
By: Senators Craig and Hafer

Introduced and read first time: January 29, 1997

Assigned to: Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 Task Force on Maryland's Dairy Industry - Recommendations - Milk Pricing

3 FOR the purpose of implementing certain recommendations of the Task Force on
4 Maryland's Dairy Industry; establishing an Advisory Committee on Milk Pricing;
5 specifying the membership and the terms of members; requiring the Department of
6 Agriculture to provide staff support to the Committee; requiring the Secretary of
7 Agriculture to consult with the Committee on certain matters; authorizing the
8 Secretary to establish by regulation certain fluid milk marketing areas, certain
9 presumed costs to certain distributors and retail sellers, and certain producer prices
10 for certain milk; requiring the Secretary to adopt regulations establishing a formula
11 for determining the presumed cost; requiring the Secretary to establish by
12 regulation a certain accounting system for certain distributors for certain purposes;
13 requiring certain distributors to adopt a certain accounting system for certain
14 purposes; requiring distributors of fluid milk to be licensed by the Secretary;
15 authorizing the Secretary to renew, revoke, or suspend a license under certain
16 circumstances; requiring the Secretary of Agriculture and the Secretary of the
17 Department of Health and Mental Hygiene to coordinate certain matters related to
18 the license and a certain permit under certain circumstances; requiring the
19 Secretary of Agriculture to audit certain records of milk distributors; prohibiting
20 certain persons from buying or selling certain milk for prices below certain
21 presumed costs except under certain circumstances; prohibiting certain persons
22 from buying or selling certain milk below a certain producer price; authorizing the
23 Secretary to seek an injunction for certain purposes; authorizing the Secretary to
24 impose certain civil penalties; providing for judicial review of certain decisions made
25 by the Secretary under certain circumstances; authorizing the Secretary to authorize
26 certain agencies from other states to examine certain books and records in the
27 possession of the Secretary under certain circumstances; establishing a Maryland
28 Milk Fund; providing for the collection and disposition of certain funds; providing
29 for the termination of this Act; providing that existing obligations or contract rights
30 may not be impaired by this Act; defining certain terms; and generally relating to
31 the implementation of recommendations of the Task Force on Maryland's Dairy
32 Industry.

33 BY adding to

34 Article - Agriculture

35 Section 2-801 through 2-810, inclusive, to be under the new subtitle "Subtitle 8."

2

1 State Milk Pricing Policy"
2 Annotated Code of Maryland
3 (1985 Replacement Volume and 1996 Supplement)

4 BY adding to

5 Article - Health - General
6 Section 21-415(c) and 21-418(e)
7 Annotated Code of Maryland
8 (1996 Replacement Volume and 1996 Supplement)

9 Preamble

10 WHEREAS, Milk is and has been a major product and source of economic strength
11 and pride for the State of Maryland; and

12 WHEREAS, Milk is a nutritious dietary staple and component of thousands of food
13 products Marylanders enjoy; and

14 WHEREAS, Milk is essential to the health and development of Maryland's
15 children; and

16 WHEREAS, Milk is the primary input for a \$1 billion-plus State dairy industry; and

17 WHEREAS, Milk manufacturing plants employ over 1,900 people throughout the
18 State; and

19 WHEREAS, The maintenance of successful dairy farms is consistent with the
20 State's emphasis on controlled growth and agricultural land preservation; and

21 WHEREAS, The neighboring states of Virginia and Pennsylvania have highly
22 regulated milk industries, with minimum guaranteed prices paid to producers and
23 distributors that provide a competitive advantage for producers in those states both
24 within the region as a whole and in the State of Maryland; and

25 WHEREAS, Strong evidence suggests that this competitive advantage has had a
26 direct negative effect on Maryland-based milk producers and distributors and their
27 employees; now, therefore,

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
29 MARYLAND, That the Laws of Maryland read as follows:

30 **Article - Agriculture**

31 **SUBTITLE 8. STATE MILK PRICING POLICY.**

32 2-801.

33 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
34 INDICATED.

1 (B) "BOOK AND RECORD" INCLUDES ACCOUNTS, CONTRACTS, MEMORANDA,
2 DOCUMENTS, PAPERS, CORRESPONDENCE, OR ANY OTHER DATA RELATING TO THE
3 FLUID MILK BUSINESS ACTIVITIES OF A PERSON SUBJECT TO THIS SUBTITLE.

4 (C) "CONSUMER" MEANS AN INDIVIDUAL WHO PURCHASES FLUID MILK FOR
5 HOUSEHOLD, PERSONAL, OR FAMILY PURPOSES.

6 (D) (1) "DISTRIBUTOR" MEANS ANY OF THE FOLLOWING PERSONS AS
7 DETERMINED BY THE SECRETARY:

8 (I) A PERSON WHO PASTEURIZES OR PACKAGES MILK OR
9 PROCESSES MILK INTO FLUID MILK;

10 (II) A PERSON WHO SELLS OR MARKETS PROCESSED FLUID MILK
11 AT WHOLESALE; OR

12 (III) A PERSON WHO PURCHASES, MARKETS, OR HANDLES
13 PROCESSED MILK FOR WHOLESALE RESALE AS FLUID MILK IN THE STATE.

14 (2) "DISTRIBUTOR" DOES NOT INCLUDE A RETAIL SELLER.

15 (E) (1) "FLUID MILK" MEANS A MILK PRODUCT IN FLUID OR FROZEN FORM
16 CONTAINING LESS THAN 9% BUTTERFAT.

17 (2) "FLUID MILK" INCLUDES:

18 (I) MILK, SKIM MILK, LOWFAT MILK, MILK DRINKS, BUTTERMILK,
19 AND FILLED MILK; AND

20 (II) ANY PRODUCTS THAT ARE FLAVORED, CULTURED, MODIFIED
21 WITH NONFAT MILK SOLIDS, STERILIZED, CONCENTRATED TO NOT MORE THAN 50%
22 TOTAL MILK SOLIDS, OR RECONSTITUTED.

23 (F) "LICENSEE" MEANS A FLUID MILK DISTRIBUTOR LICENSED BY THE
24 SECRETARY.

25 (G) "MARKET" MEANS AN AREA DESIGNATED BY THE SECRETARY AS A
26 MARKETING AREA.

27 (H) "PERSON" MEANS AN INDIVIDUAL, FIRM, CORPORATION, ASSOCIATION,
28 COOPERATIVE, OR OTHER LEGAL ENTITY.

29 (I) "PRESUMED COST" MEANS THE COST TO A DISTRIBUTOR OR RETAIL
30 SELLER, AS DETERMINED BY THE SECRETARY, IN THE PRODUCTION, PROCESSING,
31 DISTRIBUTION, AND HANDLING OF FLUID MILK.

32 (J) "PRODUCER" MEANS A PERSON WHO PRODUCES OR SELLS GRADE A RAW
33 MILK APPROVED BY A DULY CONSTITUTED REGULATORY AGENCY FOR FLUID
34 CONSUMPTION AS GRADE A MILK.

35 (K) "RETAIL SELLER" MEANS A GROCERY STORE, DAIRY PRODUCTS STORE,
36 OR A SIMILAR MERCANTILE ESTABLISHMENT WHICH SELLS FLUID MILK TO
37 CONSUMERS FOR CONSUMPTION OFF-PREMISES.

4

1 (L) "SANITARY REGULATIONS" INCLUDES ALL SANITARY LAWS,
2 ORDINANCES, AND REGULATIONS RELATING TO THE PRODUCTION, HANDLING,
3 TRANSPORTATION, DISTRIBUTION, AND SALE OF FLUID MILK.

4 2-802.

5 (A) (1) THE GOVERNOR SHALL APPOINT AN ADVISORY COMMITTEE ON
6 MILK PRICING.

7 (2) THE ADVISORY COMMITTEE SHALL CONSIST OF SEVEN MEMBERS
8 INCLUDING:

9 (I) FOUR CONSUMERS WHO DO NOT HAVE A FINANCIAL INTEREST
10 IN THE DISTRIBUTION, PRODUCTION, OR RETAIL SALE OF FLUID MILK OR MILK
11 PRODUCTS;

12 (II) ONE PRODUCER;

13 (III) ONE DISTRIBUTOR WHO IS NOT ALSO A PRODUCER; AND

14 (IV) ONE RETAIL SELLER.

15 (B) (1) THE TERM OF A MEMBER IS 4 YEARS.

16 (2) A MEMBER MAY NOT SERVE MORE THAN 2 CONSECUTIVE TERMS.

17 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
18 SUCCESSOR IS APPOINTED AND QUALIFIES.

19 (C) (1) THE MEMBERS SHALL ANNUALLY ELECT A CHAIRPERSON FROM
20 AMONG THE MEMBERS OF THE COMMITTEE.

21 (2) THE COMMITTEE SHALL MEET AT THE TIME AND PLACE THAT THE
22 CHAIRPERSON DETERMINES.

23 (D) A MEMBER OF THE COMMITTEE:

24 (1) MAY NOT RECEIVE COMPENSATION; BUT

25 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
26 STANDARD STATE TRAVEL REGULATIONS AS PROVIDED IN THE STATE BUDGET.

27 (E) THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT FOR THE
28 COMMITTEE.

29 2-803.

30 (A) IN CONSULTATION WITH THE ADVISORY COMMITTEE ON MILK PRICING
31 AND AS PROVIDED IN THIS SECTION, THE SECRETARY SHALL DEFINE OR ADJUST
32 MARKETS, DETERMINE THE PRESUMED COST OF FLUID MILK, AND DETERMINE THE
33 PRICE TO BE RECEIVED BY PRODUCERS FOR MILK PURCHASED FOR THE
34 MANUFACTURE OF FLUID MILK.

35 (B) (1) THE SECRETARY SHALL DEFINE OR ADJUST BY REGULATION ONE
36 OR MORE FLUID MILK MARKETS.

5

1 (2) IN DEFINING OR ADJUSTING A FLUID MILK MARKET, THE
2 SECRETARY SHALL CONSIDER:

3 (I) PREVAILING GRADE A AND FLUID MILK PRICES IN THE
4 SURROUNDING AREA AS DETERMINED BY THE FEDERAL MILK MARKETING
5 ORDERS; AND

6 (II) OTHER FACTORS THE SECRETARY CONSIDERS RELEVANT.

7 (C) (1) THE SECRETARY SHALL DETERMINE THE PRESUMED COST OF
8 FLUID MILK IN A MARKET BELOW WHICH:

9 (I) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A
10 DISTRIBUTOR MAY NOT SELL FLUID MILK; AND

11 (II) A RETAIL SELLER MAY NOT SELL FLUID MILK.

12 (2) (I) IN DETERMINING THE PRESUMED COST IN A MARKET FOR ANY
13 QUANTITY OF FLUID MILK, THE SECRETARY SHALL BE GUIDED BY ALL PERTINENT
14 ECONOMIC FACTORS RELEVANT TO PRODUCTION, PROCESSING, AND DISTRIBUTION
15 OF FLUID MILK AS AFFECTING THE PUBLIC INTEREST IN MAINTAINING AN
16 ADEQUATE SUPPLY OF FLUID MILK IN THE STATE, INCLUDING:

17 1. COMPLIANCE WITH ALL SANITARY REGULATIONS IN
18 FORCE IN THE MARKET;

19 2. NECESSARY OPERATION, PROCESSING, STORAGE, AND
20 DELIVERY CHARGES;

21 3. PREVAILING MILK PRICES IN THE REGION; AND

22 4. FOR DETERMINING THE PRESUMED COSTS TO RETAIL
23 SELLERS ONLY, IN-STORE HANDLING COSTS.

24 (II) IN ADDITION TO THE FACTORS LISTED IN SUBPARAGRAPH (I)
25 OF THIS PARAGRAPH, THE SECRETARY MAY CONSIDER OTHER FACTORS IN
26 DETERMINING THE PRESUMED COST, INCLUDING THE WELFARE OF THE GENERAL
27 PUBLIC.

28 (3) THE SECRETARY SHALL:

29 (I) ADOPT OR AMEND BY REGULATION A FORMULA
30 INCORPORATING THE ECONOMIC FACTORS DESCRIBED IN PARAGRAPH (2) OF THIS
31 SUBSECTION WHICH WILL ADJUST AUTOMATICALLY THE PRESUMED COSTS IN A
32 MARKET; AND

33 (II) PROVIDE AT REGULAR INTERVALS FOR THE AUTOMATIC
34 ADJUSTMENT OF THE PRESUMED COSTS ACCORDING TO THE RESULT OBTAINED
35 UNDER THE FORMULA ADOPTED UNDER THIS PARAGRAPH.

36 (4) THE SECRETARY IS NOT REQUIRED TO PROVIDE BY REGULATION
37 FOR AN AUTOMATIC ADJUSTMENT OF PRESUMED COSTS UNDER PARAGRAPH (3)(II)
38 OF THIS SUBSECTION.

6

1 (D) (1) THE SECRETARY SHALL ESTABLISH BY REGULATION PRODUCER
2 PRICES IN A MARKET TO BE PAID BY A PERSON PURCHASING MILK FROM A
3 PRODUCER FOR THE MANUFACTURE OF FLUID MILK.

4 (2) IN SETTING A PRODUCER PRICE IN A MARKET, THE SECRETARY
5 SHALL CONSIDER:

6 (I) PREVAILING GRADE A AND FLUID MILK PRICES IN THE
7 SURROUNDING AREA AS DETERMINED BY THE FEDERAL MILK MARKETING
8 ORDERS;

9 (II) THE PRICES OF GRADE A AND FLUID MILK IN NEIGHBORING
10 STATES THAT AFFECT MARKETS IN THE STATE; AND

11 (III) OTHER FACTORS THE SECRETARY CONSIDERS RELEVANT.

12 (E) (1) (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION,
13 A DISTRIBUTOR MAY SELL FLUID MILK AT A PRICE BELOW THE PRESUMED COST
14 ONLY IF THE DISTRIBUTOR DEMONSTRATES TO THE SECRETARY THAT ITS COSTS
15 ARE LOWER THAN THE PRESUMED COST DETERMINED UNDER THIS SECTION.

16 (II) THE DISTRIBUTOR SHALL NOTIFY THE SECRETARY OF THE
17 MARKET IN WHICH IT INTENDS TO SELL FLUID MILK AT A PRICE THAT IS LESS THAN
18 THE PRESUMED COST.

19 (2) IF A DISTRIBUTOR IS AUTHORIZED BY THE SECRETARY TO SELL
20 FLUID MILK AT A PRICE THAT IS LESS THAN THE PRESUMED COST IN A MARKET
21 DESIGNATED BY THE DISTRIBUTOR UNDER PARAGRAPH (1)(II) OF THIS
22 SUBSECTION, OTHER DISTRIBUTORS MAY ALSO SELL FLUID MILK AT THE SAME
23 PRICE AND IN THE SAME MARKETS WITHOUT FULFILLING THE REQUIREMENT OF
24 PARAGRAPH (1)(I) OF THIS SUBSECTION.

25 (3) FOR THE PURPOSE OF ENSURING COMPLIANCE WITH THIS
26 SUBSECTION, THE SECRETARY SHALL ADOPT BY REGULATION:

27 (I) THE PROCEDURES BY WHICH A DISTRIBUTOR MAY:

28 1. DEMONSTRATE TO THE SECRETARY THAT ITS COSTS ARE
29 LOWER THAN THE PRESUMED COST DETERMINED UNDER THIS SECTION;

30 2. INFORM THE SECRETARY OF THE MARKETS IN WHICH IT
31 INTENDS TO SELL FLUID MILK BELOW THE PRESUMED COST; AND

32 3. INFORM THE SECRETARY OF ITS INTENT TO SELL FLUID
33 MILK BELOW THE PRESUMED COST AS PROVIDED IN PARAGRAPH (2) OF THIS
34 SUBSECTION; AND

35 (II) FACTORS THE SECRETARY SHALL CONSIDER IN DECIDING
36 WHETHER TO AUTHORIZE A DISTRIBUTOR TO SELL MILK BELOW THE PRESUMED
37 COST.

7

1 2-804.

2 (A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A
3 PERSON MAY NOT DISTRIBUTE, MARKET, OR PROCESS MILK IN ANY MARKET AREA
4 DEFINED BY THE SECRETARY UNLESS THE PERSON IS LICENSED BY THE
5 SECRETARY.

6 (2) SCHOOLS, RETAIL SELLERS, INSTITUTIONS, AND MILK PRODUCERS
7 ARE NOT REQUIRED TO BE LICENSED BY THE SECRETARY.

8 (B) SUBJECT TO SUBSECTION (C) OF THIS SECTION, AN APPLICANT FOR A
9 LICENSE REQUIRED UNDER THIS SECTION SHALL:

10 (1) SUBMIT AN APPLICATION TO THE SECRETARY ON THE FORM THAT
11 THE SECRETARY REQUIRES; AND

12 (2) PAY TO THE SECRETARY A \$100 LICENSING FEE.

13 (C) (1) TO THE EXTENT POSSIBLE, FOR ANY PERSON REQUIRED TO OBTAIN
14 A LICENSE UNDER THIS SUBTITLE AND A PERMIT UNDER TITLE 21, SUBTITLE 4 OF
15 THE HEALTH - GENERAL ARTICLE, THE SECRETARY AND THE SECRETARY OF
16 HEALTH AND MENTAL HYGIENE SHALL COORDINATE ALL MATTERS RELATED TO
17 THE ISSUANCE AND RENEWAL OF THE LICENSE AND PERMIT IN ORDER TO
18 MINIMIZE THE EXPENSE AND PAPERWORK FOR THE PERSON.

19 (2) THE SECRETARY MAY NOT DENY, SUSPEND, OR REVOKE A LICENSE
20 ISSUED UNDER THIS SUBTITLE BECAUSE OF A VIOLATION OF TITLE 21, SUBTITLE 4
21 OF THE HEALTH - GENERAL ARTICLE.

22 (D) FOR ANY PERSON TO WHOM SUBSECTION (C)(1) OF THIS SECTION DOES
23 NOT APPLY, A LICENSE EXPIRES ON JUNE 30 OF EACH YEAR, UNLESS THE LICENSE IS
24 RENEWED FOR AN ADDITIONAL TERM AS PROVIDED IN SUBSECTION (E) OF THIS
25 SECTION.

26 (E) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, BEFORE THE
27 LICENSE EXPIRES, THE LICENSEE MAY PERIODICALLY RENEW THE LICENSE FOR AN
28 ADDITIONAL TERM, IF THE LICENSEE:

29 (1) IS OTHERWISE ENTITLED TO BE LICENSED;

30 (2) PAYS TO THE SECRETARY THE \$100 RENEWAL FEE; AND

31 (3) SUBMITS TO THE SECRETARY A RENEWAL APPLICATION ON THE
32 FORM THAT THE SECRETARY REQUIRES.

33 (F) EACH LICENSEE SHALL PROVIDE THE SECRETARY WITH REPORTS
34 CONTAINING ANY INFORMATION THE SECRETARY REQUIRES FOR PURPOSES OF
35 ENSURING COMPLIANCE WITH THIS SUBTITLE.

36 (G) (1) THE SECRETARY MAY DENY, SUSPEND, OR REVOKE ANY LICENSE
37 AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD FOR:

38 (I) A VIOLATION OF A PROVISION OF THIS SUBTITLE; OR

8

1 (II) A VIOLATION OF A REGULATION OF THE SECRETARY.

2 (2) DENIAL, SUSPENSION, OR REVOCATION OF A LICENSE MAY BE
3 IMPOSED IN ADDITION TO OR IN LIEU OF A CIVIL PENALTY IMPOSED UNDER §
4 2-808(B) OF THIS SUBTITLE.

5 2-805.

6 (A) THE SECRETARY SHALL ADOPT BY REGULATION A SYSTEM OF
7 ACCOUNTING USING GENERALLY ACCEPTED ACCOUNTING PRACTICES FOR THE
8 PURPOSE OF ENSURING COMPLIANCE WITH THIS SUBTITLE.

9 (B) FOR ANY ACTIVITY REGULATED UNDER THIS SUBTITLE, EACH
10 DISTRIBUTOR OF FLUID MILK SHALL ADOPT AND USE THE ACCOUNTING SYSTEM
11 ADOPTED BY THE SECRETARY.

12 (C) THE BOOKS AND RECORDS OF EACH DISTRIBUTOR, AFTER REASONABLE
13 NOTICE, SHALL BE OPEN TO INSPECTION BY THE SECRETARY OR THE SECRETARY'S
14 AGENT DURING REGULAR BUSINESS HOURS.

15 (D) THE SECRETARY SHALL AUDIT THE BOOKS AND THE RECORDS OF EACH
16 DISTRIBUTOR AT REASONABLE INTERVALS AS DETERMINED BY THE SECRETARY.

17 2-806.

18 (A) EXCEPT AS PROVIDED IN § 2-803(E) OF THIS SUBTITLE A PERSON MAY NOT
19 BUY OR SELL FLUID MILK AT A PRICE THAT IS BELOW THE PRESUMED COST.

20 (B) A PERSON MAY NOT BUY OR SELL MILK PRODUCED BY A PRODUCER FOR
21 MANUFACTURE INTO FLUID MILK AT A PRICE THAT IS BELOW THE PRODUCER COST
22 ESTABLISHED UNDER § 2-803(D) OF THIS SUBTITLE.

23 (C) A VIOLATION OF THE PROVISIONS OF SUBSECTION (A) OR (B) OF THIS
24 SECTION, INCLUDES THE FOLLOWING:

25 (1) THE OFFER OR ACCEPTANCE OF A DISCOUNT, DEDUCTION,
26 PREMIUM, REBATE, FREE SERVICE, TRADING STAMPS, ADVERTISING ALLOWANCE,
27 EXTENSION OF CREDIT, OTHER INCENTIVES, OR COMBINATION OF THE SALE OF
28 MILK WITH ANOTHER COMMODITY OR SERVICE, IN ANY COMBINATION WHICH
29 EFFECTIVELY LOWERS THE PRICE OF THE MILK SOLD BELOW THE APPLICABLE
30 PRESUMED COST OR PRODUCER PRICE; AND

31 (2) THE OFFER OR ACCEPTANCE OF MILK USING FALSE OR ERRONEOUS
32 WEIGHT, BUTTERFAT, OR APPROPRIATE MILK COMPONENT TESTS FOR THE
33 PURPOSE OF LOWERING THE PRICE OF THE MILK SOLD BELOW THE APPLICABLE
34 PRESUMED COST OR PRODUCER PRICE.

35 2-807.

36 (A) (1) THERE IS A MARYLAND MILK FUND.

37 (2) THE FUND IS A SPECIAL CONTINUING, NONLAPSING FUND THAT IS
38 NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

9

1 (3) THE TREASURER SHALL SEPARATELY HOLD, AND THE
2 COMPTROLLER SHALL ACCOUNT FOR, THE FUND.

3 (4) THE FUND SHALL BE INVESTED AND REINVESTED IN THE SAME
4 MANNER AS OTHER STATE FUNDS.

5 (5) ANY INVESTMENT EARNINGS SHALL BE RETAINED TO THE CREDIT
6 OF THE FUND.

7 (6) THE FUND SHALL BE USED ONLY TO PROVIDE FUNDING FOR
8 PURPOSES AUTHORIZED UNDER THIS SUBTITLE.

9 (B) THE SECRETARY SHALL DEVELOP A PROCEDURE FOR COLLECTING
10 MONTHLY ASSESSMENTS FROM PRODUCERS AND DISTRIBUTORS.

11 (C) (1) THE MONTHLY ASSESSMENT SHALL BE PAID AT THE TIME THE
12 DISTRIBUTOR PAYS THE PRODUCER FOR THE FLUID MILK.

13 (2) THE ASSESSMENT FROM THE PRODUCERS AND DISTRIBUTORS:

14 (I) MAY NOT EXCEED 4 CENTS PER 100 POUNDS OF FLUID MILK
15 FROM EACH; AND

16 (II) SHALL BE COLLECTED FROM EACH IN EQUAL AMOUNTS.

17 (D) THE ASSESSMENTS COLLECTED UNDER THIS SECTION SHALL BE PAID
18 INTO THE FUND AND SHALL BE USED ONLY FOR THE PURPOSES AUTHORIZED
19 UNDER THIS SUBTITLE.

20 2-808.

21 (A) (1) THE SECRETARY MAY BRING AN ACTION FOR AN INJUNCTION
22 AGAINST A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE.

23 (2) IN ACTION FOR AN INJUNCTION UNDER THIS SECTION, ANY FINDING
24 OF THE SECRETARY AFTER A HEARING IS EVIDENCE OF EACH FACT THE
25 SECRETARY DETERMINES.

26 (3) ON A SHOWING THAT A PERSON IS VIOLATING ANY PROVISION OF
27 THIS SUBTITLE, A COURT SHALL GRANT AN INJUNCTION WITHOUT REQUIRING A
28 SHOWING OF A LACK OF AN ADEQUATE REMEDY AT LAW.

29 (4) AN INJUNCTION GRANTED UNDER THIS SECTION SHALL BE LIMITED
30 TO ORDERS NECESSARY TO ENSURE COMPLIANCE WITH THIS SUBTITLE.

31 (B) (1) THE SECRETARY MAY IMPOSE A CIVIL PENALTY OF NOT MORE
32 THAN \$5,000 FOR A VIOLATION OF THIS SUBTITLE.

33 (2) PENALTIES COLLECTED BY THE SECRETARY UNDER THIS SECTION
34 SHALL BE PAID INTO THE GENERAL FUND OF THE STATE.

10

1 2-809.

2 (A) A PERSON AGGRIEVED BY A FINAL DECISION OF THE SECRETARY UNDER
3 THIS SUBTITLE MAY SEEK JUDICIAL REVIEW OF AN ORDER OF THE SECRETARY BY
4 WHICH THE SECRETARY:

5 (1) REFUSES TO ISSUE OR REISSUE A LICENSE;

6 (2) SUSPENDS OR REVOKES A LICENSE;

7 (3) IMPOSES A CIVIL PENALTY UNDER § 2-808(B) OF THIS SUBTITLE; OR

8 (4) AUTHORIZES OR REFUSES TO AUTHORIZE A DISTRIBUTOR TO SELL
9 MILK BELOW THE PRESUMED COST AS PROVIDED IN § 2-803(E) OF THIS SUBTITLE.

10 (B) THE APPEAL SHALL BE MADE AS PROVIDED FOR JUDICIAL REVIEW OF A
11 FINAL DECISION IN TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

12 2-810.

13 (A) THE SECRETARY MAY:

14 (1) ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS
15 SUBTITLE;

16 (2) COOPERATE WITH OTHER STATES TO PREVENT DISRUPTIVE MILK
17 MARKETING PRACTICES;

18 (3) INVESTIGATE ALL MATTERS PERTAINING TO ENFORCEMENT OF
19 THIS SUBTITLE; AND

20 (4) REQUIRE PRODUCTION OF BOOKS, PAPERS, RECORDS, AND OTHER
21 DOCUMENTARY EVIDENCE, AND EXAMINE THE DOCUMENTS IN RELATION TO ANY
22 MATTER WHICH THE SECRETARY MAY INVESTIGATE OR HEAR.

23 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE
24 BOOKS AND RECORDS OF ANY PERSON EXAMINED BY THE SECRETARY MAY NOT BE
25 RELEASED TO ANY PERSON, EXCEPT THE PERSON WHO SUBMITTED THE BOOK AND
26 RECORD TO THE SECRETARY.

27 (2) THE SECRETARY MAY RELEASE THE BOOKS AND RECORDS OF ANY
28 PERSON EXAMINED BY THE SECRETARY TO AN AGENCY OF ANOTHER STATE, IF:

29 (I) THE STATE AGENCY HAS THE STATUTORY AUTHORITY TO
30 AUDIT OR EXAMINE THE BOOKS AND RECORDS OF A MILK DISTRIBUTOR;

31 (II) THE STATE AGENCY HAS THE AUTHORITY TO PROTECT THE
32 CONFIDENTIALITY OF THE BOOKS AND RECORDS RELEASED BY THE SECRETARY;

33 (III) THE STATE'S LAW HAS A RECIPROCAL PROVISION FOR
34 ALLOWING THE SECRETARY TO EXAMINE BOOKS AND RECORDS OF MILK
35 PRODUCERS IN THAT STATE; AND

36 (IV) THE RELEASE OF THE BOOKS AND RECORDS IS IN THE BEST
37 INTEREST OF THE STATE.

11

1 **Article - Health - General**

2 21-415.

3 (C) TO THE EXTENT POSSIBLE, FOR ANY PERSON REQUIRED TO OBTAIN A
4 PERMIT UNDER THIS SUBTITLE AND A LICENSE UNDER TITLE 2, SUBTITLE 8 OF THE
5 AGRICULTURE ARTICLE, THE SECRETARY AND THE SECRETARY OF AGRICULTURE
6 SHALL COORDINATE ALL MATTERS RELATED TO THE ISSUANCE AND RENEWAL OF
7 THE PERMIT AND LICENSE IN ORDER TO MINIMIZE THE EXPENSE AND PAPERWORK
8 FOR THE PERSON.

9 21-418.

10 (E) THE SECRETARY MAY NOT DENY, SUSPEND, OR REVOKE A PERMIT
11 ISSUED UNDER THIS SUBTITLE BECAUSE OF A VIOLATION OF TITLE 2, SUBTITLE 8 OF
12 THE AGRICULTURE ARTICLE.

13 SECTION 2. AND BE IT FURTHER ENACTED, That the terms of the initial
14 members of the Advisory Committee on Milk Pricing shall expire as follows:

15 (1) two members in 1999;

16 (2) two members in 2000; and

17 (3) three members in 2001.

18 SECTION 3. AND BE IT FURTHER ENACTED, That a presently existing
19 obligation or contract right may not be impaired in any way by this Act.

20 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 1997 and shall remain in effect until the 90th day after the Secretary of
22 Agriculture certifies in a letter to the Director of the Department of Legislative
23 Reference that, to the satisfaction of the Secretary, either the Commonwealth of
24 Pennsylvania or the Commonwealth of Virginia has repealed the portion of its law that
25 provides for the establishment of milk prices by a state commission or board or any other
26 entity authorized by law to establish milk prices within the commonwealth. After
27 receiving the letter from the Secretary, the Director of Legislative Reference shall take
28 the appropriate steps to inform the members of the General Assembly of the abrogation
29 of this Act and shall direct the publisher of the Annotated Code of Maryland to make any
30 changes in the Annotated Code of Maryland necessary to effectuate the termination
31 provision of this section.