

HOUSE No. 5526

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, February 24, 1977.

The committee on Natural Resources and Agriculture, to whom was referred the petition (accompanied by bill, House, No. 1467) of Peter Y. Flynn and another for a change in the law relative to deposits on milk cases, report recommending that the accompanying bill (House, No. 5526) ought to pass.

For the committee,

RICHARD J. DWINELL

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Seven.

AN ACT PERTAINING TO DEPOSITS ON MILK CASES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 128 of the General Laws is hereby amended by
2 inserting after section 15 the following sections: —

3 *Section 15A.* The following words as used in section fifteen B
4 through fifteen H, inclusive, unless the context otherwise
5 requires, shall have the following meanings: —

6 “Milk case”, a rigid multi-use container used for packing and
7 transporting or delivering cartons, bottles, jugs or other
8 receptacles for packaging milk and milk products, and which is
9 made of wood, metal, plastic or other rigid materials.

10 “Milk dealer”, any person licensed to purchase, handle or sell
11 milk pursuant to section forty one A of chapter ninety four of the
12 General Laws.

13 “Wholesale customer”, a grocery store, hotel, restaurant, soda
14 fountain, dairy products store, automatic milk vending machine,
15 school, college, hospital, institution, nursing home, federal
16 government installations or the Commonwealth of Massachusetts
17 or any subdivision thereof to which packaged milk is sold or
18 delivered other than at retail to a family unit.

19 *Section 15B.* Any person engaged in the buying, selling or
20 dealing in milk or milk products in packaged form, or in the
21 transportation or storage of said milk or milk products, and who
22 uses cases with his trade name produced in a permanent manner
23 in or upon such cases, may register such cases by filing with the
24 office of the secretary of state, a description of the name so used
25 by him and paying the fee of ten dollars.

26 *Section 15C.* No person shall without the consent of the owner
27 take, detain, use, buy, sell, traffic in or otherwise dispose of any
28 registered milk cases. Possession of any such registered milk cases
29 by a person in the transaction of his business or otherwise shall be
30 prima facie evidence of violation of this section.

31 *Section 15D.* No person shall without the consent of an owner
32 willfully destroy, mutilate or deface any registered milk case
33 bearing such owners name, or willfully erase, mark, cover or
34 change any work or name branded, engraved, blown or
35 otherwise produced in a permanent manner in or upon such milk
36 cases.

37 *Section 15E.* Each milk dealer who sells or delivers milk or
38 milk products in packaged form to wholesale customers shall
39 assess or collect a deposit from each such customer for such milk
40 case as remains on or at the premises of or in the possession of the
41 wholesale customer. The deposit shall be held by the milk dealer
42 so long as the milk case or its replacement remains on or at the
43 premises or in the possession of the wholesale customer and until
44 such time as it is returned to the milk dealer by such customer.
45 The deposit on each milk case shall be not less than one dollar.
46 Notwithstanding the imposition of the deposit provided herein
47 the ownership or title to such milk case shall remain with the milk
48 dealer whose name appears on the case. Refund of the deposit
49 shall be made to the wholesale customer only upon return of the
50 milk case for which a replacement is not being furnished and
51 which is in useful condition, normal wear and tear excepted.

52 *Section 15F.* No milk dealer shall evade, circumvent or
53 otherwise minimize the intent and effect of the deposit on milk
54 cases through a price concession, allowance, discount or rebate or
55 through the furnishing of credit, service, facilities or any other
56 consideration to another milk dealer or wholesale customer to
57 whom he sells or delivers milk and milk products.

58 *Section 15G.* Each milk dealer shall maintain complete and
59 accurate records and accounts on the assessment, collection and
60 refunding of the deposit on milk cases and all such records and
61 accounts shall be made available at all reasonable hours for
62 examination by the commissioner of food and agriculture or his
63 agent.

64 *Section 15H.* Upon complaint of a person who has complied
65 with sections fifteen A through fifteen G, inclusive, or his agent,
66 to a district court that he has reason to believe and does believe
67 that a person has wrongfully in his secreting any of his registered
68 milk cases, said court may issue a search warrant to discover and
69 obtain the same, and may also cause to be brought before him the

70 person or his agent or employee in whose possession such milk
71 cases are found, and shall thereupon inquire into the cir-
72 cumstances of such possession; and, if said court finds that such
73 person has been guilty of a willful violation of any of the
74 provisions of said sections fifteen A through fifteen G, inclusive,
75 he shall impose the penalty prescribed in section fifteen I and
76 shall also order the property taken upon such search warrant to
77 be taken to the owner.

78 *Section 15I.* Violation of any provisions of section fifteen A
79 through fifteen G, inclusive, shall be punishable by the first
80 offense by a fine of not more than ten dollars or by imprisonment
81 for not more than two months on each milk case in respect to
82 which the violation occurred, and for any subsequent violation by
83 a fine of not more than one hundred dollars or by imprisonment
84 for not more than six months.

85 Outside Section: —

86 Section one hundred and forty-four of chapter two hundred
87 and sixty-six of the General Laws is hereby repealed.