



**SENATE SUBSTITUTE AMENDMENT 1,  
TO 1997 SENATE BILL 2**

January 28, 1997 - Offered by COMMITTEE ON AGRICULTURE AND ENVIRONMENTAL  
RESOURCES.

1     **AN ACT to create** 100.053 and 100.26 (9) of the statutes; **relating to:** regulation  
2           of various trading practices on the National Cheese Exchange, providing an  
3           exemption from emergency rule procedures, granting rule-making authority  
4           and providing a penalty.

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

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

6           **100.053 National Cheese Exchange; trading practices. (1) DEFINITIONS.**

7           In this section:

8           (a) "National Cheese Exchange" means the cash auction market for cheese that  
9           is operated by the National Cheese Exchange, Inc.

10          (b) "Net purchase price" means the net price to the purchaser or bidder,  
11          including transportation charges and transaction costs that the purchaser incurs or  
12          a bidder would incur in connection with a completed purchase.

1 (c) "Net sale price" means the net price to the seller or offeror, excluding  
2 transportation charges and transaction costs that the purchaser incurs or a bidder  
3 would incur in connection with a completed purchase.

4 **(2) DEPARTMENT DUTIES.** (a) The department shall monitor all trading activity  
5 conducted on the National Cheese Exchange.

6 (b) The department shall promulgate rules defining specific conduct that  
7 constitutes manipulation of the market price for milk or cheese under sub. (4).

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

11 (a) Sell or offer to sell cheese on the National Cheese Exchange at a price that  
12 yields a net sale price that is less than the net sale price that the seller or offeror could  
13 have received for that cheese, at the same approximate time, off the National Cheese  
14 Exchange.

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

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

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

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

5           **(5) TRADING REPORTS.** (a) Every person who purchases or sells cheese on the  
6 National Cheese Exchange, directly or indirectly through a broker, in a calendar  
7 quarter shall submit a report under this subsection. The report shall be submitted  
8 to the department no later than the 15th day after the end of the calendar quarter.

9           (b) The report shall be made on a form prescribed by the department and shall  
10 contain all of the following:

11           1. A listing of all transactions that the person engaged in on the National  
12 Cheese Exchange during that calendar quarter, including, for each transaction, the  
13 date of the transaction, whether the person bought or sold cheese, the quantity of  
14 cheese bought or sold and the price at which the cheese was bought or sold.

15           2. A listing of all transactions that the person engaged in off of the National  
16 Cheese Exchange during that calendar quarter, including, for each transaction, the  
17 date of the transaction, whether the person bought or sold cheese, the quantity of  
18 cheese bought or sold and the price at which the cheese was bought or sold.

19           3. Any other information required to be included in the report under a rule  
20 promulgated by the department.

21           (c) Information contained in reports submitted under this subsection may be  
22 used or disclosed by the department only in connection with proceedings or actions  
23 under this section or s. 100.20, 100.24, 100.26 or 100.263.

24           **(6) ENFORCEMENT.** (a) The department may, after notice and hearing, issue  
25 special orders that do any of the following:

1           1. Enjoin a person found to have violated this section, or a rule promulgated  
2 under this section, from engaging in trading on the National Cheese Exchange for  
3 a definite or indefinite period of time.

4           2. Require the National Cheese Exchange, Inc., to refuse trading privileges, for  
5 a definite or indefinite period of time, to any person found to have violated this  
6 section or a rule promulgated under this section.

7           (b) The department may proceed under s. 100.20 (6) to enforce any order issued  
8 under par. (a).

9           **(7) EFFECT OF VIOLATION.** A violation of this section, or a rule promulgated under  
10 this section, is an unfair method of competition and trade practice prohibited under  
11 s. 100.20 and has the same legal effect as a violation of an order issued under s.  
12 100.20, except that s. 100.20 (5) does not apply to a violation of this section or a rule  
13 promulgated under this section.

14           **SECTION 2.** 100.26 (9) of the statutes is created to read:

15           100.26 **(9)** (a) Any person who violates s. 100.053, or rules promulgated under  
16 that section, may be required to forfeit not less than \$1,000 nor more than \$10,000  
17 for each violation.

18           (b) The department of justice may (b) commence an action in the name of the state  
19 to recover a forfeiture under par. (a), regardless of whether a special order has been  
20 issued under sub. s. 100.053 (6).

21           **SECTION 3. Nonstatutory provisions.**

22           (1) **RULE MAKING.**

23           (a) The department of agriculture, trade and consumer protection shall submit  
24 proposed rules required under section 100.053 (2) (b) of the statutes, as created by

1 this act, to the legislative council staff for review under section 227.15 (1) of the  
2 statutes no later than October 1, 1997.

3 (b) The department of agriculture, trade and consumer protection shall  
4 promulgate rules required under section 100.053 (2) (b) of the statutes, as created  
5 by this act, using the procedure under section 227.24 of the statutes, within 60 days  
6 after the effective date of this paragraph. Notwithstanding section 227.24 (1) (a) and  
7 (2) (b) of the statutes, the department of agriculture, trade and consumer protection  
8 need not provide evidence of the necessity of preservation of the public peace, health,  
9 safety or welfare in promulgating rules under this paragraph.

10 (c) If the department of agriculture, trade and consumer protection does not  
11 promulgate rules as required under paragraph (b) within the time period required  
12 under that paragraph, the department of agriculture, trade and consumer protection  
13 shall, on or before the time established under paragraph (b), request a meeting with  
14 the standing committees of the senate and assembly having jurisdiction over  
15 agricultural matters for the purpose of explaining why the rules have not been  
16 promulgated within the required time.

17 **SECTION 4. Effective date.**

18 (1) This act takes effect on the first day of the first month beginning after  
19 publication or on July 1, 1997, whichever is later.

20 (END)