

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1432

H.P. 996

House of Representatives, March 22, 2005

An Act To Reestablish the Milk Handling Fee

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative LERMAN of Augusta.

Cosponsored by Representative MILLS of Farmington, Senator MILLS of Somerset, Senator PERRY of Penobscot and Representatives: HUTTON of Bowdoinham, McCORMICK of West Gardiner, PATRICK of Rumford, PINEAU of Jay, PIOTTI of Unity, Speaker RICHARDSON of Brunswick, SMITH of Monmouth, WATSON of Bath.

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

2
4 **Sec. 1. 7 MRSA §2954, sub-§1**, as amended by PL 1999, c. 679,
Pt. B, §3 and affected by §14, is further amended to read:

6 **1. Commission empowered to establish prices; public**
7 **hearing.** The commission is vested with the power to establish
8 and change, after investigation and public hearing, the minimum
9 wholesale and retail prices to be paid to producers, dealers and
10 stores for milk received, purchased, stored, manufactured,
11 processed, distributed or otherwise handled within the State.
12 The commission shall hold a public hearing prior to the
13 establishing or changing of such minimum prices. The commission
14 may proceed, however, under the emergency rule-making provisions
15 of Title 5, section 8054 without making findings of emergency
16 when the only changes to be made in the minimum prices are to
17 conform with the orders of any federal or other agency duly
18 authorized by law to establish or negotiate producer prices ~~or~~,
19 are to respond to other conditions affecting prevailing Class I,
20 Class II and Class III prices in southern New England or are to
21 reflect the milk handling fee levied and imposed by Title 36,
22 chapter 721. Title 5, section 8054, subsection 3, the 2nd
23 sentence, ~~does not apply to minimum prices adopted under the~~
24 ~~previous--sentence~~ this subsection. Due notice of the public
25 hearing must be given by publishing notice as provided in Title
26 5, chapter 375. The commission shall hold such a public hearing
27 not less frequently than once every 12 months to determine
28 whether the minimum wholesale and retail prices then established
29 should be changed. In addition to the data received through the
30 implementation of the information gathering procedures of its
31 rules as a basis for its determinations, the commission shall
32 solicit and seek to receive oral and written testimony at
33 hearings to determine whether the minimum wholesale and retail
34 prices then established should be changed and whether the
35 proposed minimum wholesale and retail prices are just and
36 reasonable.

38 **Sec. 2. 7 MRSA §2954, sub-§2, ¶B**, as amended by PL 1995, c. 2,
39 §2, is further amended to read:

40 B. The minimum wholesale prices paid to dealers must be
41 established to reflect the lowest prices at which milk
42 purchased from producers in this State at minimum prices in
43 the State can be received, processed, packaged and
44 distributed within the State at a just and reasonable
45 return, and in addition must include the amount of any ~~tax~~
46 determined fee levied and imposed by Title 36, chapter 716
47 721.

2 **§4902. Milk handling fee**

4 **1. Fee.** A fee is levied and imposed at the rate
6 established in subsection 2 on the handling in this State of
8 packaged milk for sale in this State. With respect to the
10 handling in this State of a particular container of packaged milk
12 for sale in this State, the fee must be paid by the handler.
14 There is no fee on the handling in this State of packaged milk
16 for sale in containers of less than one quart or 20 or more
18 quarts in volume, or packaged milk that is sold to an institution
20 that is owned and operated by the State or the Federal Government.

22 **2. Rate per quart.** The fee levied under this chapter is 5¢
24 per quart.

26 For a container other than a quart, the fee is computed on a
28 quart-equivalent basis.

30 **3. Fee calculation.** Handlers shall pay the fee for each
32 fee period on all milk subject to the fee sold during the fee
34 period:

36 **A.** Subject to the minimum wholesale prices paid to dealers
38 established by the Maine Milk Commission pursuant to Title
40 7, chapter 603; or

42 **B.** Not subject to minimum wholesale prices paid to dealers
44 but subject to minimum retail prices established by the
46 Maine Milk Commission pursuant to Title 7, chapter 603.

48 In calculating the amount of packaged milk handled for sale in
this State during each fee period, the handler shall deduct from
that amount any packaged milk returned to the handler during that
fee period.

4. Fee; additional. The fee imposed and collected under
this chapter is in addition to any taxes imposed or collected
under any other law of the State.

5. Records, reports and administration. Every handler
subject to the fee imposed under subsection 1 shall register with
the assessor within 5 business days of becoming subject to the
fee and annually thereafter on forms provided by the assessor.
The list of registered handlers must be available to the public.
By the 25th day of each calendar month, every handler subject to
the fee imposed under subsection 1 shall report to the assessor
the quantity of packaged milk handled in this State for sale in
this State during the preceding fee period, the quantity of
packaged milk handled that was subject to the milk handling fee

2 and any other information the assessor determines necessary or
3 useful in the administration of this chapter and enforcement of
4 the milk handling fee.

6 6. Due dates. Handlers shall pay to the assessor the fee
7 due for the preceding fee period not later than the 25th day of
8 each calendar month and submit the information required by the
9 assessor on the forms provided.

10 7. Presumption. In a proceeding against a retail handler
11 for collection of the fee with respect to a particular container
12 of packaged milk, there is a rebuttable presumption that that
13 retail handler did not purchase that container in a transaction
14 subject to the minimum wholesale prices paid to dealers
15 established pursuant to Title 7, chapter 603. The burden is on
16 the retail handler to show that the retail handler purchased that
17 container of packaged milk in a transaction subject to minimum
18 wholesale prices paid to dealers established pursuant to Title 7,
19 chapter 603.

20 8. General Fund. The assessor shall immediately pay all
21 funds received from the milk handling fee to the Treasurer of
22 State to be deposited in the General Fund. The funds may not be
23 dedicated to a particular purpose and may be used for all
24 purposes of State Government.

25 9. Maine Farms for the Future Program. Notwithstanding
26 subsection 8, the assessor shall pay \$1,000,000 per year from the
27 milk handling fee to the Maine Farms for the Future Program,
28 established under Title 7, section 317.

30 **Sec. 5. Appropriations and allocations.** The following
31 appropriations and allocations are made.

32 **ADMINISTRATIVE AND FINANCIAL**
33 **SERVICES, DEPARTMENT OF**

34 **Bureau of Revenue Services**

35 Initiative: Provides funds to cover the initial costs of the
36 Bureau of Revenue Services to administer the milk handling fee.

37	GENERAL FUND	2005-06
38	All Other	\$10,000
39	GENERAL FUND TOTAL	<hr/> \$10,000

40 **Sec. 6. Effective date.** This Act takes effect January 1, 2006.

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SUMMARY

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6 This bill reestablishes the milk handling fee, which was in
8 effect in 1995 and 1996, at the rate of 5¢ per quart on milk
10 handled for retail sale in Maine. The fee is paid on a monthly
basis by the wholesale handler or, if there is none, by the
retail handler. Proceeds of the fee are paid to the State's
General Fund for general purposes of State Government and are not
dedicated to any particular purpose.