
By: Senators Craig and Hafer, Hafer, and Young

Introduced and read first time: January 29, 1997

Assigned to: Economic and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 13, 1997

CHAPTER ____

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

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1 for the termination of this Act; providing that existing obligations or contract rights
2 may not be impaired by this Act; defining certain terms; providing for the
3 termination of the Advisory Committee on Milk Pricing and all regulations adopted
4 under this Act subject to certain evaluation and reestablishment provisions; and
5 generally relating to the implementation of recommendations of the Task Force on
6 Maryland's Dairy Industry.

7 BY adding to

8 Article - Agriculture
9 Section 2-801 through ~~2-810~~ 2-811, inclusive, to be under the new subtitle "Subtitle
10 8. State Milk Pricing Policy"
11 Annotated Code of Maryland
12 (1985 Replacement Volume and 1996 Supplement)

13 BY adding to

14 Article - Health - General
15 Section 21-415(c) and 21-418(e)
16 Annotated Code of Maryland
17 (1996 Replacement Volume and 1996 Supplement)

18 BY adding to

19 Article - State Government
20 Section 8-403(p)
21 Annotated Code of Maryland
22 (1995 Replacement Volume and 1996 Supplement)

23 Preamble

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

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

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

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

31 WHEREAS, Milk manufacturing plants employ over 1,900 people throughout the
32 State; and

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

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

3

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

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

6 **Article - Agriculture**

7 SUBTITLE 8. STATE MILK PRICING POLICY.

8 2-801.

9 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
10 INDICATED.

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

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

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

18 (I) A PERSON WHO PASTEURIZES OR PACKAGES MILK OR
19 PROCESSES MILK INTO FLUID MILK;

20 (II) A PERSON WHO SELLS OR MARKETS PROCESSED FLUID MILK
21 AT WHOLESALE; OR

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

24 (2) "DISTRIBUTOR" DOES NOT INCLUDE:

25 (I) A PUBLIC OR PRIVATE PRESCHOOL, ELEMENTARY SCHOOL, OR
26 SECONDARY SCHOOL; OR

27 (II) A RETAIL SELLER.

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

30 (2) "FLUID MILK" INCLUDES:

31 (I) MILK, SKIM MILK, LOWFAT MILK, MILK DRINKS, BUTTERMILK,
32 AND FILLED MILK; AND

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

36 (3) "FLUID MILK" DOES NOT INCLUDE:

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1 (I) ICE CREAM, ICE MILK, OR OTHER FROZEN DAIRY DESSERTS:

2 (II) COTTAGE CHEESE, YOGURT, SOUR CREAM, OR BUTTERMILK
3 MIX; OR

4 (III) MILK CONTAINED IN HERMETICALLY SEALED CONTAINERS.

5 (F) "LICENSEE" MEANS A FLUID MILK DISTRIBUTOR LICENSED BY THE
6 SECRETARY.

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

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

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

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

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

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

23 2-802.

24 (A) (1) THE GOVERNOR SHALL APPOINT AN ADVISORY COMMITTEE ON
25 MILK PRICING.

26 (2) THE ADVISORY COMMITTEE SHALL CONSIST OF SEVEN MEMBERS
27 INCLUDING:

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

31 (II) ONE PRODUCER;

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

33 (IV) ONE RETAIL SELLER.

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

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

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

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

5 (2) THE COMMITTEE SHALL MEET AT THE TIME AND PLACE THAT THE
6 CHAIRPERSON DETERMINES.

7 (D) A MEMBER OF THE COMMITTEE:

8 (1) MAY NOT RECEIVE COMPENSATION; BUT

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

11 (E) THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT FOR THE
12 COMMITTEE.

13 2-803.

14 (A) IN CONSULTATION WITH THE ADVISORY COMMITTEE ON MILK PRICING
15 AND AS PROVIDED IN THIS SECTION, THE SECRETARY SHALL DEFINE OR ADJUST
16 MARKETS, DETERMINE THE PRESUMED COST OF FLUID MILK, AND DETERMINE THE
17 PRICE TO BE RECEIVED BY PRODUCERS FOR MILK PURCHASED FOR THE
18 MANUFACTURE OF FLUID MILK.

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

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

23 (I) PREVAILING GRADE A AND FLUID MILK PRICES IN THE
24 SURROUNDING AREA AS DETERMINED BY THE FEDERAL MILK MARKETING
25 ORDERS; AND

26 (II) OTHER FACTORS THE SECRETARY CONSIDERS RELEVANT.

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

29 ~~(H) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A~~
30 ~~DISTRIBUTOR MAY NOT SELL FLUID MILK; AND~~

31 ~~(H) A RETAIL SELLER MAY NOT SELL FLUID MILK.~~

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

37 1. COMPLIANCE WITH ALL SANITARY REGULATIONS IN
38 FORCE IN THE MARKET;

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

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

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

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

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

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

17 (II) FACTORS THE SECRETARY SHALL CONSIDER IN DECIDING
18 WHETHER TO AUTHORIZE A DISTRIBUTOR TO SELL MILK BELOW THE PRESUMED
19 COST.

20 2-804.

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

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

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

29 (1) SUBMIT AN APPLICATION TO THE SECRETARY ON THE FORM THAT
30 THE SECRETARY REQUIRES; AND

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

32 (C) (1) TO THE EXTENT POSSIBLE, FOR ANY PERSON REQUIRED TO OBTAIN
33 A LICENSE UNDER THIS SUBTITLE AND A PERMIT UNDER TITLE 21, SUBTITLE 4 OF
34 THE HEALTH - GENERAL ARTICLE, THE SECRETARY AND THE SECRETARY OF
35 HEALTH AND MENTAL HYGIENE SHALL COORDINATE ALL MATTERS RELATED TO
36 THE ISSUANCE AND RENEWAL OF THE LICENSE AND PERMIT IN ORDER TO
37 MINIMIZE THE EXPENSE AND PAPERWORK FOR THE PERSON.

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

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

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

8 (1) IS OTHERWISE ENTITLED TO BE LICENSED;

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

10 (3) SUBMITS TO THE SECRETARY A RENEWAL APPLICATION ON THE
11 FORM THAT THE SECRETARY REQUIRES.

12 (F) EACH LICENSEE SHALL PROVIDE THE SECRETARY WITH REPORTS
13 CONTAINING ANY INFORMATION THE SECRETARY REQUIRES FOR PURPOSES OF
14 ENSURING COMPLIANCE WITH THIS SUBTITLE.

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

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

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

19 (2) DENIAL, SUSPENSION, OR REVOCATION OF A LICENSE MAY BE
20 IMPOSED IN ADDITION TO OR IN LIEU OF A CIVIL PENALTY IMPOSED UNDER §
21 2-808(B) OF THIS SUBTITLE.

22 2-805.

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

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

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

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

34 2-806.

35 (A) EXCEPT AS PROVIDED IN § 2-803(E) OF THIS SUBTITLE ~~A PERSON~~ :

36 (1) A DISTRIBUTOR MAY NOT ~~BUY OR~~ SELL FLUID MILK AT A PRICE
37 THAT IS BELOW THE PRESUMED COST; AND

1 (2) A PERSON MAY NOT BUY FLUID MILK FROM A DISTRIBUTOR AT A
2 PRICE BELOW THE DISTRIBUTOR'S PRESUMED COST.

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

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

8 (1) THE OFFER OR ACCEPTANCE OF A DISCOUNT, DEDUCTION,
9 PREMIUM, REBATE, FREE SERVICE, TRADING STAMPS, ADVERTISING ALLOWANCE,
10 EXTENSION OF CREDIT, OTHER INCENTIVES, OR COMBINATION OF THE SALE OF
11 MILK WITH ANOTHER COMMODITY OR SERVICE, IN ANY COMBINATION WHICH
12 EFFECTIVELY LOWERS THE PRICE OF THE MILK SOLD BELOW THE APPLICABLE
13 PRESUMED COST OR PRODUCER PRICE; AND

14 (2) THE OFFER OR ACCEPTANCE OF MILK USING FALSE OR ERRONEOUS
15 WEIGHT, BUTTERFAT, OR APPROPRIATE MILK COMPONENT TESTS FOR THE
16 PURPOSE OF LOWERING THE PRICE OF THE MILK SOLD BELOW THE APPLICABLE
17 PRESUMED COST OR PRODUCER PRICE.

18 2-807.

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

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

22 (3) THE TREASURER SHALL SEPARATELY HOLD, AND THE
23 COMPTROLLER SHALL ACCOUNT FOR, THE FUND.

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

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

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

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

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

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

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

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

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1 (D) THE ASSESSMENTS COLLECTED UNDER THIS SECTION SHALL BE PAID
2 INTO THE FUND AND SHALL BE USED ONLY FOR THE PURPOSES AUTHORIZED
3 UNDER THIS SUBTITLE.

4 2-808.

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

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

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

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

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

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

19 2-809.

20 (A) A PERSON AGGRIEVED BY A FINAL DECISION OF THE SECRETARY UNDER
21 THIS SUBTITLE MAY SEEK JUDICIAL REVIEW OF AN ORDER OF THE SECRETARY BY
22 WHICH THE SECRETARY:

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

24 (2) SUSPENDS OR REVOKES A LICENSE;

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

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

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

30 2-810.

31 (A) THE SECRETARY MAY:

32 (1) ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS
33 SUBTITLE;

34 (2) COOPERATE WITH OTHER STATES TO PREVENT DISRUPTIVE MILK
35 MARKETING PRACTICES;

36 (3) INVESTIGATE ALL MATTERS PERTAINING TO ENFORCEMENT OF
37 THIS SUBTITLE; AND

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

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

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

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

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

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

17 (IV) THE RELEASE OF THE BOOKS AND RECORDS IS IN THE BEST
18 INTEREST OF THE STATE.

19 2-811.

20 SUBJECT TO THE EVALUATION AND REESTABLISHMENT PROVISIONS OF THE
21 PROGRAM EVALUATION ACT, THIS SUBTITLE AND ALL REGULATIONS ADOPTED
22 UNDER THIS SUBTITLE SHALL TERMINATE AND BE OF NO EFFECT AFTER OCTOBER
23 1, 2000.

24 **Article - Health - General**

25 21-415.

26 (C) TO THE EXTENT POSSIBLE, FOR ANY PERSON REQUIRED TO OBTAIN A
27 PERMIT UNDER THIS SUBTITLE AND A LICENSE UNDER TITLE 2, SUBTITLE 8 OF THE
28 AGRICULTURE ARTICLE, THE SECRETARY AND THE SECRETARY OF AGRICULTURE
29 SHALL COORDINATE ALL MATTERS RELATED TO THE ISSUANCE AND RENEWAL OF
30 THE PERMIT AND LICENSE IN ORDER TO MINIMIZE THE EXPENSE AND PAPERWORK
31 FOR THE PERSON.

32 21-418.

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

36 **Article - State Government**

37 8-403.

38 (P) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (E) OF THIS SECTION,
39 ON OR BEFORE JULY 1, 1999, AN EVALUATION SHALL BE MADE OF THE ADVISORY

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1 COMMITTEE ON MILK PRICING AND THE REGULATIONS THAT RELATE TO THE
2 ADVISORY COMMITTEE ON MILK PRICING.

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

5 (1) two members in 1999;

6 (2) two members in 2000; and

7 (3) three members in 2001.

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

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