

# MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2339

H. P. 1846

House of Representatives, January 11, 1974

Referred to the Committee on Agriculture. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. LaPointe of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FOUR

AN ACT to Repeal Milk Control Prices at the Retail Level and Make Certain  
Changes in the Membership of the Maine Milk Commission  
and the Dairy Council Committee.

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

Sec. 1. R. S., T. 7, § 2952, amended. The first sentence of section 2952 of Title 7 of the Revised Statutes, as amended by chapter 362 of the public laws of 1967, is repealed and the following enacted in place thereof:

The Maine Milk Commission, as heretofore established, shall consist of 3 producers, one of whom shall be a producer shipping to Boston Federal Order, a dealer, a retailer and 2 consumers, all of whom shall be residents of the State.

Sec. 2. R. S., T. 7, § 2954, repealed and replaced. Section 2954 of Title 7 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§ 2954. Price fixing

The commission shall hold meetings on the 3rd Thursday of each calendar month, and shall appoint a time at each meeting when any producer, dealer or consumer may present complaints or suggestions for the betterment of the conditions of trade and shall endeavor to effect amicable reconciliations of differences which exist between the various milk interests, and such other meetings as are necessary to properly supervise and control the industry.

The chairman shall call a meeting of the commission whenever requested in writing by any 2 members of the commission. The commission is vested with power to establish and change, after investigation and public hearing, of which due notice has been given by publishing at least 3 days prior to said hearing in appropriate newspapers, minimum prices to be paid to producers by dealers for milk received or purchased within the State.

The commission in its discretion may waive public hearing when the sole change to be made in minimum prices is to conform with orders of any federal agency, duly authorized by law to determine prices.

The commission is vested with power to establish and change, after investigation and public hearing, classifications of milk according to its various usages, and shall specify to what classification the prices fixed and established under this chapter shall apply.

Prices so fixed shall be just and reasonable taking into due consideration the public health and welfare and the insuring of an adequate supply of pure and wholesome milk to the inhabitants of this State under varying conditions in various marketing areas, seasonal production and other conditions affecting the costs of production, transportation and marketing in the milk industry, including a reasonable return to the producer.

Any dealer may deduct an allowance for transportation from the producer's farm to the dealer's dairy plant pursuant to a reasonable schedule of charges filed with the commission, with a copy to each affected producer, at least 30 days prior to the proposed effective date. Any interested producer or any organization representing producers may petition the commission at any time to review the reasonableness of any such schedule of transportation charges, and the commission is empowered to suspend proposed schedules pending hearing, and, after hearing, to disapprove and reject any schedules, then pending or theretofore in effect, found to be unreasonable, or, after hearing, to approve any such schedules found to be reasonable or to establish any new schedules deemed to be reasonable. It shall be incumbent upon the dealer to substantiate the reasonableness of the schedule of the transportation charges filed; and in the absence of said evidence, the schedule of charges filed shall be deemed unreasonable.

It shall be unlawful for any person to engage in any practice destructive of the scheduled minimum prices for milk between producer and dealer established under this chapter, including but not limited to any discount, rebate, gratuity or combination price for milk with any other commodity. In addition to any penalty otherwise provided by law, the commission after notice and hearing may prohibit any such practice, and any person feeling himself aggrieved by any order of the commission issued under this chapter may appeal to the Superior Court.

The minimum prices established for sales of milk by producers to dealers may, if such sales are made by bulk tank, be increased by such amounts per hundredweight as may be determined by the commission. Violation of this section shall be sufficient cause for the commission to revoke or withhold a dealer's license.

Sec. 3. R. S., T. 7, § 2954-B, additional. Title 7 of the Revised Statutes is amended by adding a new section 2954-B to read as follows:

§ 2954-B. Special price fixing powers

If market conditions become so adverse as to seriously jeopardize or endanger the supply of wholesome milk, the commission may, with the approval of the Governor, hold public hearings to determine whether fixed minimum prices shall be established between or among any or all of the following parties:

1. Dealers to dealers. By dealers to dealers;
2. Dealers to consumers. By dealers to consumers;
3. Stores to consumers. By stores to consumers, except for consumption on the premises where sold;
4. Dealer to stores. By dealer to stores either for consumption on the premises or resale to consumers;
5. Person to person. By any person not included in the foregoing classification to another person.

Any minimum prices so established must be just and reasonable, and act to insure an adequate supply of pure and wholesome milk to the inhabitants of this State.

Minimum prices so established under this section shall continue in effect for no more than 60 days, at the end of which time, the Governor may direct that the commission hold public hearings to determine whether a 60-day extension is required to protect the public's interest.

If an extension is requested and a hearing date is established, any such controls in effect at such time will continue for a period not exceeding 21 days beyond the 60-day control period, to allow for a public hearing on the necessity of the extension.

Any controlled prices so established may be terminated by the commission without public hearing if no formal objection is received from any representative group of producers, dealers, retailers or consumers pursuant to the following notice requirements.

Prior to any public hearing or termination of controls provided for in this section, the commission shall notify representative groups of producers, dealers, retailers and consumers by letter not less than 5 days prior to such activity. Any representative group of producers, dealers, retailers or consumers may request to be made part of the commission's mailing list for such notification purposes. Further notice will be provided by publication in appropriate newspapers no less than 3 days prior to any such hearing or termination of controls.

Sec. 4. R. S., T. 7, § 2956, amended. The 3rd paragraph of section 2956 of Title 7 of the Revised Statutes, as amended by section 1 of chapter 214

of the public laws of 1969 and as amended by section 1 of chapter 128 of the public laws of 1971, is repealed and the following enacted in place thereof:

Each licensed dealer shall pay to said commission an annual license fee of \$1 and the sum of  $3\frac{1}{2}\text{¢}$  per hundredweight as monthly payments, based on quantity of milk purchased or produced in any market area, or purchased or produced in an uncontrolled area and sold in any market area. One and three-quarters cents per hundredweight may be deducted by dealers from amounts paid by them to producers of such milk, except that the milk, farm-processed into cream for the manufacture of butter, shall not be subject to such sums of  $3\frac{1}{2}\text{¢}$  per hundredweight.

Sec. 5. R. S., T. 7, § 2957, amended. The first sentence of the 2nd paragraph of section 2957 of Title 7 of the Revised Statutes, as amended by section 2 of chapter 214 of the public laws of 1969, is further amended to read as follows:

Out of the sums raised by assessments in section 2956,  $3\text{¢}$   $1\frac{1}{2}\text{¢}$  per hundredweight shall be expended for the promotional, educational, experimental plans and the research and advertising purposes as determined by the Maine Dairy Council Committee and for the compensation of and the expenses incurred by the Maine Dairy Council Committee. **The Maine Dairy Council Committee shall not expend more than 30% of such sums raised annually for promotional or advertising purposes.**

Sec. 6. R. S., T. 7, § 2958, amended. The first sentence of section 2958 of Title 7 of the Revised Statutes is repealed and the following enacted in place thereof:

The Maine Dairy Council Committee, as heretofore established, shall consist of the following 5 members: The Commissioner of Agriculture, one producer, one dealer, one retailer and one consumer to be appointed by the Governor, with the advice and consent of the Council, on recommendation of producer, dealer, retailer or consumer organizations, individuals or unorganized groups of producers, dealers, retailers or consumers in the State.

#### STATEMENT OF FACT

The purpose of this bill is to discontinue retail pricing of milk and to make certain changes in the membership of the Maine Milk Commission and the Maine Dairy Council Committee.

Milk currently sells for \$1.62 per gallon in Maine compared to \$1.19 per gallon in New Hampshire and \$1.19 to \$1.25 per gallon in Connecticut.

Discontinuing price controls at the retail level will benefit Maine consumers while maintaining a fair return to farmers, dairies and retailers.