



SPONSOR: Rep. Caulk
& Sen. Bunting, Reps. Carey,
Cathcart, Quillen, Price, Schroeder,
West, Ewing, Sens. Adams, Cook,
Simpson, Venables

HOUSE OF REPRESENTATIVES

140th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO.

FOR

HOUSE BILL NO. 94

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO THE NORTHEAST
INTERSTATE DAIRY COMPACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Title 3 of the Delaware Code by adding thereto a new chapter, designated as
2 Chapter 32, which new chapter shall read as follows:

3 “CHAPTER 32. NORTHEAST INTERSTATE DAIRY COMPACT.

4 § 3201. The State of Delaware to enter into Compact; provisions thereof.

5 The State of Delaware hereby enters into the Northeast Interstate Dairy Compact as set forth in
6 this Section. The Compact shall take effect in accordance with Article VIII, § 20 of the Compact, subject
7 to conditions imposed by the consent of the U. S. Congress. The text of the Compact is as follows:

8 NORTHEAST INTERSTATE DAIRY COMPACT.

9 Article I. Statement of Purpose, Findings and Declaration of Policy.

10 Section 1. Statement of purpose, findings and declaration of policy.

11 The purpose of this Compact is to recognize by constitutional prerequisite the interstate character
12 of the Northeast Dairy Industry and to form an Interstate Commission for the Northeast region. The
13 mission of the Commission is to take such steps as are necessary to assure the continued viability of dairy
14 farming in the northeast and to assure consumers of an adequate, local supply of pure and wholesome milk.

15 The participating states find and declare that the dairy industry is the paramount agricultural
16 activity of the northeast. Dairy farms, and associated suppliers, marketers, processors and retailers, are an
17 integral component of the region’s economy. Their ability to provide a stable, local supply of pure,
18 wholesome milk is a matter of great importance to the health and welfare of the region.

19 The participating states further find that dairy farms are essential to the region’s rural communities
20 and character. The farms preserve open spaces, sculpt the landscape and provide the land base for a
21 diversity of recreational pursuits. In defining the rural character of our communities and landscape, dairy
22 farms also provide a major draw for our tourist industries.

23 By entering into this Compact, the participating states affirm that their ability to regulate the price
24 which northeast dairy farmers receive for their product is essential to the public interest. Assurance of a
25 fair and equitable price for dairy farmers ensures their ability to provide milk to the market and the vitality
26 of the northeast dairy industry, with all the associated benefits.

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

34 In today’s regional dairy marketplace, cooperative rather than individual state action may address
35 more effectively the market disarray. Under our constitutional system, properly authorized, states acting
36 cooperatively may exercise more power to regulate interstate commerce than they may assert individually
37 without such authority. For this reason, the participating states invoke their authority to act in common
38 agreement, with the consent of Congress, under the Compact clause of the Constitution.

39 In establishing their constitutional regulatory authority over the region’s fluid milk market by this
40 Compact, the participating states declare their purpose that this Compact neither displace the federal order
41 system nor encourage the merging of federal orders. Specific provisions of the Compact itself set forth this
42 basic principle.

43 Designed as a flexible mechanism able to adjust to changes in a regulated marketplace, the
44 Compact also contains a contingency provision should the federal order system be discontinued. In that
45 event, the Interstate Commission is authorized to regulate the marketplace in replacement of the order
46 system. This contingent authority does not anticipate such a change, however, and should not be so
47 construed. It is only provided should developments in the market other than establishment of this Compact
48 result in discontinuance of the order system.

49 Article II. Definitions and Rules of Construction.

50 Section 2. Definitions.

51 For the purposes of this Compact, and of any supplemental or concurring legislation enacted
52 pursuant thereto, except as may be otherwise required by the context:

53 (1) ‘Commission’ means the Commission established by this Compact.

54 (2) ‘Compact; means this Interstate Compact.

55 (3) ‘Region’ means the territorial limits of the states which are or become parties
56 to this Compact.

57 (4) ‘Participating State’ means a state which has become a party to this Compact
58 by the enactment of concurring legislation.

59 (5) ‘Regulated Area’ means any area within the region governed by and defined
60 in regulations establishing a Compact over-order price or commission marketing order.

61 (6) ‘Pool Plant’ means any milk plant located in a regulated area.

62 (7) ‘Partially Regulated Plant’ means a milk plant not located in a regulated area
63 but having class I distribution within such area, or receipts from producers located in
64 such area. Commission regulations may exempt plants having such distribution or
65 receipts in amounts less than the limits defined therein.

66 (8) ‘Compact Over-Order Price’ means a minimum price required to be paid to
67 producers for Class I milk established by the Commission in regulations adopted pursuant
68 to §§ 9 and 10 of this Compact, which is above the price established in federal marketing
69 orders or by state farm price regulation in the regulated area. Such price may apply

70 throughout the region or in any part of parts thereof as defined in the regulations of the
71 Commission.

72 (9) 'Commission Marketing Order' means regulations adopted by the
73 Commission pursuant to §§ 9 and 10 of this Compact in place of a terminated federal
74 marketing order or state dairy regulation. Such order may apply throughout the region or
75 in an part or parts thereof as defined in the regulations of the Commission. Such order
76 may establish minimum prices for any or all classes of milk.

77 (10) 'Milk' means the lacteal secretion of cows and includes all skim, butterfat,
78 or other constituents obtained from separation or any other process. The term is used in
79 its broadest sense and may be further defined by the Commission for regulatory purposes.

80 (11) 'Class I Milk' means milk disposed of in fluid form or as a fluid milk
81 product, subject to further definition in accordance with the principles expressed in §
82 3(b).

83 (12) 'State Dairy Regulation' means any state regulation of dairy prices, and
84 associated assessments, whether by statute, marketing order or otherwise.

85 Section 3. Rules of Construction.

86 (a) This Compact shall not be construed to displace existing federal milk
87 marketing orders or state dairy regulation in the region but to supplement them. In the
88 event some or all federal orders in the region are discontinued, the Compact shall be
89 construed to provide the Commission the option to replace them with one or more
90 Commission Marketing Orders pursuant to this Compact.

91 (b) This Compact shall be construed liberally in order to achieve the purposes
92 and intent enunciated in § 1. It is the intent of this Compact to establish a basic structure
93 by which the Commission may achieve those purposes through the application,
94 adaptation and development of the regulatory techniques historically associated with milk
95 marketing and to afford the Commission broad flexibility to devise regulatory
96 mechanisms to achieve the purposes of this Compact. In accordance with this intent, the

97 technical terms which are associated with market order regulation and which have
98 acquired commonly understood general meanings are not defined herein but the
99 Commission may further define the terms used in this Compact and develop additional
100 concepts and define additional terms as it may find appropriate to achieve its purposes.

101 Article III. Commission Established.

102 Section 4. Commission established.

103 There is hereby created a Commission to administer the Compact composed of
104 delegations from each state in the region. A delegation shall include not less than three
105 nor more than five persons. Each delegation shall include at least one dairy farmer who
106 is engaged in the production of milk at the time of appointment or reappointment, and
107 one consumer representative. Delegation members shall be residents and voters of, and
108 subject to such confirmation process as is provided for in, the appointing state.

109 Delegation members shall serve no more than three consecutive terms with no single
110 term of more than four years, and be subject to removal for cause. In all other respects,
111 delegation members shall serve in accordance with the laws of the state represented. The
112 compensation, if any, of the members of a state delegation shall be determined and paid
113 by the Commission. Each state delegation shall be entitled to one vote in the conduct of
114 the Commission's affairs.

115 Section 5. Voting requirements.

116 All actions taken by the Commission, except for the establishment or termination
117 of an over-order price or Commission Marketing Order, and the adoption, amendment or
118 rescission of the Commission's bylaws, shall be by majority vote of the delegations
119 present. Establishment or termination of an over-order price or Commission Marketing
120 Order shall require at least a two-thirds vote of the delegations present. The
121 establishment of a regulated area which covers all or part of a participating state shall
122 require also the affirmative vote of that state's delegation. A majority of the delegations

123 from the participating states shall constitute a quorum for the conduct of the
124 Commission's business.

125 Section 6. Administration and Management.

126 (a) The Commission shall elect annually from among the members of the
127 participating state delegations a chairperson, a vice-chairperson, and a treasurer. The
128 Commission shall appoint an executive director and fix the duties and compensation of
129 the executive director. The executive director shall serve at the pleasure of the
130 Commission, and, together with the treasurer, shall be bonded in an amount determined
131 by the Commission. The Commission may establish through its by-laws an Executive
132 Committee composed of one member elected by each delegation.

133 (b) The Commission shall adopt by-laws for the conduct of its business by a
134 two-thirds vote, and shall have the power by the same vote to amend and rescind these
135 by-laws. The Commission shall publish its by-laws in convenient form with the
136 appropriate agency or officer in each of the participating states. The by-laws shall
137 provide for appropriate notice to the delegations of all Commission meetings and
138 hearings and of the business to be transacted at such meetings or hearings. Notice also
139 shall be given to other agencies or officers of participating states as provided by the laws
140 of those states.

141 (c) The Commission shall file an annual report with the Secretary of Agriculture
142 of the United States, and with each of the participating states by submitting copies to the
143 Governor, both Houses of the Legislature, and the head of the State Department having
144 responsibilities for agriculture.

145 (d) In addition to the powers and duties elsewhere prescribed in this Compact,
146 the Commission shall have the power:

147 (1) To sue and be sued in any state or Federal Court;

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

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

151 (4) To borrow money and to issue notes, to provide for the rights of the
152 holders thereof and to pledge the revenue of the Commission as security therefor,
153 subject to the provisions of § 18 of this Compact.

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

156 (6) To create and abolish such offices, employment, and positions as it
157 deems necessary for the purposes of the Compact and provide for the removal,
158 term, tenure, compensation, fringe benefits, pension, and retirement rights of its
159 officers and employees. The Commission may also retain personal services on a
160 contract basis.

161 Section 7. Rulemaking power.

162 In addition to the power to promulgate a Compact Over-Order Price or
163 Commission Marketing Orders as provided by this Compact, the Commission is further
164 empowered to make and enforce such additional rules and regulations as it deems
165 necessary to implement any provisions of this compact, or to effectuate in any other
166 respect the purposes of this Compact.

167 Article IV. Powers of the Commission.

168 Section 8. Powers to promote regulatory uniformity, simplicity, and interstate cooperation.

169 The Commission is hereby empowered to:

170 (1) Investigate or provide for investigations or research projects designed to
171 review the existing laws and regulations of the participating states, to consider their
172 administration and costs, to measure their impact on the production and marketing of
173 milk and their effects on the shipment of milk and milk products within the region.

174 (2) Prepare and transmit to the participating states model dairy laws and
175 regulations dealing with the inspection of farms and plants, sanitary codes, labels for
176 dairy products and their imitations, standards for dairy products, license standards,
177 producer security programs, and fair trade laws.

178 (3) Study and recommend to the participating states joint or cooperative
179 programs of the administration of the dairy laws and regulations and to prepare estimates
180 of cost savings and benefits of such programs.

181 (4) Encourage the harmonious relationships between the various elements in the
182 industry for the solution of their material problems. Conduct symposiums or conferences
183 designed to improve industry relations, or a better understanding of problems.

184 (5) Prepare and release periodic reports on activities and results of the
185 Commission's efforts to the participating states.

186 (6) Review the existing marketing system for milk and milk products and
187 recommend changes in the existing structure for assembly and distribution of milk which
188 may assist, improve, or promote more efficient assembly and distribution of milk.

189 (7) Investigate costs and charges for producing, hauling, handling, processing,
190 distributing, selling and for all other services performed with respect to milk.

191 (8) Examine current economic forces affecting producers, probable trends in
192 production and consumption, the level of dairy farm prices in relation to costs, the

193 financial conditions of dairy farmers, and the need for an emergency order to relieve
194 critical conditions on dairy farms.

195 Section 9. Equitable farm prices.

196 (a) The powers granted in this section and § 10 shall apply only to the
197 establishment of a Compact Over-Order Price, so long as Federal Milk Marketing Orders
198 remain in effect in the region. In the event that any or all such orders are terminated, this
199 article shall authorize the Commission to establish one or more Commission Marketing
200 Orders, as herein provided, in the region or parts thereof as defined in the order.

201 (b) A Compact Over-Order Price established pursuant to this section shall apply
202 only to Class I Milk. Such over-order price shall not exceed \$1.50 per gallon. Beginning
203 in 1990, and using that year as a base, the foregoing \$1.50 per gallon maximum shall be
204 adjusted annually by the rate of change in the consumer price index as reported by the
205 Bureau of Labor Statistics of the United States Department of Labor. For purposes of the
206 pooling and equalization of an over-order price, the value of milk used in other use
207 classifications shall be calculated at the appropriate class price established pursuant to the
208 applicable federal order or state dairy regulation and the value of unregulated milk shall
209 be calculated in relation to the nearest prevailing class price in accordance with and
210 subject to such adjustments as the Commission may prescribe in regulations.

211 (c) A Commission Marketing Order shall apply to all classes and uses of milk.

212 (d) The Commission is hereby empowered to establish the minimum price for
213 milk to be paid by pool plants, partially regulated plants and all other handlers receiving
214 milk from producers located in a regulated area. This price shall be established either as
215 a Compact Over-Order Price or by one or more Commission Marketing Orders.
216 Whenever such a price has been established by either type of regulation, the legal

217 obligation to pay such price shall be determined solely by the terms and purpose of the
218 regulation without regard to the situs of the transfer of title, possession or any other
219 factors not related to the purposes of the regulations and this Compact. Producer-
220 handlers as defined in an applicable Federal Market Order shall not be subject to a
221 Compact Over-Order Price. The Commission shall provide for similar treatment of
222 producer-handlers under Commission Marketing Orders.

223 (e) In determining the price, the Commission shall consider the balance between
224 production and consumption of milk and milk products in the regulated area. The costs
225 of production including, but not limited to the price of feed, the cost of labor including
226 the reasonable value of the producer's own labor and management, machinery expense,
227 and interest expense, the prevailing price for milk outside the regulated area, the
228 purchasing power of the public and the price necessary to yield a reasonable return to the
229 producer and distributor.

230 (f) When establishing a Compact Over-Order Price, the Commission shall take
231 such action as necessary and feasible to ensure that the over-order price does not create
232 an incentive for producer to generate additional supplies of milk.

233 (g) The Commission shall whenever possible enter into agreements with state or
234 federal agencies for exchange of information or services for the purpose of reducing
235 regulatory burden and cost of administering the Compact. The Commission may
236 reimburse other agencies for the reasonable cost of providing these services.

237 Section 10. Optional provisions for pricing order.

238 Regulations establishing a Compact Over-Order Price or a Commission
239 Marketing Order may contain, but shall not be limited to, any of the following:

240 (1) Provisions classifying milk in accordance with the form in which or
241 purpose for which it is used, or creating a flat pricing program.

242 (2) With respect to a Commission Marketing Order only, provisions
243 establishing or providing a method for establishing separate minimum prices for
244 each use classification prescribed by the Commission, or a single minimum price
245 for milk purchased from producers or associations of producers.

246 (3) With respect to an over-order minimum price, provisions
247 establishing or providing a method for establishing such minimum price for Class
248 I Milk.

249 (4) Provisions for establishing either an over-order price or a
250 Commission Marketing Order may make use of any reasonable method for
251 establishing such price or prices including flat pricing and formula pricing.
252 Provision may also be made for location adjustments, zone differentials and for
253 competitive credits with respect to regulated handlers who market outside the
254 regulated area.

255 (5) Provisions for the payment to all producers and associations of
256 producers delivering milk to all handlers of uniform prices for all milk so
257 delivered, irrespective of the uses made of such milk by the individual handler to
258 whom it is delivered, or for the payment of producers delivering milk to the same
259 handler of uniform prices for all milk delivered by them.

260 (A) With respect to regulations establishing a Compact over-
261 order price, the Commission may establish one equalization pool within
262 the regulated area for the sole purpose of equalizing returns to producers
263 throughout the regulated area.

264 (B) With respect to any Commission Marketing Order, as
265 defined in § 2(9), which replaces one or more terminated federal orders
266 or state dairy regulation, the marketing area of now separate state or
267 federal orders shall not be merged without the affirmative consent of
268 each state, voting through its delegation, which is partly or wholly
269 included within any such new marketing area.

270 (6) Provisions requiring persons who bring Class I Milk into the
271 regulated area to make compensatory payments with respect to all such milk to
272 the extent necessary to equalize the cost of milk purchased by handlers subject to
273 a Compact Over-Order Price or against milk producers outside the regulated area.
274 The provisions for compensatory payments may require payment of the
275 difference between the Class I price required to be paid for such milk in the state
276 of production by a federal milk marketing order or state dairy regulation and the
277 Class I price established by the Compact Over-Order Price or Commission
278 Marketing Order.

279 (7) Provisions specially governing the pricing and pooling of milk
280 handled by partially regulated plants.

281 (8) Provisions requiring that the account of any person regulated under a
282 Compact over-order price shall be adjusted for any payments made to or received
283 by such persons with respect to a producer settlement fund of any federal or state
284 milk marketing order or other state dairy regulation within the regulated area.

285 (9) Provisions requiring the payment by handlers of an assessment to
286 cover the cost of the administration and enforcement of such order pursuant to
287 Article VII, § 18(a).

288 (10) Provisions for reimbursement to participants of the Women, Infants
289 and Children Special Supplemental Food Program of the United States Child
290 Nutrition Act of 1966.

291 (11) Other Provisions and requirements as the Commission may find are
292 necessary or appropriate to effectuate the purposes of this Compact and to
293 provide for the payment of fair and equitable minimum prices to producers.

294 Article V. Rulemaking Procedure.

295 Section 11. Rulemaking procedure.

296 Before promulgation of any regulations establishing a Compact Over-Order Price
297 or Commission Marketing Order, including any provision with respect to milk supply
298 under Section 9(f), or Amendment thereof, as provided in Article IV, the Commission
299 shall conduct an informal rulemaking proceeding to provide interested persons with an
300 opportunity to present data and views. Such rulemaking proceeding shall be governed by
301 § 4 of the Federal Administrative Procedure Act, as amended (5 U. S. C. Section 553). In
302 addition, the Commission shall, to the extent practicable, publish notice of rulemaking
303 proceedings in the official register of each participating state. Before the initial adoption
304 of regulations establishing a Compact Over-Order Price or a Commission Marketing
305 Order and thereafter before any amendment with regard to prices or assessments, the
306 Commission shall hold a public hearing. The Commission may commence a rulemaking
307 proceeding on its own initiative or may in its sole discretion act upon the petition of any
308 person including individual milk producers, any organization of milk producers or
309 handlers, general farm organizations, consumer or public interest groups, and local, state
310 or Federal officials.

311 Section 12. Findings and referendum.

312 (a) In addition to the concise general statement of basis and purpose required by
313 § 4(B) of the Federal Administrative Procedure Act, as amended (5 U. S. C. Section
314 553(C)), the Commission shall make findings of fact with respect to:

315 (1) Whether the public interest will be served by the establishment of
316 minimum milk prices to dairy farmers under Article IV.

317 (2) What level of prices will assure that producers receive a price
318 sufficient to cover their cost of production and will elicit an adequate supply of
319 milk for the inhabitants of the regulated area and for manufacturing purposes.

320 (3) Whether the major provisions of the order, other than those fixing
321 minimum milk prices, are in the public interest and are reasonably designed to
322 achieve the purposes of the order.

323 (4) Whether the terms of the proposed regional order or amendment are
324 approved by producers as provided in § 13.

325 Section 13. Producer referendum.

326 (a) For the purpose of ascertaining whether the issuance or amendment of
327 regulations establishing a Compact Over-Order Price or a Commission Marketing Order,
328 including any provision with respect to milk supply under Section 9(f), is approved by
329 producers. The Commission shall conduct a referendum among producers. The
330 referendum shall be held in a timely manner, as determined by regulation of the
331 Commission. The terms and conditions of the proposed order or amendment shall be
332 described by the Commission in the ballot used in the conduct of the referendum. But the
333 nature, content, or extent of such description shall not be a basis for attacking the legality
334 of the order or any action relation thereto.

335 (b) An order or amendment shall be deemed approved by producers if the
336 Commission determines that it is approved by at least two-thirds of the voting producers
337 who, during a representative period determined by the Commission, have been engaged
338 in the production of milk the price of which would be regulated under the proposed order
339 or amendment.

340 (c) For purposes of any referendum, the Commission shall consider the approval
341 or disapproval by any cooperative association of producers, qualified under the
342 provisions of the Act of Congress of February 18, 1922, as amended, known as the
343 Capper-Volstead Act, bona fide engaged in marketing milk, or in rendering services for
344 or advancing the interests of producers of such commodity, as the stockholders in, or
345 under contract with, such cooperative association of producers, except as provided in
346 subdivision (1) hereof and subject to the provisions of subdivisions (2) through (5)
347 hereof.

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

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

356 (3) Any producer may obtain a ballot from the Commission in order to
357 register approval or disapproval of the proposed order.

358 (4) A producer who is a member of a cooperative which has provided
359 notice of its intent to approve or not to approve a proposed order, and who
360 obtains a ballot and with such ballot expresses the producer's approval or
361 disapproval of the proposed order, shall notify the Commission as to the name of
362 the cooperative of which the producer is a member, and the Commission shall
363 remove such producer's name from the list certified by such cooperative with its
364 corporate vote.

365 (5) In order to insure that all milk producers are informed regarding a
366 proposed order, the Commission shall notify all milk producers that an order is
367 being considered and that each producer may register the producer's approval or
368 disapproval, with the Commission either directly or through the producer's
369 cooperative.

370 Section 14. Termination of over-order price or marketing order.

371 (a) The Commission shall terminate any regulations establishing an over-order
372 price or commission marketing order issued under this Article whenever it finds that such
373 order or price obstructs or does not tend to effectuate the declared policy of this Compact.

374 (b) The Commission shall terminate any regulations establishing an over-order
375 price or a Commission Marketing Order issued under this Article whenever it finds that
376 such termination is favored by a majority of the producers who, during a representative
377 period determined by the Commission, have been engaged in the production of milk the
378 price of which is regulated by such order; but such termination shall be effective only if
379 announced on or before such date as may be specified in such marketing agreement or
380 order.

381 (c) The termination or suspension of any order or provision thereof, shall not be
382 considered an order within the meaning of this Article and shall require no hearing, but
383 shall comply with the requirements for informal rulemaking prescribed by § 4 of the
384 Federal Administrative Procedure Act, as amended (5 U. S. C. Section 553).

385 Article VI. Enforcement.

386 Section 15. Records, reports, access to premises.

387 (a) The Commission may by rule and regulation prescribe record keeping and
388 reporting requirements for all regulated persons. For purposes of the administration and
389 enforcement of this Compact. The Commission is authorized to examine the books and
390 records of any regulated person relating to the person's milk business and for that
391 purpose, the Commission's properly designated officers, employees, or agents shall have
392 full access during normal business hours to the premises and records of all regulated
393 persons.

394 (b) Information furnished to or acquired by the Commission officers, employees,
395 or its agents pursuant to this Section shall be confidential and not subject to disclosure
396 except to the extent that the Commission deems disclosure to be necessary in any
397 administrative or judicial proceeding involving the administration or enforcement of this
398 Compact Over-Order Price, a Compact Marketing Order, or other regulations of the
399 Commission. The Commission may promulgate regulations further defining the
400 confidentiality of information pursuant to this section. Nothing in this section shall be
401 deemed to prohibit (1) the issuance of general statements based upon the reports of a
402 number of handlers, which do not identify the information furnished by any person, or (2)
403 the publication by direction of the Commission of the name of any person violating any
404 regulation of the Commission, together with a statement of the particular provisions
405 violated by such person.

406 (c) No officer, employee, or agent of the Commission shall intentionally disclose
407 information, by inference or otherwise, which is made confidential pursuant to this
408 Section. Any person violating the provisions of this Section shall upon conviction be
409 subject to a fine of not more than \$1,000 or to imprisonment for not more than one year,
410 or to both, and shall be removed from office. The Commission shall refer any allegation
411 of a violation of this Section to the appropriate state enforcement authority or United
412 States Attorney.

413 Section 16. Subpoena, hearings and judicial review.

414 (a) The Commission is hereby authorized and empowered by its members and its
415 properly designated officers to administer oaths and issue subpoenas throughout all
416 signatory states to compel the attendance of witnesses and the giving of testimony and the
417 production of other evidence.

418 (b) Any handler subject to an order may file a written petition with the
419 Commission stating that any such order or any provision of any such order or any
420 obligation imposed in connection therewith is not in accordance with law and praying for
421 a modification thereof or to be exempted therefrom. The handler shall thereupon be
422 given an opportunity for a hearing upon such petition, in accordance with regulations
423 made by the Commission. After such hearing, the Commission shall make a ruling upon
424 the prayer of such petition which shall be final, if in accordance with law.

425 (c) The District Courts of the United States in any district in which such handler
426 is an inhabitant, or has the handler's principal place of business, are hereby vested with
427 jurisdiction in equity to review such ruling, provided a bill in equity for that purpose is
428 filed within thirty days from the date of the entry of such ruling. Service of processing
429 such proceedings may be had upon the commission by delivering to it a copy of the bill
430 of complain, if the court determines that such ruling is not in accordance with law, it shall

431 remand such proceedings to the commission with directions either (1) to make sure ruling
432 as the court shall determine to be in accordance with law, or (2) to take such further
433 proceedings as, in its option, the law required. The pendency of proceedings instituted
434 pursuant to this subdivision shall not impede, hinder, or delay the commission from
435 obtaining relief pursuant to § 17. Any proceedings brought pursuant to § 17 (except
436 where brought by way of counter claim in proceedings instituted pursuant to this Section)
437 shall abate whenever a final decree has been rendered in proceedings between the same
438 parties, and covering the same subject matter, instituted pursuant to this section.

439 Section 17. Enforcement with respect to handlers.

440 (a) Any violation by a handler of the provision of regulations establishing an
441 over-order price or a commission marketing order, or other regulations adopted pursuant
442 to this compact shall:

443 (1) Constitute a violation of the laws of each of the signatory states.
444 Such violation shall render the violator subject to a civil penalty in an amount as
445 may be prescribed by the laws of each of the participating states, recoverable in
446 any state or federal court of competent jurisdiction. Each day such violation
447 continues shall constitute a separate violation.

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

450 (b) With respect to handlers, the Commission shall enforce the provisions of this
451 compact, regulations establishing an over-order price, a Commission Marketing Order or
452 other regulations adopted hereunder by:

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

455 (2) With the agreement of the appropriate state agency of a participating
456 state, by referral to the state agency for enforcement by judicial or administrative
457 remedy.

458 (c) With respect to handlers, the Commission may bring an action for injunction
459 to enforce the provisions of this compact or the order or regulations adopted thereunder
460 without being completed to allege or prove that an adequate remedy of law does not exist.

461 Article VII. Finance.

462 Section 18. Finance of start up and regular costs.

463 (a) To provide for its start-up costs, the Commission may borrow money
464 pursuant to its general power under §6(d)(4). In order to finance the costs of
465 administration and enforcement of this Compact, including payback of start-up costs, the
466 Commission is hereby empowered to collect an assessment from each handler who
467 purchases milk from producers within the region. If imposed, this assessment shall be
468 collected on a monthly basis for up to one year from the date the Commission convenes,
469 in an amount not to exceed 0.001% of the applicable federal market order blend price per
470 hundred weight of milk purchased from producers during the period of the assessment.
471 The initial assessment may apply to the projected purchases of handlers for the two-
472 month period following the date the Commission convenes. In addition, if regulations
473 establishing an over-order price or a compact marketing order are adopted, they may
474 include an assessment for the specific purpose of their administration. These regulations
475 shall provide for establishment of a reserve for the commissions ongoing operating
476 expenses.

477 (b) The Commission shall not pledge the credit of any participating state or of
478 the United States. Noted issued by the Commission and all other financial obligations

479 incurred by it, shall be its sole responsibility and no participating state or the United
480 States shall be liable therefor.

481 Section 19. Audit and accounts.

482 (a) The Commission shall keep accurate accounts of all receipts and
483 disbursements, which shall be subject to the audit and accounting procedures established
484 under its rules. In addition, all receipts and disbursements of funds handled by the
485 Commission shall be audited yearly by a qualified public accountant and the report of the
486 audit shall be included in and become part o the annual report of the commission.

487 (b) The accounts of the Commission shall be open at any reasonable time for
488 inspection by duly constituted officers of the participating states and by any persons
489 authorized by the Commission.

490 (c) Nothing contained in this article shall be construed to prevent Commission
491 compliance with laws relating to audit or inspection of accounts or on behalf of any
492 participating state or of the United States.

493 Article VIII. Entry into force; additional members and withdrawal.

494 Section 20. Entry into Force; Additional Members.

495 The Compact shall enter into force effective when enacted into law by any three
496 states of the group of states composed of Connecticut, Delaware, Maine, Maryland,
497 Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island,
498 Vermont, and Virginia, and when the consent of Congress has been obtained. This
499 Compact shall also be open to states which are contiguous to any of the named states and
500 open to states which are contiguous to participating states.

501 Section 21. Withdrawal from compact.

502 Any participating state may withdraw from this Compact by enacting a statute
503 repealing the same, but no such withdrawal shall take effect until one year after notice in
504 writing of the withdrawal is given to the Commission and the Governors of all
505 participating states. No withdrawal shall affect any liability already incurred by or
506 chargeable to a party state prior to the time of such withdrawal.

507 Section 22. Severability.

508 If any part or provision of this Compact is adjudged invalid by any court, such
509 judgment shall be confined in its operation to the part of provision directly involved in
510 the controversy in which such judgment shall have been rendered and shall not affect or
511 impair the validity of the remainder of this Compact.

512 Congress reserves the right to amend or rescind this interstate compact at any
513 time.

514 § 3202. The Delaware Delegation to the Northeast Interstate Dairy Compact.

515 (a) The Delaware delegation to the Northeast Interstate Dairy Compact
516 Commission consists of the following five members, appointed by the Governor with the
517 advice and consent of the Senate.

518 (1) Two dairy farmers who are actively engaged in the production of
519 milk at the time of appointment;

520 (2) One dairy processor who is actively engaged in the production of
521 milk at the time of appointment;

522 (3) Two consumers.

523 (b) The members of the delegation shall be selected to represent the diversity of
524 the dairy interests and geographic representation of the State.

525 (c) (1) The term of a member is 4 years and begins on
526 October 1 in the year in which the member is appointed.

527 (2) At the end of a term, a member continues to serve until a successor is
528 appointed and qualifies.

529 (3) A member appointed after a term has begun serves only for the rest
530 of the term and until a successor is appointed and qualifies.

531 (4) The terms of the members are staggered as required by the terms
532 provided for members of the delegation on October 1, 2000.

533 (5) A member may serve no more than 3 consecutive terms.

534 (6) The Governor may remove a member for incompetence or
535 misconduct.

536 (7) If a vacancy arises other than by the expiration of a term, the
537 Governor shall appoint within 30 days a successor to serve the remainder of the
538 term.

539 (8) Terms of the initial members of the Delaware delegation to the
540 Northeast Interstate Dairy Compact Commission shall expires as follows:

541 a. one dairy member in 2004;

542 b. one consumer members and the dairy processor in 2003;

543 c. one dairy farmer in 2002; and

544 d. one consumer member in 2001.

545 (d) A member of the delegation may not receive compensation for serving on the
546 delegation.

547 § 3203. Duties of the Secretary of Agriculture.

548 (a) The Secretary of Agriculture may obtain information by lawful means pertaining to
549 the dairy industry as necessary to carry out the purposes of this Chapter and the Northeast
550 Interstate Dairy Compact. The information may be used by the Secretary, the Delaware delegation
551 to the Commission and the Commission.

552 (b) the Secretary of Agriculture may adopt regulations necessary to carry out the
553 purposes of this Chapter and the Northeast Interstate Dairy Compact.

554 § 3204. Civil Penalties.

555 (a) A person may not violate a provision of this Chapter, the Northeast Interstate
556 Dairy compact, or a regulation adopted under this Chapter.

557 (b) Instead of pursuing criminal charges provided in this Compact, the Secretary
558 may impose on any person who violates this compact a civil penalty of:

559 (1) For a first violation for which a civil penalty is imposed, not more than
560 \$500;

561 (2) For a second violation for which a civil penalty is imposed, not more
562 than \$1,000; or

563 (3) for a third or subsequent violation for which a civil penalty is
564 imposed, not more than \$2,000.

565 (c) Penalties collected by the Secretary under this section shall be deposited into
566 the General Fund of the State.

567 (d) Each day that a violation continues is a separate violation.

568 (e) The Secretary shall adopt regulations necessary to carry out the provisions of
569 this Section.

570 Section 3. This Act may not take effect until a similar act is passed by at least two of the other states listed
571 in Article VIII, § 20 of the compact in § 3201 of the Agriculture Article as enacted by this Act, the United States

572 Congress consents to the compact, and the conditions imposed by that Consent have been met; that the other listed
573 states are required to concur in this Act of the General Assembly of Delaware by the passage of similar Acts; that
574 the United States congress is required to consent to this Act; that the Department of Legislative Services shall notify
575 the appropriated officials of the listed states and the United States Congress of the passage of this Act; that the
576 Department of Legislative Services shall notify the appropriate officials of the listed states and the United States
577 Congress of the passage of this Act; and that upon the concurrence in this Act by at least two of the other listed
578 states, consent by the United States congress and meeting of the conditions imposed by that consent the Governor of
579 the State of Delaware shall issue a proclamation declaring this Act valid and effective and shall forward a copy of
580 the proclamation to the Executive director of the Department of Legislative Services.

581 Section 4. this Act shall take effect October 2000.

SYNOPSIS

This bill enters the State of Delaware in the Northeast Interstate Dairy Compact and sets the initial terms of Delaware's delegation to the Compact Commission.