

# MAINE STATE LEGISLATURE

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REVISED STATUTES  
OF THE  
STATE OF MAINE

1954

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1955 SUPPLEMENT

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ANNOTATED

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IN FIVE VOLUMES

VOLUME 1

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**Place in Pocket of Corresponding  
Volume of Main Set**

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THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA  
1955

**The Occupational Disease Law.**

**Sec. 69. Occupational diseases.**

Column 1

Description of disease

13. Dermatitis (venenata).

16. Pulmonary and cardiac diseases, excluding common colds.

Column 2

Description of process

13. Any process involving the use of or direct contact with acids, alkalies, acids or oil, or with brick, cement, lime, concrete or mortar, or leather capable of causing dermatitis (venenata), but exclusive of soaps and cleaning materials.

16. Caused to an active member of an organized fire department while participating at fires, and developing within 6 months of such participation.

(1945, c. 338. 1951, c. 261, § 1. 1953, c. 361, § 1. 1955, cc. 295, 391.)

**Effect of amendments.**—The first 1955 amendment changed paragraph numbered "13" by inserting in the description of process the words "or leather." The second 1955 amendment, effective November

30, 1955, added paragraph 16 at the end of the section. As the rest of the section was not changed, only paragraphs 13 and 16 are set out.

**Chapter 32.**

**Department of Agriculture.**

**Division of Administration**

Section 2-A. Bounty on Porcupine.

**Division of Animal Industry**

Sections 74-80. Brucellosis (Bang's Disease).

**Division of Inspection**

Section 267-A. Sardine Industry Advisory Board.

**DIVISION OF ADMINISTRATION.**

**The Department; Commissioner; Duties.**

**Sec. 1. Department; commissioner.**—The state department of agriculture, as heretofore established and hereinafter in this chapter called the "department," shall be maintained for the improvement of agriculture and the advancement of the interests of husbandry. A commissioner of agriculture, hereinafter in this chapter called the "commissioner," shall be elected by the legislature by joint ballot of the senators and representatives in convention, and shall hold his office for the term of 4 years and until his successor is elected and qualified. He shall receive an annual salary of \$8,000. He shall also receive his actual expenses incurred in the performance of his official duties. He may employ such clerical labor as may be required, subject to the provisions of the personnel law and he may expend such sums for postage, telephone, telegraph and other general office expenses as may be necessary in the performance of his duties, the same to be paid out of any money appropriated by the legislature for such purpose. The commissioner may, with the approval of the governor and council, appoint a deputy commissioner of agriculture, who shall be the chief of one of the department bureaus

in the department of agriculture, and shall perform the duties of the commissioner during his absence, in addition to his duties as chief of a department bureau. The deputy commissioner shall hold office during the term of office of the commissioner or until his successor is appointed, and his compensation and expenses shall be paid from any funds appropriated for the use of the department bureau of which he is chief. When the office of commissioner shall become vacant by reason of the death, resignation, removal or inability to serve of the regularly elected incumbent of the office, the governor shall appoint a commissioner of agriculture to serve until the election of his successor, as provided by law, and his qualification. (R. S. c. 27, § 1. 1945, c. 364. 1951, c. 412, § 10. 1955, c. 473, § 10.)

**Effect of amendment.**—The 1955 amendment increased the annual salary of the commissioner from \$7,000 to \$8,000.

**Bounty on Porcupine.**

**Sec. 2-A. Bounty on porcupine.**—A bounty of 50¢ shall be paid for each and every porcupine killed in organized territory of the state to the person killing the same by the treasurer of the municipality in which said porcupine was killed.

No bounty shall be paid unless the claimant, within 72 hours after he has killed such animal, exhibits to the town treasurer the 4 feet thereof and signs a certificate, which said treasurer may administer, stating that he killed such animal and the time and place within the state. The town treasurer shall then pay the bounty and take the claimant's receipt therefor upon the same paper with such certificates and the town treasurer shall make upon the same paper a certificate addressed to the commissioner of agriculture that all the requirements of law have been met by the claimant and that the bounty has been paid to him.

The certificate shall be in the following form:

Claimant's Certificate

To the Treasurer of the Town of .....

I hereby certify that on the ..... day of ..... A. D., 19.... at ..... in the State of Maine, I killed the porcupine, the feet of which I now exhibit to you, and I claim the bounty allowed by law for killing the same, and acknowledge receipt of said bounty.

Dated at ..... this ..... day of ..... A. D., 19....  
..... Claimant

The bounty so paid by the town treasurer shall be reimbursed by the state out of the fees for licenses for dogs upon presentation of the claim as hereinbefore set forth and any expense incurred by the department incident to the enforcement of this section shall also be taken from the fees for licenses for dogs, and so much of the fees received for dog licenses as may be necessary to pay said bounties, and any expenses incident thereto, is appropriated to pay the same. (1955, c. 433, § 1.)

**County and Local Agricultural Societies.**

**Sec. 17. Stipend; apportionment; qualifications.**—There shall be appropriated annually from the state treasury a sum of money not to exceed 2¢ per inhabitant of the state, and an additional sum of money equal to 5% of the amount contributed under the provisions of section 15 of chapter 86, and an additional sum of money as provided and limited by the provisions of section 14 of chapter 86, which shall be known as the state stipend for aid and encouragement to agricultural societies and hereafter designated as the "stipend." From the state stipend the commissioner may expend annually a sum not to exceed 2% for administrative and inspection services. The balance of this stipend shall be divided among the legally incorporated agricultural clubs, societies, counties and fair associations of the state, hereafter in this chapter designated as "societies," according to the following schedule and method. Said stipend shall be divided pro rata among the

legally incorporated societies, not heretofore provided for, according to the amount of premiums and gratuities actually paid in full and in cash of valuable equivalent by said societies upon horses, cattle, sheep, swine, poultry and agricultural and domestic products, but no such society whether specifically mentioned in this chapter or otherwise shall be entitled to any share of the stipend unless it shall have complied with the following requirements, which shall be considered by the commissioner as the basis upon which his apportionment of the stipend shall be made as provided in this section. No premiums or gratuities shall be considered by the said commissioner in apportioning the amount of stipend to which any society is entitled except those offered and paid upon horses, cattle, sheep, swine, poultry, vegetables, grain, fruit, flowers, products derived from horses, cattle, sheep, swine, home canned foods, grange exhibits, farm exhibits, boys' and girls' club exhibits, exhibits of the mechanical arts, domestic and fancy articles produced in the farm home and pulling contests by horses and oxen. No society shall be entitled to any share of the stipend unless it shall have notified the commissioner in writing at least 10 days in advance of the date and place of its annual exhibition. No society, the Maine state pomological society excepted, shall receive from the state a sum greater than that actually raised and paid by the society as premiums and gratuities in the classes herein provided, and in no case shall any society be entitled to any share of the stipend unless it shall have raised and paid in premiums in the classes heretofore set forth at least \$200. No society shall receive any portion of the stipend in excess of \$10,000, except that such limitation shall not apply to any additional stipend provided for by the provisions of section 14 of chapter 86 or the provisions of section 13 of chapter 87. No society shall receive any portion of such stipend unless it shall have regularly entered and displayed in an attractive manner upon its exhibition grounds distinct exhibits or entries of vegetables, fruits, grains or dairy products, or of subordinate and other granges and 4-H clubs, of a quality acceptable to the commissioner or his regularly authorized agent and of varieties known to be common or standard to the county in which such exhibition is held. No society shall be entitled to any share of the stipend unless all cattle to be shown or exhibited shall have come from herds wherein all animals were negative to the tuberculin tests within 1 year of the opening date of the show. (1955, c. 11.)

**Effect of amendment.**—The 1955 amendment changed the first paragraph by inserting the second and sixth sentences. It also added at the beginning of the third sentence the words "The balance of." As the rest of the section was not changed by the amendment, only the first paragraph is set out.

**Sec. 20.** Repealed by Public Laws 1955, c. 61.

## DIVISION OF ANIMAL INDUSTRY.

### Livestock Community or Commission Auctions.

**Sec. 60. Records.**—The operator shall keep complete records of all sales transactions which shall be available for inspection by the commissioner or his agent. (1949, c. 315. 1953, c. 308, § 45. 1955, c. 320, § 1.)

**Effect of amendment.**—The 1955 amendment deleted the former first sentence, requiring the operator to furnish bond.

### Brucellosis (Bang's Disease).

**Sec. 74. Cattle tested.**—For the eradication of brucellosis (Bang's disease) the commissioner or his agent in charge of livestock sanitary work shall continue to conduct recognized tests on all the herds in the state. Such tests shall be conducted by regularly employed federal or state veterinarians or technicians or authorized veterinarians and tested by the state laboratory. All animals show-

ing a positive reaction to the test shall be identified by a "reactor" eartag and brand and shall be slaughtered, except vaccinated animals under 36 months of age. The commissioner or his agent may by written consent allow the retention of reactors and such herds shall be quarantined and handled under direct supervision of the commissioner or his agent as provided under Plan "C". Animals not officially vaccinated, showing a suspicious reaction to the blood agglutination test, must be held on premises where found and retested, or sold for slaughter only. The movement of officially vaccinated animals between the ages of 24 and 36 months shall be restricted if the agglutination is higher than incomplete in 1-100. (R. S. c. 27, § 73. 1945, c. 275, § 2. 1949, c. 422. 1951, c. 325, § 1. 1955, c. 320, § 2.)

**Effect of amendment.**—The 1955 amendment rewrote this section.

**Sec. 75. Control and eradication.**—The commissioner shall formulate methods of procedure for controlling and eradicating brucellosis (Bang's disease).

**Plan A.** These methods shall include Plan A which embraces test and slaughter of reactors. Calfhood vaccination may or may not be used under this plan.

Certificates for certification as brucellosis-free herds shall be issued to owners of herds who qualify under the cooperative state-federal program.

Officially vaccinated calves shall be female calves vaccinated at the age of 6 to 8 months with vaccine approved by the commissioner or his agent and by persons approved by him.

Officially vaccinated calves shall be properly identified by eartag or registration papers and tattoo number if purebred. Grade animals shall be tagged and tattooed.

Interpretation of blood titers as to suspects and reactors shall be in compliance with the National Brucellosis Eradication Program. The quarantining and restricting of infected herds or animals shall be at the discretion of the commissioner or his agent.

**Plan C. CALFHOD VACCINATION IN REACTOR HERDS UNDER OFFICIAL SUPERVISION AND QUARANTINE.**

This is a plan of control by quarantine and calfhood vaccination for herds which in the opinion of the commissioner or his agent are not in a position to meet the requirements of Plan A.

The herd owner shall receive written permission from the commissioner or his agent authorizing him to operate under Plan C.

The herd shall be tested at least 2 times a year or as often as the state and federal officials deem necessary by an approved veterinarian or technician without expense to the owner, and reported to the commissioner or his agent.

All calves shall be vaccinated between the age of 6 to 8 months inclusive. Such vaccinations may be taken care of at the owner's discretion when a state or federal veterinarian is on the premises in connection with this program. Calves not so vaccinated must be vaccinated at the proper age at the expense of the owner. All replacements shall be officially vaccinated and under 6 years of age.

All reactors in this herd must be tagged and branded. If the reactor tag is lost, the division of animal industry must be notified so that the tag can be replaced.

This reactor herd shall be under official quarantine and must be satisfactorily and carefully managed so that it will in no way menace human health or the health of other herds and the fact of quarantine must be conspicuously posted on the outside of the barn and milk room with at least 2 signs supplied by the commissioner or his agent.

No milk or milk products shall be distributed from this herd unless the milk has been properly pasteurized at the farm or at the milk plant.

After July 1, 1956 no milk or milk products shall be sold or offered for sale from any herd operating under Plan C.

The owner is personally responsible for keeping the cattle in this "C" Plan herd

away from all physical contact with other cattle and is required to construct a double fence 6 feet apart where the pasture of this reactor herd is adjacent to a pasture harboring cattle of another herd.

No cattle shall be removed from this herd, except veal calves for immediate slaughter, without permission from the commissioner or his agent. All reactor animals removed from the herd must be slaughtered and their slaughter must be witnessed and reported by a state or federal official or other authorized agent. No indemnity shall be paid for cattle slaughtered from such Plan C herd unless, at the time of slaughter, the herd shall have had a clean test at least 60 days prior thereto.

No herd owner shall be allowed to operate under Plan C for a longer period than 36 months, at the end of which time the owner of such herd shall cause all natural reactors and all officially vaccinated reactors over 36 months of age to be removed and slaughtered. The owner then must continue under Plan A.

The owner or operator of a herd under Plan C who willfully or deliberately violates any of the above provisions shall be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment for not more than 60 days, or by both such fine and imprisonment. (1949, c. 429, § 1. 1951, c. 325, § 2. 1955, c. 320, § 3.)

**Effect of amendment.**—The 1955 amendment rewrote this section.

**Sec. 76. Vaccination of cattle over 270 days of age.**—Vaccination of cattle over 270 days of age with brucellosis vaccine is prohibited, except by special written permission from the commissioner or his agent, and shall be identified as directed by him. Any person, partnership, association or corporation which shall violate the provisions of this section shall be punished by a fine of not more than \$25 for the 1st offense and not more than \$50 for each subsequent offense. (1953, c. 82. 1955, c. 320, § 4.)

**Effect of amendment.**—The 1955 amendment substituted "270 days" for "8 months," "permission" for "permit" and "commissioner or his agent" for "chief of the division of animal industry," all in the first sentence.

**Sec. 76-A. Sale of certain biologics.**—No biological product, containing living organisms, primarily used in veterinary medicine for livestock or poultry, shall be shipped into or sold within the state of Maine without the approval of the product by the commissioner or his agent. No brucellosis antigen shall be shipped into the state without the approval of the commissioner or his agent. (1955, c. 320, § 5.)

**Sec. 76-B. Penalty for violation.**—Whoever violates any provision of section 76-A or any rules and regulations promulgated thereunder shall be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment for not less than 30 days nor more than 6 months, or by both such fine and imprisonment. (1955, c. 320, § 5.)

**Sec. 77. Cattle to be tested for brucellosis (Bang's Disease) before sale; penalty for violation.**—It shall be unlawful for any person, firm, partnership or corporation to sell, bargain or convey any bulls or female cattle 6 or more months of age, to any person, firm, partnership or corporation within the State, except to a licensed livestock dealer or to a recognized slaughtering establishment for immediate slaughter, unless such cattle have been tested for brucellosis (Bang's disease) within 30 days and are accompanied by a health certificate to be issued by the commissioner or his agent, except that the provisions of this section shall not apply to certified brucellosis-free herds, nor to officially vaccinated animals under 24 months of age from clean herds not under quarantine. Any person, partnership, association or corporation which shall violate the provisions of this sec-

tion shall be punished by a fine of not more than \$200 for the 1st offense and not more than \$500 for each subsequent offense. (1951, c. 324. 1955, c. 320, § 6.)

**Effect of amendment.**—The 1955 amendment inserted the word “brucellosis” and placed the words “Bang’s disease” in parenthesis near the middle of the first sentence, inserted the words “or his agent” and substituted “brucellosis-free” for “(ac-

credited) or certified vaccinated” near the end of the first sentence, and added to the first sentence the words “nor to officially vaccinated animals under 24 months of age from clean herds not under quarantine.”

### Milk Dealers.

**Sec. 92. Milk dealers; registration; refusal to register or post certificate.**—Any person, firm, corporation, association or society, who shall sell or deliver milk or cream as a business to any person from a wagon or other conveyance or depot, or who shall sell or deliver milk to a hotel, restaurant, boarding-house or any public place, shall be considered a milk dealer within the meaning of this section and shall, on or before the 1st day of January in each year, apply to the commissioner for registration, furnishing such information as may be required upon blanks issued and furnished by the said commissioner to such person as may request the same. Every such registration shall expire on the 1st day of January, next after its issue, and shall be granted only to the milk dealer owning or leasing the vehicle or place from which sales or supplies are to be made, and shall not be transferred. Upon receipt of the application for registration, containing the information required, and upon being satisfied that all milk is being produced and handled in accordance with the provisions of section 91 and is from cows free from disease, the said commissioner shall issue to the applicant a certificate of registration, which certificate shall be posted in a conspicuous place in the depot from which sale or supply is made, and the number of the certificate of registration for each wagon or other vehicle shall be placed in a conspicuous place on said wagon or other vehicle. The commissioner may cancel the certificate of any dealer, who, after due hearing on complaint by the said commissioner or his authorized agent, is found to be selling milk produced or handled in violation of the provisions of section 91 or milk from diseased cows. If any person, firm, corporation, association or society desires to become a milk dealer, as provided by this section, before the 1st day of January in any year, he or they shall, prior to engaging in the business, register with the commissioner in the manner hereinbefore provided, for each place or vehicle from which sale or supply is to be made. Any dealer who neglects or refuses to register with the commissioner, or to post certificates of registration in the depot from which sale or supply is made, or to post the number of the certificate of registration on the wagon or other vehicle from which sale or supply is made, as provided in this section, or to surrender his certificate to the said commissioner when notified in writing that the same has been canceled, and the reason given for cancellation, or who himself or by his servant or agent, sells or delivers, or has in his custody or possession with intent to sell or deliver any milk after having been refused the aforesaid certificate of registration by the commissioner, shall be punished by a fine of not more than \$50. No certificate of registration shall be required of producers selling only to licensed milk pasteurizing plants. (R. S. c. 27, § 80. 1945, c. 298, § 2. 1955, c. 432.)

**Effect of amendment.**—The 1955 amendment removed from the application of this

section persons, etc., selling or delivering milk from stores.

### Dealers in Livestock.

**Sec. 138. Records; health certificates; sanitation of trucks and premises.**

Licensed dealers selling cattle over 6 months of age except as provided above shall furnish the purchaser with a health certificate showing the date of the last



known test for Bang's disease. If the last Bang's disease test was made over 30 days previously, he shall cause the cattle to be retested. The form of health certificate and the issuance of the same shall be at the direction of the commissioner or his duly authorized agent.

(1955, c. 106.)

**Effect of amendment.**—The 1955 amendment deleted the words "and tuberculosis," formerly appearing at the end of the first sentence of the second paragraph, and deleted the former third sentence of the

second paragraph, which provided for retesting cattle for tuberculosis. As the rest of the section was not changed by the amendment, only the second paragraph is set out.

## DIVISION OF PLANT INDUSTRY.

### Seed Potato Board.

#### Sec. 151. Appropriation.

The 10-year period shall expire June 30, 1966, at which time there shall be returned to the general fund of the state, \$100,000. (1945, c. 153. 1947 c. 235. 1955, c. 68.)

**Effect of amendment.**—The 1955 amendment substituted "1966" for "1956" in the last paragraph. As the rest of the section

was not changed by the amendment, only the last paragraph is set out.

## DIVISION OF INSPECTION.

### Adulterated or Misbranded Goods.

#### Sec. 184. Registration of commercial fertilizers.

**III.** A chemical analysis stating the minimum percentage of nitrogen, available as plant food; potash soluble in water, of phosphoric acid in available form and the minimum percentage of magnesium soluble in water or total magnesium, the constituents to be determined by the methods adopted by the association of official agricultural chemists; (1955, c. 77, § 1.)

**Effect of amendment.**—The 1955 amendment deleted the words "present as nitrates, as ammonium salts or as organic nitrogen," which formerly appeared be-

fore the first semicolon in subsection III. As only subsection III was changed by the amendment, the rest of the section is not set out.

**Sec. 186. Markings of packages of commercial fertilizer.**—Every lot or package of commercial fertilizer, which is manufactured, sold, distributed, caused to be transported, offered or exposed for sale, distribution or transportation in the state by any person shall have affixed, in a conspicuous place on the outside thereof, a plainly printed statement clearly and truly giving the number of net pounds in the package, together with all other information specified in section 184. In case a commercial fertilizer contains plant foods or other compounds which may cause injury to plant growth unless special precautions are taken, these precautions shall be clearly stated on the container. If the fertilizer is sold in bulk or put up in containers furnished by the purchaser, the seller shall furnish the latter with a copy of the statements named in this section. (R. S. c. 27, § 164. 1949, c. 343, § 3. 1955, c. 77, § 2.)

**Effect of amendment.**—The 1955 amendment deleted the words "upon request of the purchaser," which formerly appeared

before the word "furnish" in the last sentence.

### Slaughterhouses and Meat Processing Plants.

**Sec. 248. Licenses for slaughterhouses and meat processing plants; carcasses stamped.**—No person, firm, partnership, corporation, association or society shall operate a slaughterhouse or meat processing plant within the state

of Maine unless such person, firm, partnership, corporation, association or society be licensed by the commissioner of agriculture. A license shall not be required of any farmer or other person who raises and slaughters his own domestic animals on his farm or premises for consumption or sale as human food, this being incidental to his general livelihood, nor of any retail sales establishment; nor the home kitchen operated only by the owner and his immediate family. An application for a license, or renewal of license, shall be made each year upon a form prescribed by the commissioner. Such license shall commence upon the 1st day of August. With the application, there shall be paid to the commissioner a license fee of \$5. Upon receipt of the application for a license, or renewal of same, the commissioner shall issue a license after being satisfied that the applicant has complied with section 251 and the regulations promulgated thereunder. Each such license shall cover a group of buildings or parts thereof, in one location, constituting a slaughterhouse, meat processing plant, or both; operated by the licensee. Said license shall run for 1 year from the 1st day of August in each year, or unless sooner revoked as provided in section 249.

(1955, c. 107, § 1.)

**Effect of amendment.**—The 1955 amendment rewrote the first paragraph. As the second paragraph was not changed, it is not set out.

**Sec. 250. Definitions.**—The term “slaughterhouse” shall mean any establishment wherein animals or poultry are slaughtered for human consumption.

The term “slaughter” shall mean the butchering of animals or poultry for human consumption.

The term “meat processing plant” shall mean any place where meat or meat products are prepared, processed, manufactured, packaged or frozen, for human consumption. (R. S. c. 27, § 190. 1955, c. 107, § 2.)

**Effect of amendment.**—The 1955 amendment rewrote this section.

**Sec. 251. Inspection; rules.**—The floors, walls, ceilings, partitions, posts, doors, equipment and other parts of all licensed slaughterhouses or meat processing plants shall be of such materials, construction and finish as will make them susceptible of being readily and thoroughly cleaned. Said establishments shall, at all times, be maintained and operated in a sanitary manner and in compliance with the Maine food law. Meat or meat products shall be prepared, processed, handled, packaged and transported in such a manner as to protect them from rapid decomposition, adulteration or contamination. The commissioner shall promulgate regulations for carrying out the provisions of sections 248 to 254, inclusive, fix standards of quality and identity for meat and meat products, and by adequate inspection, enforce the provisions of sections 248 to 254, inclusive. (R. S. c. 27, § 191. 1955, c. 107, § 3.)

**Effect of amendment.**—The 1955 amendment rewrote this section.

### Packing of Sardines.

**Sec. 258. Packers licensed.**—No person, firm, corporation, association or society shall pack sardines within the state for sale without having first filed with the commissioner an application for license, accompanied with a fee of \$50, upon receipt of which application the commissioner shall issue to the person, firm, corporation, association or society making such application a license to pack sardines as hereinafter provided. Each such license shall cover 1 group of buildings constituting a packing plant in one location. Said license shall run from April 15th to December 1st of each year, unless sooner revoked as herein provided and shall be renewed annually thereafter. Before issuing such license or renewing it, the commissioner may by adequate inspection determine that the laws and regulations relating to the packing of sardines and the operation of sardine plants are being

observed. (R. S. c. 27, § 198. 1945, c. 66, § 2. 1947, c. 42, § 1. 1949, c. 248, § 1. 1953, c. 171, § 1. 1955, c. 174, § 1.)

**Effect of amendment.**—The 1955 amendment added the last sentence.

**Sec. 259. Repeal or revocation of license; appeal.**—The commissioner shall have the power to refuse to issue, to refuse to renew, to revoke or to suspend any license issued under the provisions of sections 258 to 267, inclusive, whenever he determines that any of the provisions of said sections or rules or regulations promulgated or established thereunder have been violated. Any person, firm, corporation, association or society whose license has been so revoked or suspended shall discontinue the packing of sardines until the provisions of said sections have been complied with and a new license issued or the suspension removed. The commissioner may revoke or suspend such license temporarily until there is a compliance with the provisions of said sections as hereinafter provided, or permanently for the unexpired period of such license. On the refusal to issue or to renew and before revoking or suspending any license, the commissioner shall give written notice to the applicant or licensee affected stating that he contemplates refusing to issue or renew said license or the revocation or suspension of the same and giving his reasons therefor; such notice shall appoint a time of hearing before said commissioner. On the date of hearing, the applicant or licensee may present evidence to the commissioner, and after hearing all the testimony, the said commissioner shall decide whether or not the license shall be issued, renewed, revoked or suspended. Any licensee who feels aggrieved or dissatisfied with the decision of the commissioner may appeal from said decision within 10 days to the superior court. (R. S. c. 27, § 199. 1955, c. 174, § 2.)

**Effect of amendment.**—The 1955 amendment rewrote the first, fourth and fifth sentences, making them applicable to refusal to issue or renew a license, as well as to revocation and suspension thereof, and making other changes.

**Sec. 261. Inspection; conformity with food and drug acts; branding of cans; embargo and condemnation of sardines packed in violation of §§ 258-267.**—The commissioner shall by adequate inspection, by such methods, including sampling procedures, and at such times including before, during and after packing, as he may from time to time deem appropriate, see that sardines are packed in conformity with the requirements of the federal food and drug act, the laws of this state, including the provisions of sections 258 to 267, inclusive, and the rules and regulations promulgated or established thereunder by the commissioner, and shall determine the grade or quality of each lot of sardines for which he shall have established grades under section 263. He shall make uniform rules and regulations, which shall have the effect of law, for carrying out the provisions of said sections and for insuring sardines are packed in a sanitary environment and manner and for the sanitary storage and condition of packing media and may fix standards of quality in addition to standards fixed by law; and he shall authorize the persons packing sardines in conformity with the requirements of said sections to mark the container of said sardines with a statement certifying that the food contained therein was packed, inspected and passed under the provisions of sections 216 to 228, inclusive. Any sardines falsely marked shall be deemed to be misbranded, and any person, firm, corporation, association or society who shall misbrand or falsely mark any container of sardines or sell or offer for sale such misbranded containers shall be punished by a fine of not more than \$500 for each container thus falsely marked.

Beginning April 15, 1956, every holder of a license issued under the provisions of section 258 shall, before packing sardines in  $\frac{1}{4}$  size cans, or in other containers for which grades shall have been established by the commissioner under section 263, have on file with the commissioner of agriculture a code plan satisfactory to the commissioner, which plan shall show the plant where packed, lot and

the calendar year of packing, and may at the option of the licensee show such other information as is desired. Optional coding information may, but need not be included in the plan filed. Said code plan shall define "lot" as not more than the entire output of one packing plant for one day. Said plan shall remain effective until modified or rescinded by said licensee and another approved code plan is filed. After April 15, 1956, no such licensee shall pack, process, manufacture, sell, ship, deliver, consign or have in his possession sardines for which a code plan is required unless said code appears legibly and permanently upon each container and also upon the shipping case containing said sardines.

Beginning April 15, 1956, the commissioner shall issue a certificate for each lot of sardines, as defined in the applicable code plan on file with him, stating the fact of his inspection, the date of inspection, the code, the number of containers in the lot, the number of cans inspected, and the quality or grade of said lot, which said certificate shall be prima facie evidence of the facts therein stated. No licensee shall sell, ship, deliver or transfer possession or remove from the jurisdiction of the commissioner any sardines for which a code plan is required unless and until such certificate shall have been issued therefor.

The commissioner shall select and employ an assistant chief of the division of inspection for sardines. He shall also employ subordinate inspectors, sufficient in numbers, so that adequate inspection can be performed; and it shall be the duty of said inspectors to make adequate and uniform and impartial inspection of all the places, shops and factories in the state, wherever sardines are packed for sale, and for this purpose such inspectors shall have free access, ingress and egress at all reasonable hours to any sardine packing plant, may open any case or container and may, upon tendering the market price, take samples therefrom.

The assistant chief of the division of inspection for sardines shall vigilantly enforce all the provisions of sections 258 to 267, inclusive, and all provisions of the law and all regulations relating to sardine packing.

During the packing season, he shall not be assigned to perform or perform any inspection work, other than that pertaining to the packing of sardines.

Whenever the commissioner or any duly authorized agent of the commissioner has reasonable cause to believe that sardines are packed in violation of any of the provisions of sections 258 to 267, inclusive, or regulations promulgated under authority of said sections or that the finished product does not meet the standards and requirements of such sections and regulations, the commissioner or any duly authorized agent of the commissioner may detain or place an embargo upon such sardines by marking or tagging the same, giving notice that such sardines were packed in violation of the provisions of sections 258 to 267, inclusive, and that they have been detained or embargoed, and warning all persons not to remove or dispose of the same by sale or otherwise until permission for removal or disposal is given by the commissioner or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission.

The commissioner or duly authorized agent of the commissioner detaining such sardines shall promptly petition the judge of a municipal court or the superior court within whose jurisdiction the sardines are detained for a libel for condemnation of such sardines, the procedure of which shall conform, as nearly as may be, to the procedure for libelling intoxicating liquors.

If the court finds that the sardines were packed in violation of sections 258 to 267, inclusive, or regulations issued thereunder, it shall enter a decree that they shall be destroyed at the expense of the claimant thereof, under supervision of the commissioner, or any of his duly authorized agents, and all court costs and fees, and storage and other proper expenses shall be taxed against the claimant; provided that when the sardines can be brought into conformity with the provisions of sections 258 to 267, inclusive, by proper labelling or by other process, the court, after such costs, fees and expenses have been paid, and a bond to the commissioner or his successors in office, in such sum as the court may direct, with good

and sufficient sureties, conditioned that such sardines shall be so labelled or processed, has been approved by the court, may order that such sardines be delivered to the claimant thereof for such labelling or processing under the supervision of the commissioner or any duly authorized agent of the commissioner. The expense of such supervision shall be paid by the claimant. Provided further that when the product is not in conflict with the laws of a foreign country to which it is intended for export, and is labelled on the outside of the shipping package to show that it is intended for export, the court, after the costs, fees and expenses have been paid, and a bond to the commissioner or his successors in office in such sum not less than twice the value of such goods as the court may direct with good and sufficient sureties, conditioned that such fish shall be exported to a foreign country, to be named therein, with whose laws such fish are not in violation and shall not be re-imported into the United States by any person whomsoever, may order such fish to be redelivered to the claimant for export under the supervision of the commissioner or any of his duly authorized agents. (R. S. c. 27, § 201. 1951, c. 266, § 37. 1953, c. 171, § 2. 1955, c. 174, §§ 3, 4.)

**Effect of amendment.**—The 1955 amendment repealed the former first paragraph thereof. It also added the last three paragraphs of this section and enacted the present

first, second and third paragraphs in place thereof. It also added the last three paragraphs.

**Sec. 263. Standards of contents of cans; misbranding.**—The minimum count of fish per  $\frac{1}{4}$  size keyless can, whether packed in oil, mustard sauce, tomato sauce or other packing medium, shall be 4 fish, and in all such cans the heads of all fish shall be removed by cutting. No broken fish shall be packed. The minimum quantity of oil shall be not less than 4 pounds per case of 100  $\frac{1}{4}$  size cans. The minimum count of fish for  $\frac{3}{4}$  size cans shall be 4 fish, and the minimum quantity of mustard or tomato sauce shall be not less than 6 pounds per case of 48  $\frac{3}{4}$  size cans. For all  $\frac{1}{4}$  size cans of sardines packed with tomato or mustard sauce, there shall be not less than 6 pounds of tomato or mustard sauce per case of 100  $\frac{1}{4}$  size cans. After the packing process is completed, the fish sealed in the cans shall be free from defects, no detached heads or tails present. Provided, however, that when less than 5 fish are packed in a  $\frac{1}{4}$  size keyless can, there shall be plainly and permanently lithographed thereon in letters and numerals not less than  $\frac{1}{8}$  inch in height a statement clearly indicating that the contents are 4 fish or 4 sardines and the packer shall so offer such cans for sale.

The minimum count of fish per  $\frac{1}{4}$  size key can, whether packed in oil, mustard sauce, tomato sauce or other packing medium, shall be 5 fish. In all key cans the heads of all fish shall be removed by cutting, and in all key cans packed with less than 8 fish the tails shall be removed by cutting or shall be neatly trimmed. No broken fish shall be packed. The minimum quantity of oil shall be not less than 5 pounds per case of 100  $\frac{1}{4}$  size key cans. The minimum quantity of mustard or tomato sauce shall be not less than 6 pounds per case of 100  $\frac{1}{4}$  size key cans. The minimum count for  $\frac{3}{4}$  size cans shall be 4 fish and the minimum quantity of mustard or tomato sauce shall be not less than 6 pounds per case of 48  $\frac{3}{4}$  size cans. After the packing process is completed, the fish sealed in the cans shall be free from defects, no detached heads or tails present.

For "fancy grade" sardines, the minimum count of fish per  $\frac{1}{4}$  size can shall be 5 fish. All fish shall have heads removed by cutting, and in all cans packed with less than 8 fish the tails shall be removed by cutting or shall be neatly trimmed. The minimum quantity of oil shall be not less than  $5\frac{1}{2}$  pounds per case of 100  $\frac{1}{4}$  size cans. After the packing process is completed, the fish sealed in the cans shall be free from defects, no detached heads or tails present.

In packing all grades of sardines, the quality of the oil shall be for cottonseed a "prime winter yellow" sweet in flavor and odor and shall not contain more than  $\frac{1}{10}$  of 1% of free fatty acid, or a pure unadulterated soya-bean oil, peanut oil, olive oil or any vegetable oil not below the grade of "prime winter yellow" cottonseed oil. The quality of the tomato sauce shall be of not less than 1.06 specific gravity.

The minimum count of fish, which may be any size, per No. 1 oval can, commonly known as a 1 pound or 15-ounce oval can, whether packed in tomato sauce, mustard sauce or other packing medium, shall be not less than 4 fish. The heads of all fish shall be removed by cutting. No broken fish shall be placed in cans. The minimum quantity of mustard sauce, tomato sauce or other packing medium shall be not less than 2 ounces per can. The quality of tomato sauce shall be not less than 1.06 specific gravity.

The minimum count of fish per 8-ounce oval can, whether packed in tomato sauce, mustard sauce or other packing medium, shall be not less than 4 fish. The heads of all fish shall be removed by cutting. No broken fish shall be packed. The minimum quantity of mustard sauce, tomato sauce or other packing medium shall be not less than 1 ounce per can. The quality of tomato sauce shall be not less than 1.06 specific gravity. Sardines thus packed shall be plainly and conspicuously marked "MAINE SARDINES."

Provided, however, that less than the minimum count of fish per can as above specified may be packed if the cases in which they are contained and each can in said cases are plainly and conspicuously marked with the word "herring" but the word "sardine" nor "sardines" shall not appear either on the case or on the cans that contain less than the minimum count of fish per can as above specified. It is further provided that less than the minimum quantity of oil or mustard sauce or tomato sauce as above specified may be packed if the cases in which they are contained and each can in said cases are plainly and conspicuously marked with a legend indicating that the contents of the cans are not in accord with the standard of quality established in this section. Such cases and cans so marked as "herring" and not marked "sardine" or "sardines" and such cans as contain less than the minimum quantity of oil or mustard sauce or tomato sauce as above specified and marked in accord with the fact shall not be deemed to be misbranded.

The commissioner may establish official grades for sardines packed within the state and may from time to time modify such grades. Such grades may specify among other things, the number of fish per container, the amount, quality and nature of the packing medium or fill, the quality, appearance, odor, character, taste and texture of the fish packed, the style of pack, their workmanship and their arrangement in the container, the quality of the substances contained in the container, the size and type of the container, the tolerances allowing for reasonable variation from grades. The commissioner may also establish and promulgate regulations for the marking, branding or labelling of sardines, and the use of grades established by him. Such grades shall not be lower than the standards set out in sections 258 to 267, inclusive. The commissioner may also promulgate regulations providing that products that do not meet such standards may be sold if labelled "herring."

Before establishing, amending or modifying any such grades, the commissioner shall hold public hearings in such places within the state as shall be reasonably convenient for the packers. Notice of such hearing shall be sent by registered mail to holders of licenses issued under section 258, and notice of such hearings shall also be advertised for 3 successive weeks prior thereto in a newspaper or newspapers of general circulation within the county where the hearing is to be held. In establishing such grades or regulations the commissioner may consider, among other things, packing practices in Maine and in other jurisdictions, consumer expectancy, habits and desires, the types of fish available, conditions of sanitation, tastes and preferences of varying parts of the consumer public, marketing practices, and market experience. Upon the establishment of such grades or tolerances the commissioner shall notify by registered mail all such licensed holders setting forth clearly the requirements of or the grades so established and the date when they become effective.

Sardines intended for export shall not be deemed to be packed in violation of section 263 if

- I. They accord to the specifications of the foreign purchaser;
- II. The product is not in conflict with the laws of the foreign country to which it is intended for export;
- III. Is labelled on the outside of the shipping package to show that it is intended for export; and
- IV. The licensee under section 258 gives a bond with good and sufficient sureties in an amount not less than twice the value of the sardines running to the commissioner and his successors in office conditioned that such fish shall be exported to a foreign country to be named therein with whose laws it is not in conflict, and shall not be reimported into the United States by any person. (R. S. c. 27, § 203. 1945, c. 78, § 2; c. 376. 1949, c. 248, §§ 2, 3. 1951, c. 63, §§ 1, 2. 1953, c. 171, §§ 4, 5, 6, 7. 1955, c. 174, §§ 5-8; c. 208.)

**Effect of amendments.**—The first 1955 amendment rewrote the sixth sentence of the first paragraph and the last sentences of the second and third paragraphs, and added the last three paragraphs. The second 1955 amendment added the last sentence of the first paragraph.

**Sec. 267. Penalty.**—Any person, firm, corporation, association or society who shall pack sardines in the state for sale without the license provided for in section 258, or who shall violate any of the provisions of sections 258 to 267, inclusive, or neglect or refuse to comply with any of the provisions required in said sections or in any way violate any of their provisions may be punished by a fine not exceeding \$500 or by imprisonment for not more than 6 months, or by both such fine and imprisonment for each and every offense. (R. S. c. 27, § 205. 1955, c. 174, § 9.)

**Effect of amendment.**—The 1955 amendment rewrote this section.

### Sardine Industry Advisory Board.

**Sec. 267-A. Sardine industry advisory board.**—The commissioner after such consultation with members of the industry as he regards desirable shall appoint 7 practical sardine packers as defined in section 268 of chapter 16 to a board to be known as the sardine industry advisory board. Initially 2 members shall be appointed for 1-year terms, 2 members for 2-year terms and 3 members for 3-year terms. All appointments thereafter shall be for 3-year terms except appointments to complete unexpired terms. Members shall serve without pay. The board shall meet with the commissioner at regular intervals to be determined by it, and oftener if called by the commissioner, who shall also call a meeting of the board on written request of 3 members.

The board shall advise the commissioner and the commissioner shall consult with the board on matters of general interest to the sardine industry within the jurisdiction of the commissioner. (1955, c. 174, § 10.)

### State Sealer of Weights and Measures.

**Sec. 316. Fees.**—The fees of the state sealer of weights and measures for testing and adjusting scales, weights and measures, to be paid by the persons for whom the service is rendered, is as follows: for testing fuel oil or gasoline meters mounted on tank trucks used in the sale, purchase and distribution of gasoline or fuel oil, \$3; for adjusting such meters, \$2; for testing each platform scale with a weighing capacity of more than 10,000 pounds capacity, \$6; for testing each platform scale with a weighing capacity of 5,000 pounds to 10,000 pounds capacity, \$4; for testing platform scales with a capacity of 500 pounds to 5,000 pounds capacity, \$2; for the testing of each platform scale with a capacity of 100 pounds to 500 pounds capacity, \$1; for the testing of each overhead track scale, beam scale, or scale of similar construction of over 500 pounds capacity, \$2; for the test-

ing of automatic-indicating scales of over 125 pounds capacity, \$2; for the testing of gasoline meters, retail pumps, \$1; for the testing of wholesale fuel oil or gasoline meters, \$5; for adjusting any weighing or measuring device, a fair and reasonable compensation.

When any person, firm, association or corporation engaged in a business or trade requiring the use of any weighing or measuring device requests an inspection of any weighing or measuring device, the state sealer, deputy or inspector is authorized to charge an amount sufficient to cover the cost of actual expense incurred in performing this special service, including mileage, lodging and meals, in addition to inspection fees herein described.

The state sealer is authorized to charge fees for testing other weighing and measuring devices in accordance with the fee schedule set forth under the provisions of section 219 of chapter 100. He shall not charge a fee for the testing or calibrating of weighing and measuring devices which have been tested or calibrated and approved by the local sealer of weights and measures within the period of 3 months immediately following such test or calibration and approval by the local sealer.

All fees and expenses collected under the provisions of section 315 and this section shall be credited to the department of agriculture and expended to carry out the provisions of sections 311 to 319, inclusive. (1951, c. 263, § 2. 1955, c. 386, § 1.)

**Effect of amendment.**—The 1955 amendment deleted the words "for testing each platform scale with a weighing capacity of 100 pounds to 5,000 pounds capacity, \$1," formerly appearing at the end of the first paragraph and added all that part of the

first paragraph that follows the semicolon in line eight. The amendment also inserted the second paragraph and inserted the words "and expenses" after the word "fees" near the beginning of the fourth paragraph.

### **Sec. 317. Commodities offered for sale tested; access to buildings; penalties.**

Unless otherwise provided, whoever himself or by his servant or agent gives or attempts to give false or insufficient weight or measure, or inferentially misrepresents the weight or quantity of a commodity sold or delivered by weight or measure by stating a price without stating the weights or quantity of such commodity, such price being in fact greater than the price advertised for such commodity or mutually understood by both parties to be the price for a given weight or measure, or demands or accepts payment in excess of the regularly quoted selling price of a commodity sold or delivered by weight or measure, or takes or attempts to take more than the quantity he represents when, as the buyer, he furnishes the weights, measures, or weighing or measuring device by means of which the amount of commodity is determined, shall be punished for the first offense by a fine of not more than \$50 and for the second or subsequent offense by a fine of not more than \$200 or by imprisonment for not less than one nor more than 3 months, or by both such fine and imprisonment. (R. S. c. 27, § 246. 1955, c. 386, § 2.)

**Effect of amendment.**—The 1955 amendment added the above paragraph at the

end of this section. As the rest of the section was not changed, it is not set out.

## **Chapter 33.**

### **Maine Milk Commission.**

#### **Sec. 4. Price fixing.**

The minimum prices established for sales of milk by producers to dealers shall, if such sales are made by bulk tank, be increased by such amounts per hundred