

- (I) IS HANDLED IMPROPERLY;
- (II) IS NOT KEPT AT THE REQUIRED TEMPERATURE;
- (III) IS INJURIOUS TO HEALTH IF CONSUMED; OR
- (IV) IS OTHERWISE UNSAFE.

(B) IF THE SECRETARY IMPOUNDS A MILK PRODUCT UNDER SUBSECTION (A) OF THIS SECTION, THE SECRETARY MAY ISSUE AN ORDER TO DISPOSE OF THE MILK PRODUCT, MAKE THE MILK PRODUCT UNUSABLE FOR CONSUMPTION, OR IMPOSE A CIVIL MONETARY PENALTY IN ACCORDANCE WITH THE HEALTH LAWS AND REGULATIONS OF THE STATE.

(C) (1) THE OWNER OF THE MILK PRODUCT THAT IS DISPOSED OF OR OTHERWISE MADE UNUSABLE UNDER SUBSECTION (B) OF THIS SECTION MAY BRING AN ACTION FOR DAMAGES AGAINST THE SECRETARY.

(2) THE SECRETARY SHALL HAVE THE IMMUNITY FROM LIABILITY DESCRIBED IN § 5-633 OF THE COURTS ARTICLE IN ANY ACTION BROUGHT UNDER THIS SUBSECTION.

(D) (1) AN ORDER OF THE SECRETARY THAT IMPOSES A CIVIL MONETARY PENALTY UNDER SUBSECTION (B) OF THIS SECTION SHALL STATE THE BASIS ON WHICH THE ORDER IS MADE, THE AMOUNT OF THE PENALTY, AND THE MANNER IN WHICH THE AMOUNT OF THE PENALTY IS CALCULATED AS SPECIFIED BY REGULATION REGULATIONS ADOPTED BY THE SECRETARY IN ACCORDANCE WITH PARAGRAPH (2) OF THIS SUBSECTION.

(2) THE REGULATIONS ADOPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL PROVIDE FOR HOW THE CIVIL MONEY PENALTY WILL BE ADJUSTED ACCORDING TO THE VOLUME OF MILK FOUND TO BE UNUSABLE FOR CONSUMPTION.

~~(2)~~ (3) A PERSON SUBJECT TO A CIVIL MONETARY PENALTY IMPOSED UNDER SUBSECTION (B) OF THIS SECTION MAY APPEAL THE ORDER THAT IMPOSES THE PENALTY IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

(E) SUBSECTIONS (A), (B), (C), AND (D) OF THIS SECTION DO NOT APPLY TO A RETAIL ESTABLISHMENT.

~~[(b)]~~ (F) If a retail establishment repeatedly fails to handle and maintain milk products properly, the Secretary, after due notice, may order that retail establishment to stop selling milk products until the establishment shows that it can and will handle and keep its milk products properly.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2004.

Approved May 11, 2004.