

[Passed Both Houses]

SENATE, No. 2335

STATE OF NEW JERSEY

INTRODUCED DECEMBER 1, 1997

By Senators LITTELL, SINGER, Bark, Inverso, Schluter,
Caffero, Kyrillos, LaRossa, Zane, Assemblyman Gregg,
Assemblywoman Myers, Assemblymen Garrett and DeCroce

1 AN ACT concerning dairy farming, and enacting and entering this State
2 into the Northeast Interstate Dairy Compact.

3

4 BE IT ENACTED by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. This act shall be known and may be cited as "The Northeast
8 Interstate Dairy Compact Act."

9

10 2. The State of New Jersey enacts and enters into the Northeast
11 Interstate Dairy Compact with all jurisdictions legally joining therein,
12 which compact is substantially as follows:

13

14 ARTICLE I. STATEMENT OF PURPOSE, FINDINGS, AND
15 DECLARATION OF POLICY

16

17 1. The purpose of this compact is to recognize by constitutional
18 prerequisite the interstate character of the northeast dairy industry and
19 to form an interstate commission for the northeast region. The
20 mission of the commission is to take such steps as are necessary to
21 assure the continued viability of dairy farming in the northeast, and to
22 assure consumers of an adequate, local supply of pure and wholesome
23 milk.

24 The participating states find and declare that the dairy industry is
25 the paramount agricultural activity of the northeast. Dairy farms, and
26 associated suppliers, marketers, processors and retailers, are an
27 integral component of the region's economy and their ability to provide
28 a stable, local supply of pure, wholesome milk is a matter of great
29 importance to the health and welfare of the region.

30 The participating states further find that dairy farms are essential to
31 the region's rural communities and character. The farms preserve open
32 spaces, sculpt the landscape and provide the land base for a diversity

1 of recreational pursuits. In defining the rural character of our
2 communities and landscape, dairy farms also provide a major draw for
3 our tourist industries.

4 By entering into this compact, the participating states affirm that
5 their ability to regulate the price which northeast dairy farmers receive
6 for their product is essential to the public interest. Assurance of a fair
7 and equitable price for dairy farmers ensures their ability to provide
8 milk to the market and the vitality of the northeast dairy industry, with
9 all the associated benefits.

10 Recent, dramatic price fluctuations, with a pronounced downward
11 trend, threaten the viability and stability of the northeast dairy region.
12 Historically, individual state regulatory action has been an effective
13 emergency remedy available to farmers confronting a distressed
14 market. The federal order system, implemented by the Agricultural
15 Marketing Agreement Act of 1937, establishes only minimum prices
16 for dairy products, without preempting the power of states to regulate
17 milk prices above the minimum levels so established. Based on this
18 authority, each state in the region has individually attempted to
19 implement at least one regulatory program in response to the current
20 dairy industry crisis.

21 In today's regional dairy marketplace, cooperative, rather than
22 individual state action may address more effectively the market
23 disarray. Under our constitutional system, properly authorized, states
24 acting cooperatively may exercise more power to regulate interstate
25 commerce than they may assert individually without such authority.
26 For this reason, the participating states invoke their authority to act in
27 common agreement, with the consent of Congress, under the compact
28 clause of the Constitution.

29 In establishing their constitutional regulatory authority over the
30 region's fluid milk market by this compact, the participating states
31 declare their purpose that this compact neither displace the federal
32 order system nor encourage the merging of federal orders. Specific
33 provisions of the compact itself set forth this basic principle.

34 Designed as a flexible mechanism able to adjust to changes in a
35 regulated marketplace, the compact also contains a contingency
36 provision should the federal order system be discontinued. In that
37 event, the interstate commission is authorized to regulate the
38 marketplace in replacement of the order system. This contingent
39 authority does not anticipate such a change, however, and should not
40 be so construed. It is only provided should developments in the
41 market other than establishment of this compact result in
42 discontinuance of the order system.

43

44 ARTICLE II. DEFINITIONS AND RULES OF CONSTRUCTION

45

46 2. As used in this compact:

1 "Class I milk" means milk disposed of in fluid form or as a fluid
2 milk product, subject to further definition in accordance with the
3 principles expressed in subsection b. of section 3 of this compact.

4 "Commission" means the commission established by this compact.

5 "Commission marketing order" means regulations adopted by the
6 commission pursuant to sections 9 and 10 of this compact in place of
7 a terminated federal marketing order or state dairy regulation. Such
8 order may apply throughout the region or in any part or parts thereof
9 as defined in the regulations of the commission. Such order may
10 establish minimum prices for any or all classes of milk.

11 "Compact" means this interstate compact.

12 "Compact over-order price" means a minimum price required to be
13 paid to producers for Class I milk established by the commission in
14 regulations adopted pursuant to sections 9 and 10 of this compact,
15 which is above the price established in federal marketing orders or by
16 state farm price regulation in the regulated area. Such price may apply
17 throughout the region or in any part or parts thereof as defined in the
18 regulations of the commission.

19 "Milk" means the lacteal secretion of cows and includes all skim,
20 butterfat, or other constituents obtained from separation or any other
21 process. The term is used in its broadest sense and may be further
22 defined by the commission for regulatory purposes.

23 "Partially regulated plant" means a milk plant not located in a
24 regulated area but having Class I distribution within such area, or
25 receipts from producers located in such area. Commission regulations
26 may exempt plants having such distribution or receipts in amounts less
27 than the limits defined therein.

28 "Participating state" means a state which has become a party to this
29 compact by the enactment of concurring legislation.

30 "Pool plant" means any milk plant located in a regulated area.

31 "Region" means the territorial limits of the states which are or
32 become parties to this compact.

33 "Regulated area" means any area within the region governed by
34 and defined in regulations establishing a compact over-order price or
35 commission marketing order.

36 "State dairy regulation" means any state regulation of dairy prices
37 and associated assessments, whether by statute, marketing order or
38 otherwise.

39 3. a. This compact shall not be construed to displace existing
40 federal milk marketing orders nor state dairy regulation in the region
41 but to supplement them. In the event some or all federal orders in the
42 region are discontinued, the compact shall be construed to provide the
43 commission the option to replace them with one or more commission
44 marketing orders pursuant to this compact.

45 b. This compact shall be construed liberally in order to achieve the
46 purposes and intent enunciated in section 1 of this compact. It is the

1 intent of this compact to establish a basic structure by which the
2 commission may achieve those purposes through the application,
3 adaptation and development of the regulatory techniques historically
4 associated with milk marketing and to afford the commission broad
5 flexibility to devise regulatory mechanisms to achieve the purposes of
6 this compact. In accordance with this intent, the technical terms which
7 are associated with market order regulation and which have acquired
8 commonly understood general meanings are not defined herein, but the
9 commission may further define the terms used in this compact and
10 develop additional concepts and define additional terms as it may find
11 appropriate to achieve its purposes.

12

13

ARTICLE III. COMMISSION ESTABLISHED

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15 4. There is hereby created a commission to administer the compact,
16 composed of delegations from each state in the region. A delegation
17 shall include not less than three nor more than five persons. Each
18 delegation shall include at least one dairy farmer who is engaged in the
19 production of milk at the time of appointment or reappointment, and
20 one consumer representative. Delegation members shall be residents
21 and voters of, and subject to such confirmation process as is provided
22 for in, the appointing state. Delegation members shall serve no more
23 than three consecutive terms with no single term of more than four
24 years, and be subject to removal for cause. In all other respects,
25 delegation members shall serve in accordance with the laws of the
26 state represented. The compensation, if any, of the members of a state
27 delegation shall be determined and paid by each state, but their
28 expenses shall be paid by the commission. Each state delegation shall
29 be entitled to one vote in the conduct of the affairs of the commission.

30 5. All actions taken by the commission, except for the
31 establishment or termination of an over-order price or commission
32 marketing order, and the adoption, amendment or rescission of
33 by-laws of the commission, shall be by majority vote of the delegations
34 present. Establishment or termination of an over-order price or
35 commission marketing order shall require at least a two-thirds vote of
36 the delegations present. The establishment of a regulated area which
37 covers all or part of a participating state shall require also the
38 affirmative vote of the delegation of that state. A majority of the
39 delegations from the participating states shall constitute a quorum for
40 the conduct of the business of the commission.

41 6. a. The commission shall elect annually from among the members
42 of the participating state delegations a chairperson, a vice-chairperson,
43 and a treasurer. The commission shall appoint an executive director
44 and fix his duties and compensation. The executive director shall
45 serve at the pleasure of the commission, and, together with the
46 treasurer, shall be bonded in an amount determined by the commission.

1 The commission may establish through its by-laws an executive
2 committee composed of one member elected by each delegation.

3 b. The commission shall adopt by-laws for the conduct of its
4 business by a two-thirds vote, and shall have the power by the same
5 vote to amend and rescind these by-laws. The commission shall
6 publish its by-laws in convenient form with the appropriate agency or
7 officer in each of the participating states. The by-laws shall provide
8 for appropriate notice to the delegations of all commission meetings
9 and hearings and of the business to be transacted at such meetings or
10 hearings. Notice also shall be given to other agencies or officers of
11 participating states as provided by the laws of those states.

12 c. The commission shall file an annual report with the Secretary of
13 Agriculture of the United States, and with each of the participating
14 states by submitting copies to the Governor, both Houses of the
15 Legislature, and the head of the state department having
16 responsibilities for agriculture.

17 d. In addition to the powers and duties prescribed elsewhere in
18 this compact, the commission shall have the power:

19 (1) To sue and be sued in any state or federal court;

20 (2) To have a seal and alter the same at pleasure;

21 (3) To acquire, hold, and dispose of real and personal property by
22 gift, purchase, lease, license, or other similar manner, for its corporate
23 purposes;

24 (4) To borrow money and to issue notes, to provide for the rights
25 of the holders thereof and to pledge the revenue of the commission as
26 security therefor, subject to the provisions of section 18 of this
27 compact;

28 (5) To appoint such officers, agents, and employees as it may deem
29 necessary, prescribe their powers, duties, and qualifications; and

30 (6) To create and abolish such offices, employments, and positions
31 as it deems necessary for the purposes of the compact and provide for
32 the removal, term, tenure, compensation, fringe benefits, pension, and
33 retirement rights of its officers and employees. The commission may
34 also retain personal services on a contract basis.

35 7. In addition to the power to promulgate a compact over-order
36 price or commission marketing orders as provided by this compact, the
37 commission is further empowered to make and enforce such additional
38 rules and regulations as it deems necessary to implement any
39 provisions of this compact, or to effectuate in any other respect the
40 purposes of this compact.

41

42 ARTICLE IV. POWERS OF THE COMMISSION

43

44 8. The commission is hereby empowered to:

45 a. Investigate or provide for investigations or research projects
46 designed to review the existing laws and regulations of the

- 1 participating states, to consider their administration and costs, to
2 measure their impact on the production and marketing of milk and
3 their effects on the shipment of milk and milk products within the
4 region;
- 5 b. Prepare and transmit to the participating states model dairy laws
6 and regulations dealing with the inspection of farms and plants,
7 sanitary codes, labels for dairy products and their imitations, standards
8 for dairy products, license standards, producer security programs, and
9 fair trade laws;
- 10 c. Study and recommend to the participating states joint or
11 cooperative programs for the administration of the dairy laws and
12 regulations and to prepare estimates of cost savings and benefits of
13 such programs;
- 14 d. Encourage the harmonious relationships between the various
15 elements in the industry for the solution of their material problems and
16 conduct symposiums or conferences designed to improve industry
17 relations, or a better understanding of problems;
- 18 e. Prepare and release periodic reports on activities and results of
19 the commission`s efforts to the participating states;
- 20 f. Review the existing marketing system for milk and milk products
21 and recommend changes in the existing structure for assembly and
22 distribution of milk which may assist, improve, or promote more
23 efficient assembly and distribution of milk;
- 24 g. Investigate costs and charges for producing, hauling, handling,
25 processing, distributing, selling and for all other services performed
26 with respect to milk; and
- 27 h. Examine current economic forces affecting producers, probable
28 trends in production and consumption, the level of dairy farm prices
29 in relation to costs, the financial conditions of dairy farmers, and the
30 need for an emergency order to relieve critical conditions on dairy
31 farms.
- 32 9. a. The powers granted in this section and section 10 of this
33 compact, shall apply only to the establishment of a compact
34 over-order price, so long as federal milk marketing orders remain in
35 effect in the region. In the event that any or all such orders are
36 terminated, this article shall authorize the commission to establish one
37 or more commission marketing orders, as herein provided, in the
38 region or parts thereof as defined in the order.
- 39 b. A compact over-order price established pursuant to this section
40 shall apply only to Class I milk. Such over-order price shall not
41 exceed \$1.50 per gallon. Beginning in 1990, and using that year as a
42 base, the foregoing \$1.50 per gallon maximum shall be adjusted
43 annually by the rate of change in the consumer price index as reported
44 by the Bureau of Labor Statistics of the United States Department of
45 Labor. For purposes of the pooling and equalization of an over-order
46 price, the value of milk used in other use classifications shall be

1 calculated at the appropriate class price established pursuant to the
2 applicable federal order or state dairy regulation and the value of
3 unregulated milk shall be calculated in relation to the nearest
4 prevailing class price in accordance with and subject to such
5 adjustments as the commission may prescribe in regulations.

6 c. A commission marketing order shall apply to all classes and
7 uses of milk.

8 d. The commission is hereby empowered to establish the minimum
9 price for milk to be paid by pool plants, partially regulated plants and
10 all other handlers receiving milk from producers located in a regulated
11 area. This price shall be established either as a compact over-order
12 price or by one or more commission marketing orders. Whenever such
13 a price has been established by either type of regulation, the legal
14 obligation to pay such price shall be determined solely by the terms
15 and purpose of the regulation without regard to the situs of the
16 transfer of title, possession or any other factors not related to the
17 purposes of the regulation and this compact. Producer-handlers as
18 defined in an applicable federal market order shall not be subject to a
19 compact over-order price. The commission shall provide for similar
20 treatment of producer-handlers under commission marketing orders.

21 e. In determining the price, the commission shall consider the
22 balance between production and consumption of milk and milk
23 products in the regulated area, the costs of production including, but
24 not limited to the price of feed, the cost of labor including the
25 reasonable value of the producer's own labor and management,
26 machinery expense, and interest expense, the prevailing price for milk
27 outside the regulated area, the purchasing power of the public and the
28 price necessary to yield a reasonable return to the producer and
29 distributor.

30 f. When establishing a compact over-order price, the commission
31 shall take such action as necessary and feasible to ensure that the
32 over-order price does not create an incentive for producers to generate
33 additional supplies of milk.

34 g. The commission shall whenever possible enter into agreements
35 with state or federal agencies for exchange of information or services
36 for the purpose of reducing regulatory burden and cost of
37 administering the compact. The commission may reimburse other
38 agencies for the reasonable cost of providing these services.

39 10. Regulations establishing a compact over-order price or a
40 commission marketing order may contain, but shall not be limited to,
41 any of the following:

42 a. Provisions classifying milk in accordance with the form in which
43 or purpose for which it is used, or creating a flat pricing program;

44 b. With respect to a commission marketing order only, provisions
45 establishing or providing a method for establishing separate minimum
46 prices for each use classification prescribed by the commission, or a

- 1 single minimum price for milk purchased from producers or
2 associations of producers;
- 3 c. With respect to an over-order minimum price, provisions
4 establishing or providing a method for establishing such minimum
5 price for class I milk;
- 6 d. Provisions for establishing either an over-order price or a
7 commission marketing order may make use of any reasonable method
8 for establishing such price or prices including flat pricing and formula
9 pricing. Provision may also be made for location adjustments, for
10 zone differentials and for competitive credits with respect to regulated
11 handlers who market outside the regulated area;
- 12 e. Provisions for the payment to all producers and associations of
13 producers delivering milk to all handlers of uniform prices for all milk
14 so delivered, irrespective of the uses made of such milk by the
15 individual handler to whom it is delivered, or for the payment of
16 producers delivering milk to the same handler of uniform prices for all
17 milk delivered by them;
- 18 (1) With respect to regulations establishing a compact over-order
19 price, the commission may establish one equalization pool within the
20 regulated area for the sole purpose of equalizing returns to producers
21 throughout the regulated area; and
- 22 (2) With respect to any commission marketing order, as defined
23 in section 2 of this compact, which replaces one or more terminated
24 federal orders or state dairy regulation, the marketing area of now
25 separate state or federal orders shall not be merged without the
26 affirmative consent of each state, voting through its delegation, which
27 is partly or wholly included within any such new marketing area.
- 28 f. Provisions requiring persons who bring Class I milk into the
29 regulated area to make compensatory payments with respect to all
30 such milk to the extent necessary to equalize the cost of milk
31 purchased by handlers subject to a compact over-order price or
32 commission marketing order. No such provisions shall discriminate
33 against milk producers outside the regulated area. The provisions for
34 compensatory payments may require payment of the difference
35 between the Class I price required to be paid for such milk in the state
36 of production by a federal milk marketing order or state dairy
37 regulation and the Class I price established by the compact over-order
38 price or commission marketing order;
- 39 g. Provisions specially governing the pricing and pooling of milk
40 handled by partially regulated plants;
- 41 h. Provisions requiring that the account of any person regulated
42 under a compact over-order price shall be adjusted for any payments
43 made to or received by such persons with respect to a producer
44 settlement fund of any federal or state milk marketing order or other
45 state producer price regulation within the regulated area;
- 46 i. Provisions requiring the payment by handlers of an assessment

1 to cover the costs of the administration and enforcement of such order
2 pursuant to subsection a. of section 18 of this compact;

3 j. Provisions for reimbursement to participants of the women,
4 infants and children special supplemental food program of the United
5 States Child Nutrition Act of 1966; and

6 k. Other provisions and requirements as the commission may find
7 are necessary or appropriate to effectuate the purposes of this compact
8 and to provide for the payment of fair and equitable minimum prices
9 to producers.

10

11 ARTICLE V. RULEMAKING PROCEDURE

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13 11. Before promulgation of any regulations establishing a compact
14 over-order price or commission marketing order, including any
15 provision with respect to milk supply under subsection f. of section 9
16 of this compact, or amendment thereof, as provided in Article IV of
17 this compact, the commission shall conduct an informal rulemaking
18 proceeding to provide interested persons with an opportunity to
19 present data and views. Such rulemaking proceeding shall be
20 governed by section 4 of the federal Administrative Procedure Act, as
21 amended (5 U.S.C. s.553). In addition, the commission shall, to the
22 extent practicable, publish notice of rulemaking proceedings in the
23 official register of each affected state. Before the initial adoption of
24 regulations establishing a compact over-order price or a commission
25 marketing order and thereafter before any amendment with regard to
26 prices or assessments, the commission shall hold a public hearing. The
27 commission may commence a rulemaking proceeding on its own
28 initiative or may in its sole discretion act upon the petition of any
29 person including individual milk producers, any organizations,
30 consumer or public interest groups, and local, state, or federal
31 officials.

32 12. In addition to the concise general statement of basis and
33 purpose required by section 4(b) of the federal Administrative
34 Procedure Act, as amended (5 U.S.C. s. 553(c)), the commission shall
35 make findings of fact with respect to:

36 a. Whether the public interest will be served by the establishment
37 of minimum milk prices to dairy farmers under Article IV of this
38 compact;

39 b. What level of prices will assure that producers receive a price
40 sufficient to cover their costs of production and will elicit an adequate
41 supply of milk for the inhabitants of the regulated area and for
42 manufacturing purposes;

43 c. Whether the major provisions of the order, other than those
44 fixing minimum milk prices, are in the public interest and are
45 reasonably designed to achieve the purposes of the order; and

46 d. Whether the terms of the proposed regional order or amendment

1 are approved by producers as provided in section 13 of this compact.

2 13. a. For the purpose of ascertaining whether the issuance or
3 amendment of regulations establishing a compact over-order price or
4 a commission marketing order, including any provision with respect
5 to milk supply pursuant to subsection f. of section 9 of this compact,
6 is approved by producers, the commission shall conduct a referendum
7 among producers. The referendum shall be held in a timely manner,
8 as determined by regulation of the commission. The terms and
9 conditions of the proposed order or amendment shall be described by
10 the commission in the ballot used in the conduct of the referendum,
11 but the nature, content, or extent of such description shall not be a
12 basis for attacking the legality of the order or any action relating
13 thereto.

14 b. An order or amendment shall be deemed approved by producers
15 if the commission determines that it is approved by at least two-thirds
16 of the voting producers who, during a representative period
17 determined by the commission, have been engaged in the production
18 of milk the price of which would be regulated under the proposed
19 order or amendment.

20 c. For purposes of any referendum, the commission shall consider
21 the approval or disapproval by any cooperative association of
22 producers, qualified under the provisions of the Act of Congress of
23 February 26, 1922, as amended, known as the Capper-Volstead Act,
24 bona fide engaged in marketing milk, or in rendering services for or
25 advancing the interests of producers of such commodity, as the
26 approval or disapproval of the producers who are members or
27 stockholders in, or under contract with, such cooperative association
28 of producers, except as provided in paragraph (1) of this subsection
29 and subject to the provisions of paragraphs (2) through (5) of this
30 subdivision.

31 (1) No cooperative which has been formed to act as a common
32 marketing agency for both cooperatives and individual producers shall
33 be qualified to block vote for either.

34 (2) Any cooperative which is qualified to block vote shall, before
35 submitting its approval or disapproval in any referendum, give prior
36 written notice to each of its members as to whether and how it intends
37 to cast its vote. The notice shall be given in a timely manner as
38 established, and in the form prescribed, by the commission.

39 (3) Any producer may obtain a ballot from the commission in order
40 to register approval or disapproval of the proposed order.

41 (4) A producer who is a member of a cooperative which has
42 provided notice of its intent to approve or not to approve a proposed
43 order, and who obtains a ballot and with such ballot expresses his or
44 her approval or disapproval of the proposed order, shall notify the
45 commission as to the name of the cooperative of which he is a
46 member, and the commission shall remove the name of such producer

1 from the list certified by such cooperative with its corporate vote.

2 (5) In order to insure that all milk producers are informed
3 regarding a proposed order, the commission shall notify all milk
4 producers that an order is being considered and that each producer
5 may register his approval or disapproval with the commission either
6 directly or through his cooperative.

7 14. a. The commission shall terminate any regulations establishing
8 an over-order price or commission marketing order issued under this
9 article whenever it finds that such order or price obstructs or does not
10 tend to effectuate the declared policy of this compact.

11 b. The commission shall terminate any regulations establishing an
12 over-order price or a commission marketing order issued under this
13 article whenever it finds that such termination is favored by a majority
14 of the producers who, during a representative period determined by
15 the commission, have been engaged in the production of milk the
16 price of which is regulated by such order; but such termination shall be
17 effective only if announced on or before such date as may be specified
18 in such marketing agreement or order.

19 c. The termination or suspension of any order or provision thereof,
20 shall not be considered an order within the meaning of this article and
21 shall require no hearing, but shall comply with the requirements for
22 informal rulemaking prescribed by section 4 of the federal
23 Administrative Procedure Act, as amended (5 U.S.C. s.553).

24

25

ARTICLE VI. ENFORCEMENT

26

27 15. a. The commission may by rule and regulation prescribe
28 recordkeeping and reporting requirements for all regulated persons.
29 For purposes of the administration and enforcement of this compact,
30 the commission is authorized to examine the books and records of any
31 regulated person relating to his milk business and for that purpose, the
32 properly designated officers, employees, or agents of the commission
33 shall have full access during normal business hours to the premises and
34 records of all regulated persons.

35 b. Information furnished to or acquired by the commission
36 officers, employees, or its agents pursuant to this section shall be
37 confidential and not subject to disclosure except to the extent that the
38 commission deems disclosure to be necessary in any administrative or
39 judicial proceeding involving the administration or enforcement of this
40 compact, an over-order price, a compact marketing order, or other
41 regulations of the commission. The commission may promulgate
42 regulations further defining the confidentiality of information pursuant
43 to this section. Nothing in this section shall be deemed to prohibit (a)
44 the issuance of general statements based upon the reports of a number
45 of handlers, which do not identify the information furnished by any
46 person, or (b) the publication by direction of the commission of the

1 name of any person violating any regulation of the commission,
2 together with a statement of the particular provisions violated by such
3 person.

4 c. No officer, employee, or agent of the commission shall
5 intentionally disclose information, by inference or otherwise, which is
6 made confidential pursuant to this section. Any person violating the
7 provisions of this section shall upon conviction be subject to a fine of
8 not more than \$1,000 or to imprisonment for not more than one year,
9 or to both, and shall be removed from office. The commission shall
10 refer any, allegation of a violation of this section to the appropriate
11 state enforcement authority or United States attorney.

12 16. a. The commission is hereby authorized and empowered by its
13 members and its properly designated officers to administer oaths and
14 issue subpoenas throughout all signatory states to compel the
15 attendance of witnesses and the giving of testimony and the
16 production of other evidence.

17 b. Any handler subject to an order may file a written petition with
18 the commission stating that any such order or any provision of any
19 such order or any obligation imposed in connection therewith is not in
20 accordance with law and praying for a modification thereof or to be
21 exempted therefrom. The handler shall thereupon be given an
22 opportunity for a hearing upon such petition, in accordance with
23 regulations made by the commission. After such hearing, the
24 commission shall make a ruling upon the prayer of such petition which
25 shall be final, if in accordance with law.

26 c. The district courts of the United States in any district in which
27 such handler is an inhabitant, or where the handler has his principal
28 place of business, are hereby vested with jurisdiction in equity to
29 review such ruling, provided a bill in equity for that purpose is filed
30 within thirty days from the date of the entry of such ruling. Service of
31 process in such proceedings may be had upon the commission by
32 delivering to it a copy of the bill of complaint. If the court determines
33 that such ruling is not in accordance with law, it shall remand such
34 proceedings to the commission with directions either (a) to make such
35 ruling as the court shall determine to be in accordance with law, or (b)
36 to take such further proceedings as, in its opinion, the law requires.
37 The pendency of proceedings instituted pursuant to this subsection
38 shall not impede, hinder, or delay the commission from obtaining relief
39 pursuant to section 17 of this compact. Any proceedings brought
40 pursuant to section 17 of this compact (except where brought by way
41 of counterclaim in proceedings instituted pursuant to this section) shall
42 abate whenever a final decree has been rendered in proceedings
43 between the same parties, and covering the same subject matter,
44 instituted pursuant to this section.

45 17. a. Any violation by a handler of the provisions of regulations
46 establishing an over-order price or a commission marketing order, or

1 other regulations adopted pursuant to this compact shall:

2 (1) Constitute a violation of the laws of each of the signatory
3 states. Such violation shall render the violator subject to a civil
4 penalty in an amount as may be prescribed by the laws of each of the
5 participating states, recoverable in any state or federal court of
6 competent jurisdiction. Each day such violation continues shall
7 constitute a separate violation; and

8 (2) Constitute grounds for the revocation of license or permit to
9 engage in the milk business under the applicable laws of the
10 participating states.

11 b. With respect to handlers, the commission shall enforce the
12 provisions of this compact, regulations establishing an over-order
13 price, a commission marketing order or other regulations adopted
14 hereunder by:

15 (1) Commencing an action for legal or equitable relief brought in
16 the name of the commission in any state or federal court of competent
17 jurisdiction; or

18 (2) With the agreement of the appropriate state agency of a
19 participating state, by referral to the state agency for enforcement by
20 judicial or administrative remedy.

21 c. With respect to handlers, the commission may bring an action
22 for injunction to enforce the provisions of this compact or the order
23 or regulations adopted thereunder without being compelled to allege
24 or prove that an adequate remedy of law does not exist.

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26

ARTICLE VII. FINANCE

27

28 18. a. To provide for its start-up costs, the commission may
29 borrow money pursuant to its general power under paragraph (4) of
30 subsection d. of section 6 of this compact. In order to finance the
31 costs of administration and enforcement of this compact, including
32 payback of start-up costs, the commission is hereby empowered to
33 collect an assessment from each handler who purchases milk from
34 producers within the region. If imposed, this assessment shall be
35 collected on a monthly basis for up to one year from the date the
36 commission convenes, in an amount not to exceed one-tenth of 1% of
37 the applicable federal market order blend price per hundred weight of
38 milk purchased from producers during the period of the assessment.
39 The initial assessment may apply to the projected purchases of
40 handlers for the two month period following the date the commission
41 convenes. In addition, if regulations establishing an over-order price
42 or a compact marketing order are adopted, they may include an
43 assessment for the specific purpose of their administration. These
44 regulations shall provide for establishment of a reserve for the ongoing
45 operating expenses of the commission.

46 b. The commission shall not pledge the credit of any participating

1 state or of the United States. Notes issued by the commission and all
2 other financial obligations incurred by it, shall be its sole responsibility
3 and no participating state or the United States shall be liable therefor.

4 19. a. The commission shall keep accurate accounts of all receipts
5 and disbursements, which shall be subject to the audit and accounting
6 procedures established under its rules. In addition, all receipts and
7 disbursements of funds handled by the commission shall be audited
8 yearly by a qualified public accountant and the report of the audit
9 shall be included in and become part of the annual report of the
10 commission.

11 b. The accounts of the commission shall be open at any reasonable
12 time for inspection by duly constituted officers of the participating
13 states and by any persons authorized by the commission.

14 c. Nothing contained in this article shall be construed to prevent
15 commission compliance with laws relating to audit or inspection of
16 accounts by or on behalf of any participating state or of the United
17 States.

18
19 ARTICLE VIII. ENTRY INTO FORCE; ADDITIONAL
20 MEMBERS AND WITHDRAWAL
21

22 20. This compact shall enter into force when enacted into law by
23 any three states of the group of states composed of Connecticut,
24 Delaware, Maine, Maryland, Massachusetts, New Hampshire, New
25 Jersey, New York, Pennsylvania, Rhode Island, Vermont and
26 Virginia, and when the consent of Congress has been obtained. This
27 compact shall also be open to states which are contiguous to any of
28 the named states and open to states which are contiguous to
29 participating states.

30 21. Any participating state may withdraw from this compact by
31 enacting a statute repealing the same, but no such withdrawal shall
32 take effect until one year after notice in writing of the withdrawal is
33 given to the commission and the governors of all other participating
34 states. No withdrawal shall affect any liability already incurred by or
35 chargeable to a party state prior to the time of such withdrawal.

36 22. If any part or provision of this compact is adjudged invalid by
37 any court, such judgment shall be confined in its operation to the part
38 or provision directly involved in the controversy in which such
39 judgment shall have been rendered and shall not affect or impair the
40 validity of the remainder of this compact. Congress reserves the right
41 to amend or rescind this interstate compact at any time.

42 23. a. The right to alter, amend or repeal this compact is expressly
43 reserved by Congress.

44 b. When an over-order price is in effect, the commission
45 established in this compact shall compensate the commodity credit
46 corporation before the end of the fiscal year for the cost of any

1 increased commodity credit corporation dairy purchases that result
2 from projected increased fluid milk production for that fiscal year
3 within the compact region in excess of the national average rate of
4 increase.

5
6 3. a. The New Jersey delegation to the Northeast Interstate
7 Compact Commission shall consist of five persons, at least one of
8 whom shall be a dairy farmer who is engaged in the production of milk
9 at the time of appointment or reappointment and one of whom shall
10 be representative of interests of consumers. One member shall be
11 appointed by the Governor; one by the President of the Senate; one by
12 the minority leader of the Senate; one by the Speaker of the General
13 Assembly; and one by the minority leader of the General Assembly.
14 Members shall serve for a term of three years, except that the members
15 first appointed by the President of the Senate and the Speaker of the
16 Assembly shall serve for a term of two years and the members first
17 appointed by the minority leader of the Senate and the minority leader
18 of the General Assembly shall serve for a term of one year.

19 b. The members of the delegation shall receive compensation for
20 their services of three hundred dollars per diem.

21 c. The department and any other agency of the state shall, when
22 called upon, provide the members with cooperation, information and
23 staff support.

24
25 4. Any violation of the provisions of regulations adopted pursuant
26 to the Northeast Interstate Dairy Compact establishing an over-order
27 price, a commission marketing order, or any other regulations, shall
28 constitute a violation of this act. Any such violation shall be subject
29 to a civil penalty of \$5,000 per occurrence.

30
31 5. This act shall take effect immediately, but shall remain
32 inoperative until the Northeast Interstate Dairy Compact is enacted
33 and entered into by the State of New York.

34 35 36 STATEMENT

37
38 This bill would enact the Northeast Interstate Dairy Compact, and
39 enter New Jersey as a party state therein contingent upon the entry of
40 the State of New York into the compact. The purpose of the compact
41 is to strengthen the dairy industry in the northeast.

42 The Federal Agriculture Improvement and Reform (FAIR) Act of
43 1996 included a provision allowing the New England states to
44 establish a dairy compact if the Secretary of Agriculture found a
45 "compelling public interest" in the northeast region. The secretary
46 determined such an interest existed August 9, 1996, and the compact

1 was then formed. The law allows six other states to join the compact -
2 Delaware, Maryland, New Jersey, New York, Pennsylvania, and
3 Virginia. In order for any of these states to join, congressional
4 approval is necessary and the state must be contiguous to a
5 participating state.

6 The Northeast Interstate Dairy Compact establishes an interstate
7 commission with the authority to set a minimum price paid by dairy
8 processors to dairy farmers in the region, at a level above the minimum
9 price mandated by federal milk marketing orders. The compact will
10 regulate the farm price of milk used only for fluid consumption in the
11 compact region, regardless of where the milk originates.

12

13

14

15

16 The "Northeast Interstate Dairy Compact Act."