

NORTH CAROLINA GENERAL ASSEMBLY
1963 SESSION

CHAPTER 797
SENATE BILL 511

1 AN ACT TO AMEND G.S. 106-266.8 AND FOLLOWING SO AS TO RESTRICT THE
2 POWER TO REGULATE MILK LICENSES TO CERTAIN SPECIFIC GROUNDS AND
3 TO OTHERWISE CLARIFY MILK COMMISSION LAW.
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5 The General Assembly of North Carolina do enact:
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7 **Section 1.** G.S. 106-266.8, subsection (11), is hereby amended by striking out the
8 remainder of the sentence following the word "hearing" in line 7 and inserting in lieu thereof
9 the following: "whenever said applicant or licensee shall have violated or failed to comply with
10 the requirements of this Article 28B, or upon any of the following grounds:

11 "(a) Where the distributor has failed to account and make payment for any milk
12 purchased or received on consignment or otherwise from a producer or association of
13 producers, or has, if a subdistributor, failed to account and make payment for any milk
14 purchased or received on consignment or otherwise from a distributor: provided, however, that
15 if it be shown there was reasonable cause for any such failure to account and make payment,
16 and that such accounting and payment can and will be made promptly, the Commission shall
17 not suspend or revoke a license solely for such failure until a reasonable opportunity has been
18 afforded to make such accounting and payment.

19 "(b) Where the applicant or distributor has made a general assignment for the benefit of
20 creditors, or has been adjudged a bankrupt, or there has been entered against him a judgment
21 upon which an execution remains wholly or partly unsatisfied, or where it is shown that the
22 applicant or distributor has insufficient financial responsibility, personnel or equipment
23 properly to conduct the milk business.

24 "(c) Where the applicant or distributor has engaged in a course of action such as to
25 satisfy the Commission of an intent on his part to deceive or defraud customers, producers or
26 consumers.

27 "(d) Where the applicant or distributor has failed to maintain such records as are required
28 by the rules and regulations of the Commission or has failed to furnish the statements or
29 information required by the Commission under this Article 28B or has kept false records or
30 furnished false statements with respect to such information.

31 "(e) Where the applicant or distributor has rejected, without reasonable cause, any milk
32 purchased from a producer, or has refused to accept, without either reasonable cause or
33 reasonable advance notice, milk delivered by or on behalf of a producer in ordinary
34 continuance of a previous course of dealing, except when the contract has been lawfully
35 terminated.

36 "In any case where the Commission shall suspend a license, the Commission may, in its
37 discretion, accept from the licensee an offer in compromise of not less than fifty dollars
38 (\$50.00) and not more than one thousand dollars (\$1,000.00) as a penalty in lieu of such
39 suspension, and thereupon rescind the suspension. All receipts from such penalties shall be paid
40 by the Commission to the State Treasurer for disposition in the same manner as assessments, as
41 provided by G.S. 106-266.12."

42 **Sec. 2.** G.S. 106-266.8, subsection (7), and G.S. 106-266.9 are hereby amended by
43 substituting the words "certified mail" for the words "registered mail" appearing therein.

1 **Sec. 3.** G.S. 106-266.8, subsection (10), is amended by adding the following at the
2 end thereof: "Prices to be paid producers and/or associations of producers by distributors in any
3 market or markets fixed under the authority of this paragraph shall not become effective until
4 the distributors, and producer associations affected thereby are notified in writing by certified
5 or registered mail and until the expiration of thirty (30) days after the mailing of said notices."

6 **Sec. 4.** G.S. 106-266.9 is hereby amended by inserting in line 10, after the words
7 "as established by", and before the words "the Commission," the words: "or filed with".

8 **Sec. 4 1/2.** Further amend G.S. 106-266.9 by deleting the period at the end of the
9 sentence in line 22 and adding the following to that sentence: "and which do not maintain or
10 control directly or indirectly a milk processing plant."

11 **Sec. 5.** All laws and clauses of laws in conflict with this Act are hereby repealed.

12 **Sec. 6.** This Act shall be in full force and effect from and after its ratification.

13 In the General Assembly read three times and ratified, this the 11th day of June,
14 1963.