

PART 42**DEPOSIT ON MILK CASES**

(Statutory authority: Agriculture and Markets Law, § 255)

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Historical Note

Part (§§ 42.1-42.7) filed Oct. 21, 1974 eff. Nov. 20, 1974.

§ 42.1 General application.

Except as otherwise provided herein, the terms and provisions of this Part shall apply to each milk dealer or other person who handles, sells or distributes milk or milk products in packaged form within the State of New York.

Historical Note

Sec. filed Oct. 21, 1974; amd. filed: March 23, 1976; May 11, 1981 eff. June 29, 1981.

§ 42.2 Definitions.

- (a) *Commissioner* means the Commissioner of Agriculture and Markets of the State of New York.
- (b) *Person* means any individual, firm, partnership, corporation or association.
- (c) *Milk dealer* means any person licensed to purchase, handle or sell milk pursuant to article 21 of the Agriculture and Markets Law.
- (d) *Wholesale customer* means a grocery store, hotel, restaurant, soda fountain, dairy products store, automatic milk vending machine, school, college, hospital, institution, nursing home, government installation or similar establishment to which packaged milk is sold or delivered other than at retail to a family unit.
- (e) *Milk case* means a rigid multi-use container used for packing and transporting or delivering cartons, bottles, jugs or other receptacles for packaging milk and milk products, and which is made of wood, metal, plastic or other rigid materials.

Historical Note

Sec. filed Oct. 21, 1974; amd. filed March 23, 1976 eff. April 21, 1976.

§ 42.3 Identification of milk cases.

For purposes of this Part, each milk case used for the sale or delivery of milk and milk products to wholesale customers in the State of New York shall have the name or other business identification of the person who is the owner clearly printed, embossed, inscribed or otherwise permanently marked on each such milk case.

Historical Note

Sec. filed Oct. 21, 1974; amd. filed March 23, 1976 eff. April 21, 1976.

§ 42.4 Deposit.

The deposit on each milk case which is used to transport or deliver milk and milk products to wholesale customers in the State of New York or is furnished to another milk dealer or other person for sale or delivery, and which upon delivery remains on or at the premises or in the

possession of the person who purchases or receives the milk or milk products for use or resale, shall be not less than \$2, except that for the counties of Bronx, Kings, Manhattan, Nassau, Queens, Richmond, Suffolk and Westchester, the deposit shall be not less than 50 cents.

Historical Note

Sec. filed Oct. 21, 1974; amds. filed: March 23, 1976; May 11, 1981; March 15, 1982; July 6, 1983; Dec. 30, 1983; Feb. 19, 1985 eff. Feb. 19, 1985.

§ 42.5 Application of the deposit on milk cases.

Every milk dealer or other person is responsible for assessing or collecting the deposit provided for in section 42.4 of this Part in the following manner:

(a) Every milk dealer who sells, delivers or furnishes milk or milk products in packaged form to another milk dealer or other person for sale or delivery in the State of New York in a milk case which is owned by the supplying dealer shall assess or collect a deposit from the milk dealer or other person upon transfer or delivery of the milk case to such person. The deposit shall be held by the supplying dealer until the milk case is returned to him by the milk dealer or other person.

(b) Every milk dealer or other person who sells or delivers milk and milk products in packaged form to wholesale customers in the State of New York shall assess or collect a deposit from each such customer for each milk case which is furnished and remains on or at the premises or in the possession of the wholesale customer; provided, however, that a deposit is not required when a milk case is furnished to a wholly owned or subsidiary store of the milk dealer or other person. The deposit shall be held by the milk dealer or other person as long as the milk case remains on or at the premises or in the possession of the wholesale customer and until it is returned to the milk dealer or other person by such customer.

(c) Refund of the deposit assessed or collected from a milk dealer, other person or wholesale customer shall be made to such person only upon return of the milk case for which a replacement is not being furnished and which is in useful condition allowing for normal wear and breakage.

Historical Note

Sec. filed Oct. 21, 1974; amds. filed: March 23, 1976; May 11, 1981; March 15, 1982 eff. March 15, 1982.

§ 42.6 Violations.

It shall be a violation of this Part for any milk dealer or other person to evade, circumvent or otherwise minimize the intent and effect of the deposit on milk cases through a price concession, allowance, discount or rebate or through the furnishing of credit, service, facilities or any other consideration to another milk dealer, other person or wholesale customer to whom he sells or delivers milk and milk products.

Historical Note

Sec. filed Oct. 21, 1974; amd. filed May 11, 1981 eff. June 29, 1981.

§ 42.7 Records and availability.

Every milk dealer or other person shall maintain complete and accurate records and accounts on the assessment, collection and refunding of the deposit on milk cases, and all such records and accounts shall be made available at all reasonable hours for examination by the commissioner and any employee designated by him for such purpose.

§ 42.8

Historical Note

Sec. filed Oct. 21, 1974; amd. filed May 11, 1981 eff. June 29, 1981.

Historical Note

Sec. filed Dec. 29, 1981; repealed, filed March 15, 1982 eff. March 15, 1982.