



HOWARD MARKLEIN

STATE SENATOR • 17TH SENATE DISTRICT

January 9, 2018 Senate Committee on Agriculture, Small Business and Tourism Testimony on Senate Bill (SB) 599

Good morning!

Thank you Chair Moulton and committee members for hearing Senate Bill 599 (SB 599), which updates and modernizes the Agricultural Producer Security Act to reflect current and preferred business practices in the agriculture industry.

Rep. Ripp and I have brought forward SB 599 on behalf of the Department of Agriculture, Trade & Consumer Protection (DATCP) and the Agricultural Producer Security Council, a statutory advisory council to DATCP under Chapter 126 of the Wisconsin state statutes.

There are four main components to this update:

① -Provide an exemption for anyone purchasing less than \$15,000 of processing vegetables. Current law requires anyone purchasing vegetables from growers for processing to obtain a license from DATCP.

② -Allows a milk producer to defer a portion of their milk check up to 120 days, requires a written contract outlining the terms of the payment deferral, and directs DATCP to establish an additional assessment into the Producer Security Trust Fund (PSTF).

-Combine required fund balance thresholds for grain dealers and grain warehouse keepers to make it easier to maintain balances within statutory limits.

-Strengthen DATCP's legal position in reimbursement and bankruptcy proceedings for defaults paid from the PSTF.

This bill received unanimous support from the Agricultural Producer Security Council.

Thank you again for hearing SB 599. I would be happy to answer any questions about the bill.



**Hearing Testimony for
Senate Committee on Agriculture, Small Business & Tourism
January 9, 2018
John T. Umhoefer, Wisconsin Cheese Makers Association
Re: Support for SB 599**

Wisconsin Cheese Makers Association (WCMA) represents a majority of milk contractors – the buyers of fresh farm milk regulated by the Wisconsin’s Agricultural Producer Security Program. These firms, cooperative and privately-held, have particular interest in the new provisions allowing for deferred payment contracts between milk contractors and dairy farmers.

Our WCMA Board of Directors **supports** this addition to the APS program and is **registering in favor** of this bill. Deferred payments for milk are a tool that helps dairy farms manage farm income and profitability, and this legislation now codifies and regulates this industry practice.

Wisconsin Cheese Makers Association wishes Senators to understand that deferred payment is more readily adoptable by cooperatives because of federal regulations that this bill cannot address.

Wisconsin regulates payment for milk, and the federal government, through federal milk marketing orders, also regulates payments to dairy farmers who have milk pooled on the federal order.

Federal Milk Marketing Orders 30 and 32 blanket the state of Wisconsin and set monthly prices for milk in product classes. The Orders then audits dairy plants each month to assure that farms were paid the federally-mandated minimum price and were paid in a timely manner. Federal orders require two milk payments to dairy producers each month. For milk made in December, for example, a first payment is due on December 26th for the first half of the month, and a final check is due on the 17th of January. (W DATCP requires payment for the first half of December milk by Jan. 4; the second half by Jan. 19.)

All federal order regulations apply only to Grade A milk pooled on the order. But that’s most of Wisconsin’s milk. In 2016, 81 percent of milk made in Wisconsin was pooled on federal orders.

The federal order does not specify minimum payments dates or amounts for producers paid by cooperatives, where the farmers are considered owners of the entity.

Privately-owned dairy plants that pool milk on the federal order must adhere to the payment dates noted above. If a dairy producer or producers are paid between 1 and 30 days late, the order penalizes the plant 1% of the dollars owed to the producer(s). If payment is between 30-60 days late, the penalty is 2% of the dollars owed. (An additional percentage point is added every 30 days.) This penalty money is paid to the federal order. Order officials told WCMA that late payment notices and fines are rarely issued, but would apply if a deferred payment contract results in delayed payment.

So, privately-owned cheese plants that pool milk on the federal order face this penalty hurdle if they would seek to use the deferred payment contract proposed in this legislation.

Despite this federal penalty for some milk contractors, WCMA supports the deferred payment contract language in this bill due to the assistance these contracts will provide to dairy farms wishing to manage farm income and profitability. The health of Wisconsin dairy farms is paramount to the success of Wisconsin’s \$46 billion dairy industry.



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January 9, 2018

To: Chairman Senator Terry Moulton and members of the Senate Committee on Agriculture, Small Business and Tourism

From: David Ward, Director of Government Relations and Dairy

Re: Senate Bill 599

Thank you for the opportunity to register support for Senate Bill 599 (SB 599). Cooperative Network supports the legislation in its entirety because it has broad industry support through the Agricultural Producer Security Council. I will focus my comments on the Deferred Milk Contractor Payments.

In late 2015, the Wisconsin Department of Agriculture, Trade and Consumer Protection's (DATCP) Business Trade Practice Bureau was doing an audit on a milk contractor for Wisconsin's Agricultural Producer Security (APS) program and they discovered milk contractors have been deferring payments for milk from one tax year to the next tax year when a producer requests it to be done for income tax purposes.

On February 11, 2016 DATCP sent a memo to all Wisconsin Milk Contractor License Holders informing them that "deferring payments to producers for milk into the next calendar year is not an allowed practice under the APS statutes (Chapter 126 Wis. Stats)."

Chapter 126.48 Wis. Stats Milk contractors; payments to producers, states that a milk contractor shall pay for producer milk as close to the 4th and 19th of each month.

Many milk contractors have contacted us and expressed support for what is in SB 599. SB 599 allows a milk contractor to enter into a contract to pay the producer for that milk up to five months after the contractor receives the milk. Any additional costs or fees must be paid for by the producer who requests the deferred payment.