unless we know of a given individual that is taking cases for other uses in quantities that are sizable.

Can it be just an inspection debit?

No, this would only cause someone to hide or destroy someone elses cases.

What about bad or damaged cases?

We currently accumulate them and send them to be ground up for reuse.

An Act

ENROLLED SENATE
BILL NO. 491

BY: CAPPS and MARTIN of the
SENATE

and

WEICHEL of the HOUSE

Correctly Enrolled: *John R. McClure*, Chairman, COMMITTEE ON ENGROSSED AND ENROLLED BILLS

(Enrolled in accordance with Senate Bill No. 116 of the Twenty-seventh Legislature)

AN ACT RELATING TO AGRICULTURE; AMENDING 2 O.S. 1981, SECTIONS 7-122 AND 7-123, WHICH RELATE TO DAIRY PRODUCT CONTAINERS; INCREASING FINES; ESTABLISHING MINIMUM FINES; INCREASING RECOVERY FEES; MODIFYING PENALTIES FOR FAILURE TO PAY FEES; AND PROVIDING AN EFFECTIVE DATE.

RECEIVED
MAY 11 1981
MARKETING DIVISION

1 ENGROSSED SENATE
2 BILL NO. 491

BY: CAPPS and MARTIN of the
SENATE

and

WEICHEL of the HOUSE

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10 AN ACT RELATING TO AGRICULTURE; AMENDING 2 O.S.
11 1981, SECTIONS 7-122 AND 7-123, WHICH RELATE TO
12 DAIRY PRODUCT CONTAINERS; INCREASING FINES;
13 ESTABLISHING MINIMUM FINES; INCREASING RECOVERY
14 FEES; MODIFYING PENALTIES FOR FAILURE TO PAY FEES;
AND PROVIDING AN EFFECTIVE DATE.

15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. 2 O.S. 1981, Section 7-122, is amended to read as
17 follows:

18 Section 7-122. It shall be unlawful and a misdemeanor for any
19 person or corporation to fill or use in any manner whatsoever any
20 milk case, wire tray, milk, or cream can so marked or distinguished
21 as aforesaid, with or by any name, mark or device of which a
22 description shall have been filed with the State Board of Agriculture
23 as provided in the preceding Section 7-121 of this title, or to
24 deface, erase, obliterate, cover up or otherwise remove or conceal
25 any such name, mark or device thereon, or to sell, buy, give, take or
26 otherwise dispose of, or traffic in the same without the written
27 consent of the owner of such equipment. Any person or corporation,
28 ~~offending-against~~ violating any of the provisions of this section
29 shall be deemed guilty of a misdemeanor and ~~upon~~ Upon conviction
30 ~~thereof-shall-be-punished-for-the,~~ a first offense shall be
31 punishable by imprisonment in the county jail for not less than ten
32 (10) days or ~~not~~ more than one (1) year, or by a fine of ~~fifty-cents~~
33 ~~(\$0.50)~~ Three Dollars (\$3.00) for each and every such cream or milk
34 can, milk case, wire tray, or container ~~so-filled,~~ sold, used,
35 disposed of, given, taken, bought or trafficked in, ~~or-by-beth-such~~
36 ~~imprisonment-or-fine,-and-for-each~~ with a minimum fine of Twenty

Chairman, Committee on Engrossed and Enrolled Bills
Correctly Enrolled:
Correctly Engrossed:

Correctly Engrossed: Chaplain, Committee on Engrossed and Enrolled Bills

1 Dollars (\$20.00). Each subsequent offense, shall be punishable by
2 imprisonment in the county jail for not less than twenty (20) days or
3 more than one (1) year, or by a fine of ~~not less than One Dollar~~
4 ~~(\$1.00) or more than Five Dollars (\$5.00)~~ for each and every cream or
5 milk can, milk case, wire tray or container ~~so-filled,~~ sold, used,
6 disposed of, given, taken, bought or trafficked in, ~~or by both such~~
7 ~~imprisonment and fine~~ with a minimum fine of Fifty Dollars (\$50.00).

8 SECTION 2. 2 O.S. 1981, Section 7-123, is amended to read as
9 follows:

10 Section 7-123. The State Board of Agriculture and its authorized
11 agents shall enforce the provisions of this act, and shall recover
12 milk cases, wire trays, milk or cream cans, or other containers for,
13 and return the same to, the rightful owners who have met the
14 requirements of the this act. For each milk can or cream can, milk
15 case or wire tray recovered through the efforts of the State Board of
16 Agriculture, or any authorized agent thereof, a recovery fee not to
17 exceed ~~fifty cents (\$0.50)~~ Three Dollars (\$3.00) per can, case or
18 wire tray shall be paid by the person ~~who manages the milk processing~~
19 ~~plant and/or distribution center and~~ or corporation on whose property
20 or premise the cans, cases or wire trays were recovered. Such fees
21 shall be paid within thirty (30) days upon billing of said recovered
22 cans, cases or trays to the State Board of Agriculture. ~~Failure to~~
23 ~~pay the fees shall subject the milk plant license to revocation after~~
24 ~~a hearing has been held by the State Board of Agriculture~~ Any person
25 or corporation who fails to pay such fees shall have their license
26 revoked. The person ~~who manages the milk plant and/or distribution~~
27 ~~center where~~ or corporation on whose property or premise the cans,
28 cases or trays were recovered shall pay all transportation costs for
29 their shipment to the rightful owner by common carrier.

30 All monies received by the State Board of Agriculture under the
31 provisions of this act shall be deposited in the State Department of
32 Agriculture Trust Revolving Fund.

33 SECTION 3. This act shall become effective October 1, 1982.

Passed the Senate the 11th day of February, 1982.

ACTING William M. Schuck
President of the Senate

Passed the House of Representatives the 17th day of March,
1982.

Alan R. Sweatt
Speaker of the House of
Representatives

Correctly Engrossed: _____
Correctly Enrolled: _____
Chairman, Committee on Engrossed and Enrolled Bills

Correctly Enrolled: John R. Welton, Chairman, COMMITTEE ON ENGROSSED AND ENROLLED BILLS.
(Enrolled in accordance with Senate Bill No. 116 of the Twenty-seventh Legislature)

Passed the Senate the 11th day of February, 1982, and correctly enrolled the 17th day of March, 1982.

Max Baucus
President of the Senate

Passed the House of Representatives the 17th day of March, 1982.

Mike Murphy
Speaker Pro Tempore of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Governor this 18th
day of March, 19 82,
at 2:30, o'clock P. M.

By: David P. Winstanley

Approved by the Governor of the State of Oklahoma the 23rd day of
March, 19 82, at 11:45 o'clock P. M.

Gary S. Smith
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this 23rd
day of March, 19 82,
at 2:30, o'clock P. M.

By: Jeanette B. Edwards

PRESENTATION TO THE HOUSE COMMITTEE ON
AGRICULTURE AND SMALL BUSINESS

February 17, 1988

By

Larry Woodson, Director

Good morning Mr. Chairman, Members of the House Agriculture and Small Business Committee. My name is Larry Woodson, accompanying me today is Melvin Brose, Dairy Commissioner.

The Agency is here to address our position on HB 2852 regarding the prohibiting of improper or illegal uses of milk cans, cases, or trays without the owners consent.

Nation wide, stolen milk crates represent a multi-million dollar loss each year to the nations milk dealers. Dairies typically have a 100 percent turnover of their crates annually because of theft.

The durable, versatile, lightweight plastic milk crate is the perfect box. The crates are a favorite in college dormitories for holding books and records. They are also used for tables, seats, duck blinds, and many other things. They can be found in garages, boats, pickups, offices, hospitals, campers, basements, and even on tractors and mopeds. Industry probably missed an opportunity to market the cases to the public.

Most milk crate thieves do not have criminal intentions. When supermarkets and convenience stores leave empty crates outside their doors for pick up by milk truck drivers, many people take them thinking they have been thrown out.

We find that attempts to resolve this problem have been made both by the passage of laws and by aggressive education programs by industry.

The states of Wisconsin, New York, North Carolina, South Carolina, Florida, and Pennsylvania have dairy case laws. The state of Pennsylvania first included bread cases and shopping carts along with the milk cases and proposed enforcement through the Pennsylvania Department of Agriculture. Later, due to a concern over funding and manpower, the bill was amended. This law is primarily enforced on college campuses and the enforcement is handled through the criminal justice system.

In the case of Florida, the investigation and prosecution is through the Attorney Generals' office, and the burden of proof is put on the milk plants themselves.

From an aggressive education standpoint, the dairy industry in North Carolina pooled their money and educated the public with TV ads, bumper stickers, college newspaper articles, etc., and reduced their losses by 50%!

It would appear to us that there are two areas of enforcement to consider: One would be the loss to individuals for private use. This would be difficult as we are talking about recovering the cases on private property which would require a complaint or search warrant. This could be very time consuming with only limited recovery for the cost involved.

If we are addressing milk cases which are not sorted at the time of pick up and are backhauled to the wrong dairy, it is a different situation. The dairies used to take care of this on their own 15 years ago. They simply

sorted them and called the case owner up and arranged for pick up or allowed for a representative to recover such. Current transportation and distribution systems now could find the cases several hundred miles from the dairy of origin and could even be out of state.

If the scope of HB-2852 is limited to enforcement in conjunction with our inspection of dairies within the state, then we would not request additional manpower nor funds. Given this limitation in scope and enforcement, the Agency can support this bill.