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

R(+ B. Hunt

Clerk

Presented by Representative PLUECKER of Warren.

E. The deterrent effect of the penalty; and
F. The financial condition of the violator.
2. Separate and distinct offenses; continuing violations; maximum total value of
penalties. The commissioner may consider each violation a separate and distinct offense
and, in the case of a continuing violation, the commissioner may consider each day's
continuance a separate and distinct offense. The total value of penalties assessed against a
person under this section may not exceed \$50,000.
3. Commissioner may recover costs of investigation. In addition to the
administrative penalties authorized by this section, the commissioner may recover the costs
of investigation, which must be credited to a special fund and be made available to the
department to offset these costs.
4. Enforcement of final administrative penalty. The commissioner may enforce a
final administrative penalty by filing a civil action in any District Court or Superior Court.
5. Appeal. Any party aggrieved by a final decision of the commissioner may appeal de
novo to the Superior Court within 30 days of the final decision of the commissioner.
Sec. 2. 7 MRSA §16-B is enacted to read:
§16-B. Administrative penalties; opportunity to request hearing; notice of alleged
violation and rights; requesting or waiving hearing
Before a final administrative penalty may be assessed against a person under section
16-A, the person must be given an opportunity for a hearing after reasonable notice.
Notwithstanding any provision of Title 5, section 9052 to the contrary, the commissioner
1 tot with businessing unity provides of 1 title 0, section 3 002 to the continuity, the commissioner
shall use the following procedures in providing to an alleged violator notice of the violation
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Be it enacted by the People of the State of Maine as follows:

In addition to other penalties provided by law, the commissioner may assess

1. Amount of penalty. In determining the amount of the penalty to be assessed under

A. The degree of actual and potential impact on public health, safety and welfare

C. Whether the violator has been warned regarding a violation or found to be in

administrative penalties, not to exceed \$5,000, for each violation of this Title and each

violation of Title 10, chapter 501, as provided in Title 10, section 2751, unless a higher

administrative penalty amount is otherwise provided for in Title 10, chapter 501.

this section, the commissioner may consider one or more of the following:

B. The presence of mitigating or aggravating circumstances;

violation of the same provisions of law in the past;

D. The economic benefit gained by the violation;

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

§16-A. Administrative penalties

resulting from the violation;

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for or holder of a license, permit, registration or certification issued by the department, the 1 2 notice must be served by personal service or by certified mail, return receipt requested. The notice must include: 3 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 hearing is requested within 15 days of service of the notice, which must specify the 11 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 and waive the right to a hearing. 14 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. Sec. 3. 7 MRSA §16-C is enacted to read: 23 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,

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section 1602-C.

- 4. Require unpaid penalty prior to license renewal. If the person has not paid any collectible penalty by the time of an applicable license renewal, the department may require payment prior to renewing any license issued to the applicant by the department.
- 5. Enforcement when person has no license issued by the department. For penalties assessed against a person who does not have a license issued by the department, an administrative order may be enforced pursuant to Title 14, section 3138.
- Sec. 5. 10 MRSA §2751, first ¶, as amended by PL 1991, c. 650, §1, is further amended to read:

A person who violates the following enumerated provisions or any provision of this chapter or rules adopted pursuant thereto, for which a specific penalty has not been prescribed, commits a civil violation for which a forfeiture must be adjudged in an amount not less than \$50 nor more than \$2,000 is subject to an administrative penalty under Title 7, section 16-A. The Commissioner of Agriculture, Conservation and Forestry may consider each violation a separate and distinct offense and, in the case of a continuing violation, the commissioner may consider each day's continuance a separate and distinct offense. A person who fails to pay a penalty assessed against that person under Title 7, section 16-A is subject to the enforcement provisions provided in Title 7, section 16-A, subsection 4 and Title 7, section 16-D, which may include, but are not limited to, a requirement that the person pay the collectible penalty prior to renewal of any license issued to that person by the Department of Agriculture, Conservation and Forestry.

21 SUMMARY

This bill authorizes the Commissioner of Agriculture, Conservation and Forestry to assess administrative penalties for violations of the laws governing agriculture and animals and certain provisions of the Maine Weights and Measures Law. Under the bill, penalties may not exceed \$5,000 for each occurrence and may not exceed \$50,000 in total. The bill requires that a person be given notice of the penalties assessed and be given an opportunity to request a hearing before the penalty is imposed.

The bill establishes procedures for providing notice, holding hearings and remedies that the commissioner may use when a person fails to pay a penalty imposed. These remedies include allowing the commissioner to file a civil action to enforce penalties and, in cases when the Maine Weights and Measures Law has been violated, allowing the department to require a person to pay any unpaid penalties before renewing a license issued by the Department of Agriculture, Conservation and Forestry and allowing enforcement by the Superior Court in cases when the person does not have a license issued by the department.