



STATE OF NEW YORK
DEPARTMENT OF AGRICULTURE AND MARKETS
10B AIRLINE DRIVE
ALBANY, NEW YORK 12235

DIVISION OF MILK CONTROL AND DAIRY SERVICES
518-457-5731

BACKGROUND INFORMATION

October 2008

Milk Price Gouging Law, Section 396-rr of GBL

The milk price gouging law applies to the retail sale of fluid milk in consumer packages. The law was enacted in June 1991 at the same time as the legislation that permitted the Commissioner to implement an Interim Milk Pricing Order. At that time farm prices had fallen considerably while retail prices, particularly in the Metropolitan New York area, had fallen only a small amount.

Traditionally as a means of administering and enforcing the law, the Department calculated and announced an enforcement measure known as the "threshold price". It was established for two broad regions of the state for a quart, half gallon, and gallon container. The threshold price generally changed monthly, moving up or down two cents per gallon for every one cent gallon change in the farm price. The threshold price was not a maximum price and was geared to supermarkets.

Effective November 2008, the Department will discontinue announcing the monthly threshold price and will focus on the store's gross margin to determine compliance with the Milk Price Gouging Law. In considering whether a retail price appears unconscionably excessive, the Department uses a retail margin standard of \$0.58 per gallon, \$0.37 per half gallon, and \$0.26 per quart. Retail margin standard equals total in-store handling costs plus net profit (before taxes). If a retail price has a gross margin (retail price minus net invoice price) that does not exceed the retail margin standard, the price is considered justified. If the gross margin is greater than the retail margin standard, then unit cost documentation is required to justify the price, unless it is terminated. Justification must be in light of the net invoice price paid for the milk item and the actual cost per unit to handle and sell it. If the justification is not accepted by the Commissioner, the case is required by statute to be referred to the Attorney General.

If you have any questions, please call 518-457-5731.