

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2025

Legislative Document

No. 88

H.P. 52

House of Representatives, January 8, 2025

**An Act Regarding Penalties for Violating the Laws Governing
Agriculture and Animals and the Maine Weights and Measures Law**

Submitted by the Department of Agriculture, Conservation and Forestry pursuant to Joint Rule 204.

Received by the Clerk of the House on January 6, 2025. Referred to the Committee on Agriculture, Conservation and Forestry pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Robert B. Hunt

ROBERT B. HUNT
Clerk

Presented by Representative PLUECKER of Warren.

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

2 **Sec. 1. 7 MRSA §16-A** is enacted to read:

3 **§16-A. Administrative penalties**

4 In addition to other penalties provided by law, the commissioner may assess
5 administrative penalties, not to exceed \$5,000, for each violation of this Title and each
6 violation of Title 10, chapter 501, as provided in Title 10, section 2751, unless a higher
7 administrative penalty amount is otherwise provided for in Title 10, chapter 501.

8 **1. Amount of penalty.** In determining the amount of the penalty to be assessed under
9 this section, the commissioner may consider one or more of the following:

10 A. The degree of actual and potential impact on public health, safety and welfare
11 resulting from the violation;

12 B. The presence of mitigating or aggravating circumstances;

13 C. Whether the violator has been warned regarding a violation or found to be in
14 violation of the same provisions of law in the past;

15 D. The economic benefit gained by the violation;

16 E. The deterrent effect of the penalty; and

17 F. The financial condition of the violator.

18 **2. Separate and distinct offenses; continuing violations; maximum total value of**
19 **penalties.** The commissioner may consider each violation a separate and distinct offense
20 and, in the case of a continuing violation, the commissioner may consider each day's
21 continuance a separate and distinct offense. The total value of penalties assessed against a
22 person under this section may not exceed \$50,000.

23 **3. Commissioner may recover costs of investigation.** In addition to the
24 administrative penalties authorized by this section, the commissioner may recover the costs
25 of investigation, which must be credited to a special fund and be made available to the
26 department to offset these costs.

27 **4. Enforcement of final administrative penalty.** The commissioner may enforce a
28 final administrative penalty by filing a civil action in any District Court or Superior Court.

29 **5. Appeal.** Any party aggrieved by a final decision of the commissioner may appeal de
30 novo to the Superior Court within 30 days of the final decision of the commissioner.

31 **Sec. 2. 7 MRSA §16-B** is enacted to read:

32 **§16-B. Administrative penalties; opportunity to request hearing; notice of alleged**
33 **violation and rights; requesting or waiving hearing**

34 Before a final administrative penalty may be assessed against a person under section
35 16-A, the person must be given an opportunity for a hearing after reasonable notice.
36 Notwithstanding any provision of Title 5, section 9052 to the contrary, the commissioner
37 shall use the following procedures in providing to an alleged violator notice of the violation
38 or violations alleged and the opportunity to request a hearing.

39 **1. Notice.** Notice must be served by personal service or by certified mail sent to the
40 last address of record on file with the department. If the alleged violator is not an applicant

1 for or holder of a license, permit, registration or certification issued by the department, the
2 notice must be served by personal service or by certified mail, return receipt requested. The
3 notice must include:

4 A. A statement of the legal authority and jurisdiction under which the hearing is to be
5 held;

6 B. A statement of the matter at issue, including reference to the particular statute or
7 administrative rule allegedly violated and a factual description of the alleged violation;

8 C. The amount of the proposed administrative penalty and required corrective action,
9 abatement or mitigation;

10 D. A warning that the decision will become final and the penalty will be imposed if no
11 hearing is requested within 15 days of service of the notice, which must specify the
12 steps an alleged violator must take to avoid waiving the right to a hearing; and

13 E. Information regarding the manner of payment if the person elects to pay the penalty
14 and waive the right to a hearing.

15 **2. Time for requesting hearing; written request required.** A person who receives
16 notification pursuant to this section is deemed to have waived the right to a hearing unless,
17 within 15 days of service of the notice, the person requests a hearing in writing.

18 **3. Waiving right to hearing; final order by default.** If a person waives the right to a
19 hearing, the commissioner shall by default issue a final order finding against the person in
20 respect to the violations alleged and imposing the penalty and any required corrective
21 action, abatement or mitigation. A copy of the final order must be served upon the violator
22 by personal service or by certified mail, return receipt requested.

23 **Sec. 3. 7 MRSA §16-C** is enacted to read:

24 **§16-C. Administrative penalties; holding of hearings**

25 When a person requests a hearing in a timely fashion consistent with section 16-B, the
26 commissioner shall provide notice of and hold the hearing pursuant to Title 5, sections 9052
27 to 9064.

28 **Sec. 4. 7 MRSA §16-D** is enacted to read:

29 **§16-D. Collections and enforcement of administrative penalties; interest**

30 The following provisions apply to the collection and enforcement of penalties assessed
31 under Title 10, section 2751.

32 **1. Requirement to pay department.** A person who is assessed a penalty pursuant to
33 Title 10, section 2751 is required to pay the department the amount of the penalty.

34 **2. Appeal; collection stayed.** An appeal of the department's decision to assess a
35 penalty stays the collection of the penalty.

36 **3. Interest on unpaid penalties.** Interest accrues on a penalty at the rate specified in
37 Title 14, section 1602-B prior to the completion of an appeal. After the completion of an
38 appeal process or after an appeal period has passed, interest accrues pursuant to Title 14,
39 section 1602-C.

