

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

---

---

ONE HUNDRED AND FOURTH LEGISLATURE

---

---

Legislative Document

No. 933

H. P. 715

House of Representatives, February 20, 1969

Referred to Committee on Agriculture. Sent up for concurrence and 1,000 ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Buckley of Leeds by request.

---

---

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-NINE

---

AN ACT Creating the Maine Milk Dealer's Bonding Law.

---

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 7, c. 602, additional. Title 7 of the Revised Statutes is amended by adding a new chapter 602, to read as follows:

CHAPTER 602

BONDING LAW

§ 2911. Title

This chapter shall be known as the "Maine Milk Dealers' Bonding Law."

§ 2912. Enforcing official

This chapter shall be administered by the Commissioner of Agriculture.

§ 2913. Definitions

When used in this chapter the following terms shall have the meanings indicated in this section unless a different meaning is clearly required by the context:

1. Commissioner. "Commissioner" shall mean the Commissioner of Agriculture or his authorized agents.

2. Dealer. "Dealer" shall mean any person, firm, partnership or corporation who purchases milk or receives milk in excess of 250 quarts of milk daily from producers for the purpose of sale or manufacture.

3. Milk. "Milk" shall mean fluid milk and cream.

4. **Producer.** "Producer" shall mean any person who produces milk and sells or delivers the same to dealers as defined in subsection 2.

§ 2914. **Dealers required to be licensed**

No dealer shall transact business in this State unless duly licensed by the commissioner. The license period shall be from January 1st to December 31st.

§ 2915. **License applications**

An application for a license, or for renewal of a license, to do business as a dealer shall be made to the commissioner upon such form as he may prescribe. No license shall be issued to take effect sooner than 60 days after the date of filing such application with the commissioner, nor sooner than 60 days after the date of filing any bond required of the applicant by sections 2916 and 2917, whichever shall be later. Each application shall be accompanied by a license fee of \$5. The applicant shall state such information in regard to his business or proposed business as is required by the commissioner, upon such form as he prescribes. Such information may include: The nature of the business to be conducted; the full name and address of the person applying; if the application is a copartnership, the full name and address of each member shall be stated; If the applicant is an association or corporation, the names and addresses of all officers and directors shall be stated; the location at which the business is to be conducted and the location or areas in which such business is to be operated; the financial condition of the applicant; a showing that he has complied and will comply with this chapter and all orders, rulings, regulations or directions issued under this chapter; the quantity of milk purchased or received from producers during the 12 months preceding the date of such application, or for such lesser period as the applicant may have engaged in business as a dealer, together with the aggregate amount paid or due producers therefor; applicants who are not engaging in business as dealers at the time of application, or who have reason to expect material expansion of their business over the preceding year, may be required to estimate the quantity of milk expected to be purchased or received from producers during the effective period of the license applied for, together with the estimated amount payable to producers therefor; such other facts with respect to the applicant's business as may be required by the commissioner pursuant to this chapter.

§ 2916. **Bond required as prerequisite to license**

The applicant shall file with the commissioner, at least 60 days prior to the effective date of the license sought, a good and sufficient surety bond, executed by a surety company duly authorized to transact business in this State, in the sum of not less than \$100 nor more than \$300,000. The commissioner may accept, in lieu of such surety bond, a personal bond secured by cash deposits or such other securities as are denominated legal investments for Maine savings banks. Either such bond shall be on a form prescribed or approved by the commissioner, shall be payable to the commissioner in his official capacity, and shall be conditioned on full and prompt payment for

all milk received or purchased from producers, resident or having farms in the State of Maine by the applicant during the effective period of the license sought. Dealers purchasing or receiving no more than an average of 250 quarts of milk daily from producers, during the dealer's month of highest volume as determined by the commissioner, shall be exempted from this section. A cooperative marketing association of producers marketing milk for producers in the State of Maine shall be exempted from the requirement for furnishing a bond hereunder.

§ 2917. Amount of bond

Such bond shall be in an amount  $1\frac{1}{2}$  times the value of the total amount of milk so received or purchased by such dealer during his calendar month of largest volume of the year preceding the date of application. In any case, where the commissioner determines that prior business of the applicant is not fairly indicative of his probable volume of business during the effective period of the license sought, the commissioner may require such bond to be in an amount  $1\frac{1}{2}$  times the value of the total amount of milk which it appears probable to the commissioner that such applicant will receive or purchase from producers during the calendar month of largest volume anticipated within the effective period of the license sought. It shall be the responsibility of the applicant to secure the commissioner's determination of the amount of the bond to be filed by him, at least 60 days prior to the effective date of the license sought.

§ 2918. Issuance of license; additional requirements

Upon full compliance with sections 2915 to 2917 and all rules, regulations and determinations made by the commissioner to implement the same, a dealer's license shall be issued to the applicant. At any time, in his discretion, the commissioner may require any such licensee to file additional statements of the business transacted by him in the State, and if the commissioner deems it necessary for the protection of producers, may require such licensee to file additional bond conditioned as provided. Failure of the dealer to supply such additional statements or bond, when required, shall entitle the commissioner to suspend his dealer's license until such time as the commissioner's requirements are complied with. Any dealer who is a nonresident of the State shall file with the commissioner a written document designating the Secretary of State as the attorney for the service of any legal process in any action or proceeding instituted by the commissioner against it.

§ 2919. Payments to producers for products

At least as often as semimonthly, such dealer shall make payment to his producers of all sums due for products purchased or received during the preceding semimonthly period.

§ 2920. Nonpayment; forfeiture of bond

When, for the period of 10 days after the date fixed by law for payment of the several amounts due his producers and without their consent, any dealer shall fail to pay his producers their due for milk theretofore delivered by

them, such dealer, by reason of such nonpayment shall be in default as to all producers whose accounts shall then remain unpaid, and the bond provided for shall be forfeited to the extent of all sums then due from such dealer to his several producers in this State, and by nature of such default, the conditions of such bond shall be deemed to be broken.

#### § 2921. Proceedings for recovery on bond

Upon his determination that the conditions of any such bond have been defaulted, whether occasioned on his own notice or the written complaint of a producer, the commissioner shall give reasonable notice to all affected producers, by publication or otherwise as he may deem proper, to filed verified claims, fixing a reasonable time within which such claims shall be filed. The commissioner shall examine each claim so filed and shall determine and certify the amount due thereon. He may bring an action on the defaulted bond in his own name, in his official capacity and for the benefit of all the producers of the defaulting dealer in this State to whom such dealer may be indebted at the time such proceedings are instituted. For the purposes of such action, the commissioner's certificate of the amount due producers shall be prima facie evidence of the facts therein stated. If the recovery on the bond is not sufficient to pay all claims filed and established, the amount recovered shall be prorated among the claimants.

#### § 2922. Penalty

A person who shall transact business as a milk dealer in this State, without being licensed to do so, shall be punished by a fine of not more than \$25 for the first offense and not more than \$50 for the second and each subsequent offense. Each day's transaction of business shall constitute a separate violation.

#### § 2923. Powers of commissioner

In the administration of this chapter the commissioner shall have power to conduct hearings, subpoena and examine under oath dealers with their records, books and accounts and any other person from whom information may be desired to carry out the purposes and intent of said sections, and the commissioner personally, or his deputy, may sign subpoenas and administer oaths to witnesses. The commissioner, or his duly authorized agent, may enter at all reasonable hours all places where milk is being received, processed, stored or otherwise handled and shall have access to all books and records relating to milk for the purpose of ascertaining facts to enable the commissioner to administer said sections. The commissioner may adopt, promulgate and enforce all rules, regulations and orders necessary to carry out this chapter.