

House Bill 51

In The House

January 6, 1981	Introduced and referred to Committee on Business and Industry.
January 7, 1981	Fiscal note requested. On motion by Chief Sponser 10 Representatives were added as authors to the pre-filed bill.
January 13, 1981	Fiscal note returned.
January 23, 1981	Committee recommend bill do not pass. Minority Committee recommend bill do pass. Minority report adopted.
January 26, 1981	Bill printed and placed on members' desks.
January 27, 1981	Second reading do not pass.

1 HOUSE BILL NO. 51
2 INTRODUCED BY NORDTVEDT

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE MILK
5 PRICE CONTROL LAWS AND TO END THE REGULATION OF MINIMUM MILK
6 PRICES AT THE WHOLESALE, DISTRIBUTOR, AND RETAIL LEVEL BY
7 THE BOARD OF MILK CONTROL; AMENDING SECTIONS 81-23-101,
8 81-23-102, 81-23-104, 82-23-105, 81-23-201 THROUGH
9 81-23-203, 81-23-205, 81-23-301 THROUGH 81-23-305,
10 81-23-402, AND 81-23-405, MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 81-23-101, MCA, is amended to read:
14 "81-23-101. Definitions. (1) Unless the context
15 requires otherwise, in this chapter the following
16 definitions apply:

17 (a) "Board" means the board of milk control provided
18 for in 2-15-1802.

19 (b) "Class I milk" includes all bottled or packaged
20 milk, low fat, buttermilk, chocolate milk, whipping cream,
21 commercial cream, half-and-half, skim milk, fortified skim
22 milk, skim milk flavored drinks, and any other fluid milk
23 not specifically classified in this chapter, whether raw,
24 pasteurized, homogenized, sterile, or aseptic.

25 (c) "Class II milk" includes milk used in the

1 manufacture of ice cream and ice cream mix, ice milk,
2 sherbet, eggnog, cultured sour cream, cottage cheese,
3 condensed milk, and powdered skim for human consumption.

4 (d) "Class III milk" includes milk used in the
5 manufacture of butter, cheddar cheese, process cheese,
6 livestock feed, powdered skim other than for human
7 consumption, and skim milk dumped.

8 (e) "Consumer" means a person or an a government
9 agency, other than a dealer, who purchases milk for
10 consumption or use.

11 (f) "Dealer" means a producer dairy farmer,
12 distributor, producer-distributor dairy farmer-distributor,
13 jobber, or independent contractor.

14 (g) "Department" means the department of business
15 regulation provided for in Title 2, chapter 15, part 18.

16 (h) "Distributor" means a person purchasing milk from
17 any source, either in bulk or in packages, and distributing
18 it for consumption in this state. The term includes what are
19 commonly known as jobbers and independent contractors. The
20 term, however, excludes a person purchasing milk from a
21 dealer licensed under this chapter, for resale over the
22 counter at retail or for consumption on the premises.

23 ~~(i) "Jobber-prices" means those prices at which milk~~
24 ~~owned by a distributor is sold in bulk or in packages to a~~
25 ~~jobber or independent contractor.~~

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1 {fj}{i} "Licensee" means a person who holds a license
2 from the department.

3 {fk}{j} "Market" means an area of the state designated
4 by the department as a natural marketing area.

5 {ft}{k} "Milk" means the lacteal secretion of a dairy
6 animal or animals, including those secretions when raw and
7 when cooled, pasteurized, standardized, homogenized,
8 recombined, concentrated fresh, or otherwise processed and
9 all of which is designated as grade A by a duly constituted
10 health authority and also includes those secretions which
11 are in any manner rendered sterile or aseptic,
12 notwithstanding whether they are regulated by any health
13 authority of this or any other state or nation.

14 {fn}{l} "Person" means a person, firm, corporation, or
15 cooperative association.

16 {ft}{m} "Producer Dairy farmer" means a person who
17 produces milk for consumption in this state, selling it to a
18 distributor.

19 {ft}{n} "Producer-distributor Dairy farmer-distributor"
20 means a person both producing and distributing milk for
21 consumption in this state.

22 {ft}{o} "Producer Dairy farmer prices" means those
23 prices at which milk owned by a producer dairy farmer is
24 sold in bulk to a distributor.

25 {ft}{p} "Retail prices" means those prices at which milk

1 owned by a retailer is sold, in bulk or in packages, over
2 the counter at retail or for consumption on the premises.

3 {ft}{q} "Retailer" means a person selling milk in bulk
4 or in packages over the counter at retail or for consumption
5 on the premises and includes but is not limited to retail
6 stores of all types, restaurants, boardinghouses,
7 fraternities, sororities, confectionaries, public and
8 private schools, including colleges and universities, and
9 both public and private institutions and instrumentalities
10 of all types and description.

11 {ft}{r} "Wholesale prices" means those prices at which
12 milk owned by a distributor is sold, in bulk or in packages,
13 to a retailer.

14 (2) The department may assign new milk products, not
15 expressly included in one of the classes defined in this
16 section, to the class which in its discretion it determines
17 to be proper."

18 Section 2. Section 81-23-102, MCA, is amended to read:

19 "81-23-102. Policy. (1) It is hereby declared that:

20 (a) milk is a necessary article of food for human
21 consumption;

22 (b) the production and maintenance of an adequate
23 supply of healthful milk of proper chemical and physical
24 content, free from contamination, is vital to the public
25 health and welfare;

1 (c) the production, transportation, processing,
2 storage, distribution, and sale of milk in the state of
3 Montana is an industry affecting the public health and
4 interest;

5 (d) unfair, unjust, destructive, and demoralizing trade
6 practices have been and are now being carried on in the
7 production, transportation, processing, storage,
8 distribution, and sale of milk and products manufactured
9 therefrom, which trade practices constitute a constant
10 menace to the health and welfare of the inhabitants of this
11 state and tend to undermine the sanitary regulations and
12 standards of content and purity of milk;

13 (e) health regulations alone are insufficient to
14 prevent disturbances in the milk industry and to safeguard
15 the consuming public from further inadequacy of a supply of
16 this necessary commodity;

17 (f) it is the policy of this state to promote, foster,
18 and encourage the intelligent production and orderly
19 marketing of milk and cream and products manufactured
20 therefrom, to eliminate speculation and waste, to make the
21 distribution thereof between the producer dairy farmer and
22 consumer as direct as can be efficiently and economically
23 done, and to stabilize the marketing of such commodities;

24 (g) investigations have revealed and experience has
25 shown that, due to the nature of milk and the conditions

1 surrounding the production and marketing of milk and due to
2 the vital importance of milk to the health and well-being of
3 the citizens of this state, it is necessary to invoke the
4 police powers of the state to provide a constant supervision
5 and regulation of the milk industry of the state to prevent
6 the occurrence and recurrence of those unfair, unjust,
7 destructive, demoralizing, and chaotic conditions and trade
8 practices within the industry which have in the past
9 affected the industry and which constantly threaten to be
10 revived within the industry and to disrupt or destroy an
11 adequate supply of pure and wholesome milk to the consuming
12 public and to the citizens of this state;

13 (h) milk is a perishable commodity which is easily
14 contaminated with harmful bacteria, which cannot be stored
15 for any great length of time, which must be produced and
16 distributed fresh daily, and the supply of which cannot be
17 regulated from day to day but, due to natural and seasonal
18 conditions, must be produced on a constantly uniform and
19 even basis;

20 (i) the demand for this perishable commodity fluctuates
21 from day to day and from time to time making it necessary
22 that the producers dairy farmers and distributors shall
23 produce and carry on hand a surplus of milk in order to
24 guarantee and insure to the consuming public an adequate
25 supply at all times, which surplus must of necessity be

1 converted into byproducts of milk at great expense and
2 oftentimes at a loss to the producer dairy farmer and
3 distributor;

4 (j) this surplus of milk, though necessary and
5 unavoidable, unless regulated, tends to undermine and
6 destroy the milk industry, which causes producers to relax
7 their diligence in complying with the provisions of the
8 health authorities and oftentimes to produce milk of an
9 inferior and unsanitary quality;

10 (k) investigation and experience have further shown
11 that, due to the nature of milk and the conditions
12 surrounding its production and marketing, unless the
13 producers dairy farmers, distributors, and others engaged in
14 the marketing of milk are guaranteed and insured a
15 reasonable profit on milk, both the supply and quality of
16 milk are affected to the detriment of and against the best
17 interest of the citizens of this state whose health and
18 well-being are thereby vitally affected;

19 (l) where no supervision and regulation are provided
20 for the orderly and profitable marketing of milk, past
21 experience has shown that the credit status of both
22 producers dairy farmers and distributors of milk is
23 adversely affected to a serious degree, thereby entailing
24 loss and hardship upon all within the community with whom
25 these producers dairy farmers and distributors carry on

1 business relations;

2 (m) due to the nature of milk and the conditions
3 surrounding its production and distribution, the natural law
4 of supply and demand has been found inadequate to protect
5 the industry in this and other states and in the public
6 interest it is necessary to provide state supervision and
7 regulation of the milk industry in this state.

8 (2) The general purpose of this chapter is to protect
9 and promote public welfare and to eliminate unfair and
10 demoralizing trade practices in the milk industry. It is
11 enacted in the exercise of the police powers of the state."

12 Section 3. Section 81-23-104, MCA, is amended to read:
13 "81-23-104. Rules and orders. The department may adopt
14 and enforce rules and orders necessary to carry out the
15 provisions of this chapter and any orders adopted under it
16 by the department or the board. A rule or order shall be
17 posted for public inspection in the main office of the
18 department for 30 days, and a copy shall be filed in the
19 office of the department. ~~A copy shall also be sent by~~
20 ~~registered or certified letter to the secretary of each~~
21 ~~area except in the case of an~~ An order directed only to a
22 person or persons named in it, ~~which~~ shall be served by
23 personal delivery of a copy or by mailing a copy to each
24 person to whom the order is directed or, in the case of a
25 corporation, to any officer or agent of the corporation upon

1 whom a summons may be served in accordance with laws of this
 2 state. The posting, in the main office of the department, of
 3 a rule or order not required to be personally served as
 4 provided in this section and the filing in the office of the
 5 department is sufficient notice to all persons affected by
 6 the rule or order. A rule or order when properly posted and
 7 filed or served, as provided in this section, has the force
 8 of law."

9 Section 4. Section 81-23-105, MCA, is amended to read:

10 "81-23-105. Testing of milk. (1) For the purpose of
 11 determining the value of milk supplied by producers dairy
 12 farmers during routine audits of milk processing plants
 13 which receive raw milk directly from producers dairy
 14 farmers, the department of business regulation shall
 15 establish a program of testing such raw milk.

16 (2) The department of business regulation may levy an
 17 assessment on licensed producers dairy farmers to secure the
 18 necessary funds to administer this program. This assessment
 19 is in addition to those provided in 81-23-202.

20 (3) All personnel employed in the sampling and testing
 21 program shall be licensed by the animal health division of
 22 the department of livestock.

23 (4) The department of business regulation may conduct
 24 all types of sampling, grading, and testing techniques which
 25 it considers necessary to carry out the intent of this

1 section."

2 Section 5. Section 81-23-201, MCA, is amended to read:

3 "81-23-201. Licenses to producers
 4 producer-distributors dairy farmers, dairy
 5 farmer-distributors, distributors, and jobbers. In any
 6 market where the provisions of this chapter apply, it is
 7 unlawful for a producer-producer-distributor dairy farmer,
 8 dairy farmer-distributor, distributor, or jobber to produce,
 9 transport, process, store, handle, distribute, buy, or sell
 10 milk unless the dealer is properly licensed as provided by
 11 this chapter. It is unlawful for a person to buy, sell,
 12 handle, process, or distribute milk which he knows or has
 13 reason to believe has been previously dealt with or handled
 14 in violation of any provision of this chapter. The
 15 department may decline to grant a license or may suspend or
 16 revoke a license already granted, upon due cause and after
 17 hearings."

18 Section 6. Section 81-23-202, MCA, is amended to read:

19 "81-23-202. Licenses -- disposition of income. (1) A
 20 producer----producer-distributor dairy farmer, dairy
 21 farmer-distributor, distributor, or jobber may not engage in
 22 the business of producing or selling milk subject to this
 23 chapter in this state without first having obtained a
 24 license from the department of livestock or, in the case of
 25 milk entering this state from another state or foreign

1 nation, without complying with the requirements of the
 2 Montana Food, Drug, and Cosmetic Act and without being
 3 licensed under this chapter by the department. The annual
 4 fee for the license from the department is \$2 and is due
 5 before July 1 and shall be deposited by the department to
 6 the credit of the general fund. The license required by this
 7 chapter is in addition to any other license required by
 8 state law or any municipality of this state. This chapter
 9 shall apply to every part of the state of Montana.

10 (2) (a) In addition to the annual license fee, the
 11 department shall, ~~in each year,~~ before April July 1 of each
 12 year, for the purpose of securing funds to administer and
 13 enforce this chapter, levy an assessment upon ~~producers,~~
 14 ~~producer-distributors~~ dairy farmers, dairy
 15 farmer-distributors, and distributors as follows:

16 (i) a fee per hundredweight on the total volume of
 17 all milk subject to this chapter produced and sold by a
 18 ~~producer-distributor~~ dairy farmer-distributor;

19 (ii) a fee per hundredweight on the total volume of
 20 all milk subject to this chapter sold by a producer dairy
 21 farmer;

22 (iii) a fee per hundredweight on the total volume of
 23 all milk subject to this chapter sold by a distributor,
 24 excepting that which is sold to another distributor;

25 (iv) a fee per hundredweight on the total volume of

1 fluid milk and milk equivalents on manufactured milk
 2 products sold in this state, subject to this chapter, from
 3 out-of-state.

4 (b) Only a change in the amount of the assessment
 5 requires notice.

6 (3) The department shall adopt rules fixing the amount
 7 of each fee. The amounts may not exceed levels sufficient
 8 to provide for the administration of this chapter. The fee
 9 assessed on a ~~producer~~ dairy farmer or on a distributor may
 10 not be more than one-half the fee assessed on a
 11 ~~producer-distributor~~ dairy farmer-distributor.

12 (4) The assessment upon ~~producer-distributors,~~
 13 ~~producers~~ dairy farmer-distributors, dairy farmers, and
 14 distributors shall be paid quarterly before January 15,
 15 April 15, July 15, and October 15 of each year. The amount
 16 of the assessment shall be computed by applying the fee
 17 designated by the department to the volume of milk sold in
 18 the preceding calendar quarter.

19 (5) Failure of a ~~producer~~-~~producer-distributor~~ dairy
 20 farmer, dairy farmer-distributor, or distributor to pay an
 21 assessment when due is a violation of this chapter and his
 22 license under this chapter automatically terminates and is
 23 void. A license so terminated shall be reinstated by the
 24 department upon payment of a delinquency fee equal to 30% of
 25 the assessment which was due.

1 (6) All assessments required by this chapter shall be
 2 deposited by the department in the earmarked revenue fund.
 3 All costs of administering this chapter, including the
 4 salaries of employees and assistants, per diem and expenses
 5 of board members, and all other disbursements necessary to
 6 carry out the purpose of this chapter, shall be paid out of
 7 control board moneys in that fund.

8 (7) The department may, if it finds the costs of
 9 administering and enforcing this chapter can be derived from
 10 lower rates, amend its rules to fix the rates at a ~~less~~
 11 lesser amount on or before ~~April~~ July 1 in any year."

12 Section 7. Section 81-23-203, MCA, is amended to read:
 13 "81-23-203. Application for licenses. An applicant for
 14 license to operate as a ~~producer, producer-distributor~~ dairy
 15 farmer, dairy farmer-distributor, distributor, or jobber
 16 shall file a signed application upon a blank prepared under
 17 authority of the department, and an applicant shall state
 18 facts concerning his circumstances and the nature of the
 19 business to be conducted which in the opinion of the
 20 department are necessary for the administration of this
 21 chapter. The application shall certify the applicant to be
 22 the holder of all licenses required by the department of
 23 livestock for the conduct of his business or, in the case
 24 of milk entering this state from another state or foreign
 25 nation, compliance with the requirements of the Montana

1 Food, Drug, and Cosmetic Act. The application shall be
 2 accompanied by the license fee required to be paid."

3 Section 8. Section 81-23-205, MCA, is amended to read:
 4 "81-23-205. Bonds required of distributors -- amounts
 5 -- forms and conditions. (1) A distributor before purchasing
 6 milk from a ~~producer~~ dairy farmer shall deliver to the
 7 department a surety bond of not less than \$1,000, executed
 8 by the distributor as principal and by a surety company
 9 authorized to do business in this state as surety. The bond
 10 shall be on a form approved by the department and shall be
 11 conditioned upon the payment, in the manner required by this
 12 chapter, of all amounts due to ~~producers~~ dairy farmers for
 13 milk purchased by the distributor during the license year.
 14 The bond shall be to the state in favor of every producer of
 15 milk. In case of failure by a distributor to pay a ~~producer~~
 16 dairy farmer for milk in the manner required by this
 17 chapter, the department shall proceed immediately to
 18 ascertain the names and addresses of all ~~producer-creditors~~
 19 dairy farmer-creditors of that distributor, together with
 20 the amounts due them and shall request all those
 21 ~~producer-creditors~~ dairy farmer-creditors to file a verified
 22 statement of their respective claims. The department shall
 23 then sue on the bond on behalf of the ~~producer-creditors~~
 24 dairy farmer-creditors. Upon suing on the bond, the
 25 department may require the filing of a new bond; and

1 immediately upon a recovery in an action upon the bond, the
 2 distributor shall file a new bond. Upon failure to file a
 3 new bond within 10 days in either case, the failure is
 4 grounds for the revocation or suspension of the license of
 5 the distributor. If recovery on the bond is not sufficient
 6 to pay all of the claims as finally determined by the court,
 7 the amount recovered shall be divided pro rata among the
 8 ~~producer-creditors~~ dairy farmer-creditors.

9 (2) The minimum bond of \$1,000 shall be required of
 10 distributors purchasing an average daily quantity of milk of
 11 less than 100 gallons; distributors purchasing an average
 12 daily quantity of 100 gallons and less than 200 gallons
 13 during any calendar month during a license year shall post a
 14 bond in the amount of \$2,000; distributors purchasing an
 15 average daily quantity of 200 gallons and less than 300
 16 gallons during any calendar month during a license year
 17 shall post a bond in the amount of \$3,000; distributors
 18 purchasing an average daily quantity of 300 gallons or more
 19 during any calendar month during a license year shall post a
 20 bond in the sum of \$5,000.

21 (3) If a distributor increases his purchases of milk
 22 during the license year to exceed the amount for which he is
 23 bonded, he shall immediately post the additional bond
 24 required to comply with this section.

25 (4) The department may require a distributor to

1 furnish a bond in addition to those specified in this
 2 section if, after notice and hearing and upon good cause
 3 shown, it determines the additional bond is required to
 4 assure payment of all amounts due or to become due to
 5 ~~producers~~ dairy farmers.

6 (5) Failure of a distributor who purchases milk from
 7 ~~producers~~ dairy farmers to post a bond required by this
 8 section is a violation of this chapter."

9 Section 9. Section 81-23-301, MCA, is amended to read:

10 "81-23-301. Markets. (1) Pursuant to the declaration of
 11 policy relating to milk set forth in 81-23-102(1), the
 12 department shall designate natural marketing areas which
 13 shall together embrace all the geographical area of the
 14 state and shall enforce minimum ~~producers--wholesale--and~~
 15 ~~retail~~ dairy farmer prices established for those areas by
 16 the board.

17 (2) Natural marketing areas shall be established
 18 throughout the state by the department. Before a proposed
 19 natural marketing area is established, the department, after
 20 notice of at least 30 days, shall hold a hearing or
 21 hearings, at a place or places within the proposed area, at
 22 which ~~producers~~ dairy farmers and distributors doing
 23 business within the proposed natural marketing area, who are
 24 licensed by the department of livestock, and the consuming
 25 public may present evidence and testify. If the hearing or

1 hearings make it evident to the department that the
2 establishment of the proposed natural marketing area is in
3 the public interest, the department shall establish the
4 natural marketing area.

5 (3) The department may from time to time adjust the
6 boundaries of natural marketing areas, if after a hearing
7 upon notice of at least 30 days to all interested parties it
8 finds the adjustment to be in the public interest."

9 Section 10. Section 81-23-302, MCA, is amended to read:

10 "81-23-302. Establishment of minimum prices. (1) The
11 board shall fix minimum ~~producer-wholetsev-jobbers-and~~
12 ~~retail~~ dairy farmer prices for class I₂ milk ~~--and--minimum~~
13 ~~producer-prices-only-for class II₂ and class III milk in all~~
14 areas of the state by adopting rules in a manner prescribed
15 by the Montana Administrative Procedure Act.

16 (2) The board shall establish such prices by means of
17 flexible formulas which shall be devised so that they bring
18 about such automatic changes in all minimum prices as are
19 justified on the basis of changes in production, supply, and
20 ~~processing-distribution-and-retailing costs.~~

21 (3) The board shall consider the balance between
22 production and consumption of milk, the costs of production
23 ~~and-distribution~~ and prices in adjacent and neighboring
24 areas and states so that minimum prices which are fair and
25 equitable to ~~producers--distributors--jobbers--retailers~~

1 ~~and-consumers~~ dairy farmers may result.

2 (4) The board shall, when publishing notice of proposed
3 rulemaking under authority of this section, set forth the
4 specific factors which shall be taken into consideration in
5 establishing the formulas and in particular in determining
6 costs of production ~~and--distribution~~ and of the actual
7 dollars and cents costs of production ~~and-distribution~~ which
8 preliminary studies and investigations of auditors or
9 accountants in its employment indicate will or should be
10 shown at the hearing so that all interested parties will
11 have opportunity to be heard and to question or rebut such
12 considerations as a matter of record.

13 (5) Such specific factors may include but shall not be
14 limited to the following items:

15 (a) current and prospective supplies of milk in
16 relation to current and prospective demands for such milk
17 for all purposes;

18 ~~(b)--the--ability--and--willingness--of--consumers--to~~
19 ~~purchase--which--shall--include--among--other--things--per-capita~~
20 ~~disposable-income-statistics--consumer--price--indexes--and~~
21 ~~wholesale-price-indexes~~

22 ~~(c)[d]~~ the cost factors in producing milk, which shall
23 include among other things the prices paid by farmers
24 generally (as used in parity calculations of the United
25 States department of agriculture), prices paid by farmers

1 for dairy feed in particular, and farm wage rates in this
2 state;

3 ~~(d)(c)~~ the alternative opportunities, both farm and
4 nonfarm, open to milk-producers dairy farmers, which shall
5 include among other things prices received by farmers for
6 all products other than milk, prices received by farmers for
7 beef cattle, and the percentage of unemployment in the state
8 and nation as determined by appropriate state and federal
9 agencies;

10 ~~(e)(d)~~ the prices of butter, nonfat dry milk, and
11 cheese;

12 ~~(f)--the--cost--factors--in--distributing--milk--which--shall~~
13 ~~include--among--other--things--the--prices--paid--by--distributors~~
14 ~~for--equipment--of--all--types--required--to--process--and--market~~
15 ~~milk--and--prevailing--wage--rates--in--this--state;~~

16 ~~(g)--the--cost--factors--in--jobbing--milk--which--shall~~
17 ~~include--among--other--things--raw--product--and--ingredient--costs,~~
18 ~~carton--or--other--packaging--costs--processing--costs--and--that~~
19 ~~part--of--general--administrative--costs--of--the--supplying~~
20 ~~distributor--which--may--properly--be--allocated--to--the--handling~~
21 ~~of--milk--to--the--point--at--which--such--milk--is--at--the--supplying~~
22 ~~distributor's--dock,~~ ~~equipment--of--all--types--required--to~~
23 ~~market--milk--and--prevailing--wage--rates--in--the--state;~~

24 ~~(h)(e)~~ the need, if any, for freight or transportation
25 charges to be deducted by distributors from producer dairy

1 farmer prices for bulk milk;

2 ~~(i)--a--reasonable--return--on--necessary--investment--to--all~~
3 ~~ordinarily--efficient--and--economical--milk--dealers;~~

4 (6) If the board at any time proposes to base all or
5 any part of any official order establishing or revising any
6 milk pricing formulas upon facts within its own knowledge,
7 as distinguished from evidence which may be presented to it
8 by the consuming public or the milk industry, the board
9 shall, when publishing notice of proposed rulemaking under
10 authority of this section, cause notice to be given to the
11 consuming public and the milk industry of the specific facts
12 within its own knowledge which it will consider, so that all
13 interested parties will have opportunity to be heard and to
14 question or rebut such facts as a matter of record.

15 (7) The board, after consideration of the evidence
16 produced, shall make written findings and conclusions and
17 shall fix by official rule the formula whereby minimum

18 ~~(a)--producer~~ dairy farmer prices for milk in classes I,
19 II, and III shall be computed;

20 ~~(b)--wholesale--prices--for--milk--in--class--i--shall--be~~
21 ~~computed;~~

22 ~~(c)--jobber--prices--for--milk--in--class--i--shall--be~~
23 ~~computed;~~

24 ~~(d)--retail--prices--for--milk--in--class--i--shall--be~~
25 ~~computed;~~

1 (8) This section shall not be construed as requiring
 2 the board to promulgate any specific number of formulas, but
 3 shall be construed liberally so that the board may adopt any
 4 reasonable method of expression to accomplish the objective
 5 set forth in subsection (7). If the evidence presented to
 6 the board at any public hearing for the establishment or
 7 revision of milk pricing formulas is found by the board to
 8 require the establishment of separate and varying wholesale
 9 prices for any particular uses, the board shall designate
 10 the reasons therefor and establish such separate formulas.

11 (9) Each rule establishing or revising any milk pricing
 12 formulas shall classify milk by forms, classes, grades, or
 13 uses as the board may deem advisable and shall specify the
 14 minimum prices therefor.

15 (10) The milk produced in one natural marketing area and
 16 sold in another natural marketing area shall be paid for by
 17 a distributor or dealer in accordance with the pricing order
 18 of the area where produced at the price therein specified of
 19 the class or use in which it is ultimately used or sold.

20 (11) The board shall adopt rules after notice and
 21 hearing in the manner prescribed by the Montana
 22 Administrative Procedure Act to regulate transportation
 23 rates which distributors, contract haulers, and others
 24 charge producers dairy farmers for both farm-to-plant and
 25 interplant transportation of milk. No allowance for

1 transportation of milk between plants may be permitted
 2 unless it is found by the board to be necessary to permit
 3 the movement of milk in the public interest.

4 ~~{12} All milk purchased within a natural marketing area
 5 by a distributor shall be purchased on a uniform basis. The
 6 basis to be used shall be established by the board after the
 7 producers and the distributors of the area have been
 8 consulted.~~

9 {13}{12} The board may amend any official rule in the
 10 same manner provided herein for the original establishment
 11 of milk pricing formulas. The board may in its discretion,
 12 when it determines the need exists, give notice of and hold
 13 statewide public hearings affecting establishment or
 14 revision of milk pricing formulas in all market areas of the
 15 state.

16 {14}{13} Upon petition of a distributor or a majority of
 17 his producers dairy farmers, the board shall hold a hearing
 18 to receive and consider evidence regarding the advisability
 19 and need for a base or quota plan as a method of payment by
 20 that distributor of producer dairy farmer prices; and if the
 21 board finds that the evidence adduced at such hearing
 22 warrants the establishment of a base or quota plan, the
 23 board shall proceed by official order to establish the same.

24 {15}{14} Upon petition by any producer
 25 producer-distributor, or distributor dairy farmer in any

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1 marketing area, the board shall hold a hearing to receive
 2 and consider evidence regarding the advisability and need
 3 for an areawide or statewide pooling arrangement as a method
 4 of payment of producer dairy farmer prices, provided that at
 5 such hearing the board shall among other things specifically
 6 receive and consider evidence concerning production and
 7 marketing practices which have historically prevailed in the
 8 area concerned or statewide, as the case may be. If the
 9 board finds that the evidence adduced at such hearing
 10 warrants the establishment of such an areawide or statewide
 11 pooling arrangement, the board shall proceed by official
 12 order to establish the same; but such official order shall
 13 be of no force or effect until it is approved in a
 14 referendum conducted by the board among affected producers,
 15 ~~producer-distributors, and distributors~~ dairy farmers.

16 ~~{16}~~{15} The requirements hereinabove set forth above
 17 concerning notices of hearings for the establishment of milk
 18 pricing formulas shall apply to any hearings regarding base
 19 or quota plans or areawide or statewide pooling arrangements
 20 or abandonment thereof.

21 ~~{17}~~{16} Rules adopted pursuant to this section shall be
 22 enforced and audited for compliance by the milk control
 23 division of the department of business regulation."

24 NEW SECTION. Section 11. Decontrol at the wholesale,
 25 distributor, and retail level. Beginning July 1, 1981, the

1 board shall start a program of orderly decontrol of milk
 2 prices at the wholesale, distributor, and retail level. This
 3 program is at the discretion of the board and may be
 4 instituted without a public hearing but must be completed
 5 before January 1, 1982.

6 Section 12. Section 81-23-303, MCA, is amended to read:
 7 "81-23-303. Rules of fair trade practices. The
 8 department may adopt reasonable rules governing fair trade
 9 practices as they pertain to the transaction of business
 10 among licensees under this chapter and among licensees and
 11 the general public. Those rules shall contain but are not
 12 limited to provisions prohibiting the following methods of
 13 doing business which are unfair, unlawful, and not in the
 14 public interest:

15 (1) the payment, allowance, or acceptance of secret
 16 rebates, secret refunds, or unearned discounts by a person,
 17 whether in the form of money or otherwise;

18 (2) the giving of milk, cream, dairy products,
 19 services, or articles of any kind, except to bona fide
 20 charities, for the purpose of securing or retaining the
 21 fluid milk or fluid cream business of a customer;

22 (3) the extension to certain customers of special
 23 prices or services not available to all customers who
 24 purchase milk of like quantity under like terms and
 25 conditions;

1 (4) the purchasing, processing, bottling, packaging,
 2 transporting, delivering, or otherwise handling in any
 3 marketing area of milk which is to be or is sold or
 4 otherwise disposed of at less than the minimum ~~wholesale-and~~
 5 ~~minimum-retail~~ prices established by the board;

6 (5) the payment of a price lower than the applicable
 7 producer dairy farmer price, established by the board, by a
 8 distributor to a producer dairy farmer for milk which is
 9 distributed to any person, including agencies of the
 10 federal, state, or local government."

11 Section 13. Section 81-23-304, MCA, is amended to read:

12 "81-23-304. Limitation on extension of credit to
 13 retailers. A sale or delivery may not be made by a
 14 ~~producer-distributor~~ dairy farmer-distributor, distributor,
 15 or jobber to a retailer, except for cash or payment within
 16 15 days after regular billings, and all
 17 ~~producer-distributors~~ dairy-----farmer-distributors,
 18 distributors, and jobbers shall bill retailers at least
 19 monthly. A ~~producer-distributor~~ dairy farmer-distributor,
 20 distributor, or jobber may not extend more than 15 days'
 21 credit after billing to a retailer. A retailer may not
 22 receive delivery of milk without agreement to pay for it in
 23 cash within 15 days after regular billing. A correctly dated
 24 check which is honored upon presentment is cash within the
 25 meaning of this section. An extension or acceptance of

1 credit in violation of this section shall be construed as
 2 rendering or receiving financial assistance. The licenses of
 3 ~~producer-distributors~~ dairy-----farmer-distributors,
 4 distributors, or jobbers involved in violation of this
 5 section shall be suspended or revoked as determined by the
 6 department in its discretion."

7 Section 14. Section 81-23-305, MCA, is amended to read:

8 "81-23-305. Financing prohibitions -- ~~producer dairy~~
 9 ~~farmer~~ and retailer. (1) A ~~producer--producer-distributor~~
 10 dairy farmer, dairy farmer-distributor, distributor, or
 11 jobber licensed under this chapter may not advance or loan
 12 money or credit to or furnish money or credit for or
 13 refinance or cosign or guarantee promissory notes, security
 14 agreements, conditional sales contracts, or other commercial
 15 paper for or on behalf of a retailer. A ~~producer,~~
 16 ~~producer-distributor~~ dairy farmer, dairy farmer-distributor,
 17 distributor, or jobber may not be financially interested,
 18 either directly or indirectly, in the conduct or operation
 19 of the business of a retailer. A ~~producer-distributor~~ dairy
 20 farmer-distributor, distributor, or jobber licensed under
 21 this chapter may not advance or loan money or credit to or
 22 furnish money or credit for or refinance or cosign or
 23 guarantee promissory notes, security agreements, conditional
 24 sales contracts, or other commercial paper for or on behalf
 25 of a producer dairy farmer. A ~~producer-distributor~~ dairy

H B S I

1 farmer-distributor, distributor, or jobber may not be
 2 financially interested, either directly or indirectly, in
 3 the conduct or operation of the business of a producer dairy
 4 farmer. This section does not prohibit a producer dairy
 5 farmer from belonging to, participating in, or patronizing a
 6 cooperative corporation or a producer-producer-distributor
 7 dairy farmer, dairy farmer-distributor, distributor, or
 8 jobber from operating his own wholly-owned dairy products or
 9 other retail store or home-delivery retail routes.

10 (2) This section does not prohibit a producer dairy
 11 farmer from requesting and a distributor from granting an
 12 advance payment for milk before the regular date of payment
 13 for milk or limit in any way the right of a producer dairy
 14 farmer to assign part or all of moneys which are or may
 15 become due to him from a distributor."

16 Section 15. Section 81-23-402, MCA, is amended to read:
 17 "81-23-402. Reports of dealers -- accounting system --
 18 records. (1) The department may require licensees to file
 19 with it reports at reasonable or regular times which the
 20 department may require, showing the licensee's production,
 21 sale, or distribution of milk and any information considered
 22 by the department necessary which pertains to the
 23 production, sale, or distribution of milk, either under oath
 24 or otherwise, as the department may direct. Failure or
 25 refusal to file a report when directed to do so is grounds

1 for the revocation of the license and is a violation for
 2 which the licensee may be fined as provided by this chapter,
 3 one or both, at the discretion of the department.

4 (2) The department shall adopt a uniform system of
 5 accounting to be used by the distributor to account for the
 6 usage of all milk received by the distributor.

7 (3) A distributor and producer-distributor dairy
 8 farmer-distributor shall keep:

9 (a) a record of all milk, cream, or dairy products
 10 received, detailed as to location, names and addresses of
 11 suppliers, prices paid, deductions or charges made, and the
 12 use to which the milk or cream was put;

13 (b) a record of the quantity of each kind of milk or
 14 dairy product manufactured and the quantity and price of
 15 milk or dairy products sold;

16 (c) a complete record of all milk, cream, or dairy
 17 products sold, classified as to kind and grade, showing
 18 where sold, and the amount received in payment;

19 (d) a record of the wastage or loss of milk or dairy
 20 products;

21 (e) a record of the items of handling expense;

22 (f) a record of all refrigeration facilities sold for
 23 storage purposes to any person, showing types, sizes, and
 24 location of the facilities and the original or duplicate
 25 original of all agreements covering sales for them;

1 (g) other records which the department considers
2 necessary for the proper enforcement of this chapter."

3 Section 16. Section 81-23-405, MCA, is amended to read:

4 "81-23-405. Violations made misdemeanors -- penalties.

5 (1) A person who produces, sells, distributes, or handles
6 milk in any way, except as a consumer, without a license
7 from the department as required by this chapter or who
8 violates a lawful rule of the department or board is guilty
9 of a misdemeanor punishable by a fine not exceeding \$600.
10 Each day's violation is a separate offense.

11 (2) The district courts have original jurisdiction in
12 all criminal actions for violations of this chapter and in
13 all civil actions for the recovery or enforcement of
14 penalties provided for in this chapter. All of those
15 actions, both criminal and civil, shall be tried in the
16 district court.

17 (3) The county attorneys, in their respective counties,
18 shall diligently prosecute all violations of this chapter.

19 ~~(4) The penalties provided by this chapter extend to~~
20 ~~retailers."~~

21 Section 17. Codification instruction. Section 11 is
22 intended to be codified as an integral part of Title 81,
23 chapter 23, part 3, and the provisions of Title 81, chapter
24 23, part 3, apply to section 11.

-End-

HB 51

STATE OF MONTANA

REQUEST NO. 44-81

FISCAL NOTE

Form BD-15

In compliance with a written request received January 8, 19 81, there is hereby submitted a Fiscal Note for House Bill 51 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

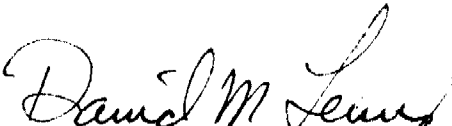
Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

A proposal to deregulate minimum milk prices at the Wholesale, Distributor and Retail level by January 1, 1982.

Fiscal Impact

There may be some increase in legal activity caused by the passage of the bill, but the fiscal impact upon the state should be minimal.



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-12-81

Committee
on Business and Industry
Minority Report Adopted

1 HOUSE BILL NO. 51

2 INTRODUCED BY NORDTVEDT, COZZENS, VINCENT, METCALF,

3 HANNAH, SHONTZ, LEE, STOBIE, McBRIDE,

4 ANDREASON, KESSLER

5
6 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE MILK
7 PRICE CONTROL LAWS AND TO END THE REGULATION OF MINIMUM MILK
8 PRICES AT THE WHOLESALE, DISTRIBUTOR, AND RETAIL LEVEL BY
9 THE BOARD OF MILK CONTROL; AMENDING SECTIONS 81-23-101,
10 81-23-102, 81-23-104, 81-23-105, 81-23-201 THROUGH
11 81-23-203, 81-23-205, 81-23-301 THROUGH 81-23-305,
12 81-23-402, AND 81-23-405, MCA."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 81-23-101, MCA, is amended to read:

16 "81-23-101. Definitions. (1) Unless the context
17 requires otherwise, in this chapter the following
18 definitions apply:

19 (a) "Board" means the board of milk control provided
20 for in 2-15-1802.

21 (b) "Class I milk" includes all bottled or packaged
22 milk, low fat, buttermilk, chocolate milk, whipping cream,
23 commercial cream, half-and-half, skim milk, fortified skim
24 milk, skim milk flavored drinks, and any other fluid milk
25 not specifically classified in this chapter, whether raw,

1 pasteurized, homogenized, sterile, or aseptic.

2 (c) "Class II milk" includes milk used in the
3 manufacture of ice cream and ice cream mix, ice milk,
4 sherbet, eggnog, cultured sour cream, cottage cheese,
5 condensed milk, and powdered skim for human consumption.

6 (d) "Class III milk" includes milk used in the
7 manufacture of butter, cheddar cheese, process cheese,
8 livestock feed, powdered skim other than for human
9 consumption, and skim milk dumped.

10 (e) "Consumer" means a person or on a government
11 agency, other than a dealer, who purchases milk for
12 consumption or use.

13 (f) "Dealer" means a producer dairy__farmer,
14 distributor, producer-distributor dairy_farmer-distributor,
15 jobber, or independent contractor.

16 (g) "Department" means the department of business
17 regulation provided for in Title 2, chapter 15, part 18.

18 (h) "Distributor" means a person purchasing milk from
19 any source, either in bulk or in packages, and distributing
20 it for consumption in this state. The term includes what are
21 commonly known as jobbers and independent contractors. The
22 term, however, excludes a person purchasing milk from a
23 dealer licensed under this chapter, for resale over the
24 counter at retail or for consumption on the premises.

25 (i) ~~"Jobber--prices"--means--those--prices--at--which--milk~~

1 ~~owned-by-a-distributor-is-sold-in-bulk-or-in-packages-to-a~~
 2 ~~jobber-or-independent-contractor.~~

3 (j)(i) "Licensee" means a person who holds a license
 4 from the department.

5 (k)(j) "Market" means an area of the state designated
 6 by the department as a natural marketing area.

7 (l)(k) "Milk" means the lacteal secretion of a dairy
 8 animal or animals, including those secretions when raw and
 9 when cooled, pasteurized, standardized, homogenized,
 10 recombined, concentrated fresh, or otherwise processed and
 11 all of which is designated as grade A by a duly constituted
 12 health authority and also includes those secretions which
 13 are in any manner rendered sterile or aseptic,
 14 notwithstanding whether they are regulated by any health
 15 authority of this or any other state or nation.

16 (m)(l) "Person" means a person, firm, corporation, or
 17 cooperative association.

18 (n)(m) "Producer Dairy_farmer" means a person who
 19 produces milk for consumption in this state, selling it to a
 20 distributor.

21 (o)(n) "~~Producer-distributor Dairy_farmer-distributor~~"
 22 means a person both producing and distributing milk for
 23 consumption in this state.

24 (p)(o) "Producer Dairy_farmer prices" means those
 25 prices at which milk owned by a producer dairy_farmer is

1 sold in bulk to a distributor.

2 (q)(p) "Retail prices" means those prices at which
 3 milk owned by a retailer is sold, in bulk or in packages,
 4 over the counter at retail or for consumption on the
 5 premises.

6 (r)(q) "Retailer" means a person selling milk in bulk
 7 or in packages over the counter at retail or for consumption
 8 on the premises and includes but is not limited to retail
 9 stores of all types, restaurants, boardinghouses,
 10 fraternities, sororities, confectionaries, public and
 11 private schools, including colleges and universities, and
 12 both public and private institutions and instrumentalities
 13 of all types and description.

14 (s)(r) "Wholesale prices" means those prices at which
 15 milk owned by a distributor is sold, in bulk or in packages,
 16 to a retailer.

17 (2) The department may assign new milk products, not
 18 expressly included in one of the classes defined in this
 19 section, to the class which in its discretion it determines
 20 to be proper."

21 Section 2. Section 81-23-102, MCA, is amended to read:

22 "81-23-102. Policy. (1) It is hereby declared that:

23 (a) milk is a necessary article of food for human
 24 consumption;

25 (b) the production and maintenance of an adequate

1 supply of healthful milk of proper chemical and physical
2 content, free from contamination, is vital to the public
3 health and welfare;

4 (c) the production, transportation, processing,
5 storage, distribution, and sale of milk in the state of
6 Montana is an industry affecting the public health and
7 interest;

8 (d) unfair, unjust, destructive, and demoralizing
9 trade practices have been and are now being carried on in
10 the production, transportation, processing, storage,
11 distribution, and sale of milk and products manufactured
12 therefrom, which trade practices constitute a constant
13 menace to the health and welfare of the inhabitants of this
14 state and tend to undermine the sanitary regulations and
15 standards of content and purity of milk;

16 (e) health regulations alone are insufficient to
17 prevent disturbances in the milk industry and to safeguard
18 the consuming public from further inadequacy of a supply of
19 this necessary commodity;

20 (f) it is the policy of this state to promote, foster,
21 and encourage the intelligent production and orderly
22 marketing of milk and cream and products manufactured
23 therefrom, to eliminate speculation and waste, to make the
24 distribution thereof between the producer dairy farmer and
25 consumer as direct as can be efficiently and economically

1 done, and to stabilize the marketing of such commodities;

2 (g) investigations have revealed and experience has
3 shown that, due to the nature of milk and the conditions
4 surrounding the production and marketing of milk and due to
5 the vital importance of milk to the health and well-being of
6 the citizens of this state, it is necessary to invoke the
7 police powers of the state to provide a constant supervision
8 and regulation of the milk industry of the state to prevent
9 the occurrence and recurrence of those unfair, unjust,
10 destructive, demoralizing, and chaotic conditions and trade
11 practices within the industry which have in the past
12 affected the industry and which constantly threaten to be
13 revived within the industry and to disrupt or destroy an
14 adequate supply of pure and wholesome milk to the consuming
15 public and to the citizens of this state;

16 (h) milk is a perishable commodity which is easily
17 contaminated with harmful bacteria, which cannot be stored
18 for any great length of time, which must be produced and
19 distributed fresh daily, and the supply of which cannot be
20 regulated from day to day but, due to natural and seasonal
21 conditions, must be produced on a constantly uniform and
22 even basis;

23 (i) the demand for this perishable commodity
24 fluctuates from day to day and from time to time making it
25 necessary that the producers dairy farmers and distributors

1 shall produce and carry on hand a surplus of milk in order
 2 to guarantee and insure to the consuming public an adequate
 3 supply at all times, which surplus must of necessity be
 4 converted into byproducts of milk at great expense and
 5 oftentimes at a loss to the producer dairy farmer and
 6 distributor;

7 (j) this surplus of milk, though necessary and
 8 unavoidable, unless regulated, tends to undermine and
 9 destroy the milk industry, which causes producers to relax
 10 their diligence in complying with the provisions of the
 11 health authorities and oftentimes to produce milk of an
 12 inferior and unsanitary quality;

13 (k) investigation and experience have further shown
 14 that, due to the nature of milk and the conditions
 15 surrounding its production and marketing, unless the
 16 ~~producers dairy farmers~~, distributors, and others engaged in
 17 the marketing of milk are guaranteed and insured a
 18 reasonable profit on milk, both the supply and quality of
 19 milk are affected to the detriment of and against the best
 20 interest of the citizens of this state whose health and
 21 well-being are thereby vitally affected;

22 (l) where no supervision and regulation are provided
 23 for the orderly and profitable marketing of milk, past
 24 experience has shown that the credit status of both
 25 producers dairy farmers and distributors of milk is

1 adversely affected to a serious degree, thereby entailing
 2 loss and hardship upon all within the community with whom
 3 these ~~producers dairy farmers~~ and distributors carry on
 4 business relations;

5 (m) due to the nature of milk and the conditions
 6 surrounding its production and distribution, the natural law
 7 of supply and demand has been found inadequate to protect
 8 the industry in this and other states and in the public
 9 interest it is necessary to provide state supervision and
 10 regulation of the milk industry in this state.

11 (2) The general purpose of this chapter is to protect
 12 and promote public welfare and to eliminate unfair and
 13 demoralizing trade practices in the milk industry. It is
 14 enacted in the exercise of the police powers of the state."

15 Section 3. Section 81-23-104, MCA, is amended to read:
 16 "81-23-104. Rules and orders. The department may adopt
 17 and enforce rules and orders necessary to carry out the
 18 provisions of this chapter and any orders adopted under it
 19 by the department or the board. A rule or order shall be
 20 posted for public inspection in the main office of the
 21 department for 30 days, and a copy shall be filed in the
 22 office of the department. ~~A copy shall also be sent by~~
 23 ~~registered or certified letter to the secretary of each~~
 24 ~~area except in the case of an~~ An order directed only to a
 25 person or persons named in it which shall be served by

1 personal delivery of a copy or by mailing a copy to each
 2 person to whom the order is directed or, in the case of a
 3 corporation, to any officer or agent of the corporation upon
 4 whom a summons may be served in accordance with laws of this
 5 state. The posting, in the main office of the department, of
 6 a rule or order not required to be personally served as
 7 provided in this section and the filing in the office of the
 8 department is sufficient notice to all persons affected by
 9 the rule or order. A rule or order when properly posted and
 10 filed or served, as provided in this section, has the force
 11 of law."

12 Section 4. Section 81-23-105, MCA, is amended to read:

13 "81-23-105. Testing of milk. (1) For the purpose of
 14 determining the value of milk supplied by ~~producers dairy~~
 15 ~~farmers~~ during routine audits of milk processing plants
 16 which receive raw milk directly from ~~producers dairy~~
 17 ~~farmers~~, the department of business regulation shall
 18 establish a program of testing such raw milk.

19 (2) The department of business regulation may levy an
 20 assessment on licensed ~~producers dairy farmers~~ to secure the
 21 necessary funds to administer this program. This assessment
 22 is in addition to those provided in 81-23-202.

23 (3) All personnel employed in the sampling and testing
 24 program shall be licensed by the animal health division of
 25 the department of livestock.

1 (4) The department of business regulation may conduct
 2 all types of sampling, grading, and testing techniques which
 3 it considers necessary to carry out the intent of this
 4 section."

5 Section 5. Section 81-23-201, MCA, is amended to read:

6 "81-23-201. Licenses to ~~producers~~
 7 ~~producer-distributors dairy farmers dairy~~
 8 ~~farmer-distributors~~, distributors, and jobbers. In any
 9 market where the provisions of this chapter apply, it is
 10 unlawful for a ~~producer-producer-distributor dairy farmer,~~
 11 ~~dairy farmer-distributor~~, distributor, or jobber to produce,
 12 transport, process, store, handle, distribute, buy, or sell
 13 milk unless the dealer is properly licensed as provided by
 14 this chapter. It is unlawful for a person to buy, sell,
 15 handle, process, or distribute milk which he knows or has
 16 reason to believe has been previously dealt with or handled
 17 in violation of any provision of this chapter. The
 18 department may decline to grant a license or may suspend or
 19 revoke a license already granted, upon due cause and after
 20 hearings."

21 Section 6. Section 81-23-202, MCA, is amended to read:

22 "81-23-202. Licenses -- disposition of income. (1) A
 23 ~~producer---~~producer-distributor ~~dairy farmer dairy~~
 24 ~~farmer-distributor~~, distributor, or jobber may not engage in
 25 the business of producing or selling milk subject to this

1 chapter in this state without first having obtained a
 2 license from the department of livestock or, in the case of
 3 milk entering this state from another state or foreign
 4 nation, without complying with the requirements of the
 5 Montana Food, Drug, and Cosmetic Act and without being
 6 licensed under this chapter by the department. The annual
 7 fee for the license from the department is \$2 and is due
 8 before July 1 and shall be deposited by the department to
 9 the credit of the general fund. The license required by this
 10 chapter is in addition to any other license required by
 11 state law or any municipality of this state. This chapter
 12 shall apply to every part of the state of Montana.

13 (2) ~~(a)~~ In addition to the annual license fee, the
 14 department shall, ~~in each year~~ before ~~April~~ July 1 of each
 15 year, for the purpose of securing funds to administer and
 16 enforce this chapter, levy an assessment upon ~~producers,~~
 17 ~~producer-distributors~~ dairy ~~farmers,~~ dairy
 18 ~~farmer-distributors,~~ and distributors as follows:

19 ~~(a)(i)~~ a fee per hundredweight on the total volume of
 20 all milk subject to this chapter produced and sold by a
 21 ~~producer-distributor~~ dairy farmer-distributor;

22 ~~(b)(ii)~~ a fee per hundredweight on the total volume of
 23 all milk subject to this chapter sold by a ~~producer~~ dairy
 24 farmer;

25 ~~(c)(iii)~~ a fee per hundredweight on the total volume of

1 all milk subject to this chapter sold by a distributor,
 2 excepting that which is sold to another distributor;

3 ~~(iv) a fee per hundredweight on the total volume of~~
 4 ~~fluid milk and milk equivalents on manufactured milk~~
 5 ~~products sold in this state, subject to this chapter, from~~
 6 ~~out-of-state.~~

7 ~~(b) Only a change in the amount of the assessment~~
 8 ~~requires notice.~~

9 (3) The department shall adopt rules fixing the amount
 10 of each fee. The amounts may not exceed levels sufficient
 11 to provide for the administration of this chapter. The fee
 12 assessed on a ~~producer~~ dairy farmer or on a distributor may
 13 not be more than one-half the fee assessed on a
 14 ~~producer-distributor~~ dairy farmer-distributor.

15 (4) The assessment upon ~~producer-distributors,~~
 16 ~~producers~~ dairy farmer-distributors, dairy farmers, and
 17 distributors shall be paid quarterly before January 15,
 18 April 15, July 15, and October 15 of each year. The amount
 19 of the assessment shall be computed by applying the fee
 20 designated by the department to the volume of milk sold in
 21 the preceding calendar quarter.

22 (5) Failure of a ~~producer,~~ producer-distributor dairy
 23 farmer, dairy farmer-distributor, or distributor to pay an
 24 assessment when due is a violation of this chapter and his
 25 license under this chapter automatically terminates and is

1 void. A license so terminated shall be reinstated by the
 2 department upon payment of a delinquency fee equal to 30% of
 3 the assessment which was due.

4 (6) All assessments required by this chapter shall be
 5 deposited by the department in the earmarked revenue fund.
 6 All costs of administering this chapter, including the
 7 salaries of employees and assistants, per diem and expenses
 8 of board members, and all other disbursements necessary to
 9 carry out the purpose of this chapter, shall be paid out of
 10 control board moneys in that fund.

11 (7) The department may, if it finds the costs of
 12 administering and enforcing this chapter can be derived from
 13 lower rates, amend its rules to fix the rates at a ~~less~~
 14 lesser amount on or before ~~April~~ July 1 in any year."

15 Section 7. Section 81-23-203, MCA, is amended to read:

16 "81-23-203. Application for licenses. An applicant for
 17 license to operate as a ~~producer, producer-distributor~~ dairy
 18 farmer, dairy farmer-distributor, distributor, or jobber
 19 shall file a signed application upon a blank prepared under
 20 authority of the department, and an applicant shall state
 21 facts concerning his circumstances and the nature of the
 22 business to be conducted which in the opinion of the
 23 department are necessary for the administration of this
 24 chapter. The application shall certify the applicant to be
 25 the holder of all licenses required by the department of

1 livestock for the conduct of his business or, in the case
 2 of milk entering this state from another state or foreign
 3 nation, compliance with the requirements of the Montana
 4 Food, Drug, and Cosmetic Act. The application shall be
 5 accompanied by the license fee required to be paid."

6 Section 8. Section 81-23-205, MCA, is amended to read:

7 "81-23-205. Bonds required of distributors -- amounts
 8 -- forms and conditions. (1) A distributor before purchasing
 9 milk from a ~~producer~~ dairy farmer shall deliver to the
 10 department a surety bond of not less than \$1,000, executed
 11 by the distributor as principal and by a surety company
 12 authorized to do business in this state as surety. The bond
 13 shall be on a form approved by the department and shall be
 14 conditioned upon the payment, in the manner required by this
 15 chapter, of all amounts due to ~~producers~~ dairy farmers for
 16 milk purchased by the distributor during the license year.
 17 The bond shall be to the state in favor of every producer of
 18 milk. In case of failure by a distributor to pay a ~~producer~~
 19 dairy farmer for milk in the manner required by this
 20 chapter, the department shall proceed immediately to
 21 ascertain the names and addresses of all ~~producer-creditors~~
 22 dairy farmer-creditors of that distributor, together with
 23 the amounts due them and shall request all those
 24 ~~producer-creditors~~ dairy farmer-creditors to file a verified
 25 statement of their respective claims. The department shall

1 then sue on the bond on behalf of the ~~producer-creditors~~
 2 ~~dairy_farmer-creditors~~. Upon suing on the bond, the
 3 department may require the filing of a new bond; and
 4 immediately upon a recovery in an action upon the bond, the
 5 distributor shall file a new bond. Upon failure to file a
 6 new bond within 10 days in either case, the failure is
 7 grounds for the revocation or suspension of the license of
 8 the distributor. If recovery on the bond is not sufficient
 9 to pay all of the claims as finally determined by the court,
 10 the amount recovered shall be divided pro rata among the
 11 ~~producer-creditors dairy_farmer-creditors~~.

12 (2) The minimum bond of \$1,000 shall be required of
 13 distributors purchasing an average daily quantity of milk of
 14 less than 100 gallons; distributors purchasing an average
 15 daily quantity of 100 gallons and less than 200 gallons
 16 during any calendar month during a license year shall post a
 17 bond in the amount of \$2,000; distributors purchasing an
 18 average daily quantity of 200 gallons and less than 300
 19 gallons during any calendar month during a license year
 20 shall post a bond in the amount of \$3,000; distributors
 21 purchasing an average daily quantity of 300 gallons or more
 22 during any calendar month during a license year shall post a
 23 bond in the sum of \$5,000.

24 (3) If a distributor increases his purchases of milk
 25 during the license year to exceed the amount for which he is

1 bonded, he shall immediately post the additional bond
 2 required to comply with this section.

3 (4) The department may require a distributor to
 4 furnish a bond in addition to those specified in this
 5 section if, after notice and hearing and upon good cause
 6 shown, it determines the additional bond is required to
 7 assure payment of all amounts due or to become due to
 8 ~~producers dairy_farmers~~.

9 (5) Failure of a distributor who purchases milk from
 10 ~~producers dairy_farmers~~ to post a bond required by this
 11 section is a violation of this chapter."

12 Section 9. Section 81-23-301, MCA, is amended to read:

13 "81-23-301. Markets. (1) Pursuant to the declaration
 14 of policy relating to milk set forth in 81-23-102(1), the
 15 department shall designate natural marketing areas which
 16 shall together embrace all the geographical area of the
 17 state and shall enforce minimum ~~producer-wholesale-and~~
 18 ~~retail dairy_farmer~~ prices established for those areas by
 19 the board.

20 (2) Natural marketing areas shall be established
 21 throughout the state by the department. Before a proposed
 22 natural marketing area is established, the department, after
 23 notice of at least 30 days, shall hold a hearing or
 24 hearings, at a place or places within the proposed area, at
 25 which ~~producers dairy_farmers~~ and distributors doing

1 business within the proposed natural marketing area, who are
 2 licensed by the department of livestock, and the consuming
 3 public may present evidence and testify. If the hearing or
 4 hearings make it evident to the department that the
 5 establishment of the proposed natural marketing area is in
 6 the public interest, the department shall establish the
 7 natural marketing area.

8 (3) The department may from time to time adjust the
 9 boundaries of natural marketing areas, if after a hearing
 10 upon notice of at least 30 days to all interested parties it
 11 finds the adjustment to be in the public interest."

12 Section 10. Section 81-23-302, MCA, is amended to
 13 read:

14 "81-23-302. Establishment of minimum prices. (1) The
 15 board shall fix minimum ~~producer-whoolesale-jobber-and~~
 16 ~~retail dairy farmer~~ prices for class I₁ ~~milk--and--minimum~~
 17 ~~producer-prices-only-for~~ class II₁ and class III milk in all
 18 areas of the state by adopting rules in a manner prescribed
 19 by the Montana Administrative Procedure Act.

20 (2) The board shall establish such prices by means of
 21 flexible formulas which shall be devised so that they bring
 22 about such automatic changes in all minimum prices as are
 23 justified on the basis of changes in production, supply, and
 24 processing, ~~distribution, and-retailing~~ costs.

25 (3) The board shall consider the balance between

1 production and consumption of milk, the costs of production,
 2 ~~and-distribution~~ and prices in adjacent and neighboring
 3 areas and states so that minimum prices which are fair and
 4 equitable to ~~producers--distributors--jobbers--retailers~~
 5 ~~and-consumers~~ dairy farmers may result.

6 (4) The board shall, when publishing notice of
 7 proposed rulemaking under authority of this section, set
 8 forth the specific factors which shall be taken into
 9 consideration in establishing the formulas and in particular
 10 in determining costs of production ~~and-distribution~~ and of
 11 the actual dollars and cents costs of production ~~and~~
 12 ~~distribution~~ which preliminary studies and investigations of
 13 auditors or accountants in its employment indicate will or
 14 should be shown at the hearing so that all interested
 15 parties will have opportunity to be heard and to question or
 16 rebut such considerations as a matter of record.

17 (5) Such specific factors may include but shall not be
 18 limited to the following items:

19 (a) current and prospective supplies of milk in
 20 relation to current and prospective demands for such milk
 21 for all purposes;

22 ~~(b)--the--ability--and--willingness--of--consumers--to~~
 23 ~~purchase--which--shall--include--among--other--things--per-capita~~
 24 ~~disposable-income-statistics, consumer--price--indexes--and~~
 25 ~~wholesale-price-indexes~~

1 ~~(e)(b)~~ the cost factors in producing milk, which shall
 2 include among other things the prices paid by farmers
 3 generally (as used in parity calculations of the United
 4 States department of agriculture), prices paid by farmers
 5 for dairy feed in particular, and farm wage rates in this
 6 state;

7 ~~(e)(c)~~ the alternative opportunities, both farm and
 8 nonfarm, open to ~~milk-producers~~ dairy farmers, which shall
 9 include among other things prices received by farmers for
 10 all products other than milk, prices received by farmers for
 11 beef cattle, and the percentage of unemployment in the state
 12 and nation as determined by appropriate state and federal
 13 agencies;

14 ~~(e)(d)~~ the prices of butter, nonfat dry milk, and
 15 cheese;

16 ~~(f)--the-cost-factors-in-distributing-milk, which shall~~
 17 ~~include among other things the prices paid by distributors~~
 18 ~~for equipment of all types required to process and market~~
 19 ~~milk and prevailing wage rates in this state;~~

20 ~~(g)--the-cost-factors--in--jobbing--milk, which shall~~
 21 ~~include among other things raw product and ingredient costs,~~
 22 ~~carton or other packaging costs, processing costs, and that~~
 23 ~~part of general administrative costs of the supplying~~
 24 ~~distributor which may properly be allocated to the handling~~
 25 ~~of milk to the point at which such milk is at the supplying~~

1 ~~distributors dock, equipment of all types required to~~
 2 ~~market milk and prevailing wage rates in the state;~~

3 ~~(h)(a)~~ the need, if any, for freight or transportation
 4 charges to be deducted by distributors from producer dairy
 5 farmer prices for bulk milk;

6 ~~(i)--a-reasonable-return-on-necessary-investment-to-all~~
 7 ~~ordinarily-efficient-and-economical-milk-dealers;~~

8 (6) If the board at any time proposes to base all or
 9 any part of any official order establishing or revising any
 10 milk pricing formulas upon facts within its own knowledge,
 11 as distinguished from evidence which may be presented to it
 12 by the consuming public or the milk industry, the board
 13 shall, when publishing notice of proposed rulemaking under
 14 authority of this section, cause notice to be given to the
 15 consuming public and the milk industry of the specific facts
 16 within its own knowledge which it will consider, so that all
 17 interested parties will have opportunity to be heard and to
 18 question or rebut such facts as a matter of record.

19 (7) The board, after consideration of the evidence
 20 produced, shall make written findings and conclusions and
 21 shall fix by official rule the formula whereby minimum*

22 ~~(a)--producer dairy farmer~~ prices for milk in classes
 23 I, II, and III shall be computed;

24 ~~(b)--wholesale prices for milk in class I shall be~~
 25 ~~computed;~~

1 ~~{c}--jobber--prices--for--milk--in--class--i--shall--be~~
2 ~~computed;~~

3 ~~{d}--retail--prices--for--milk--in--class--i--shall--be~~
4 ~~computed;~~

5 (8) This section shall not be construed as requiring
6 the board to promulgate any specific number of formulas, but
7 shall be construed liberally so that the board may adopt any
8 reasonable method of expression to accomplish the objective
9 set forth in subsection (7). If the evidence presented to
10 the board at any public hearing for the establishment or
11 revision of milk pricing formulas is found by the board to
12 require the establishment of separate and varying wholesale
13 prices for any particular uses, the board shall designate
14 the reasons therefor and establish such separate formulas.

15 (9) Each rule establishing or revising any milk
16 pricing formulas shall classify milk by forms, classes,
17 grades, or uses as the board may deem advisable and shall
18 specify the minimum prices therefor.

19 (10) The milk produced in one natural marketing area
20 and sold in another natural marketing area shall be paid for
21 by a distributor or dealer in accordance with the pricing
22 order of the area where produced at the price therein
23 specified of the class or use in which it is ultimately used
24 or sold.

25 (11) The board shall adopt rules after notice and

1 hearing in the manner prescribed by the Montana
2 Administrative Procedure Act to regulate transportation
3 rates which distributors, contract haulers, and others
4 charge producers dairy farmers for both farm-to-plant and
5 interplant transportation of milk. No allowance for
6 transportation of milk between plants may be permitted
7 unless it is found by the board to be necessary to permit
8 the movement of milk in the public interest.

9 ~~{12}--All--milk--purchased--within--a--natural--marketing--area~~
10 ~~by--a--distributor--shall--be--purchased--on--a--uniform--basis--The~~
11 ~~basis--to--be--used--shall--be--established--by--the--board--after--the~~
12 ~~producers--and--the--distributors--of--the--area--have--been~~
13 ~~consulted;~~

14 ~~{13}{12}~~ The board may amend any official rule in the
15 same manner provided herein for the original establishment
16 of milk pricing formulas. The board may in its discretion,
17 when it determines the need exists, give notice of and hold
18 statewide public hearings affecting establishment or
19 revision of milk pricing formulas in all market areas of the
20 state.

21 ~~{14}{13}~~ Upon petition of a distributor or a majority
22 of his producers dairy farmers, the board shall hold a
23 hearing to receive and consider evidence regarding the
24 advisability and need for a base or quota plan as a method
25 of payment by that distributor of producer dairy farmer

1 prices; and if the board finds that the evidence adduced at
 2 such hearing warrants the establishment of a base or quota
 3 plan, the board shall proceed by official order to establish
 4 the same.

5 ~~{15}{14}~~ Upon petition by any ~~producer~~
 6 ~~producer-distributor-or-distributor~~ dairy farmer in any
 7 marketing area, the board shall hold a hearing to receive
 8 and consider evidence regarding the advisability and need
 9 for an areawide or statewide pooling arrangement as a method
 10 of payment of ~~producer~~ dairy farmer prices, provided that at
 11 such hearing the board shall among other things specifically
 12 receive and consider evidence concerning production and
 13 marketing practices which have historically prevailed in the
 14 area concerned or statewide, as the case may be. If the
 15 board finds that the evidence adduced at such hearing
 16 warrants the establishment of such an areawide or statewide
 17 pooling arrangement, the board shall proceed by official
 18 order to establish the same; but such official order shall
 19 be of no force or effect until it is approved in a
 20 referendum conducted by the board among affected ~~producers~~
 21 ~~producer-distributors-and-distributors~~ dairy farmers.

22 ~~{16}{15}~~ The requirements hereinabove set forth ~~above~~
 23 concerning notices of hearings for the establishment of milk
 24 pricing formulas shall apply to any hearings regarding base
 25 or quota plans or areawide or statewide pooling arrangements

1 or abandonment thereof.

2 ~~{17}{16}~~ Rules adopted pursuant to this section shall
 3 be enforced and audited for compliance by the milk control
 4 division of the department of business regulation."

5 NEW SECTION. Section 11. Decontrol at the wholesale,
 6 distributor, and retail level. Beginning July 1, 1981, the
 7 board shall start a program of orderly decontrol of milk
 8 prices at the wholesale, distributor, and retail level. This
 9 program is at the discretion of the board and may be
 10 instituted without a public hearing but must be completed
 11 before January 1, 1982.

12 Section 12. Section 81-23-303, MCA, is amended to
 13 read:

14 "81-23-303. Rules of fair trade practices. The
 15 department may adopt reasonable rules governing fair trade
 16 practices as they pertain to the transaction of business
 17 among licensees under this chapter and among licensees and
 18 the general public. Those rules shall contain but are not
 19 limited to provisions prohibiting the following methods of
 20 doing business which are unfair, unlawful, and not in the
 21 public interest:

22 (1) the payment, allowance, or acceptance of secret
 23 rebates, secret refunds, or unearned discounts by a person,
 24 whether in the form of money or otherwise;

25 (2) the giving of milk, cream, dairy products,

1 services, or articles of any kind, except to bona fide
 2 charities, for the purpose of securing or retaining the
 3 fluid milk or fluid cream business of a customer;

4 (3) the extension to certain customers of special
 5 prices or services not available to all customers who
 6 purchase milk of like quantity under like terms and
 7 conditions;

8 (4) the purchasing, processing, bottling, packaging,
 9 transporting, delivering, or otherwise handling in any
 10 marketing area of milk which is to be or is sold or
 11 otherwise disposed of at less than the minimum ~~wholesale~~-and
 12 ~~minimum-retail~~ prices established by the board;

13 (5) the payment of a price lower than the applicable
 14 ~~producer dairy_farmer~~ price, established by the board, by a
 15 distributor to a ~~producer dairy_farmer~~ for milk which is
 16 distributed to any person, including agencies of the
 17 federal, state, or local government."

18 Section 13. Section 81-23-304, MCA, is amended to
 19 read:

20 "81-23-304. Limitation on extension of credit to
 21 retailers. A sale or delivery may not be made by a
 22 ~~producer-distributor dairy_farmer-distributor~~, distributor,
 23 or jobber to a retailer, except for cash or payment within
 24 15 days after regular billings, and all
 25 ~~producer-distributors dairy_____farmer-distributors~~,

1 distributors, and jobbers shall bill retailers at least
 2 monthly. A ~~producer-distributor dairy_farmer-distributor~~,
 3 distributor, or jobber may not extend more than 15 days'
 4 credit after billing to a retailer. A retailer may not
 5 receive delivery of milk without agreement to pay for it in
 6 cash within 15 days after regular billing. A correctly dated
 7 check which is honored upon presentment is cash within the
 8 meaning of this section. An extension or acceptance of
 9 credit in violation of this section shall be construed as
 10 rendering or receiving financial assistance. The licenses of
 11 ~~producer-distributors dairy_____farmer-distributors~~,
 12 distributors, or jobbers involved in violation of this
 13 section shall be suspended or revoked as determined by the
 14 department in its discretion."

15 Section 14. Section 81-23-305, MCA, is amended to
 16 read:

17 "81-23-305. Financing prohibitions -- ~~producer dairy~~
 18 ~~farmer~~ and retailer. (1) A ~~producer, producer-distributor~~
 19 ~~dairy_farmer, dairy_farmer-distributor~~, distributor, or
 20 jobber licensed under this chapter may not advance or loan
 21 money or credit to or furnish money or credit for or
 22 refinance or cosign or guarantee promissory notes, security
 23 agreements, conditional sales contracts, or other commercial
 24 paper for or on behalf of a retailer. A ~~producer,~~
 25 ~~producer-distributor dairy_farmer, dairy_farmer-distributor~~,

1 distributor, or jobber may not be financially interested,
 2 either directly or indirectly, in the conduct or operation
 3 of the business of a retailer. A ~~producer-distributor dairy~~
 4 ~~farmer-distributor~~, distributor, or jobber licensed under
 5 this chapter may not advance or loan money or credit to or
 6 furnish money or credit for or refinance or cosign or
 7 guarantee promissory notes, security agreements, conditional
 8 sales contracts, or other commercial paper for or on behalf
 9 of a ~~producer dairy farmer~~. A ~~producer-distributor dairy~~
 10 ~~farmer-distributor~~, distributor, or jobber may not be
 11 financially interested, either directly or indirectly, in
 12 the conduct or operation of the business of a ~~producer dairy~~
 13 ~~farmer~~. This section does not prohibit a ~~producer dairy~~
 14 ~~farmer~~ from belonging to, participating in, or patronizing a
 15 cooperative corporation or a ~~producer,--producer-distributor~~
 16 ~~dairy farmer, dairy farmer-distributor~~, distributor, or
 17 jobber from operating his own wholly-owned dairy products or
 18 other retail store or home-delivery retail routes.

19 (2) This section does not prohibit a ~~producer dairy~~
 20 ~~farmer~~ from requesting and a distributor from granting an
 21 advance payment for milk before the regular date of payment
 22 for milk or limit in any way the right of a ~~producer dairy~~
 23 ~~farmer~~ to assign part or all of moneys which are or may
 24 become due to him from a distributor."

25 Section 15. Section 81-23-402, MCA, is amended to

1 read:

2 "81-23-402. Reports of dealers -- accounting system --
 3 records. (1) The department may require licensees to file
 4 with it reports at reasonable or regular times which the
 5 department may require, showing the licensee's production,
 6 sale, or distribution of milk and any information considered
 7 by the department necessary which pertains to the
 8 production, sale, or distribution of milk, either under oath
 9 or otherwise, as the department may direct. Failure or
 10 refusal to file a report when directed to do so is grounds
 11 for the revocation of the license and is a violation for
 12 which the licensee may be fined as provided by this chapter,
 13 one or both, at the discretion of the department.

14 (2) The department shall adopt a uniform system of
 15 accounting to be used by the distributor to account for the
 16 usage of all milk received by the distributor.

17 (3) A distributor and ~~producer-distributor dairy~~
 18 ~~farmer-distributor~~ shall keep:

19 (a) a record of all milk, cream, or dairy products
 20 received, detailed as to location, names and addresses of
 21 suppliers, prices paid, deductions or charges made, and the
 22 use to which the milk or cream was put;

23 (b) a record of the quantity of each kind of milk or
 24 dairy product manufactured and the quantity and price of
 25 milk or dairy products sold;

1 (c) a complete record of all milk, cream, or dairy
 2 products sold, classified as to kind and grade, showing
 3 where sold, and the amount received in payment;

4 (d) a record of the wastage or loss of milk or dairy
 5 products;

6 (e) a record of the items of handling expense;

7 (f) a record of all refrigeration facilities sold for
 8 storage purposes to any person, showing types, sizes, and
 9 location of the facilities and the original or duplicate
 10 original of all agreements covering sales for them;

11 (g) other records which the department considers
 12 necessary for the proper enforcement of this chapter."

13 Section 16. Section 81-23-405, MCA, is amended to
 14 read:

15 "81-23-405. Violations made misdemeanors -- penalties.

16 (1) A person who produces, sells, distributes, or handles
 17 milk in any way, except as a consumer, without a license
 18 from the department as required by this chapter or who
 19 violates a lawful rule of the department or board is guilty
 20 of a misdemeanor punishable by a fine not exceeding \$600.
 21 Each day's violation is a separate offense.

22 (2) The district courts have original jurisdiction in
 23 all criminal actions for violations of this chapter and in
 24 all civil actions for the recovery or enforcement of
 25 penalties provided for in this chapter. All of those

1 actions, both criminal and civil, shall be tried in the
 2 district court.

3 (3) The county attorneys, in their respective
 4 counties, shall diligently prosecute all violations of this
 5 chapter.

6 ~~(4) The penalties provided by this chapter extend to~~
 7 ~~retailers."~~

8 Section 17. Codification instruction. Section 11 is
 9 intended to be codified as an integral part of Title 81,
 10 chapter 23, part 3, and the provisions of Title 81, chapter
 11 23, part 3, apply to section 11.

-End-