



1997 SENATE BILL 2

January 15, 1997 - Introduced by Senators CLAUSING, RUDE, DECKER, SHIBILSKI, PLACHE, MOEN, BURKE, SCHULTZ, WINEKE, JAUCH, RISSER, C. POTTER, GROBSCHMIDT and CHVALA, cosponsored by Representatives SPRINGER, ALBERS, HUBLER, MUSSER, REYNOLDS, SKINDRUD, DUEHOLM, BAUMGART, OTTE, PLOUFF, BOCK, HASENOHRL, OURADA, BOYLE, BLACK, VANDER LOOP, R. YOUNG, BALDWIN and LINTON. Referred to Committee on Agriculture and Environmental Resources.

- 1 **AN ACT to create** 100.053 of the statutes; **relating to:** regulation of various
2 trading practices on the National Cheese Exchange.

Analysis by the Legislative Reference Bureau

This bill regulates certain trading practices on the National Cheese Exchange, a cash auction market for cheese that is operated by the National Cheese Exchange, Inc. The bill prohibits persons from engaging in any individual action or participating in any collective plan or action related to the purchase or sale of cheese on or off the National Cheese Exchange, with the intent to manipulate artificially the market price of milk or cheese. The bill also prohibits a practice sometimes referred to as "trading against interest" for the purpose, or with the effect, of affecting milk or cheese prices off the National Cheese Exchange. "Trading against interest" means a systematic pattern or practice of any of the following, either directly or through a broker: 1) selling or offering to sell cheese on the National Cheese Exchange at a price that yields a net sale price that is less than the net sale price that the seller or offeror could have received for that cheese, at the same approximate time, off the exchange; 2) buying or bidding to buy cheese on the National Cheese Exchange at a price that yields a net purchase price that is more than the net purchase price that the purchaser or bidder could have received for that cheese, at the same approximate time, off the exchange; 3) acting primarily as a seller or offeror of bulk cheese on the National Cheese Exchange, while acting primarily as a buyer of bulk cheese off the exchange; and 4) acting primarily as a purchaser of or bidder for bulk cheese on the National Cheese Exchange, while acting primarily as a seller of bulk cheese off the exchange.

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Violations of the trading practices prohibitions created in this bill have the same legal effect as a violation of an order issued by the department of agriculture, trade and consumer protection (DATCP). As a result, violations of the prohibitions are subject to possible court injunctions, civil forfeitures and criminal penalties. In addition, persons suffering a monetary loss because of a violation may also sue the violator directly and may recover double damages, costs and reasonable attorney fees.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 100.053 of the statutes is created to read:

2 **100.053 National Cheese Exchange; trading practices. (1) DEFINITIONS.**

3 In this section:

4 (a) “National Cheese Exchange” means the cash auction market for cheese that
5 is operated by the National Cheese Exchange, Inc.

6 (b) “Net purchase price” means the net price to the purchaser or bidder,
7 including transportation charges and transaction costs that the purchaser incurs or
8 a bidder would incur in connection with a completed purchase.

9 (c) “Net sale price” means the net price to the seller or offeror, excluding
10 transportation charges and transaction costs that the purchaser incurs or a bidder
11 would incur in connection with a completed purchase.

12 **(2) TRADING AGAINST INTEREST.** A person may not engage in a systematic pattern
13 or practice of doing any of the following, directly or through a broker, for the purpose,
14 or with the effect, of affecting milk or cheese prices off the National Cheese Exchange:

15 (a) Sell or offer to sell cheese on the National Cheese Exchange at a price that
16 yields a net sale price that is less than the net sale price that the seller or offeror could

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1 have received for that cheese, at the same approximate time, off the National Cheese
2 Exchange.

3 (b) Buy or bid to buy cheese on the National Cheese Exchange at a price that
4 yields a net purchase price that is more than the net purchase price that the
5 purchaser or bidder could have received for that cheese, at the same approximate
6 time, off the National Cheese Exchange.

7 (c) Act primarily as a seller or offeror of bulk cheese on the National Cheese
8 Exchange, while acting primarily as a buyer of bulk cheese off the National Cheese
9 Exchange.

10 (d) Act primarily as a purchaser of or bidder for bulk cheese on the National
11 Cheese Exchange, while acting primarily as a seller of bulk cheese off the National
12 Cheese Exchange.

13 **(3) MARKET MANIPULATION.** No person may engage in any individual action or
14 participate in any collective plan or action related to the purchase or sale of cheese
15 on or off the National Cheese Exchange with the intent to manipulate artificially the
16 market price of milk or cheese.

17 **(4) EFFECT OF VIOLATION.** A violation of this section is an unfair method of
18 competition and trade practice prohibited under s. 100.20 and has the same legal
19 effect as a violation of an order issued under s. 100.20.

20 **SECTION 2. Effective date.**

21 (1) This act takes effect on the first day of the first month beginning after
22 publication.

23 **(END)**