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Passed on File.

Senate File 396  
By BELLMAN.

Passed Senate, Date.....  
Vote: Ayes..... Nays.....  
Passed House, Date.....  
Vote: Ayes..... Nays.....  
Approved .....

## A BILL FOR

An Act regulating the production, transportation, manufacturing, processing, storage, distribution, delivery, consignment and sale of milk and milk products and providing for a milk control commission to enforce the provisions relating thereto.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 Section 1. Short title. This Act shall be known, and may  
2 be cited, as the "Milk Control Law".

1 Sec. 2. Definitions—construction. The following terms  
2 shall be construed in this Act to have the following meanings,  
3 except in those instances where the context clearly indicates  
4 otherwise:

5 "Books and records" or "books or records" shall include  
6 all pertinent books, ledgers, journals, records, papers,  
7 memoranda, correspondence, vouchers, bills, receipts, cancelled  
8 checks, accounts, exhibits, photographs and other documents.

9 "Commission" means the state agency created by this Act,  
10 to be known as the "Milk Control Commission".

11 "Consumer" means any person, natural, corporate, statutory  
12 or governmental, other than a milk dealer or handler who pur-

13 chases milk for consumption or use by himself or others

14 "Co-operative" means a co-operative agricultural association  
15 or corporation of producers organized under the laws of this  
16 state or of any other state and engaged in making collective  
17 sales or in the marketing of milk for producers under contract  
18 with it. A co-operative shall not be deemed a milk dealer or  
19 handler, but shall be deemed a producer, except as otherwise  
20 provided herein.

21 "Handle", to handle means the doing of any one or several  
22 or all of the following acts, to buy, sell, barter, acquire,  
23 store, process, consign, receive, transport, control as owner,  
24 buyer, seller, consignee, consignor, bailee, bailor, broker or  
25 factor.

26 "Licensee" means a licensed milk dealer or handler.

27 "Market" includes any county, city, incorporated town, or  
28 township in the state, or any two or more such counties, cities,  
29 incorporated towns, or townships, or any portions thereof, or  
30 any other land within the territorial limits of the state  
31 designated by the commission as a marketing area.

32 "Milk" includes fluid milk and cream, fresh, sour or  
33 storage, skimmed milk, flavored milk or milk drink, buttermilk,  
34 ice cream mix, and condensed or concentrated whole or skimmed  
35 milk, except when contained in hermetically sealed cans.

36 "Milk dealer" or "handler" means any person, including  
37 any subdealer or subhandler, as hereinafter defined, who  
38 purchases or receives or handles on consignment or as

39 broker, factor or bailee or otherwise, milk within the state  
40 for sale, shipment, storage, processing or manufacture,  
41 within or without the state, whether on behalf of himself or  
42 others, or both. A producer who delivers milk to a milk  
43 dealer or handler only shall not be deemed a milk dealer or  
44 handler. If a co-operative distributes or makes available  
45 on consignment or otherwise milk within this state to  
46 stores, as defined in this Act, or to consumers, as defined  
47 in this Act, it shall be deemed to be a milk dealer or handler  
48 as to that part of its business, and shall be governed by the  
49 provisions of this Act applicable thereto. Such co-operative  
50 shall be governed by the applicable provisions of this Act as  
51 to the prices at which it sells, markets, or bargains to sell  
52 or make available on consignment or otherwise milk within this  
53 state to milk dealers, handlers and others.

54 "Person" includes an individual, corporation, association,  
55 partnership, limited partnership, or other unincorporated enter-  
56 prise owned (by two or more individuals) or conducted by or  
57 on behalf of two or more individuals or other persons.

58 "Price" includes the amount paid or to be paid and the  
59 proceeds returned or to be returned, whether the transaction be  
60 one of purchase, sale, consignment, sale or return, accounting  
61 or otherwise.

62 "Producer" means a person producing milk.

63 "Store" includes a grocery store, hotel, restaurant, soda  
64 fountain, dairy products store, milk vending machines and other

65 dispensing devices, or any similar mercantile establishment  
66 which sells or distributes milk.

67 "Subdealer" or "subhandler" of nonprocessing milk  
68 dealer or nonprocessing milk handler means any milk  
69 dealer or handler handling milk within the state who does  
70 not operate a processing plant but handles milk within the  
71 state and sells or delivers all such milk to consumers or  
72 stores in the same containers as those in which he purchased  
73 or acquired it from other milk dealers or handlers.

74 Any reference in this Act to quantity of milk shall be  
75 construed to include its whole milk equivalent.

1 Sec. 3. Legislative purpose. It is hereby found:

2 1. Milk is the most necessary human food, vital for  
3 promotion of the public health and for development of strength  
4 and vigor in the race. It is a most fertile field for the  
5 growth of bacteria, and therefore its production and distribution  
6 have been surrounded by more costly sanitary requirements than  
7 those of any other commodity in this state.

8 2. Milk consumers are not assured of a constant  
9 and sufficient supply of pure, wholesome milk unless the  
10 high cost of maintaining sanitary conditions of production  
11 and standards of purity is returned to the producers of  
12 milk. If this is not done, large numbers dispose of their  
13 herds or engage in milk strikes, and remaining producers  
14 supply unhealthful milk or milk of lower quality because  
15 of financial inability to comply with sanitary requirements

16 and to keep vigilant against contamination. Public health  
17 is menaced when milk dealers do not or cannot pay a price  
18 to producers commensurate with the cost of sanitary  
19 production, or when consumers are required to pay excessive  
20 prices for this necessity of life.

21 3. Milk dealers must handle constant surpluses  
22 to meet the emergency requirements of normal variations  
23 in fluid consumption and to meet season variations in  
24 production, which amounts in excess of fluid requirements  
25 must find a market in fluid use or in manufacture, and  
26 tend to demoralize the industry.

27 4. Milk producers must make delivery of their  
28 highly perishable commodity immediately after it is  
29 produced, and must generally accept any market at any  
30 price. Under the utilization method of payment prevailing  
31 in the milk industry, particularly in cities, the value of  
32 this market is unknown until the milk dealer sells the  
33 fluid milk and uses or disposes of the surplus. Furthermore,  
34 only the dealers have facilities for accurately weighing  
35 and testing milk. This knowledge of weights, tests and  
36 uses is in the exclusive possession of the dealer. The  
37 producers' lack of control over their market is aggravated  
38 by the trade custom of dealers in paying weeks after  
39 delivery, keeping producers obligated to continue delivery  
40 in order to receive payment for previous sales, and  
41 permitting dealers to operate on the producers' capital without

42 giving security therefor. Hence, milk producers are subject  
43 to fraud and imposition, and do not possess the freedom of  
44 contract necessary for the procuring of cost of production.  
45 Accordingly, in the exercise of the police power of the state,  
46 it is hereby declared that the production, transportation,  
47 manufacture, processing, storage, distribution, and sale of  
48 milk in the state is a business affecting the public health and  
49 affected with a public interest, and it is hereby declared that  
50 this Act shall be and is hereby enacted for the purpose of regu-  
51 lating and controlling the milk industry in this state, for  
52 the protection of the public health and welfare for the preven-  
53 tion of fraud.

1     Sec. 4. Appointment and terms of members—quorum. There  
2 is hereby created and established an independent administrative  
3 commission to be known as the milk control commission. The  
4 commission shall consist of three members nominated and appointed  
5 by the governor, by and with the advice and consent of two-  
6 thirds of all the members of the senate, for terms of six (6)  
7 years each, and until their successors shall have been appointed  
8 and qualified, except that the terms of the members first taking  
9 office shall expire May 1, 1957, May 1, 1959, and May 1, 1961,  
10 respectively, as designated by the governor at the time of  
11 appointment, and until their successors shall have been appointed  
12 and qualified.

13     The governor shall designate one of the members of the  
14 commission as chairman. The chairman shall, when present,

15 preside at all meetings, and in his absence a member designated  
16 by the chairman shall preside.

17 Two members of the commission shall constitute a quorum,  
18 and any action or order of the commission shall require the  
19 approval of at least two members.

20 The governor may remove any commissioner for inefficiency,  
21 neglect of duty or misconduct in office: Provided, That he is  
22 given a copy of the charges against him and an opportunity to  
23 be publicly heard in person or by counsel in his own defense  
24 upon not less than ten days' notice, and that the governor file  
25 with the secretary of state a complete statement of all charges  
26 made against such commissioner, together with a complete record  
27 of the proceedings and his findings thereon.

1 Sec. 5. Qualifications and salaries. Each member of the  
2 commission at the time of his appointment and qualification  
3 shall be a citizen of the United States.

4 No member of the commission, during his period of service  
5 as such, shall hold any other office under the laws of this  
6 state or of the United States.

7 The chairman of the commission shall receive a salary of  
8 six thousand five hundred dollars (\$6,500) per annum. The other  
9 members of the commission shall receive salaries at the rate of  
10 six thousand dollars (\$6,000) per annum.

1 Sec. 6. Secretary. The commission may appoint a secretary  
2 to hold office at its pleasure. The secretary, if appointed,  
3 shall have such powers and shall perform such duties, not

4 contrary to law, as the commission shall prescribe, and shall  
5 receive such compensation as the commission, with the approval  
6 of the governor, shall determine. The secretary shall have power  
7 and authority to designate, from time to time, one of the clerks  
8 appointed by the commission to perform the duties of the secretary  
9 during his absence, and the clerk so appointed shall exercise,  
10 for the time so designated, the powers of the secretary of the  
11 commission.

1 Sec. 7. Regulation of milk industry. The commission is  
2 hereby declared to be the instrumentality of the state for the  
3 purpose of administering the provisions of this Act and to execute  
4 the legislative intent herein expressed, and it is hereby vested  
5 with power to supervise, investigate and regulate the entire milk  
6 industry of this state, including the production, transportation,  
7 disposal, manufacture, processing, storage, distribution, delivery,  
8 handling, bailment, brokerage, consignment, purchase and sale  
9 of milk and milk products in this state, and including the  
10 establishment of reasonable trade practices, systems of produc-  
11 tion control and marketing area committees in connection therewith:  
12 Provided, however, that nothing contained in this Act shall be  
13 construed to alter, amend or repeal any of the laws of this  
14 state relating to the regulation of public utilities, or to the  
15 public health or to the prevention of fraud and deception, except  
16 as herein otherwise specifically provided.

1 Sec. 8. Specific powers not impairment of general powers.  
2 The operating and effect of any provisions of this Act conferring

3 a general power upon the commission shall not be impaired or  
4 qualified by the granting to the commission by this Act of a  
5 specific power or powers.

1 Sec. 9. Official seal—evidence. The commission may,  
2 for the authentication of its records, process and proceedings,  
3 adopt, keep and use a common seal, of which seal judicial  
4 notice shall be taken in all courts of this state. Any process,  
5 writ, notice or other document which the commission may be  
6 authorized by law to issue, shall be deemed sufficient if signed  
7 by any member of the commission, or other person designated by  
8 the chairman, to act under the provisions of this Act, and  
9 authenticated by such seal. All acts, proceedings, rules,  
10 regulations, orders, papers findings, minutes and records of  
11 the commission and all reports and documents filed with the  
12 commission may be proved in any court of this state by a copy  
13 thereof, certified to by any member of the commission, or other  
14 person designated to act under the provisions of this Act, with  
15 the seal of the commission attached.

1 Sec. 10. Hearing—witness fees. The commission, any  
2 member thereof, or any special agent or examiner designated  
3 by the commission, shall hold such hearings at the capitol or  
4 elsewhere, as the commission deems necessary or appropriate to  
5 carry out the provisions of this Act: Provided, however, That  
6 all hearings for the fixing of prices for milk shall be  
7 held before one or more members of the commission. Each wit-  
8 ness required to attend before the commission, any member there-

9 of, or any such special agent, or examiner, under the provisions  
10 of this section, shall be entitled to the fees and mileage  
11 customarily paid to witnesses in the district courts of the  
12 state. All such hearings shall be governed by such rules,  
13 regulations and orders as shall be adopted and prescribed by  
14 the commission.

1 Sec. 11. Subpoenas—oaths. In order to enable the  
2 commission to carry out the provisions of this Act, it shall  
3 have the power to issue subpoenas requiring the attendance  
4 and testimony of, or the production of pertinent books and  
5 papers by, milk dealers or handlers or their employees, producers  
6 or their employees, persons having business dealings with milk  
7 dealers or handlers or producers, or other persons whom the  
8 commission believes to have information, books or papers of  
9 importance to it in carrying out the purposes and intent of  
10 this Act. Each member of the commission and such officers,  
11 employees or others employed in the work of the commission  
12 designated by the chairman of the commission also shall have  
13 the power to administer oaths and affirmations, to question  
14 witnesses thereunder, and to examine such books and papers.  
15 The commission may issue commissions, or other appropriate  
16 processes outside the state.

1 Sec. 12. Contempt. Any person who refuses to obey  
2 a subpoena issued hereunder, or to be sworn or affirmed, or  
3 to testify, or who is guilty of any contempt after summons to  
4 appear, may be punished as for contempt of court. For this

5 purpose an application may be made to the commission to the  
6 district court in the county in which the offense was committed,  
7 for which purpose such court is hereby given jurisdiction.

1 Sec. 13. Adoption of rules, regulations and orders.

2 Subject to the approval of the governor, where such approval  
3 is hereinafter expressly required, the commission shall adopt  
4 and enforce all rules, regulations and orders necessary or  
5 appropriate to carry out the provisions of this Act and not  
6 inconsistent with law.

1 Sec. 14. Posting and service of rules, regulations and  
2 orders. Every general rule, regulation or order of the commis-  
3 sion shall be posted for public inspection in the main office  
4 of the commission at least six days before it shall become  
5 effective, where it shall remain conspicuously posted until  
6 twenty days after its effective date, and shall be given such  
7 further publicity, by advertisement or announcement, in a  
8 newspaper or otherwise, as the commission shall deem advisable.

9 At least three days before it shall become effective, copies of  
10 such general rule, regulation or order shall be mailed to all  
11 licensees and producers' groups and organizations affected  
12 thereby: Provided, however, That such mailing shall not be  
13 construed as a condition upon which the validity of any such  
14 rule, regulation or order depends. A certified copy of an  
15 order applying only to the particular person or persons named  
16 therein shall be served on the person or persons affected.

17 An order, herein required to be served, shall be (1)

18 served in the manner now or hereafter established by law for  
19 the service of original notices; or (2) mailed, registered  
20 and charges prepaid, (a) in the case of an individual, to his  
21 last known residence or place of business, (b) in the case of  
22 an unincorporated association or a corporation formed under  
23 the laws of this state, to its principal office, and (c) in the  
24 case of a corporation formed under the laws of any other state,  
25 to the office of its duly authorized agent in Iowa, to its home  
26 office in the state of incorporation or in any other state.

27 The posting in the main office of the commission of  
28 any rule, regulation or order not herein required to be  
29 served, and the giving of such further publicity thereto  
30 as the commission deems advisable, or the proper service of  
31 any rule, regulation or order required to be served, shall con-  
32 stitute due and sufficient notice to all persons affected by  
33 such rule, regulation or order. A rule, regulation or order  
34 of the commission, when duly posted and so publicized, or when  
35 properly served, as provided in this section, shall have the  
36 force and effect of law. The commission shall, upon request,  
37 mail to any person a copy of any general rule, regulation or  
38 order of the commission.

39 The mailing, or service by mail, herein required, shall  
40 be by deposit in a United States Post Office, or in any  
41 receptacle thereof. Service by registered mail as provided  
42 in this section shall be effective notwithstanding the refusal  
43 of the addressee to accept or receive an order so served.

1     Sec. 15. Certification of rules, regulations and orders.  
2 Certification by the chairman or secretary of the commission,  
3 to the effect that a general rule, regulation or order was duly  
4 posted and publicized as provided in this Act, shall be prima  
5 facie evidence of such posting and publicity.

1     Sec. 16. Entry and inspection. Pursuant to the purposes  
2 of this Act, any member of the commission, or any employee  
3 designated for the purpose, shall have access to, and may enter  
4 and inspect, at all reasonable hours, all places and equipment  
5 where milk or any product thereof is being produced, stored,  
6 bottled, processed, manufactured, sold, weighed, tested, con-  
7 signed or otherwise handled. Any member of the commission or  
8 any designated employee thereof also shall have power, at all  
9 reasonable hours, to inspect, photograph, photostat, mark or  
10 stamp for identification, audit and copy all books, papers,  
11 records or documents in any place within the state, for the  
12 purpose of ascertaining facts to enable the commission to  
13 administer this Act. The information obtained regarding  
14 any person by any such inspection, auditing or copying, or  
15 by reports or statements required or authorized by this Act,  
16 shall be for the confidential use of the commission and the  
17 various administrative departments, boards and commissions  
18 of the state government, and shall not be disclosed by any  
19 person except as may be required in the enforcement of law or  
20 by order of court; and any member or employee of the commission,  
21 or other person, disclosing such information, except as herein

22 required, shall be subject to the penalties herein provided  
23 for a violation of this Act. Nothing contained in this Act  
24 shall prevent the use of any information by the commission in  
25 compiling and dissemination of general statistical data.

1     Sec. 17 Interstate and federal compacts. The commission  
2 is hereby vested with authority to confer with legally consti-  
3 tuted authorities of other states and of the United States  
4 with respect to uniform milk control within the states and as  
5 between states. The commission is authorized to join with such  
6 authorities of other states and with the authorities of the  
7 United States to conduct joint investigations, to exchange  
8 information, hold joint hearings and issue joint, complementary  
9 or concurrent orders, and to enter in a compact or compacts for  
10 such uniform milk control, subject to such federal approval as  
11 may be authorized or required by law.

1     Sec. 18. Milk dealers or handlers required to be licensed.  
2 Except as herein otherwise specifically provided, a milk  
3 dealer or handler, as defined in this Act, shall not buy or  
4 handle milk, whether as a broker, factor, bailee, consignee, or  
5 otherwise, and whether or not by contract or operation of law  
6 title passes to the handler, from producers or others within this  
7 state for storage, consignment, brokerage, manufacture, process-  
8 ing, distribution, or sale within or without this state, or  
9 manufacture, process, handle, sell or distribute milk within  
10 this state, unless such dealer or handler be duly licensed  
11 as herein provided; and it shall be unlawful for a milk

12 dealer or handler to buy or receive milk from, or sell or con-  
13 sign milk to, or handle as broker, factor, consignee or other-  
14 wise, milk for, a milk dealer or handler who is not either  
15 licensed or exempted as herein provided, or, in any way, to  
16 deal in or handle milk which he has reason to believe has  
17 previously been dealt in or handled in violation of the provi-  
18 sions of this Act.

1     Sec. 19. Milk dealers or handlers subject to exemption.  
2     The commission may, by official order, exempt from the license  
3 requirements provided by this Act milk dealers or handlers who  
4 purchase or handle milk in a total quantity not exceeding one  
5 thousand five hundred pounds in any month, and milk dealers or  
6 handlers selling milk in any quantity only in markets of a popu-  
7 lation of one thousand, or less, for local consumption. The  
8 commission may, by official order, exempt stores, or any class  
9 thereof, from the license requirements provided by this Act, and  
10 shall exempt stores selling milk, all of which has been  
11 purchased or acquired from a licensed milk dealer or handler.  
12 However, milk dealers or handlers exempted by this section  
13 from the license requirements of this Act shall continue  
14 to be subject to all the other provisions of this Act  
15 relating to milk dealers or handlers: Provided, however,  
16 That in cash sales of milk, not exceeding two gallons to  
17 any one consumer in any one day, at the farms of  
18 producers to consumers in containers owned and provided  
19 by the consumer, the producers so selling milk shall be

20 exempt from the provisions of this Act.

1     Sec. 20. Applications. An application for a  
2 license to operate as a milk dealer or handler shall be  
3 completed and filed by the dealer or handler with the  
4 commission within thirty days after this Act takes effect,  
5 or prior to his engaging in business, and annually  
6 thereafter, on or before April 15, by mail or otherwise,  
7 upon a form prescribed by the commission. Such  
8 application shall be accompanied by the fee required  
9 by this Act, and by a bond when so required by this Act,  
10 in order to be complete. The license year shall commence  
11 May 1 and shall end April 30 following. The applicant  
12 shall state under oath or affirmation, upon a form  
13 prescribed by the commission, the following:

- 14     1. The nature of the business to be conducted.
- 15     2. The full name of the person applying for the  
16 license. If the applicant is a copartnership or  
17 association, the full name of each member shall be stated.  
18 If the applicant is a corporation, the names and addresses  
19 of all officers and directors shall be stated.
- 20     3. The city, village, incorporated town or township,  
21 and the street number, if any, at which the business is  
22 to be conducted.
- 23     4. The financial condition of the applicant, including  
24 a comprehensive financial statement of his affairs.
- 25     5. Facts showing that the applicant has adequate

26 technical personnel and adequate technical and physical  
27 facilities properly to conduct the business of receiving  
28 and handling milk, that he has complied with all rules,  
29 regulations and orders of the commission filed or served  
30 as required in this Act, the quantity, source and outlet  
31 of milk handled within the state during the calendar year  
32 preceding the period for which the license is desired,  
33 and such other facts with respect to the applicant's  
34 business as may be required by the commission pursuant to  
35 this Act.

1     Sec. 21. Grounds for refusal, suspension or  
2 revocation. The commission shall grant a license to an  
3 applicant complying with the provisions of this Act and  
4 the rules, regulations and orders issued by the commission  
5 pursuant thereto. The commission may decline to grant a  
6 license to an applicant, or may suspend or revoke the  
7 right of a licensee or former licensee to apply for a  
8 license for a new license period, or may suspend, revoke  
9 or refuse to transfer a license already granted to a milk  
10 dealer or handler, or may prohibit a milk dealer or  
11 handler exempted from the license requirements of this Act  
12 from continuing to operate as a milk dealer or handler,  
13 after determination by the commission that the dealer or  
14 handler:

15     1. Has rejected, without reasonable cause, any milk  
16 purchased or acquired from a producer, or has rejected,

17 without either reasonable cause or reasonable advance  
18 notice, milk delivered or made available by or on behalf  
19 of a producer in ordinary continuance of a previous course  
20 of dealing, except where the contract has been lawfully  
21 terminated: Provided, however, That in the absence of an  
22 express or implied fixing of a longer period in the  
23 contract, "reasonable advance notice" shall not be  
24 construed to mean notice of less than two weeks nor more  
25 than four weeks;

26 2. Has, if a milk dealer other than a subdealer,  
27 failed to account and make payment for any milk purchased  
28 or received on consignment or otherwise from a producer or  
29 producers, or has, if a subdealer, failed to account and  
30 make payment for any milk purchased or received on  
31 consignment or otherwise from a milk dealer: Provided,  
32 however, That if it be shown that there was reasonable  
33 cause for any failure to account and make payment,  
34 and that such accounting and payment can and will be made  
35 promptly in addition to currently accounting and paying  
36 for milk purchased or received as aforesaid, the commission  
37 shall not refuse to grant or suspend, revoke or refuse to  
38 transfer a license solely for such failure to account and  
39 make payment, until a reasonable opportunity has been  
40 afforded to make such accounting and payment;

41 3. Has committed any act injurious to the public  
42 health or public welfare or has committed any act

43 injurious to trade or commerce in demoralization of the  
44 price structure of milk to such an extent as to interfere  
45 with an ample supply thereof for the inhabitants of the  
46 state, affected by this Act. It is hereby declared that  
47 such demoralization is injurious to the public health,  
48 public welfare, and to trade and commerce, and that  
49 evidence thereof shall include any course of conduct on  
50 the part of the milk dealer or handler in violation of  
51 the terms of this Act or any valid rules, regulations and  
52 orders of the commission;

53 4. Has made a general assignment for the benefit of  
54 creditors, or has been adjudged a bankrupt, or there has  
55 been entered against him a judgment upon which an  
56 execution remains wholly or partly unsatisfied;

57 5. Has been a party to a combination to fix prices  
58 contrary to law. A co-operative agricultural association  
59 organized under the laws of this state, or a similar  
60 association or corporation organized under the laws of  
61 this or any other state, and engaged in making collective  
62 sales or marketing for its members or shareholders, or any  
63 producers' or farmers' union or organization, shall not  
64 be deemed or construed to be a conspiracy or combination  
65 in restraint of trade or an illegal monopoly; nor shall  
66 the contracts, agreements, arrangements or combinations  
67 heretofore or hereafter made by such association or  
68 corporation, or the members, officers or directors thereof,

69 in making such collective sales and marketing, and  
70 prescribing the terms and conditions thereof, be deemed  
71 or construed to be conspiracies or to be injurious to  
72 public welfare, trade or commerce;

73 6. Has continued in a course of conduct of such  
74 nature as to manifest an intention on the part of such  
75 milk dealer or handler to deceive or defraud producers  
76 or consumers;

77 7. Has failed either to keep records or to furnish  
78 accurately the statements or information required by the  
79 commission to be supplied to it or to producers or  
80 consumers;

81 8. Has made any statement upon which the license  
82 was issued, which statement is found to have been false  
83 or misleading in any material particular;

84 9. Is a partnership, association or corporation,  
85 and any individual holding any position, owning any  
86 substantial interest, or having any power of control therein,  
87 has previously been responsible, in whole or in part, for  
88 any act on account of which a license may be denied,  
89 suspended or revoked pursuant to the provisions of this  
90 Act;

91 10. Has violated any of the provisions of this Act,  
92 or any of the rules, regulations or orders of the commission,  
93 or any stipulation entered into between the said dealer or  
94 handler and the commission in the course of any proceeding

95 before the commission;

96 11. Has violated any provisions of acts repealed  
97 hereby, or of rules, regulations or orders issued  
98 thereunder;

99 12. Has rejected milk sold or delivered or made  
100 available on consignment or otherwise by, or on behalf  
101 of, a producer in ordinary continuance of a previous  
102 course of dealing because the producer or his employee,  
103 agent or representative testified in any proceeding  
104 before the commission, or in any civil or criminal case  
105 in any court, whether or not of record, in which any  
106 provision of this Act or any order of the commission  
107 was concerned, and it shall be no defense that reasonable  
108 advance notice was afforded the producer before the milk  
109 was rejected;

110 13. Has refused without reasonable cause to receive  
111 milk from a producer because it was not hauled to the milk  
112 dealer or handler by a hauler of the dealer's or handler's  
113 choosing, or because it was hauled to the dealer or handler  
114 by a producer or a hauler of a producer's or co-operative's  
115 choosing, providing that such producer or hauler has  
116 adequate facilities and equipment for hauling, and is  
117 delivering, or is ready, able and willing to deliver, milk  
118 to the plant of such dealer or handler in proper condition  
119 and at the times necessary to coincide with the current  
120 schedule of plant operations of the dealer or handler.

121 The burden of proving reasonable cause under any  
122 provisions of this section shall be upon the milk dealer.

123 The issuance or renewal by the commission of a  
124 license hereunder shall not preclude the commission from  
125 suspending or revoking such license for a violation  
126 committed by the licensee prior to the license period,  
127 except where the commission or its predecessor board  
128 had proceeded against the licensee for such violation,  
129 and any valid order thereon has been complied with by  
130 the licensee.

131 The commission shall grant a provisional and  
132 temporary license to a prior licensee when and if for  
133 any cause the action of the commission with respect to  
134 an application seasonably filed has not become final  
135 prior to the expiration of the period of such prior  
136 license. Such a temporary and provisional license may be  
137 issued on such terms and conditions as the commission may  
138 impose, and shall authorize the licensee to continue in  
139 business until final action with respect to his pending  
140 application has been taken and no longer.

1 Sec. 22. Hearings and orders. Before refusing to  
2 grant or to reissue, or before suspending, revoking, or  
3 refusing to transfer a license, the commission shall afford  
4 the applicant or the licensee, respectively, an opportunity  
5 to be heard. It shall direct a citation to such applicant  
6 or licensee, by registered mail, sent to his last known

7 address, giving therein at least five days' notice of such  
8 hearing, and a statement of the matters complained of. The  
9 direction of such citation by registered mail as aforesaid  
10 shall be sufficient notice of such hearing, notwithstanding  
11 any refusal of the addressee to accept or receive said  
12 citation. The five days' notice shall be computed as from  
13 the time that the addressee accepts or receives or refuses  
14 to accept or receive said citation. After such hearing,  
15 and upon entry of any order thereon, the commission shall  
16 serve a certified copy of such order upon the applicant or  
17 licensee, filing at its office the original and a statement  
18 in writing of the findings of fact in support thereof.

1 Sec. 23. Cancellation. Where the commission declines  
2 to grant a license to an applicant, or revokes a license,  
3 and the dealer appeals therefrom, obtaining a supersedeas,  
4 the reason assigned for declining to grant or for revoking  
5 the license shall not be a reason for declining to grant  
6 the same dealer a license for a subsequent license period.  
7 However, in the event that the appeal from the order of  
8 the commission is dismissed, or otherwise terminated  
9 favorably to the commission, any license issued for such  
10 subsequent period shall be automatically canceled five  
11 days after the termination of the appeal, unless the  
12 commission otherwise orders.

1 Sec. 24. Transfer. Licenses issued under this Act  
2 may not be assigned. Licenses may, however, be transferred

3 from one person to another, provided that the prior written  
4 approval of the commission to such transfer is obtained ;  
5 but a receiver, an executor or administrator who succeeds  
6 to the business of a licensee may continue the business for  
7 a period of two weeks, if otherwise authorized by law,  
8 without securing the prior approval of the commission.  
9 Any change in the membership of a partnership or limited  
10 partnership, either by the withdrawal or the addition of a  
11 partner, shall be construed to require a transfer of the  
12 license. Applications for such transfers shall be filed  
13 with the commission at least one week before the transfer  
14 is to be made, or, in the case of a receiver or an executor  
15 or administrator, within two weeks after he takes  
16 possession of the business of the licensee. Whenever any  
17 license is transferred, no license fee shall be required  
18 from the person to whom such transfer is made for the  
19 balance of the then current license year, except the  
20 transfer fee of one dollar.

1 Sec. 25. License fees generally. The commission  
2 shall charge and collect license fees from milk dealers  
3 on a yearly basis, as follows: Where a milk dealer  
4 received, produced or brought within the state during the  
5 calendar year preceding the period for which the license  
6 is issued, a daily average total quantity of milk:  
7 1. Not exceeding twenty (20) pounds, a license fee  
8 of one dollar (\$1.00) ;

9     2. Exceeding twenty (20) pounds, but not exceeding  
10 one hundred (100) pounds, a license fee of three dollars  
11 (\$3.00) ;

12     3. Exceeding one hundred (100) pounds, but not  
13 exceeding five hundred (500) pounds, a license fee of  
14 ten dollars (\$10.00) ;

15     4. Exceeding five hundred (500) pounds, but not  
16 exceeding one thousand (1,000) pounds, a license fee of  
17 fifteen dollars (\$15.00) ;

18     5. Exceeding one thousand (1,000) pounds, but not  
19 exceeding two thousand (2,000) pounds, a license fee of  
20 thirty dollars (\$30.00) ;

21     6. Exceeding two thousand (2,000) pounds, but not  
22 exceeding three thousand (3,000) pounds, a license fee  
23 of forty dollars (\$40.00) ;

24     7. Exceeding three thousand (3,000) pounds, but not  
25 exceeding four thousand (4,000) pounds, a license fee of  
26 fifty dollars (\$50.00) ;

27     8. Exceeding four thousand (4,000) pounds, but not  
28 exceeding five thousand (5,000) pounds, a license fee of  
29 sixty dollars (\$60.00) ;

30     9. Exceeding five thousand (5,000) pounds, but not  
31 exceeding seven thousand five hundred (7,500) pounds, a  
32 license fee of seventy-five dollars (\$75.00) ;

33     10. Exceeding seven thousand five hundred (7,500)  
34 pounds, but not exceeding ten thousand (10,000) pounds, a

35 license fee of one hundred dollars (\$100.00) ;

36 11. Exceeding ten thousand (10,000) pounds, but not  
37 exceeding fifteen thousand (15,000) pounds, a license fee  
38 of one hundred fifty dollars (\$150.00) ;

39 12. Exceeding fifteen thousand (15,000) pounds, but  
40 not exceeding twenty-five thousand (25,000) pounds, a  
41 license fee of two hundred dollars (\$200.00) ;

42 13. Exceeding twenty-five thousand (25,000) pounds,  
43 but not exceeding fifty thousand (50,000) pounds, a  
44 license fee of three hundred dollars (\$300.00) ;

45 14. Exceeding fifty thousand (50,000) pounds, but  
46 not exceeding one hundred thousand (100,000) pounds, a  
47 license fee of five hundred dollars (\$500.00) ;

48 15. Exceeding one hundred thousand (100,000) pounds,  
49 but not exceeding two hundred fifty thousand (250,000)  
50 pounds, a license fee of one thousand dollars (\$1,000.00) ;

51 16. Exceeding two hundred fifty thousand (250,000)  
52 pounds, but not exceeding five hundred thousand (500,000)  
53 pounds, a license fee of one thousand five hundred  
54 dollars (\$1,500.00) ;

55 17. Exceeding five hundred thousand (500,000) pounds,  
56 but not exceeding seven hundred fifty thousand (750,000)  
57 pounds, a license fee of two thousand five hundred  
58 dollars (\$2,500.00) ;

59 18. Exceeding seven hundred fifty thousand (750,000)  
60 pounds, but not exceeding one million (1,000,000) pounds,

61 a license fee of three thousand five hundred dollars  
62 (\$3,500.00)

63 19. Exceeding one million (1,000,000) pounds, a  
64 license fee of five thousand dollars (\$5,000.00) ;

65 In addition to the foregoing specific annual fees and  
66 to be added to the amount thereof, the commission shall  
67 charge and collect not to exceed one cent per  
68 hundredweight, for each license year beginning the first  
69 day of May, 1955, on all milk, the prices of which the  
70 commission is required to fix by the mandatory provisions  
71 of section forty-seven (47) of this Act, received,  
72 produced or brought within the state by the dealer during  
73 the period for which the license is issued, which  
74 additional license fee shall be paid to the commission  
75 on or before the fifteenth day of each month for such  
76 milk so received, produced or brought within the state  
77 the preceding month. The foregoing provisions do not  
78 apply to subdealers, subhandlers or stores.

79 The commission shall charge and collect license fees  
80 from subdealers on a yearly basis of fifteen dollars  
81 (\$15.00) for each route owned or operated at the  
82 commencement of the license period.

83 Except as otherwise expressly provided by this Act,  
84 The license fee fixed by this section shall be paid before  
85 any license, or any renewal thereof, is issued. Where a  
86 license is applied for by a milk dealer, and the commission

87 declines to grant a license to the applicant, the license  
88 fee shall be charged and retained by the commission only  
89 pro rata for so much of the license year as expired prior  
90 to the issuance of the order refusing the license.

1 Sec. 26. License fees of certain milk dealers. Milk  
2 dealers who are not engaged in the milk business at the  
3 commencement of the license period shall pay a  
4 proportionate amount of the specific annual fee as  
5 follows:

6 1. For a license issued on or after August 1, but  
7 prior to November 1, three-fourths of the annual fee;

8 2. For a license issued on or after November 1,  
9 but prior to February 1 of the succeeding year,  
10 one-half of the annual fee;

11 3. For a license issued on or after February 1,  
12 but prior to May 1, one-fourth of the annual fee;

13 4. Provided, however, That in no event shall the said  
14 license fee be less than fifty dollars (\$50.00).

15 Milk dealers not engaged in the milk business during  
16 any month in the preceding calendar year shall submit with  
17 their application a license fee in the sum of fifty dollars  
18 (\$50.00) and, in addition thereto, (1) at such time or  
19 times as the commission may fix, but not more than four  
20 months after the granting of the license, shall pay an  
21 additional sum based upon the daily average total quantity  
22 of milk received, produced or brought within the state by

23 such dealer during any of such months, in the proportionate  
24 amount above stated; and, in addition, (2) shall pay  
25 monthly on or before the fifteenth day of said month, one  
26 cent per hundredweight during the part of any license year  
27 thereafter for which he is first licensed, on all milk,  
28 the prices of which the commission is required to fix by  
29 the mandatory provisions of section forty-seven (47) of this  
30 Act, received, produced or brought within the state by  
31 the dealer during the preceding month. The foregoing  
32 provisions do not apply to subdealers, subhandlers or  
33 stores.

1     Sec. 27. Computation of license fees. Milk sold and  
2 distributed outside of this state in any state which  
3 charges milk dealers or handlers a license fee may be  
4 deducted in the determination of the amount of the license  
5 fee required by this Act: Provided, That such quantity of  
6 milk is actually computed in determining the amount of such  
7 license fee in such other state. In computing the license  
8 fee to be charged by the commission, the fluid milk  
9 equivalent of milk other than fluid milk, shall be  
10 ascertained and fixed in such manner as the commission shall  
11 prescribe, except in the case of farm-separated cream  
12 used exclusively in making butter to be marketed or  
13 ultimately sold as such. in which case the daily average  
14 total quantity of such milk shall be computed according to  
15 pounds of butterfat of cream rather than the fluid

16 milk equivalent thereof. Nothing herein is to be construed  
17 as requiring, in the computation of the license fee, the  
18 inclusion of milk which is received by the applicant milk  
19 dealer or handler from another milk dealer or handler,  
20 subject to license hereunder, which milk has been included  
21 in the computation of such other dealer's fee; or milk  
22 which is produced by the applicant dealer or handler and  
23 not sold by him to stores or consumers. Applicant milk  
24 dealers or handlers, other than subdealers or subhandlers,  
25 or nonprocessing milk dealers, receiving their entire  
26 supply from milk dealers or handlers who have paid a  
27 license fee thereon to this commission, shall pay the  
28 license fee of Fifty Dollars (\$50.00).

1 Sec. 28. Classification of licenses. The commission  
2 may classify licenses, and may issue licenses to any milk  
3 dealer to operate as a milk dealer in a particular  
4 municipality only, or in a particular market or markets  
5 in the state only, but no milk dealer shall, if granted a  
6 license under this Act at all, be prohibited from acting  
7 as a milk dealer in any municipality or in any market in  
8 which he was operating upon January 2, 1955.

1 Sec. 29. Other licenses. The licenses required by  
2 this Act shall be in addition to any other licenses which  
3 are now or may hereafter be required by law.

1 Sec. 30. Milk dealers or handlers required to file  
2 bonds. It shall be unlawful for a milk dealer or handler

3 to purchase, acquire or receive on consignment or  
4 otherwise milk from producers unless the milk dealer or  
5 handler shall file with the commission a corporate surety,  
6 or collateral bond, approved by the  
7 commission. Except as otherwise herein provided, the bond  
8 shall be in a sum equal to the value of the highest  
9 aggregate amount of milk purchased, acquired or received  
10 by the dealer or handler from producers in any one month  
11 during the preceding calendar year, which value shall be  
12 computed according to lawful prices, and shall not in any  
13 event exceed one hundred thousand dollars (\$100,000.00).  
14 The bond shall be upon a form prescribed by the  
15 commission, conditioned for the payment by the milk dealer  
16 or handler of all amounts due, including amounts due under  
17 this Act and the orders of the commission, for milk  
18 purchased or otherwise acquired from producers by the milk  
19 dealer or handler during the license year, upon such terms  
20 and conditions as the commission may prescribe.

21 In the case of a milk dealer or handler who pays  
22 producers in full each week for milk purchased, acquired  
23 or received by him from such producers, the bond shall be  
24 in a sum equal to fifty per centum of the value of the  
25 highest aggregate amount of milk purchased, acquired or  
26 received by the dealer or handler from producers in any  
27 one month during the preceding calendar year, which value  
28 shall be computed according to lawful prices, and shall

29 not in any event exceed fifty thousand dollars (\$50,000.00).

1 Sec. 31. Computation of amount of certain bonds.

2 Milk purchased, acquired or received by a milk dealer or  
3 handler from producers outside the state and sold or  
4 distributed by such dealers or handlers as fluid milk  
5 within the state, shall be included in computing the  
6 amount of such dealer's or handler's bond, except where  
7 such dealer or handler has filed a bond for the protection  
8 of such producers with the state wherein the milk is  
9 purchased, acquired or received or with such producers.  
10 In such computation, the amount due for such milk shall be  
11 determined according to any applicable official prices or  
12 any lawful contract price.

13 A milk dealer or handler purchasing or acquiring or  
14 receiving or intending to purchase, acquire or receive  
15 milk from producers, but not so engaged during any month  
16 of the preceding calendar year, shall file a bond in a  
17 reasonable sum to be fixed by the commission, and within  
18 the time for filing his application such dealer or handler  
19 shall request the commission to fix such sum.

1 Sec. 32. Time of filing effective period of bond.

2 The bond herein required shall be filed with the dealer's  
3 or handler's application for a license, and shall be filed  
4 within the time for filing such application. The bond shall  
5 become effective upon its being filed with the commission  
6 for the entire license year, or for that part of the

7 license year in which the milk dealer or handler became  
8 engaged in the milk business. Any bond filed with the  
9 commission shall become effective upon being filed,  
10 whether or not it is approved by the commission, and  
11 shall no longer be of effect during the license year only  
12 when it has been replaced by a bond approved by the  
13 commission to be substituted therefor. The bond herein  
14 required shall be an obligation independent of the granting  
15 of a license and shall remain in full force and effect for  
16 and during the license year designated, as long as the  
17 dealer or handler purchases or receives milk from producers  
18 or is indebted to pay producers for any milk delivered  
19 during said license year, whether or not a license is  
20 granted the milk dealer or handler or a license granted the  
21 milk dealer or handler remains in force. At the expiration  
22 of the license year for which a milk dealer's bond has  
23 been filed, the commission shall, upon demand of either the  
24 dealer or the surety, and within ninety (90) days after  
25 said demand has been received by the commission, return the  
26 said bond to the milk dealer or handler, or advise the milk  
27 dealer or handler and the surety that the liability of the  
28 dealer or handler and surety has not ceased. Within a  
29 further additional period of ninety (90) days, the  
30 commission shall make demand upon the said dealer or handler  
31 and surety for any payments arising out of a claim upon the  
32 bond. The failure of the commission to make such demand

33 within the said additional period shall operate to relieve  
34 the surety from all further liability on the bond. All  
35 demands of any milk dealer, or handler and surety, under  
36 the provisions of this section, shall be made upon the  
37 commission by registered mail.

1     Sec. 33. Requisites of bonds-substitution. A  
2 corporate surety bond shall be executed to the state by  
3 the milk dealer, as principal, and by a corporate surety  
4 company. The commission shall have no power to reject any  
5 corporate surety bond which is so executed by a corporate  
6 surety company authorized to do business in this state as  
7 surety. A corporate surety company which is a surety on  
8 any milk dealer's bond may withdraw its surety if it  
9 serves notice upon the milk dealer, as principal, and the  
10 commission, by registered mail, at least sixty (60) days  
11 prior to the date on which it desires to withdraw as  
12 surety on the said milk dealer's bond. This proposal  
13 shall not operate to relieve the surety from any  
14 obligations that may have accrued prior to the effective  
15 date of said withdrawal. If, at the expiration of said  
16 notice, the said milk dealer has failed to file with the  
17 commission a bond to replace the one upon which the surety  
18 has been relieved, then the license of said dealer shall  
19 be automatically cancelled. A collateral bond shall be  
20 executed to the State by the milk dealer, as principal,  
21 shall set forth therein the collateral posted with such

22 bond, and shall have attached thereto the collateral  
23 properly assigned and transferred to the state of Iowa.  
24 The collateral posted with such bond shall be cash in an  
25 amount equal to the amount of the bond, or such bond  
26 shall be secured by an actual deposit with the  
27 commission, or with a bank, bank and trust company, or  
28 national bank within the state, of money to the full  
29 amount of the bond; or by securities to such amount,  
30 consisting of interest-bearing obligations of the United  
31 States government, of this state, or of any political  
32 subdivision of this state, or by any other security or  
33 securities approved by the commission. The security or  
34 securities deposited therewith shall constitute a trust  
35 fund for producers from whom the dealer purchases milk.  
36 The commission may likewise grant to any milk dealer  
37 the authority to substitute for any bond, surety or any  
38 collateral, another bond, surety or other collateral,  
39 provided that such other bond, surety or collateral meets  
40 all the requirements of this Act.

1 Sec. 34. Financial statement. A milk dealer or  
2 handler shall, from time to time, when required by the  
3 commission, make and file with the commission a verified  
4 statement of his disbursements, or of any other facts in  
5 connection with his business, during a period to be  
6 prescribed by the commission, which financial statement  
7 shall contain the names of the producers from whom milk

8 was purchased, acquired, received or handled on  
9 consignment or otherwise, the amount due to the producers,  
10 and any other relevant facts required by the commission  
11 pertinent to the dealer or handler or the dealer's or  
12 handler's surety or sureties.

1     Sec. 35. Increase or decrease of bond. If it shall  
2 appear from the dealer's or handler's financial statement,  
3 or from facts otherwise ascertained by the commission,  
4 that the bond afforded to producers selling, supplying or  
5 making available on consignment or otherwise milk to such  
6 milk dealer or handler does not adequately protect such  
7 producers, the commission may require such milk dealer or  
8 handler to procure an additional surety, or to give an  
9 additional bond or additional security for the collateral  
10 bond, in a sum to be determined by the commission, which  
11 (1) shall not exceed more than fifty per centum of the value  
12 of the highest aggregate amount of milk purchased, acquired  
13 or received on consignment or otherwise by the dealer or  
14 handler from producers in any one month during the preceding  
15 or current year, which value shall be computed according  
16 to the prices applicable, or which (2) shall be a sum not  
17 exceeding by more than fifty per centum the amount found to be  
18 due and owing producers by such dealer on a particular date  
19 determined by the commission, whichever sum is greater, but  
20 the total increase shall not in any event exceed fifty  
21 thousand dollars (\$50,000.00). In the case of a milk

22 dealer or handler who pays producers in full each week for  
23 milk purchased, acquired or received or handled on consignment  
24 or otherwise by him from such producers, any increase required  
25 hereunder shall not exceed more than twenty-five per centum of  
26 such value or amount, but the total increase in any event  
27 shall not exceed twenty-five thousand dollars (\$25,000.00).

28 The commission may grant a reduction of the bond or  
29 the collateral, or release an additional surety, if it  
30 shall appear that owing to a decrease in the milk purchased,  
31 received or handled by the dealer or handler, or to other  
32 causes, a bond in a lesser amount or with fewer sureties will  
33 protect producers selling, supplying or making available milk  
34 to such milk dealer or handler.

1 Sec. 36. Duty of state treasurer. All bonds, together  
2 with any moneys, or securities given as collateral therefor,  
3 received by the commission from milk dealers pursuant to the  
4 provisions of this section, shall be transmitted by the  
5 commission to the state treasurer for safekeeping, subject  
6 to withdrawal in whole or in part at any time by the commission.

1 Sec. 37. Interest or dividends upon securities. The  
2 milk dealer or handler shall be entitled to all moneys  
3 received by the state treasurer as interest or dividends  
4 upon any security or securities deposited by such milk  
5 dealer or handler with the commission and transmitted by  
6 the commission to the state treasurer for safekeeping, in  
7 accordance with the provisions of this Act: Provided,

8 however, that the milk dealer or handler shall not be  
9 entitled to interest or dividends if there is on file  
10 with the commission a valid unpaid claim of a producer  
11 against the milk dealer or handler, based on milk sold,  
12 supplied or made available by such producer to the milk  
13 dealer or handler.

1 Sec. 38. Suit by commission. The commission shall  
2 have the power, in its discretion, to sue on the bond on  
3 behalf of producers. Suit may be brought in the name of  
4 the state upon relation of the commission or of the  
5 attorney general, in such manner as debts are now by law  
6 recoverable.

1 Sec. 39. Effect of order by commission. If, by  
2 valid formal order refusing, suspending, or revoking a  
3 license, after hearing with due notice to all those liable  
4 on the bond, the commission has found a milk dealer or  
5 handler to be indebted thereunder, such order and the  
6 findings of fact in support thereof shall be conclusive  
7 evidence of the amount due under such bond in a suit thereon  
8 by the commission, unless an appeal therefrom is pending and  
9 a supersedeas granted.

1 Sec. 40. Procedure for disbursing proceeds. The  
2 commission shall prescribe the procedure for the payment,  
3 out of the proceeds of any bond or collateral required  
4 by this article, of the amounts found due to producers or  
5 handlers or dealers, based on sales or deliveries of milk

6 by them to a milk dealer or handler who has posted a bond  
7 or collateral: Provided, however, that if the proceeds of  
8 a bond or of collateral which has been posted by a milk  
9 dealer or handler shall be insufficient to pay in full  
10 the amounts due to producers who have sold or supplied  
11 milk to such milk dealer or handler, the moncys available  
12 shall be divided pro rata among such producers.

1 Sec. 41. Co-operatives. A co-operative agricultural  
2 associatoin or corporation organized under the laws of  
3 this state, or a similar association organized under the  
4 laws of this or any other state, or any producers' or  
5 farmers' union or organization, shall be deemed a producer  
6 within the provisions of this Act and shall be entitled  
7 to its benefits. Such an association or corporation if  
8 operated for the benefit of producers under contract with  
9 it and not conducted for profit, shall not be required to  
10 file a bond under the provisions of this Act.

1 Sec. 42. Subdealers' or subhandlers' bonds. It shall  
2 be unlawful for a subdealer or subhandler to buy, acquire,  
3 receive or handle milk from a milk dealer or handler who  
4 purchases, acquires or receives milk from producers, unless  
5 the subdealer or subhandler shall file with the commission  
6 a corporate surety, or collateral bond, approved by the  
7 commission. Such bond shall be executed to the State in a  
8 sum equal to One Thousand Dollars (\$1,000.00) for each  
9 route owned or operated by the subdealer or subhandler,

10 and shall be conditioned for the payment by the subdealer  
11 or subhandler of all amounts due under this act and  
12 the orders of the commission for milk purchased, acquired  
13 or received from such milk dealer or handler or dealers  
14 or handlers during the license year; subject, however,  
15 to the further condition that if at time of default,  
16 such milk dealer or handler or dealers or handlers  
17 are indebted, or in arrears in their payments, to  
18 producers, the proceeds thereof shall be held on the  
19 account of such dealer or handler or dealers or handlers  
20 for the benefit of such producers. Such bond shall be  
21 filed annually with the subdealer's or subhandler's  
22 application for a license, and shall, in all applicable  
23 particulars not herein specifically mentioned, be subject  
24 to terms and conditions such as are provided in the other  
25 sections of this article for the bond of other milk  
26 dealers or handlers and for suits thereon, except where  
27 the protection of such milk dealers or handlers selling,  
28 delivering or making available milk to the subdealer  
29 or subhandler or of producers selling, delivering or  
30 making available milk to such milk dealers or handlers,  
31 requires the substitution of such dealers or handlers  
32 and producers in applying such terms and conditions to  
33 the bonds of subdealers or subhandlers.

1 Sec. 43. Records. Milk dealers subject to license  
2 by the commission shall keep within the state the

3 following records:

4 1. A record of the quantity of all milk received  
5 or produced, detailed as to location and as to names and  
6 addresses of producers or milk dealers from whom received,  
7 with butterfat test, weights, prices paid, and deductions  
8 or charges made.

9 2. A record of the quantity of all milk sold,  
10 detailed as to grade, use location, market outlet, and  
11 size and style of container, with prices and amounts  
12 received therefor, and the butterfat test thereof.

13 3. A record of the quantities of all milk transported,  
14 shipped or hauled, including the distances and the amounts  
15 paid for the movement of such milk, in all cases where the  
16 dealer pays on his own account or on the account of  
17 producers for the movement thereof.

18 4. A record of the quantity of each milk product  
19 manufactured, the quantity of milk used in the manufacture  
20 of each product, and the quantity and value of milk products  
21 sold.

22 5. A record of wastage or loss of milk or butterfat.

23 6. A record of the spread or handling expense and  
24 profit or loss, represented by the difference between the  
25 price paid and the price received for all milk and milk  
26 products.

27 7. A record of all other transactions affecting the  
28 assets, liabilities, or net worth of the dealer.

29 8. Such other records and information as the  
30 Commission may deem necessary for the proper enforcement  
31 of this Act.

32 The records herein required shall be kept in the  
33 possession of the milk dealer for a period not less than  
34 two years, unless the commission otherwise provides.

1 Sec. 44. Reports. Each milk dealer shall, from  
2 time to time, as required by rule, regulation or order  
3 of the commission, make and file a verified report, on  
4 forms prescribed by the commission, of all matters on  
5 account of which a record is required to be kept,  
6 together with such other information or facts as may be  
7 pertinent and material within the scope of the purposes  
8 and intent of this Act. Such report shall cover a period  
9 specified in the order, and shall be filed within a time  
10 fixed by the commission.

1 Sec. 45. Dissemination of information conferences.  
2 Licenses under this Act, and associations or corporations  
3 thereof, producers of milk, producers' or farmers' unions  
4 or organizations and co-operative agricultural associations  
5 or corporations engaged in collectively processing,  
6 preparing for market, handling or marketing milk, may  
7 acquire, exchange, interpret and disseminate past, present  
8 and future market, statistical, economic and educational  
9 information pertaining to milk by direct exchange between  
10 such persons or such associations or corporations, or by

11 and through a common agent created or selected by them,  
12 which agent may be the commission if it consents to be  
13 such. Any such licensees, producers and associations or  
14 corporations may confer and discuss the cost of production,  
15 marketing, market conditions and prices for milk.

16 A milk dealer or handler shall upon the request of  
17 a producers' or farmers' union having written authority  
18 from producers, or of a co-operative, supply it with the  
19 information required to be kept under subsection (1) of  
20 section 43 of this Act, insofar as such information  
21 pertains to the milk produced by the stockholders, members  
22 or patrons of such producers' or farmers' union or  
23 co-operative selling or supplying milk to such dealer or  
24 handler.

1 Sec. 46. Requisites of orders fixing price of milk.  
2 The commission shall ascertain, after a hearing in which  
3 all interested persons shall be given reasonable  
4 opportunity to be heard, the logical and reasonable milk  
5 marketing areas within the state, shall describe the  
6 territorial extent thereof, shall designate such areas by  
7 name or number, and shall ascertain and maintain such  
8 prices for milk in the respective milk marketing areas as  
9 will be most beneficial to the public interest, best  
10 protect the milk industry of the state and insure a  
11 sufficient quantity of pure and wholesome milk to  
12 inhabitants of the state, having special regard to the

13 health and welfare of children residing therein.

14 The Commission shall base all prices upon all  
15 conditions affecting the milk industry in each milk  
16 marketing area, including the amount necessary to yield  
17 a reasonable return to the producer, which return shall  
18 not be less than the cost of production, as determined by  
19 the commission from testimony produced at hearings, and a  
20 reasonable profit to the producer, and a reasonable return  
21 to the milk dealer or handler. In ascertaining such  
22 returns, the commission shall utilize a cross-section  
23 representative of the average or normally efficient  
24 producers and dealers or handlers in the area.

25 The commission shall file at its office, with each  
26 order issued, a general statement in writing of the  
27 findings of fact in support of, and the reasons for such  
28 order.

29 The commission may, upon its own motion or upon  
30 application in writing, from time to time, alter, revise  
31 or amend an official order defining milk marketing areas  
32 or fixing prices to be charged or paid for milk. Before  
33 making, revising or amending any order defining milk  
34 marketing areas or fixing prices to be charged or paid  
35 for milk, the commission shall hold a hearing, after giving  
36 reasonable opportunity to be heard to interested persons,  
37 of whom the commission has notice, and, in the case of any  
38 order affecting the public, after giving reasonable notice

39 thereof to the public in such newspaper or newspapers as,  
40 in the judgment of the commission, shall afford sufficient  
41 notice and publicity: Provided, however, That after such  
42 hearing, there shall be a further hearing or conference  
43 shall be given to the parties represented and heard at the  
44 previous hearing. Upon application in writing from a  
45 person aggrieved by an order of the commission hereunder,  
46 filed within fifteen (15) days after the issuance of the  
47 order complained of, or upon its own motion, the commission  
48 may, within twenty (20) days after the effective date of  
49 such order, issue an order revising or amending such order  
50 without a further hearing, if such revision or amendment  
51 is based on the record of the hearing held prior to the  
52 issuance of such order.

53 "Interested persons", as used in this section, means  
54 all persons who may be affected by an order of the commission,  
55 fixing prices, and who have signified to the commission in  
56 writing their desire to be notified of such hearings concerning  
57 a particular milk marketing area or areas within the state.  
58 "Reasonable opportunity to be heard" may be afforded by written  
59 notice addressed to the last known address of an interested  
60 party by mail, postage prepaid, by deposit in a United States  
61 post office or any receptacle thereof. Nothing contained in  
62 this section shall be construed to limit or modify the provisions  
63 of section fourteen (14) of this Act relating to the posting  
64 and publicizing of orders of the commission, including orders

65 made under this article and the force and effect thereof.

66 At any hearing provided for herein the testimony of an  
67 expert statistician present at the hearing and any printed,  
68 typewritten, duplicated, mimeographed or other written  
69 treatise, report or statistical data by an expert not present  
70 as a witness, if and to the extent it is endorsed as reliable  
71 by an expert witness present at the hearing, shall be competent  
72 evidence on any subject material to fixing any price under this  
73 Act.

74 All provisions of all price-fixing orders of the  
75 commission shall be presumed to be valid, and the burden of  
76 proving any invalidity of any provisions thereof shall be  
77 upon the person asserting the same. Any determination by  
78 the commission, or a court to which an appeal has been taken,  
79 that the wholesale or retail prices provided are invalid shall  
80 not prevent the enforcement of prices to producers, but any  
81 determination that prices to producers are unreasonable shall  
82 require the redetermination by the commission of wholesale and  
83 retail prices as well as prices to producers.

84 Whenever an order of the commission fixing prices is  
85 remitted to the commission with directions to reform the  
86 findings or order in accordance with the opinion of the court,  
87 and no further appeal is taken by the commission, the commission  
88 shall make such reformation within thirty days from the entry  
89 of the order of the court remitting the price fixing order to  
90 the commission.

1     Sec. 47. Wholesale and retail prices. The commission  
2 shall fix, by official order (except as hereinafter provided  
3 in this section), the minimum wholesale and retail prices,  
4 and may fix, by official order, the maximum wholesale and  
5 retail prices, to be charged and received by milk dealers or  
6 handler for milk sold, delivered, handled or consigned  
7 within any milk marketing area of the state, wheresoever produced,  
8 including milk sold, delivered or consigned by:

9     1. Milk dealers or handlers to other milk dealers or  
10 handlers;

11     2. Milk dealers or handlers to consumers;

12     3. Milk dealers or handlers to stores, either for  
13 consumption at the stores or sale to consumers;

14     4. Stores to consumers, except for consumption at the  
15 store where sold;

16     5. Milk dealers or handlers to owners and operators  
17 of vending machines and other dispensing devices and sales  
18 from vending machines and other dispensing devices to  
19 consumers, and milk sold, delivered or consigned by

20     6. Brokers, factors and bailees.

21     Nothing herein contained shall be construed to empower  
22 the commission to fix the price at which milk may be sold  
23 by any milk dealer or handler or producer to consumers for  
24 consumption on the premises of such milk dealer or handler  
25 or producer.

26     The fixing of minimum wholesale or retail prices for

27 skimmed milk, condensed or concentrated whole or skimmed  
28 milk, bulk cream handled between milk dealers or handlers  
29 other than stores, and ice cream mix, shall be discretionary  
30 with the commission.

1 Sec. 48. Prices to producers. The commission shall  
2 fix, by official order, the minimum prices to be paid by  
3 milk dealers or handlers to producers for milk sold or delivered  
4 or made available on consignment or otherwise by producers  
5 to dealers or handlers: Provided, however, that the  
6 commission shall not fix prices to be paid by milk dealers  
7 or handlers to producers for milk to be used solely in  
8 manufacturing. This proviso shall not apply where any milk  
9 is used by the milk dealer or handler for the manufacture  
10 of ice cream or ice cream mix, nor to any milk dealer or  
11 handler who, in addition to manufacturing, also resells milk  
12 from his plant for ultimate use by consumers in fluid form.

1 Sec. 49. Classification. When, pursuant to any  
2 statute or regulations or orders adopted thereunder, or  
3 any ordinance or reasonable trade practice, various grades  
4 of milk are specified, orders of the commission fixing  
5 minimum or maximum prices may be applicable to each grade.  
6 Orders of the commission fixing minimum or maximum prices  
7 may vary in different markets, and shall designate the  
8 markets to which applicable. Such orders may likewise  
9 classify milk and milk dealers or handlers in any reasonable  
10 manner which the commission deems advisable, and may vary

11 according to the classes to which they are applicable. The  
12 orders of the commission with respect to the minimum prices  
13 to be paid to producers and others shall apply to the area  
14 in which the milk is produced, or to the area in which the  
15 milk so produced is manufactured, sold or distributed, as  
16 the commission shall provide, and may vary in different  
17 areas according to varying uses, grades and conditions.  
18 Each such order may classify such milk by forms, classes,  
19 grade or uses, as the commission may deem advisable, and may  
20 specify the minimum prices therefor. Other reasonable methods  
21 of classification may be prescribed by the commission.

1     Sec. 50. Price increases. It is hereby declared to be  
2 the legislative intent that the benefits of any increase of  
3 prices received by milk dealers, by virtue of the minimum  
4 price provisions of this article, shall be given to  
5 producers, except in any case where the commission deems  
6 a deviation from this policy necessary in order lawfully  
7 to maintain proper milk markets and outlets for producers  
8 and consumers. The commission shall, whenever it deems  
9 such action necessary, issue orders, rules or regulations  
10 to effectuate this intent.

1     Sec. 51. Terms and method of payment. The commission  
2 may likewise fix, by official order, the terms upon which  
3 milk dealers shall pay producers and others for milk, may  
4 prescribe the method of computing payment therefor, and  
5 may prescribe a form of written statement to be sent to

6 producers with each payment.

1     Sec. 52. Violations. After the commission shall  
2 have fixed prices to be charged or paid for milk, whether  
3 by class, grade, use or otherwise, it shall be unlawful  
4 for a milk dealer or handler or producer, knowingly or  
5 unknowingly, or any other person knowingly, by himself or  
6 through another, to sell or deliver, or make available on  
7 consignment or otherwise, or buy or receive, or handle on  
8 consignment or otherwise, or buy or receive, or offer to  
9 sell or deliver or make available on consignment or other-  
10 wise, or buy or receive or handle on consignment or other-  
11 wise, or advertise for sale, delivery, purchase or receipt,  
12 or hold one's self out as willing to sell, deliver, buy  
13 or receive milk at any price below the minimum price or  
14 above the maximum price applicable to the particular  
15 transaction.

16     No method or device shall be lawful whereby milk is  
17 bought or received or handled on consignment or otherwise,  
18 or sold or handled or delivered or made available on  
19 consignment or otherwise, or sold or handled or delivered  
20 or made available on consignment or otherwise, at a price  
21 less than the minimum price applicable to the particular  
22 transaction, whether by any discount, premium, rebate,  
23 free service, trading stamps, advertising allowance, or  
24 extension of credit, or by a combined price for such  
25 milk, together with another commodity or a service which

26 is less, or is represented to be less, than the aggregate  
27 of the price of the milk and the price or value of such  
28 commodity or service when bought or received or handled  
29 on consignment or otherwise, sold or delivered or made  
30 available on consignment or otherwise, or offered for sale,  
31 delivery, purchase, handling or receiving separately or  
32 otherwise.

33 It shall be unlawful for any milk dealer or handler  
34 to store, manufacture, process, sell or handle or deliver  
35 or make available on consignment or otherwise, any milk  
36 for which he has paid, or agreed to pay, a price lower  
37 than that fixed by the commission for milk of that class  
38 or grade.

39 It shall be unlawful for a milk dealer or handler  
40 knowingly or unknowingly, or any other person knowingly,  
41 by himself or through another, to store, manufacturer,  
42 process, sell or deliver, or make available on consignment  
43 or otherwise, or buy or receive or handle on consignment  
44 or otherwise, or buy or receive or handle on consignment  
45 or otherwise, milk at a price computed upon false or  
46 erroneous weight, butterfat test, grade or classification ;  
47 or at a price from which have been made deductions not  
48 authorized by law or in excess of any deductions so  
49 authorized, whether such illegal deductions be in the form  
50 of excessive transportation charges or otherwise.

51 The act of a director, officer, agent or other person

52 acting for or employed by a milk dealer shall be deemed the  
53 act of such milk dealer.

1     Sec. 53. Prices of certain milk. It is hereby  
2 declared to be the legislative intent that the instant  
3 (whenever that may be) that the handling by a milk dealer  
4 or handler of milk produced outside of the state becomes a  
5 subject of regulation by the state in the exercise of its  
6 police powers, the restrictions set forth in this act  
7 respecting such milk so produced shall apply, and the  
8 powers conferred on the commission by this Act, and  
9 particularly by sections forty-six (46) to fifty-four (54), inclusive,  
10 shall attach; but such restrictions shall not apply to  
11 condensed or concentrated whole milk contained in  
12 hermetically sealed cans.

13     It is also hereby declared to be the legislative  
14 intent that the prices prescribed by the commission for  
15 milk produced in this state, and sold and delivered or made  
16 available on consignment or otherwise in this state for  
17 shipment into and ultimate sale in another state, shall not  
18 be destructive of the price structure of producers in such  
19 other state.

1     Sec. 54. Co-operatives. It is hereby declared to be  
2 the legislative intent that no provision of this Act shall  
3 prevent, and no provision contained herein shall be deemed  
4 or construed to prevent, any co-operative agricultural  
5 association or corporation organized under the laws of this

6 state, or a similar association or corporation organized  
7 under the laws of this or any other state, and engaged in  
8 making collective sales or in the marketing of milk for  
9 the producers thereof, from blending the net proceeds of  
10 its sales or consignments or deliveries in all its markets  
11 or of its sales or deliveries within any particular market  
12 in various classes and whether in fluid form or as  
13 manufactured products, both within and without the state,  
14 and paying its producers such blended price, with such  
15 deductions and differentials as may be authorized under  
16 contract between such association or corporation, and its  
17 producers, or from making collective sales of the milk of  
18 its members and other producers represented by it, or from  
19 making such sales or deliveries at a blended price based  
20 upon sales or deliveries thereof in the various classes, and  
21 whether in fluid form or as manufactured products, both  
22 within and without the state, which price is to be paid  
23 either directly to the producers or to the co-operative  
24 agricultural association or corporation. Nothing herein  
25 contained shall prevent any milk dealer or handler from  
26 contracting for his milk with such co-operative agricultural  
27 association or corporation, upon such basis; but all such  
28 contracts shall be upon the basis of the prices fixed by  
29 the commission, with the result that the net price received  
30 for milk by such a co-operative association or corporation  
31 shall be commensurate with such prices. No milk dealers

32 or handlers, or agents thereof, shall receive from any  
33 producer or from such co-operative association or corporation,  
34 directly or indirectly, any discounts, rebates, free  
35 service, or compensation through rentals, extension of  
36 credit, or otherwise for the purpose, or with the effect,  
37 of reducing the net cost to the dealer or handler for milk  
38 purchased or received by or through such co-operative  
39 association or corporation.

40 No provision of this Act shall be deemed or construed  
41 to affect the contracts of such co-operative agricultural  
42 association or corporation with its producers, except as  
43 hereinafter specifically provided, nor to affect or abridge  
44 the rights and powers of such an association or any of its  
45 operations; Provided, however, That the powers of subpoena,  
46 entry, and inspection, vested in the commission under this  
47 act, shall apply for the purpose of examining and auditing  
48 books and records of any such co-operative agricultural  
49 association or corporation, at reasonable intervals, for  
50 the purpose of administering this Act. This section shall  
51 not, however, be construed to exempt such association or  
52 corporation from the jurisdiction of the commission over  
53 the prices at which it may sell milk to milk dealers or  
54 handlers, stores or consumers.

55 Any co-operative agricultural association or corporation  
56 organized after the effective date of this Act, or within  
57 ninety (90) days prior to the effective date hereof, or

58 which, if organized over ninety (90) days prior to the  
59 effective date of this Act, was not marketing milk for  
60 producers upon the effective date of this Act, or ninety  
61 (90) consecutive days prior thereto, shall not be entitled  
62 to avail itself of the benefits of this section if it pays  
63 or distributes to its producers a price which is more than  
64 one and one-half per centum ( $1\frac{1}{2}\%$ ) lower than the prices  
65 prescribed by the commission, unless such association or  
66 corporation shall furnish reasonable proof to the  
67 commission that such one and one-half per centum ( $1\frac{1}{2}\%$ ) is  
68 insufficient to pay such lawful expenses and charges for  
69 its operations and maintenance as may be authorized under  
70 the contracts between the association or corporation and  
71 its producers.

72 Every co-operative agricultural association or  
73 corporation operating under the provisions of this section  
74 shall file with the commission a copy of its certificate  
75 of incorporation and bylaws, and a copy of each form of  
76 contract employed in its relations with producers, within  
77 sixty (60) days after the effective date of this Act.

1 Sec. 55. Appeals from general orders. Any person  
2 aggrieved by an order of the commission fixing, revising or  
3 amending the price at, or the terms upon, which milk may be  
4 bought or sold, or by any other general action, rule,  
5 regulation or order of the commission, may, within twenty  
6 (20) days after the effective date of such action, rule,

7 regulation or order, file an appeal therefrom in the  
8 district court of Polk County. No such appeal shall be  
9 permitted to act as a supersedeas, except on special order  
10 of the court. Refusal by the commission of any application  
11 for revision or amendment, filed as provided in section  
12 forty-six (46), shall constitute an appealable action  
13 within the meaning of this section.

1     Sec. 56. Appeals from special orders. Any person  
2 aggrieved by an order of the commission in which the  
3 commission refuses to issue, reissue or transfer, or  
4 revokes or suspends, a license to operate as a milk dealer,  
5 or by any other order of the commission applying only to a  
6 particular person or persons named therein and not  
7 otherwise specifically provided for, may within twenty (20)  
8 days after the service of such order, file an appeal  
9 therefrom in the district court in the county in which he  
10 resides or has his principal place of business, or in the  
11 case of a nonresident who has no place of business within  
12 the State in the district court in Polk County. No such  
13 appeal shall be permitted to act as a supersedeas, except  
14 on special order of the court.

1     Sec. 57. Supersedeas. A special order of court  
2 permitting an appeal to act as a supersedeas may be made  
3 only after reasonable notice to the commission, and shall  
4 provide that the appellant file a bond with sufficient  
5 sureties, in such sum as shall be determined by the court

6 to be necessary for the protection of producers and others  
7 during the pendency of this appeal.

1     Sec. 58. Pleading and service. The appeal from  
2 action of the commission shall be by petition against the  
3 commission, officially as defendant, alleging therein in  
4 brief detail the action and decision complained of, and  
5 praying for a reversal thereof. Such petition shall  
6 specify the petitioner's objections to the action and  
7 decision of the commission, and shall state facts in  
8 support of such objections sufficient to constitute a  
9 prima facie case; and any objection not so specified and  
10 supported by facts shall not be considered by the court.  
11 Every such petition reciting facts shall be supported by  
12 oath or affirmation; and the petition shall include as  
13 part thereof, under oath or affirmation, an averment that  
14 the appeal is not filed merely for purposes of delay.

15     Upon service of a notice of appeal upon the commission,  
16 returnable at least twenty (20) days from the date of  
17 service, the commission may, on or before the return day,  
18 file a motion to dismiss the appeal, raising questions of  
19 law or attacking the form or sufficiency of the petition.  
20 If such motion is not sustained, the commission shall be  
21 given leave to file an answer within not less than ten (10)  
22 days after the order of the court overruling the motion.

23     On or before the return day of such notice of appeal served upon  
24 the commission, or within the time allowed in an order of

25 the court denying a motion to dismiss an appeal, the  
26 commission may file an answer which shall deny or admit the  
27 allegations of fact in the petition, and which may also  
28 allege by way of defense the grounds for its action or  
29 decision. If no answer is filed by the commission, the  
30 case shall be at issue without further pleadings as though  
31 an answer had been filed denying all the allegations of  
32 fact in the petition.

33 Upon the filing of an answer by the commission, or,  
34 if no answer is filed, then on the return day or at the  
35 expiration of the time allowed for answer by an order of  
36 court, the case shall be at issue without further pleadings,  
37 and upon application of either party the case may be  
38 advanced and heard without further delay.

1 Sec. 59. Certification of record. The commission  
2 shall, on the return day of such notice of appeal, or  
3 within a reasonable time thereafter, certify to the court  
4 the record of the proceedings to which the petition refers.  
5 Such record shall include the testimony taken therein, the  
6 findings of fact of the commission, a copy of all orders  
7 made by the commission pertaining to the proceedings, and  
8 a copy of the order, action or decision of the commission  
9 which the petition calls upon the court to reverse.

1 Sec. 60. Scope of inquiry. Mere technical  
2 irregularities in the procedure of the commission shall not  
3 be the basis of the decision of the court.

4 In an appeal from an order or decision of the  
5 commission applying only to the particular person or persons  
6 named therein, the case shall be heard upon the record  
7 certified to the court by the commission. Additional  
8 testimony shall not be taken before the court, but the  
9 court may, in proper cases, remit the record to the  
10 commission for the taking of further testimony.

11 In an appeal from any general order of the commission,  
12 the case shall be heard by the court and testimony may be  
13 taken: Provided, however, That nothing herein shall be  
14 construed as relieving the appellant from submitting all  
15 essential facts in the first instance to the commission at  
16 its hearing held prior to the issuance of such order. All  
17 or any relevant part of the record certified to the court  
18 shall be admitted in evidence by order of the court or  
19 upon motion of either party. Where the petition and answer  
20 raise questions of fact, the petitioner or appellant shall  
21 proceed with evidence in support of the facts alleged in  
22 his petition. The commission shall then present evidence  
23 in support of the answer, which evidence may consist of, or  
24 include, the record or any part thereof. Any part of the  
25 record certified to the court, which is not based on  
26 technical rules of evidence customary in actions at law,  
27 shall not be disregarded by the court merely because of the  
28 violation of such rules.

29 Upon any appeal the court shall determine whether or

30 not the order appealed from is reasonable and in conformity  
31 with law. The appellant shall have the burden of proving  
32 that an order of the commission is unreasonable or illegal.  
33 If the court shall determine that the order is unreasonable  
34 or illegal, it shall remit the case to the commission with  
35 directions to reform the findings or order, or to revoke  
36 the order, in accordance with the court's opinion.

1 Sec. 61. Costs. The court shall have full power  
2 to assess the costs upon either party or to divide them  
3 between the parties.

1 Sec. 62. Appeals to supreme court. From the  
2 decision of the district court, upon an appeal from a  
3 general rule, regulation or order of the commission, or  
4 from a special order of the commission, an appeal may be  
5 taken by either party to the supreme court in the  
6 manner provided by law.

1 Sec. 63. Actions to enforce compliance. The  
2 commission or any person, marketing committee, union or  
3 association, composed of persons affected by the orders,  
4 rules or regulations of the commission, may institute  
5 such action at law or in equity as may appear necessary  
6 to enforce compliance with any provision of this Act, or  
7 to enforce compliance with any rule, regulation or order  
8 of the commission made pursuant to the provisions of this  
9 Act.

1 Sec. 64. Application for injunction remedies. In

2 addition to any other remedy at law or in equity or under  
3 this Act, the commission may apply to the district court  
4 of Polk county for relief by injunction, or to the district  
5 court in the county wherein the defendant resides or has  
6 his principal place of business, to enforce compliance  
7 with or restrain violations of any provision of this Act  
8 or any rule, regulation or order of the commission made  
9 pursuant thereto. The said district court of Polk county  
10 is hereby clothed with jurisdiction to hear and determine  
11 all such actions by the commission, regardless of where  
12 they may arise in the State. The commission shall not be  
13 required to file any bond in any action under this Act.

14 The penalties and remedies prescribed in this Act  
15 shall be deemed concurrent or contemporaneous, and the  
16 existence or exercise of any one remedy herein shall not  
17 prevent the commission from exercising any other remedy  
18 hereunder.

1 Sec. 65. Proceedings before the commission.  
2 Appropriate proceedings against any milk dealer violating  
3 this Act or the rules, regulations or orders of the  
4 commission, may be instituted before the commission by  
5 any producer to whom the lawful price of milk has not  
6 been paid or to whom such price has not been fully paid,  
7 and such proceedings may also be instituted upon the  
8 commission's own motion.

1 Sec. 66. Perjury. Any person who shall wilfully and

2 corruptly make a false oath or affirmation before the  
3 commission at any investigation or hearing, or in any  
4 report or statement authorized or required by this Act.  
5 shall be guilty of perjury, and, on conviction, be subject  
6 to the penalties prescribed by law for wilfully and  
7 corruptly making false oath or affirmation.

1 Sec. 67. Penalty. Except as otherwise specifically provided  
2 in this Act, any person found guilty of violating a  
3 provision of this Act or any rule, regulation or order  
4 of the commission lawfully made, shall be guilty of a  
5 misdemeanor and shall, for each offense, upon conviction  
6 thereof, be punished by a fine of not to exceed one  
7 hundred dollars (\$100.00) or by imprisonment for a term  
8 of not to exceed thirty (30) days in jail, and for a  
9 third or subsequent offense, upon conviction thereof, be  
10 punished by a fine of not less than five hundred dollars  
11 (\$500.00), nor more than one thousand dollars (\$1,000.00),  
12 or by imprisonment for a term of not to exceed one (1)  
13 year, or both, at the discretion of the court.

1 Sec. 68. Fee required of producers. The commission  
2 is hereby authorized, empowered and directed to charge,  
3 collect and receive from each producer producing and  
4 selling milk, a fee of not to exceed one cent per  
5 hundredweight on all milk produced by him and sold,  
6 delivered or consigned by such producer to any milk  
7 dealer or handler, to the extent that such milk measures

8 the additional license fee of not to exceed one cent per  
9 hundredweight, as provided in sections twenty-five (25),  
10 twenty-six (26) and twenty-seven (27), to be paid by such milk  
11 dealer or handler. Said fee shall be collected by such  
12 milk dealer or handler by deduction from the amount  
13 otherwise owing the said producer for such milk, and shall  
14 be remitted and paid by such milk dealer or handler to the  
15 commission at monthly intervals, on the fifteenth of each  
16 month, covering all such milk produced by said producer  
17 as shall be so purchased, received or handled on consignment  
18 or otherwise during the preceding month. The fee hereby  
19 provided to be paid by the producer shall be not more than,  
20 or less in amount than, the additional license fee of not  
21 to exceed one cent per hundredweight imposed upon milk  
22 dealers and handlers by sections twenty-five (25), twenty-six (26)  
23 and twenty-seven (27) of this Act. If a milk dealer or handler  
24 omits, for any reason, to collect the fee herein provided  
25 to be paid by a producer supplying such milk to him, the  
26 said dealer or handler shall pay such amount as an  
27 additional license fee. No action shall be brought or  
28 maintained by a producer against a milk dealer or handler  
29 to recover fees deducted by such milk dealer or handler  
30 after payment thereof by the milk dealer or handler to  
31 the commission.

1 Sec. 69. Miscellaneous fees. The commission shall  
2 charge and collect the following fees for the following

3 services:

4 For copies of papers, testimony and records, the fee  
5 shall be twenty cents (\$0.20) per page;

6 For certifying a copy of any paper or testimony, two  
7 dollars (\$2.00);

8 For certifying a copy of a record for proceedings  
9 upon appeal, five dollars (\$5.00), in appeals from special  
10 orders, and ten dollars (\$10.00) in appeals from general  
11 orders.

1 Sec. 70. Milk control fund. All moneys collected or  
2 received by the commission, arising from license fees,  
3 penalties, permits, or any other source, shall be remitted  
4 by the commission, or its secretary, to the treasurer of  
5 state, and the secretary of the commission, at the same  
6 time, shall render to the state comptroller an itemized  
7 and verified report showing the source from which said  
8 moneys were obtained. All such moneys collected and  
9 remitted shall be placed in a special fund by the treasurer  
10 of state and the state comptroller, to be known as the  
11 "milk control fund". Fines imposed under this Act shall  
12 be payable to and collected by the commission and similarly  
13 placed in the milk control fund. Said fund shall be used  
14 by the commission to administer and enforce the provisions  
15 of this Act. Said fund shall be subject at all times to  
16 the warrant of the state comptroller, drawn upon written  
17 request of the chairman of the commission and attested by

18 the secretary, for the payment of all salaries and other  
19 expenses necessary to carry out the provisions of this  
20 chapter, but in no event shall the total expenses therefor  
21 exceed the total fees collected and deposited to the said  
22 fund.

1     Sec. 71. Trust funds. Moneys collected or received  
2 by the commission, that are not funds of the state, but are  
3 due to producers, dealers or handlers for, or on account of,  
4 milk acquired or received by dealers or handlers from  
5 producers or other dealers or handlers, and placed in the  
6 milk control fund, shall be paid to the persons entitled  
7 thereto by the treasurer of state, as directed by the  
8 commission.

1     Sec. 72. Expenses appropriations. As much of the  
2 money, from time to time, in the milk control fund as may  
3 be necessary is hereby specifically appropriated to the  
4 milk control commission to be used to pay its expenses,  
5 including the following:

6     (1) Salaries of the commission, of its employees,  
7 and of any assistant attorney general, or other counsel  
8 as may be assigned by the attorney general to the  
9 commission for the handling of any legal work, pertaining  
10 to its business.

11     (2) Rental and other expenses for offices, rooms,  
12 garage space and other accommodations outside of the  
13 capitol buildings, either in or outside of the capital

14 city, occupied by the commission.

15 (3) Premiums for workmen's compensation insurance  
16 covering the officers and employees of the commission.

17 (4) Premiums for surety bonds for such officers or  
18 employees of the commission as may be required by law to  
19 furnish such bonds.

20 (5) Purchase and operating costs of motor vehicles  
21 required by the commission for full-time use, including  
22 premiums for liability insurance covering such motor  
23 vehicles and the members of the commission and employees  
24 operating them; also the amount payable for the use of  
25 automobiles supplied by the state for temporary use by  
26 the commission.

27 (6) Furniture, stationery, materials, supplies and  
28 all other overhead expenses of the commission.

29 (7) All other expenses of every kind and description  
30 necessary for the performance by the commission of its work.

1 Sec. 73. Refunds. As much of the money, from time  
2 to time, in the milk control fund, as may be necessary, is  
3 hereby appropriated for the payment of approved claims for  
4 refund made to the commission for moneys heretofore or  
5 hereafter paid into the milk control fund, to which the  
6 State or the commission is not rightfully entitled.

1 Sec. 74. Severability. It is hereby declared to be  
2 the legislative intent that if this Act cannot take  
3 effect in its entirety because of the decision of any

4 court holding unconstitutional any part, sentence or clause  
 5 hereof, the remaining provisions of the Act shall be given  
 6 full force and effect as completely as if the part held  
 7 unconstitutional had not been included herein.

8 It is hereby declared as the intent of the legislature  
 9 that every other part, sentence or clause of this Act would  
 10 have been enacted had such unconstitutional provision not  
 11 been included herein.

1 Sec. 75. Interstate commerce. No provision of this  
 2 Act shall apply, or be construed to apply, to foreign or  
 3 interstate commerce, except insofar as the same may be  
 4 effective in accordance with the Constitution of the  
 5 United States and the laws of the United States enacted  
 6 pursuant thereto.

1 Sec. 76. Effective date. This Act, being deemed  
 2 of immediate importance, shall be in full force and  
 3 effect from the after its passage and publication in the  
 4 ....., a newspaper published at  
 5 ....., Iowa, and in the .....,  
 6 a newspaper published at ....., Iowa.