

MAINE STATE LEGISLATURE

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(EMERGENCY)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 1499

H.P. 1137

House of Representatives, April 19, 1983

On Motion of Representative Kelleher of Bangor, referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Kelleher of Bangor.

Cosponsors: Senator Baldacci of Penobscot, Representative Kane of So. Portland and Representative Michael of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-THREE

AN ACT to Provide for Consumer
Representation before the Maine Milk
Commission.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Milk Commission sets the minimum price that can be charged for milk sold within the State; and

Whereas, the availability of reasonably priced milk is essential to the health and well-being of many children and adults residing in the State; and

Whereas, the milk consuming public is not normally represented at proceedings before the Maine Milk Commission where the minimum prices for milk are set; and

1 Whereas, the Maine Milk Commission will have com-
2 pleted its 1983 rate-setting proceeding before the
3 adjournment of this Legislature; and

4 Whereas, in the judgment of the Legislature,
5 these facts create an emergency within the meaning of
6 the Constitution of Maine and require the following
7 legislation as immediately necessary for the preser-
8 vation of the public peace, health and safety; now,
9 therefore,

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

12 Sec. 1. 7 MRSA §2951, sub-§9-A is enacted to
13 read:

14 9-A. Public Advocate. "Public Advocate" means
15 the Public Advocate referred to in Title 35, section
16 1-A.

17 Sec. 2. 7 MRSA §2952-A is enacted to read:

18 §2952-A. Public Advocate

19 1. Duties. The duties and responsibilities of
20 the Public Advocate shall be to represent the using
21 and consuming public in matters within the jurisdic-
22 tion of the commission, including, but not limited
23 to:

24 A. Reviewing, investigating and making appropri-
25 ate recommendations to the commission with
26 respect to the justness and reasonableness of the
27 minimum milk prices in effect or proposed to be
28 paid to producers, dealers and stores for the
29 sale of milk within the State and, when deemed
30 necessary by the Public Advocate, to intervene
31 in related proceedings before the commission;

32 B. Petitioning the commission to initiate pro-
33 ceedings to review, investigate and take appro-
34 priate action with respect to the minimum prices
35 for the sale of milk within the State, when
36 deemed necessary by the Public Advocate;

1 C. Investigating complaints affecting the using
2 and consuming public generally, or particular
3 groups thereof, and, where appropriate, make
4 recommendations to the commission with respect to
5 the complaints; and

6 D. When deemed necessary by the Public Advocate,
7 in the interest of the using and consuming
8 public, or any particular group thereof, inter-
9 vening and appearing on their behalf in any pro-
10 ceedings before the commission, appeals from
11 orders of the commission, or proceedings before
12 state and federal agencies and courts in which
13 the subject matter of the action affects the
14 prices paid by consumers of milk within the
15 State.

16 2. Appeal from commission orders. The Public
17 Advocate has the same rights of appeal from commis-
18 sion orders or decisions to which he has been a party
19 as other parties have to commission proceedings.

20 3. Legal representation. Notwithstanding Title
21 5, section 191, the Public Advocate or a staff attor-
22 ney may act as counsel for the office of the Public
23 Advocate. The Public Advocate may request the assis-
24 tance of the Attorney General or employ private coun-
25 sel for this purpose.

26 4. Expert witnesses. The Public Advocate may
27 employ expert witnesses and pay appropriate compensa-
28 tion and expenses to employ those witnesses.

29 5. Information. The Public Advocate shall have
30 reasonable access to all accounts rendered or other
31 information provided to the commission pursuant to
32 the requirements of section 2953, and commission
33 rules and orders. The Public Advocate shall have the
34 same rights as the commission to inspect the records,
35 books and accounts of dealers, producers and stores
36 at their various offices and places of business at
37 reasonable times. The Public Advocate shall have the
38 same right to request data as an intervenor in a pro-
39 ceeding before the commission and, in addition, may
40 petition the commission, for good cause shown, to be
41 allowed such other information as may be necessary to
42 carry out the purposes of this section.

1 6. Conflicts of interest. In addition to the
2 limitations of Title 5, section 18, neither the
3 Public Advocate nor any employee of the Public Advoca-
4 cate may have any official business, other than
5 retail purchases of milk, nor professional relation
6 with nor hold any stock or securities in any pro-
7 ducer, dealer, store or other persons whose activi-
8 ties are subject to the jurisdiction of the commis-
9 sion, nor may he render any professional service
10 against any such producer, dealer, store or other
11 person whose activities are subject to the jurisdic-
12 tion of the commission nor be a member of a firm
13 which renders any such service.

14 Sec. 3. 7 MRSA §2953, 3rd ¶, as enacted by PL
15 1975, c. 517, §2, is amended to read:

16 In administering this chapter, the commission
17 shall have the power to conduct hearings, subpoena
18 and examine under oath, producers, dealers, stores or
19 other persons whose activities are subject to the
20 jurisdiction of the commission and their officers,
21 agents and representatives, together with their
22 records, books and accounts, and any other person
23 from whom the commission requires information in
24 order to carry out the purposes and intent of this
25 chapter. Any member of the commission, and any
26 employee designated by the commission, may sign sub-
27 poenas and administer oaths to witnesses. The com-
28 mission may issue a protective order to limit the
29 public disclosure of trade secrets or other confiden-
30 tial research, development or commercial information
31 received or gathered by it or any other party pur-
32 suant to this chapter.

33 Sec. 4. 7 MRSA §2956, 3rd ¶ from the end, as
34 amended by PL 1981, c. 481, §1, is further amended to
35 read:

36 Each licensed dealer shall pay to the commission
37 an annual license fee of \$1 and the sum of 5¢ 6¢ per
38 hundredweight as monthly payments, based on quantity
39 of milk purchased or produced in any market area, or
40 purchased or produced in an uncontrolled area and
41 sold in any market area. Two and one-half cents per
42 hundredweight may be deducted by dealers from amounts
43 paid by them to producers of the milk, except that

1 the milk farm-processed into cream for the manufac-
2 ture of butter shall not be subject to the sums of 5¢
3 6¢ per hundredweight.

4 Sec. 5. 7 MRSA §2956, as amended by PL 1981, c.
5 481, §1, is further amended by adding at the end 2
6 new paragraphs to read:

7 One cent of the 6¢ per hundredweight fee shall be
8 used for the purpose of supporting the activities of
9 the Public Advocate on behalf of the using and con-
10 suming public.

11 The Public Advocate shall have reasonable access
12 to all records that dealers are required by this
13 section to keep.

14 Sec. 6. 35 MRSA §1-A, sub-§12, as enacted by PL
15 1981, c. 479, §2, is amended to read:

16 12. Restriction; repeal. The duties of the
17 Public Advocate are, unless otherwise provided by
18 law, restricted to those relating to matters within
19 the jurisdiction of the Public Utilities Commission.
20 In the event that the selection of the Public Utili-
21 ties Commission is required by law to be accomplished
22 by any other method than appointment by the Governor,
23 with confirmation by the Legislature, the position of
24 Public Advocate shall be repealed, and the staff and
25 any balance in the budget shall be transferred to the
26 Public Utilities Commission for the remainder of the
27 fiscal year, effective on the date when a quorum of
28 the Public Utilities Commission selected by such
29 other method is qualified for office.

30 **Emergency clause.** In view of the emergency
31 cited in the preamble, this Act shall take effect
32 when approved.

33 STATEMENT OF FACT

34 This bill authorizes the Public Advocate to
35 represent the using and consuming public in matters
36 within the jurisdiction of the Maine Milk Commission.
37 Currently, there is no representation for consumers
38 on a consistent basis in the price setting proceed-
39 ings before the commission.

1 This bill grants the Public Advocate the right to
2 have reasonable access to all information necessary
3 to effectively represent the using and consuming
4 public and funds the activities of the Public Advo-
5 cate by increasing the assessment upon milk dealers
6 by 1¢ per hundredweight.

7 The 1¢ additional assessment will be used
8 entirely to support the work of the Public Advocate
9 in representing the using and consuming public in
10 matters relating to the setting of the minimum price
11 for milk.

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