

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

REVISED STATUTES
OF THE
STATE OF MAINE
1954

1963 CUMULATIVE SUPPLEMENT

ANNOTATED

IN FIVE VOLUMES

VOLUME 1

Discard Previous Supplement

THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA
1963

need not be exposed to radioactive substances for a period of 60 days or more, as otherwise stated under section 62, and the time for filing claims shall not begin to run in cases of incapacity under section 69, item 17, until the person claiming benefits knew, or by exercise of reasonable diligence should have known of the casual relationship between his employment and his incapacity, or after incapacity, whichever is later. (1959, c. 287, § 2.)

Chapter 32.

Department of Agriculture.

Division of Administration

Section 2-A. Bounty on Porcupine.

Division of Markets

Sections 32-38. Grades and Standards for Farm Products and Sardines.

Division of Animal Industry

Sections 48-A to 48-F. Control of Diseases.

Sections 48-G to 48-P. Eradication of Diseases. Miscellaneous Provisions.

Sections 48-Q to 48-V. Livestock Community or Commission Auctions.

Sections 48-W to 48-Z. Additional Miscellaneous Provisions.

Section 49-A. Brucellosis.

Sections 49-B to 49-F-1. Vesicular Exanthema.

Section 49-G. Penalty.

Sections 87-A to 87-J. Maine Milk Law.

Section 113-A. Sale of Milk to Certain Institutions.

Division of Inspection

Sections 215-A to 215-J. Maine Commercial Fertilizer Law.

Section 228-A. Packing of Food.

Section 228-B. Storage and Transportation of Frozen Foods.

Sections 236-A to 236-K. Maine Commercial Feed Law.

Sections 248 to 254-A. Slaughterhouses and Meat Processing Plants.

Section 267-A. Sardine Industry Advisory Board.

Sections 267-B to 267-G. Trademarks Under Maine Sardine Tax Law.

Sections 276-A to 276-D. Controlled Atmosphere Storage of Apples.

Sections 336-341. Trademarks Under Potato Tax Law.

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 \$11,000. 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 commis-

sioner 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. 1957, c. 418, § 11. 1959, c. 361, § 10. 1963, c. 396, § 5.)

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

The 1957 amendment, effective July 1, 1957, increased his annual salary from \$8,000 to \$9,000 and carried appropriations for the fiscal years ending in 1958 and 1959.

The 1959 amendment increased the annual salary of the commissioner from \$9,000 to \$10,000 and carried appropriations

for the fiscal years ending June 30, 1960 and 1961.

The 1963 amendment increased his salary from \$10,000 to \$11,000 and carried appropriations for the fiscal years ending June 30, 1964 and 1965.

Effective date. — P. L. 1959, c. 361, amending this section, provided in section 14 thereof as follows: "The provisions of this act shall become effective for the week ending August 22, 1959."

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.)

Enforcement. Additional Duties.

Sec. 3. Uniform rules, regulations; standards of purity.—The commissioner shall make uniform rules and regulations for carrying out sections 3 to 9,

32 to 38, 142 to 145, 180 to 215, section 228-A, sections 258 to 272, 274 to 276, 276-A to 276-D and 277-A to 277-J. He may also fix standards of purity, quality or strength when such standards are not specified or fixed by law, and shall publish them together with such other information concerning articles of commercial feeding stuff, commercial fertilizer, drug or food as he may deem to be of public benefit. (R. S. c. 27, § 3. 1949, c. 349, § 52. 1951, c. 74, § 2; c. 205, § 2. 1953, c. 308, § 42. 1959, c. 363, § 18. 1961, c. 417, § 92. 1963, c. 257, § 3.)

Effect of amendments. — The 1959 amendment deleted "inclusive" six times in the first sentence, added "section 228-A" and substituted "258 to 272" for "256 to 272" in that sentence.

The 1961 amendment changed the ref-

erences at the end of the first sentence from "and 274 to 285" to "274 to 276, 276-A to 276-D and 277 to 285."

The 1963 amendment substituted at the end of the first sentence "sections 277-A to 277-J" for "277 to 285."

Sec. 4. Hearing in case of violation.—When the commissioner becomes cognizant of the violation of any provision of sections 3 to 9, 32 to 38, 142 to 145, 180 to 215, 215-A to 215-J, 216 to 228, 228-A, 229 to 236, 236-A to 236-K, 237 to 247, 258 to 272, 274 to 276, 276-A to 276-D and 277-A to 277-J, he shall cause notice of such fact, stating the date, hour and place of hearing, with a copy of the finding or, in case of a packer of food, a copy of the charge to be preferred, to be given to the person concerned and the person from whom the sample was obtained, and the person whose name appears upon the label, if a resident of the state, who shall be given an opportunity to be heard under such rules and regulations as may be prescribed by the said commissioner. When the hearing relates to the packing of apples, it shall be held in the county where the inspection was made. (R. S. c. 27, § 4. 1949, c. 349, § 53. 1951, c. 74, § 3; c. 205, § 3. 1953, c. 308, § 43; c. 334, § 3. 1957, c. 331, § 2. 1959, c. 241, § 2; c. 363, § 19; c. 378, § 29. 1961, c. 417, § 93. 1963, c. 257, § 4.)

Effect of amendments. — The 1957 amendment made this section applicable also to §§ 236-A to 236-K of this chapter. Section 10 of such amendatory act provided that it should become effective January 1, 1958.

P. L. 1959, c. 241 made the section applicable to sections 215-A to 215-J. Chapter 363 added "section 228-A" following "247" and substituted "sections 258 to 272" for "256 to 272". Chapter 378, effective on its approval, January 29, 1960, inserted "228-A" in its proper place and eliminated "sections" preceding "258".

The 1961 amendment deleted "and" and added the reference to §§ "276, 276-A to 276-D and 277" near the beginning of the section.

The 1963 amendment did not give effect to the 1961 amendment and changed the reference from §§ "277 to 285" to "277-A to 277-J."

Effective date. — P. L. 1959, c. 241, amending this section, provided in section 11 thereof as follows: "The provisions of this act shall become effective January 1, 1960."

Sec. 5. Enforcement of laws.—The commissioner shall diligently enforce all provisions of this chapter and shall be entitled to and shall receive the assistance of the attorney general and of the several county attorneys. He may recover the penalties imposed for violations of this chapter in a civil action brought in his own name, the venue to be as in other civil actions, and if he prevails in any such action, shall recover full costs; or he may prosecute for violations hereof by complaint or indictment, and such prosecution shall be commenced in the county in which the offense was committed. (R. S. c. 27, § 5. 1961, c. 317, § 70.)

Effect of amendment.—The 1961 amendment deleted "of the provisions" preceding "of this chapter," substituted "a civil ac-

tion" for "an action of debt" and substituted "actions" for "cases" in the second sentence of this section.

Sec. 6-A. Agreements and cooperative arrangements authorized.—The commissioner may enter into agreements or cooperative arrangements with a state or federal agency or with any person, firm or corporation for the purpose of advertising and increasing the sale and consumption of Maine food products

or disseminating information concerning the grade, quality or condition of same, and supplying inspection and grading services with respect to such food products. He may receive, administer and disburse any funds or contributions from such state or federal agency, person, firm or corporation, either independently or in conjunction with state funds allocated to said purpose. Funds so contributed shall not lapse at the end of any fiscal year but shall be carried forward to be used for the purpose originally intended. (1957, c. 75.)

Sec. 9. Jurisdiction; disposal of funds.—The district court and the superior court shall have concurrent jurisdiction of actions brought for the recovery of penalties imposed by this chapter, and of prosecutions for violations hereof. All fines received under this chapter shall accrue to the treasurer of state for deposit in the general fund. (R. S. c. 27, § 8. 1945, c. 297, § 5. 1963, c. 402, § 56.)

Effect of amendment.—The 1963 amendment substituted "The district court" for "Trial justices shall have original jurisdiction, concurrent with municipal courts" at the beginning of the section, added "shall have concurrent jurisdiction" in the first sentence and deleted "the provisions of" preceding "this chapter" in the first and

second sentences.

Application of 1963 act.—Section 280 of c. 402, P. L. 1963, provides that the act shall apply only to the district court when established in a district and that the laws in effect prior to the effective date of the act shall apply to all municipal and trial justice courts.

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 additional sums of money as provided and limited by the provisions of section 14 of chapter 86, and of section 13 of chapter 87, which shall be known as the state stipend for aid and encouragement to agricultural societies and hereafter designated as the "stipend." One-half of the amounts contributed under the provisions of section 14 of chapter 86 and section 13 of chapter 87 shall be divided for reimbursements in equal amounts to each recipient of the stipend fund which conducts pari mutuel racing in conjunction with its annual fair if said recipient has improved its racing facilities and has met the standards for facility improvements set by the commissioner of agriculture for said recipients. If a recipient has not complied with the individual standards set by the commissioner said yearly reimbursements shall be paid in equal amounts to those recipients which have met such standards. 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 or 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, do-

mestic 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.

In the distribution of such stipend no allowance shall be made or consideration given on account of lump sums, payments or premiums previously arranged and agreed upon by exhibitors and the officers of any society for the presentation and display of any animals or products without regard to competition which may subsequently appear, excepting, however, any special agricultural exhibits of such nature as to preclude their entry in competition.

No stipend shall be paid on premiums or purses offered and paid by any such society at any event held other than during the period at which its annual exhibition is held.

A society within the meaning of this section to qualify for a stipend shall mean:

I. A society which has an agricultural display of the products of agriculture, typical of the area at the time the fair is held; (1949, c. 375)

II. A society which pays a minimum of \$300 on premiums, exclusive of those for horse and ox pulling contests; (1949, c. 375)

III. A society which has not less than 10 stockholders or members, or the primary purpose of which is not profit to be distributed to its members or stockholders. (1949, c. 375)

The commissioner may summon before him and examine on oath any officer of an incorporated society or other person whose testimony he shall deem necessary in the proper discharge of his duties, and may require such witnesses to bring before him for examination any books or records in their custody or control which he may deem necessary for his information in the performance of his duties. The commissioner shall apportion annually the stipend due from the state to the societies, including the Maine state pomological society. He shall issue blanks to the proper officers of said societies for such returns as may be deemed necessary for a full and complete knowledge of the work of said societies for each year, and shall certify to the governor and council the amount of stipend due such society, and shall designate to the treasurer of state to whom such moneys shall be paid, but said societies shall not be entitled to such stipend unless they shall make such returns. Neglect or failure on the part of any society to observe any of the foregoing requirements shall be deemed sufficient cause for withholding such society's share of the stipend, and the commissioner is required and directed to authorize payment of stipend only to such societies as have observed all of the said requirements.

The commissioner shall make all necessary rules and regulations to protect the health of domestic animals and poultry, being shown or exhibited, against contagious, infectious and parasitic diseases, and parasitic infestation. No society, association, corporation, group or individual shall be entitled to any state aid or stipend where domestic animals or poultry are shown or exhibited, unless

the health status of said domestic animals and poultry satisfy the health requirements of the rules and regulations made by the commissioner. (1959, c. 101, § 3.)

Provided, however, that the conducting of pari mutuel betting by any such society under license of the state harness racing commission, in accordance with the provisions of sections 1 to 22, inclusive, of chapter 86, shall not be deemed cause for withholding such society's share of the stipend. (R. S. c. 27, § 16. 1945, c. 361, § 1. 1947, c. 366, § 2. 1949, c. 89; c. 98, § 1; c. 375; c. 388, §§ 1, 2. 1951, c. 181; c. 266, § 33. 1953, cc. 60, 81; c. 308, § 44; c. 423, § 1. 1955, c. 11. 1957, c. 391, § 1; c. 397, § 26. 1959, c. 101, §§ 1-3.)

Effect of amendments.—The 1955 amendment changed the first paragraph by inserting the present fourth and ninth sentences. It also added at the beginning of the present fifth sentence the words "the balance of".

The first 1957 amendment inserted the second and third sentences of the first paragraph. The second 1957 amendment substituted "additional sums" for "an ad-

ditional sum" and inserted "and of section 13 of chapter 87" in the first sentence of the first paragraph.

Section 1 of the 1959 act amending this section repealed the last sentence of the first paragraph. Section 2 repealed the second, third, fourth, fifth and sixth paragraphs of the section. Section 3 added the present sixth paragraph.

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

Sec. 21. No stipend to societies offering premiums on unregistered males.—No state stipend shall be paid to any society offering or paying premiums in breeding classes on males not recorded in the recognized books of record for their respective breeds. The commission may make this a part of the sworn return to be made by the proper officers of all societies. (R. S. c. 27, § 19. 1959, c. 103.)

Effect of amendment.—The 1959 amendment rewrote this section.

Sec. 26. Competitors for premiums to pay entry fee; lien on animals.—Whoever makes entries of animals or articles as competitors for premiums or purses offered by any society or by any person or association in the state shall be holden to pay the entry fee in accordance with the advertised rules and regulations of any such society, person or association not in conflict with the laws of the state. A lien is created upon such animals and articles for such entry fee to secure payment thereof with costs, to be enforced by a civil action against the person owning such animals or articles, or the person entering the same; or the same may be enforced in the same manner as liens on goods in possession and choses in action, but such lien shall not affect the title of any innocent purchaser of said animals or articles without actual notice of such lien. (R. S. c. 27, § 28. 1961, c. 317, § 71.)

Effect of amendment.—The 1961 amendment divided this section into two sentences and substituted "a civil action" for

"an action of debt" in the present second sentence.

Sec. 29. Poultry associations.—The Maine state poultry association and Androscoggin poultry and pet stock association and the Maine broiler growers association and the Maine poultry improvement association, nonprofit organizations, are authorized to promote the interests of commercial poultry breeding in Maine and improved poultry production in quality and efficiency by holding contests or exhibitions and awarding premiums on live poultry and poultry products, and to pay other incidentals thereof, provided an itemized account of all money expended be rendered each year to the commissioner and upon his approval and presentation of proper vouchers said bills shall be paid. The sum appropriated to carry out the provisions of this section shall be apportioned between the said associations as the commissioner may direct. (R. S. c. 27, § 31. 1957, c. 398.)

Effect of amendment.—The 1957 amendment rewrote this section.

DIVISION OF MARKETS.

Grades and Standards for Farm Products and Sardines.

Sec. 32. Grades for farm products; hearings.—The commissioner may establish and promulgate official grades and standards for farm products, excepting dairy products, produced within the state for the purposes of sale, and may from time to time amend or modify such grades and standards. Before establishing, amending or modifying any such grades or standards, the said commissioner shall hold public hearings in such places within the state as shall be most convenient to producers of the commodity under consideration. Notice of such hearings shall 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, and shall specify the date and place of each hearing and that it is to be held for the purpose of obtaining information with a view to establishing grades or standards for farm products. (R. S. c. 27, § 34. 1957, c. 223, § 1.)

Effect of amendment.—Prior to the well as dairy products in the first sentence. 1957 amendment apples were excepted as

Sec. 33. Brands, labels and trade-marks; use of brands; revocation.—The commissioner may determine or design brands, labels or trade-marks for identifying farm products and sardines packed in accordance with such official grades and standards established as provided by law and may furnish information to packers and shippers as to where such labels and trade-marks may be obtained. A written application to the said commissioner requesting permission to use said brands, labels or trade-marks, and a written acceptance thereto by the said commissioner or duly authorized assistants, shall be a condition precedent to the use of such brands, labels or trade-marks. The said commissioner may revoke or suspend the right to use such brands, labels or trade-marks whenever it appears on investigation that they have been used to identify farm products and sardines not in fact conforming to the grade indicated. (R. S. c. 27, § 35. 1959, c. 243, § 2.)

Effect of amendment.—The 1959 amendment made this section applicable to sardines.

Effective date.—The 1959 act amending this section became effective on its approval, April 29, 1959.

Sec. 35. Permit for brands, labels and trade-marks.—After notice of the establishment of grades or standards and the determination of brands, labels or trade-marks, it shall be unlawful to use a brand, label or trade-mark to identify farm products and sardines as being of a grade established before a permit is granted or after the revocation of the right to use such brand, label or trade-mark by the commissioner. Violations of the provisions of this section shall be punished for the first offense by a fine of not more than \$50 and for subsequent offenses by a fine of not more than \$200. (R. S. c. 27, § 37. 1959, c. 243, § 3.)

Effect of amendment.—The 1959 amendment so amended this section as to make it applicable to sardines.

Effective date.—The 1959 act amending this section became effective on its approval, April 29, 1959.

Sec. 36. Inspection of branded products; certificates of inspection.—The commissioner or his duly authorized agents may inspect farm products and sardines, marked, branded or labeled in accordance with official grades or standards established and promulgated by the said commissioner for the purpose of determining and certifying the quality and condition thereof and other material facts relative thereto. Certificates issued in pursuance of such inspection and executed by the inspector shall state the date and place of inspection, the grade, condition and approximate quality of the farm products and sardines inspected and such other pertinent facts as the said commissioner may require.

Such a certificate relative to the condition or quality of said farm products and sardines shall be prima facie evidence in all courts of the state of the facts required to be stated therein. (R. S. c. 27, § 38. 1959, c. 243, § 4.)

Effect of amendment.—The 1959 amendment amended this section so as to make it applicable to sardines.

Effective date.—The 1959 act amending this section became effective on its approval, April 29, 1959.

Eggs.

Sec. 40. Standards of quality.—The standards of quality for Maine consumer grades for shell eggs, Grade AA, Grade A, Grade B and Grade C, that are or may be established by the commissioner, shall apply to all shell eggs sold or offered for sale. Any edible eggs not conforming to the specifications Maine Grade AA, A, B or C shall be sold as “checks,” “cracks” or “dirties”. The final determination of the grades shall be made by candling. (R. S. c. 27, § 43. 1945, c. 108, § 2. 1949, c. 318, § 1. 1959, c. 335, § 1.)

Effect of amendment.—The 1959 amendment struck out the words “ungraded eggs’ or as”, formerly appearing after the

word “as” and before the words “‘checks’” in the second sentence.

Sec. 44. Exemptions.—

I. Producers selling eggs of their own producing direct to consumer, cafe, hotel or institutional users are exempt from the provisions of sections 39 to 47, except when they are marked as to grade, quality or size.

II. All sales by a producer-shipper to other shippers are exempt except when they are marked as to grade, quality or size. (1949, c. 318, § 2. 1959, c. 335, § 2.)

Effect of amendment.—The 1959 amendment repealed and replaced this section.

Sec. 45. Enforcement.—The commissioner shall have authority to administer sections 39 to 47 and to make uniform rules and regulations for such administration. The commissioner may recover the penalties imposed for violations of sections 39 to 47 in a civil action brought in his own name, the venue to be as in other civil actions, and if he prevails in any such action, shall recover full costs; or he may prosecute for violation of said sections by complaint or indictment and such prosecution shall be commenced in the county in which the offense is committed. (R. S. c. 27, § 47. 1961, c. 317, § 72.)

Effect of amendment.—The 1961 amendment substituted “a civil action” for “an action of debt,” and “actions” for “cases”

in the second sentence of this section and made other minor changes in the section.

Sec. 47. Jurisdiction and disposal of funds.—The district court and the superior court shall have concurrent jurisdiction of actions brought for the recovery of penalties imposed by sections 39 to 47, and of prosecutions for violations thereof. All fines received under the provisions of sections 39 to 47, inclusive, by county treasurers shall be paid by them to the commissioner; and all money received by the commissioner under the provisions of said sections shall be paid by him to the treasurer of state for deposit in the general fund. (R. S. c. 27, § 49. 1945, c. 297, § 6. 1963, c. 402, § 57.)

Effect of amendment.—The 1963 amendment substituted “The district court” for “Trial justices shall have original jurisdiction, concurrent with municipal courts” at the beginning of the first sentence, added “shall have concurrent jurisdiction” in that

sentence, deleted “the provisions of” preceding “sections” therein and deleted “of the provisions” preceding “thereof” at the end of that sentence.

Application of 1963 act. — See note to § 9.

DIVISION OF ANIMAL INDUSTRY.**Control of Diseases.**

Sec. 48-A. Definitions.—As used in sections 48-A to 49-G and sections 127 to 140, the following words shall have the following meanings:

“Commissioner” shall mean the commissioner or his duly authorized agent.

“Domestic animals” shall mean cattle, horses, mules, asses, goats, sheep, swine or other domesticated animals, and poultry.

“Poultry” means all domesticated birds.

“Duly authorized agent” means the chief of the division of animal industry, other employees of the state within the division of animal industry, veterinarians licensed by the state to practice veterinary medicine while performing official duties for the division of animal industry, employees of the agricultural research service of the United States department of agriculture, or other persons designated by the commissioner or chief of the division of animal industry.

“Person” shall mean the state, any municipality, political subdivision, institution, public or private corporation, individual, partnership or other entity. (1959, c. 239, § 1.)

Sec. 48-B. Duties of commissioner and right of entry.—The commissioner shall, so far as possible, prevent the introduction and spread of contagious, infectious and parasitic diseases, and exposure thereto, among domestic animals in the state, especially those diseases transmitted to man, either directly or indirectly and those of greatest economic importance.

The commissioner shall cause investigation and diagnosis to be made by approved methods as to the existence of contagious, infectious and parasitic diseases among domestic animals in the state, and he or his duly authorized agent may enter any premises, buildings or places, including stockyards, cars, trucks, planes and vessels within any county or part of the state in or at which he has reason to believe there exists any such disease, and make such investigation, diagnosis or diagnostic tests as to the existence of disease that he may consider necessary.

He shall, so far as possible, control and eradicate the diseases of domestic animals. He shall formulate and apply programs for the control and eradication of tuberculosis, brucellosis and such other diseases as he deems necessary or practicable so far as funds are available. (1959, c. 239, § 1.)

Sec. 48-C. Responsibility of chief.—The chief of the division of animal industry shall be responsible to the commissioner for the prevention, control and eradication of contagious and infectious diseases among domestic animals of the state. He shall administer this chapter, sections 48-A to 48-I, section 48-I-1, sections 48-J to 49-F, sections 49-F-1 and 49-G, sections 127 to 140, chapter 100, sections 9 to 28 and chapter 140, section 18. He shall perform such other duties as may be designated by the commissioner. (1959, c. 239, § 1. 1961, c. 417, § 94.)

Effect of amendment.—The 1961 amendment substituted “this chapter” for “the provisions of chapter 32” and added “48-I, section 48-I-1, sections 48-J to 49-F, sections 49-F-1 and” in the second sentence.

Sec. 48-D. Quarantine.—The commissioner may, upon discovery or upon suspicion of the existence of any disease among domestic animals or poultry in the state, take whatever action he deems necessary to prevent possible spread and to eradicate such disease. Such action may include quarantine of domestic animals, birds, products derived from them, also quarantine of articles, materials and premises, or areas, for such time and under such conditions as he may deem necessary.

Any positive diagnosis of a disease made by recognized procedures by recognized diagnostic laboratories, or by recognized qualified persons, shall be considered as official diagnosis until proved otherwise.

Quarantine may be made by registered mail or in person by an authorized agent of the commissioner, or by any other person authorized to do so.

The commissioner may use placards or any other methods he may deem necessary to give notice or warning of such quarantine.

It shall be illegal to violate the provisions of any quarantine by any person, and such violation shall be punishable by penalties as outlined in section 49-G. (1959, c. 239, § 1.)

Sec. 48-E. Appraisal and indemnity.—Upon discovery of any contagious or infectious disease among domestic animals, the commissioner may cause the affected or exposed animals to be appraised and destroyed, and a proper disposition of the carcasses made in accordance with rules and regulations made by him, as herein authorized and provided. The commission shall appraise each domestic animal at its true market value at the time it is condemned, and shall pay indemnity out of any money appropriated for that purpose.

Indemnity in the case of cattle condemned for tuberculosis shall not exceed \$200 per head for purebred registered cattle, or \$100 per head for grade cattle; nor shall it exceed \$50 for purebred registered cattle or \$20 for grade cattle condemned for brucellosis. Indemnity shall not exceed \$100 for any horse condemned.

Whenever an owner refuses to accept the appraisal established by the commissioner, he and the commissioner shall agree on one or more persons to make an appraisal, and such appraisal shall be final. Any expense involved on a re-appraisal shall be borne by the owner.

Any salvage received from condemned animals shall in all cases revert to the owner. In no case shall the combined amount received from salvage and state and federal indemnity exceed the amount of appraisal.

No indemnity shall be paid on any domestic animals imported into the State of Maine, the importation of which was not in compliance with the laws of the state or rules and regulations in effect at the time of importation. (1959, c. 239, § 1.)

Sec. 48-F. Rules and regulations; approval by governor.—The commissioner shall make all needful rules and regulations which may in his judgment be deemed requisite to the full and due execution of sections 48-A to 48-I, section 48-I-1, sections 48-J to 49-F, sections 49-F-1 and 49-G and sections 127 to 140.

All such rules and regulations before they shall become operative shall be approved by the governor, and thereafter published in such manner as may be provided in such rules and regulations. After such publication, said rules and regulations shall have the force and effect of law, so far as the same are not inconsistent with the laws of this state or of the United States. (1959, c. 239, § 1. 1961, c. 417, § 95.)

Effect of amendment.—The 1961 amendment deleted “the provisions of” before sections 48-J to 49-F, sections 49-F-1 and “sections” and added “48-I, section 48-I-1, in the first sentence.”

Eradication of Diseases. Miscellaneous Provisions.

Sec. 48-G. Reportable diseases.—The commissioner shall determine which diseases shall be classified as “reportable diseases” of domestic animals. It shall be illegal for any owner, agent of any owner, veterinarian or other person having knowledge of their existence or exposure thereto not to properly report the existence of such diseases or exposure thereto to the commissioner or chief of the division of animal industry immediately after knowledge of or exposure to such disease.

It shall be unlawful for any person to drive, truck or otherwise move intra or interstate domestic animals known to be infected with or exposed to any reportable disease, or domestic animals treated with any vaccine or other substance that might make them capable of spreading a disease among susceptible domestic

animals. Any domestic animals infected with or exposed to any reportable disease shall be moved only under the direction of the commissioner. (1959, c. 239, § 1.)

Sec. 48-H. Condemning and taking possession of diseased animals.—The commissioner may, when he deems it necessary, condemn and take possession of diseased or exposed domestic animals, or domestic animals suspected of being diseased or exposed, for diagnostic purposes, and may pay the owner for the same, health, condition and market value being considered. (1959, c. 239, § 1.)

Sec. 48-I. Transportation of diseased animals.—It shall be illegal to haul, drive, truck or otherwise move into the state any domestic animals known to be infected with or exposed to any contagious or infectious disease. (1959, c. 239, § 1.)

Sec. 48-I-1. Transportation of certain poultry prohibited.—No baby chicks or poultry shall be moved from any premises where hatched, to any other location in the state of Maine unless such baby chicks or poultry shall have originated directly from eggs from flocks or hatcheries that have a pullorum-typhoid clean rating, given by the official state agency of the national poultry improvement plan of the state. (1961, c. 127.)

Sec. 48-J. Securing and restraining domestic animals.—It shall be unlawful for an owner of domestic animals or his agent to refuse or neglect to secure and restrain domestic animals to be tested, vaccinated, branded or tattooed, or otherwise treated, as to make it possible for the commissioner, or his agent in charge of livestock sanitary work, or his representative to apply in an expeditious manner the test or other treatment that is deemed necessary.

The commissioner or his duly authorized agent may require proper disinfecting of stables and premises by the owner, where condemned diseased domestic animals are found, and may withhold indemnity until he is satisfied that proper cleaning and disinfecting of premises have been completed. (1959, c. 239, § 1.)

Sec. 48-K. Owner's responsibility.—It shall be unlawful to tamper with, remove or alter eartags, labels, placards or notices affixed or posted by the commissioner or his agent.

No milk or dairy products shall be sold or offered for sale in the State of Maine from any herd retaining known brucellosis reactors. (1959, c. 239, § 1.)

Sec. 48-L. Illegal to vaccinate cattle over 270 days of age.—It shall be illegal for any person, partnership, association or corporation to vaccinate any cattle with brucellosis vaccine that are over 270 days of age, unless special written permission is received from the commissioner or his agent previous to any such vaccination. (1959, c. 239, § 1.)

Sec. 48-M. Sale of certain biologics.—No biological product containing living organisms or viruses offered for use in the treatment or prevention of diseases of domestic animals shall be sold, distributed, imported or used within the State of Maine, or imported into the state for sale, distribution or use unless approval and written permission has first been obtained from the commissioner, or his agent in charge of livestock sanitary work, for the distribution and use of such product. The commissioner or his agent has the right to refuse permission for such distribution, sale, importation or use of any such product within the State of Maine, and may require reporting of sale, distribution, importation or use of any such product within the state, if permission is granted.

No brucellosis antigen shall be shipped into the state without the approval of the commissioner or his agent.

No person, firm or corporation, except licensed veterinarians, shall offer for sale or distribution, within the state, any biological product containing living organisms or viruses offered for use in the treatment or prevention of diseases of

poultry, without first obtaining a permit to act as salesman or distributor from the division of animal industry.

The commissioner shall promulgate rules and regulations as to refrigeration, handling, shipping, disposing of out-dated material, and sale of such products.

Any person not complying with said rules and regulations shall have his permit revoked, after proper hearing before said commissioner or his agent.

This section shall not apply to registered pharmacies. (1959, c. 239, § 1. 1961, c. 169.)

Effect of amendment.—The 1961 amendment added the last four paragraphs.

Sec. 48-N. Permits for bringing domestic animals into the state.—Any person or persons bringing horses, cattle, mules, asses, sheep, goats, swine or domestic poultry into the state may be required by the commissioner to obtain a permit previous to the time of entry, said permit to accompany shipment. If the health status of the animals offered for entry does not meet the health requirements of the state, as established by law or by rules and regulations made by the commissioner, the commissioner may refuse to grant a permit, or may issue one subject to quarantine at destination. The commissioner may require the owner to have such animals tested or examined by a veterinarian at the owner's expense. The commissioner shall release such animals from quarantine only after he is satisfied that such animals are not a disease menace to other domestic animals of the state. Diseased domestic animals brought into the state without a permit may be condemned by the commissioner and slaughtered without indemnity.

Whoever violates the provisions of this section shall be punished by a fine or imprisonment as provided in section 49-G. (1959, c. 239, § 1.)

Sec. 48-O. Agreements with the United States department of agriculture and other states.—The commissioner or his agent is authorized to enter into agreements of cooperation in the name of the State of Maine with the United States department of agriculture and other states for the prevention, control and eradication of diseases among domestic animals. (1959, c. 239, § 1.)

Sec. 48-P. Dairy, breeding and show cattle to meet certain health requirements.—All domestic animals that are to be shown or exhibited in any agricultural show within the state shall meet the health requirements of the rules and regulations of the commissioner. (1959, c. 239, § 1.)

Livestock Community or Commission Auctions.

Sec. 48-Q. Purpose.—Whereas community or commission auctions are increasing throughout the country, and if properly controlled are a benefit to the livestock industry, it is desirable to set up legislation to prohibit the spread of disease and protect the public. (1959, c. 239, § 1.)

Sec. 48-R. Permit.—No person, partnership, association or corporation shall hold or conduct community and commission livestock auctions or sales rings without obtaining a permit from the commissioner or his duly authorized agent previous to such community and commission livestock auctions or sales rings. (1959, c. 239, § 1.)

Sec. 48-S. Records.—The operator shall keep complete records of all sales transactions, which shall be available for inspection by the commissioner or his agent. (1959, c. 239, § 1.)

Sec. 48-T. Rules and regulations.—The commissioner shall make rules and regulations necessary to protect the health of animals going through such sales rings, which shall have the power of law as outlined under section 48-F. (1959, c. 239, § 1.)

Sec. 48-U. Permit canceled.—The permit to operate such sales rings can be canceled by the commissioner or his agent upon due cause after notice and hearing. (1959, c. 239, § 1.)

Sec. 48-V. Definition.—Any place where cattle are offered for private or public auction, the health status of which has not been previously checked and approved by the commissioner, would be deemed to be a community or commission auction. (1959, c. 239, § 1.)

Additional Miscellaneous Provisions.

Sec. 48-W. Certificate.—There shall be left with the owner of all condemned animals a proper certificate, duly authenticated, showing the number condemned and the value at which they are appraised, which shall be transferable only with the consent and acceptance of the commissioner. (1959, c. 239, § 1.)

Sec. 48-X. County attorneys to prosecute violations.—The several county attorneys shall prosecute all violations of the provisions of sections 48-A to 48-I, section 48-I-1, sections 48-J to 49-F, sections 49-F-1 and 49-G and sections 127 to 140, which shall be brought to their notice or knowledge by any person making the complaint under oath. The district court and the superior court shall have concurrent jurisdiction in all prosecutions under said sections. (1959, c. 239, § 1. 1961, c. 417, § 96. 1963, c. 402, § 58.)

Effect of amendments.—The 1961 amendment deleted “the provisions of” in two instances in the section, split the section into two sentences and added “48-I, section 48-I-1, sections 48-J to 49-F, sections 49-F-1 and” in the present first sentence.

The 1963 amendment substituted “The district court and the superior court shall

have concurrent jurisdiction” for “Trial justices within their counties shall have, upon complaint, original and concurrent jurisdiction with municipal courts” in the last sentence.

Application of 1963 act.— See note to § 9.

Sec. 48-Y. Agents employed.—The commissioner may employ skilled veterinarians and such other agents and employees as he may deem necessary to carry into effect sections 48-A to 48-I, section 48-I-1, sections 48-J to 49-F, sections 49-F-1 and 49-G and sections 127 to 140, subject to the personnel law. (1959, c. 239, § 1. 1961, c. 417, § 97.)

Effect of amendment.—The 1961 amendment deleted “provisions of” in two in-

stances and added “48-I, section 48-I-1, sections 48-J to 49-F, sections 49-F-1 and.”

Sec. 48-Z. Expenses.—The actual and necessary traveling expenses of the commissioner and his employees, any and all expense of prevention, control and eradication of disease, destroying diseased animals and those exposed to disease, and paying for the same, and all other expenses necessary to properly carry out sections 48-A to 48-I, section 48-I-1, sections 48-J to 49-F, sections 49-F-1 and 49-G and sections 127 to 140 shall be paid out of such amounts as the legislature may appropriate. (1959, c. 239, § 1. 1961, c. 417, § 98.)

Effect of amendment.—The 1961 amendment deleted “the provisions of” before

“sections” and added “48-I, section 48-I-1, sections 48-J to 49-F, sections 49-F-1 and.”

Sec. 49. Repealed by Public Laws 1959, c. 239, § 2.

Brucellosis.

Editor's note.—Section 2 of P. L. 1959, c. 239, repealed the following sections: Sections 49-57, relating to prevention of diseases; §§ 58-63, relating to livestock community or commission auctions; §§ 64-70, relating to eradication of diseases

and miscellaneous provisions; §§ 71-73, relating to quarantine powers; §§ 74-76, 76-A, 76-B and 77-80, relating to brucellosis (Bang's disease), and §§ 81-87, relating to vesicular exanthema. Section 1 of the 1959 act added new sections cover-

ing similar subject matter. Because of the way in which the old sections were repealed and the new ones added it is not practicable to list the repealed sections in the text under the headings describing their subject matter as in the 1954 Revised Statutes.

For new sections relating to the prevention of diseases, see §§ 48-A to 48-P, relating to the control and eradication of diseases. For new provisions relating to

livestock community or commission auctions, see §§ 48-Q to 48-V. For new provisions relating to eradication of diseases and miscellaneous provisions, see §§ 48-G to 48-P, 48-W to 48-Z and 49-G. For new provisions relating to quarantine powers, see §§ 48-B and 48-D. For new provisions relating to brucellosis, see § 49-A. For new provisions relating to vesicular exanthema, see §§ 49-B to 49-F.

Sec. 49-A. Brucellosis; prevention, control and eradication.—The commissioner shall formulate methods of procedure generally adopted for the prevention, control and eradication of brucellosis.

For the prevention, control and eradication of brucellosis, 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 showing a positive reaction to the test shall be identified by a "reactor" eartag and brand and shall be slaughtered, except vaccinated animals under 30 months of age.

Officially vaccinated calves, if purebred, shall be properly identified by eartag or registration papers or tattoo number. Grade animals shall be tagged. All officially vaccinated calves must be tattooed with the official state tattoo mark. (1959, c. 239, § 1.)

Vesicular Exanthema.

Sec. 49-B. Definitions.—As used in sections 49-B to 49-D, the following words shall have the following meanings:

"Garbage" shall mean putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of foods, including animal carcasses or parts thereof. This does not include fruits and vegetables which have not come in contact with any other products.

"Person" shall mean the state, any municipality, political subdivision, institution, public or private corporation, individual, partnership or other entity. (1959, c. 239, § 1.)

Sec. 49-C. License to feed garbage; heating; inspection.—No person shall feed garbage to swine without first procuring a license therefor from the commissioner or his duly authorized agent. Such licenses shall be procured annually for a fee of \$1 and shall be renewed on the first day of June of each succeeding year. This section shall not apply to any person who feeds his own household garbage only to swine which are raised for such person's own use.

Garbage, regardless of previous processing, shall, before being fed to swine, be thoroughly heated to at least 212° F. for at least 30 minutes, unless treated in some other manner which shall be approved in writing by the commissioner or his duly authorized agent.

The commissioner or his duly authorized agent shall have the power to enter at reasonable times any private or public property for the purpose of investigating conditions relating to the treating or feeding of garbage. (1959, c. 239, § 1.)

Sec. 49-D. Animals infected.—Any animal infected with or exposed to foot and mouth disease shall be killed, buried, destroyed, rendered, processed or otherwise disposed of under the direct supervision of the commissioner or his duly authorized agent. (1959, c. 239, § 1.)

Sec. 49-E. Suppression and eradication.—The commissioner or his agent is authorized to conduct approved diagnostic tests, procure necessary animals, personnel, equipment and facilities and take other necessary precautions

for the suppression and eradication of any disease among domestic animals. (1959, c. 239, § 1.)

Sec. 49-F. Disposition of carcasses.—The commissioner may cause the owner to make proper disposition of carcasses of domestic animals that have died of, or been condemned for certain contagious or infectious diseases, or carcasses of domestic animals from farms, herds, flocks or areas where certain contagious or infectious diseases are or have been present. Proper disposition means burning, burying, rendering or other disposition prescribed by the commissioner. (1959, c. 239, § 1.)

Sec. 49-F-1. Disposal of dead poultry.—The owner, occupant or person in possession of any premises wherein poultry or poultry products are raised for sale or processing shall maintain, or have access to, adequate disposal facilities for the sanitary disposal of dead poultry resulting from such poultry operations, and all poultry dying on such premises shall be disposed of by means of such disposal facilities. Such facilities shall be constructed and maintained in accordance with standards and regulations to be promulgated by the commissioner of agriculture.

It shall be illegal to keep or deposit any dead poultry on any premises or places where wild birds or animals have access to them. Public or private dumps are not considered to be proper disposal areas. (1961, c. 149, § 1.)

Effective date.—Section 3 of c. 149, P. L. 1961, adding this section, provides that the act shall become effective January 1, 1962.

Penalty.

Sec. 49-G. Penalty.—Whoever violates any provisions of sections 48-A to 48-I, section 48-I-1 and sections 48-J to 49-F-1, or any rule and regulation promulgated thereunder, shall be punished by a fine of not more than \$500, or by imprisonment for not more than 90 days, or by both. (1959, c. 239, § 1. 1961, c. 91; c. 149, § 2; c. 417, § 99.)

Effect of amendments.—Chapter 91, P. L. 1961, effective January 1, 1962, inserted "for not more than 90 days" near the end of this section. Chapter 149, P. L. 1961, substituted "49-F-1" for "49-F" near the

beginning of this section and again inserted "for not more than 90 days" near the end of the section. Chapter 417, P. L. 1961, added "to 48-I, section 48-I-1 and sections 48-J to."

Secs. 50-87. Repealed by Public Laws 1959, c. 239, § 2.

Cross reference.—See Editor's note to § 49.

Maine Milk Law.

Sec. 87-A. Inspection; analysis.—The commissioner shall inspect the production, manufacture, transportation, storage and sale of milk, cream, butter and all other dairy products, substitutes therefor, or imitations thereof.

The commissioner shall have free access at all reasonable hours to any dairy farm, milk plant, vehicle, establishment, premises or place where milk or milk products, substitutes therefor, or imitations thereof, are or may be produced, collected, handled, processed, pasteurized, bottled, packaged, stored, sold or otherwise prepared for distribution for the purpose of inspecting such dairy farm, milk plant, vehicle, establishment, premises or place to determine if any of the provisions of sections 87-A to 87-G are being violated; and to secure samples or specimens of any milk, cream, milk products, substitutes, or imitations thereof, after paying or offering to pay the market value for such samples. The commissioner shall make or cause to be made examination of samples secured under this section to determine whether or not any provisions of sections 87-A to 87-G are being violated.

The commissioner may seize without warrant such cans, bottles, containers

and equipment used in the production, handling, processing, pasteurizing, bottling, or used in the purchase or sale of milk or cream as may be needed as evidence of violation of any provisions of sections 87-A to 87-G.

The commissioner may, in his discretion, publish the results of all analyses with the names of the persons, firms, corporations, associations and societies from which the samples analyzed were taken or the name of the milk dealer. He may, in his discretion, issue a report of the results of all analyses, for distribution to such newspapers in the state as may request a copy. (1961, c. 163, § 1.)

Sec. 87-B. Definitions.—As used in sections 87-A to 87-G the following words and phrases shall have the following meanings:

I. Adulterated milk and milk products. Adulterated milk and milk products means milk or milk products which upon analysis are found to contain added water or which contain any unwholesome substance, or milk or milk products which contain any antibiotics, pesticide or chemical residues, or which if defined in sections 87-A to 87-G or defined in the regulations promulgated by the commissioner do not conform to the definition thereof, shall be deemed to be adulterated. Milk or milk products shall be deemed to be misbranded if the labeling is false, improper or misleading in any particular, or the labeling does not comply with the requirements promulgated by the commissioner.

II. Commissioner. Commissioner means the commissioner of agriculture or his duly authorized agents.

III. Concentrated milk. Concentrated milk means the fluid product, unsterilized and unsweetened, resulting from the removal of a considerable portion of the water from milk. When recombined with water in accordance with instructions printed on the container, the resulting product conforms with the standards for milkfat and solids not fat of milk as defined.

IV. Cottage cheese. Cottage cheese means the soft, uncured cheese prepared from the curd obtained by adding harmless, lactic acid producing bacteria, with or without rennet, to pasteurized skim milk, concentrated skim milk or nonfat dry milk solids. It shall contain not more than 80% moisture.

V. Cream. Cream means the portion of milk which contains not less than 18% milkfat.

VI. Creamed cottage cheese. Creamed cottage cheese means the soft, uncured cheese prepared by mixing cottage cheese with pasteurized cream, or a pasteurized mixture of cream with milk or skim milk, or both. It shall contain not less than 4% milkfat by weight and not more than 80% moisture.

VII. Cultured buttermilk. Cultured buttermilk means the fluid product, resulting from the souring or treatment by a lactic acid or other culture, of pasteurized milk, pasteurized skim milk or a mixture of both. It shall contain not less than 8.5% milk solids not fat.

VIII. Dairy or dairy farm. Dairy or dairy farm means any place or premises where one or more cows are kept, a part or all of the milk or cream from which is offered for sale.

IX. Flavored dairy drink. Flavored dairy drink means a dairy drink consisting of milk or skim milk to which has been added a syrup or flavor made from wholesome ingredients. The standard plate count of flavored dairy drink shall not be more than 50,000 colonies of bacteria per ml.

X. Flavored milk. Flavored milk means a beverage consisting of milk to which has been added a syrup or flavor made from wholesome ingredients. Flavored milk shall not contain less than 3.25% milkfat. The standard plate count of flavored milk shall not be more than 50,000 colonies of bacteria per ml.

XI. Goat milk. Goat milk means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy goats.

XII. Half and half. Half and half means the fresh, pure, pasteurized dairy product resulting from the combining of milk and cream in such proportions

as to result in a mixture containing not less than 11% milkfat. It may contain added nonfat milk solids. It may be homogenized. It shall contain no preservative, neutralizer or other foreign substance.

XIII. Heavy cream. Heavy cream means cream which contains not less than 38% milkfat.

XIV. Homogenized milk. Homogenized milk means milk which has been treated in such a manner as to insure break up of the fat globules to such an extent that, after 48 hours of quiescent storage, no visible cream separation occurs on the milk and the fat percentage of the top 100 milliliters of milk in a quart bottle, or of proportionate volume in containers of other sizes, does not differ by more than 10% of itself from the fat percentage of the remaining milk as determined after thorough mixing.

XV. Light cream. Light cream means cream which contains not less than 18% milkfat.

XVI. Medium cream. Medium cream means cream which contains not less than 30% milkfat.

XVII. Milk. Milk means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. It shall contain not less than 11.75% milk solids, and not less than 3.25% milkfat. The word "milk" shall be interpreted to include goat milk.

XVIII. Milk dealer. Milk dealer means any person who owns or operates a milk plant or any person who owns or operates a dairy farm where sales of milk or cream are made as a business other than to a licensed dealer or a sub-dealer.

XIX. Milkfat. Milkfat or butterfat means the fat of milk.

XX. Milk plant. Milk plant means any place, premises or establishment where milk or milk products are collected, handled, processed, pasteurized, bottled or otherwise prepared for distribution.

XXI. Milk producer. Milk producer means any person who owns or controls one or more cows, a part or all of the milk or cream from which is sold or offered for sale.

XXII. Milk products. Milk products means cream, sour cream, half and half, reconstituted half and half, concentrated milk, skim milk, nonfat or fat-free milk, flavored milk, flavored dairy drink, cultured buttermilk, cottage cheese, creamed cottage cheese, and any other product designated as a milk product by the commissioner.

XXIII. Nonfat or fat-free milk. Nonfat or fat-free means skim milk which contains not more than 0.1% milkfat. The standard plate count of nonfat or fat-free milk shall not be more than 50,000 colonies of bacteria per ml.

XXIV. Pasteurization or pasteurized. Pasteurization or pasteurized means the process of heating every particle of milk, cream or milk products to at least 145° F., and holding it at such temperature continuously for at least 30 minutes, or to at least 161° F., and holding it at such temperature continuously for at least 15 seconds, in approved and properly operated equipment or to such higher temperatures for such time intervals as the commissioner may from time to time determine, specifically for milk, or skim milk, or cream or a milk product.

XXV. Person. The word "person" means any person, firm, corporation, association or society.

XXVI. Producer dealer. Producer dealer means a milk producer who is a milk dealer.

XXVII. Reconstituted half and half. Reconstituted half and half means the product resulting from the combination of reconstituted milk or reconstituted skim milk with cream or reconstituted cream resulting in a mixture containing not less than 11% milkfat. It may be homogenized. It shall contain no preservative, neutralizer or other foreign substance.

XXVIII. Skim milk. Skim milk means milk which contains less than 3.25% milkfat. The standard plate count of skim milk shall not be more than 50,000 colonies of bacteria per ml.

XXIX. Sub-dealer. Sub-dealer means any person who obtains for distribution all milk and cream in the final container from a licensed milk dealer.

XXX. Sour cream or cultured cream. Sour cream or cultured cream means cream, the acidity of which is more than 0.20%, expressed as lactic acid. (1961, c. 163, § 1. 1963, c. 255, §§ 1, 2.)

Effect of amendment.—The 1963 amendment deleted “and misbranded” following “Adulterated” at the beginning of subsection I and substituted “11.75%” for “8.5%” before “milk solids” in subsection XVII.

Sec. 87-C. Licensing; application; fee; revocation.—No milk dealer shall sell milk or cream without first obtaining a license from the commissioner. No person shall produce grade A milk for sale without first obtaining a license from the commissioner to produce grade A milk, and no person shall pasteurize grade A milk for sale without first obtaining a license from the commissioner to pasteurize grade A milk.

Every milk dealer shall, on or before the first day of January in each year, apply to the commissioner for a license to sell milk, furnishing such information as may be required upon a form prescribed by the commissioner. Each vehicle from which sales or distribution of milk or cream are made, shall be covered by a license. Each group of buildings, constituting a dairy farm or milk plant in one location from which sales or distribution of milk or cream are made shall be covered by a license.

The commissioner, if satisfied after inspection or investigation, that the applicant has complied with sections 87-A to 87-G and the rules and regulations issued thereunder, shall issue a license. The fee for each license to sell or distribute milk or cream from a vehicle, milk plant or dairy farm shall be \$1. All money received by the commissioner shall be paid by him to the treasurer of state.

The commissioner shall have the power, after due hearing, to revoke or suspend any license issued under sections 87-A to 87-G, when it appears that any statement upon which it was issued, was false or misleading, or that any of the provisions of sections 87-A to 87-G, and the rules and regulations issued thereunder have been violated.

Any person wishing to produce grade A milk or to pasteurize grade A milk, as the case may be, shall apply to the commissioner for a license, furnishing such information as may be required upon a form prescribed by the commissioner. The commissioner, if satisfied, after inspection or investigation, that the applicant has complied with the rules and regulations and standards of definition and quality pertaining to grade A milk and pasteurized grade A milk, shall issue a license.

The commissioner shall, after investigation and public hearing, adopt and promulgate rules and regulations, and standards of definition and quality for the production, pasteurization and distribution of grade A milk. (1961, c. 163, § 1.)

Sec. 87-D. Prohibition of sale.—No person shall sell, offer for sale, or advertise for sale, any milk or milk product, if the label upon it or the advertising accompanying it, shall give a false indication of the origin, character, composition, or place of manufacture or production, or shall be otherwise false or misleading in any particular.

It shall be unlawful for any milk dealer to have in his possession any milk or milk products, the sources of which have not been approved by the commissioner.

It shall be unlawful for any milk dealer to sell any milk, or milk products as defined in sections 87-A to 87-G, the container of which is not plainly marked or labelled with the name of the contents, the word “pasteurized” or the word “natural” in accordance with the quality therein contained and the name and address of

the licensed dealer and sufficient information to identify the milk plant where packaged.

It shall be unlawful for any milk dealer, to sell any cream which is not conspicuously marked with the words "light," "medium" or "heavy" as defined.

It shall be unlawful for any person to sell, offer or expose for sale, any milk or milk product which is adulterated or misbranded.

It shall be unlawful for any licensed milk dealer to transfer from one container to another or otherwise handle milk or milk products except in a dairy or milk plant operated by a licensed dealer. The sale of dipped milk is prohibited.

It shall be unlawful to sell or serve any milk, skim milk, nonfat or fat-free milk, flavored milk or flavored dairy drink in a hotel, soda fountain, restaurant, grocery store or similar establishment except in the individual, original container in which it was received from the milk dealer or from a bulk container equipped with an approved dispensing device. This requirement shall not apply to cream, half and half or whipped cream which is consumed on the premises.

It shall be unlawful to sell or serve any milk, skim milk, nonfat or fat-free milk, flavored milk or flavored dairy drink in a hotel, soda fountain, restaurant, grocery store, hospital or similar establishment which has not been maintained while in its possession, at a temperature of 50° F., or less, in dry storage. Wet storage is specifically prohibited.

It shall be unlawful for any milk dealer to neglect, refuse or fail to furnish the commissioner, upon request, a true statement of the actual quantities of milk and milk products produced, purchased and sold together with a list of all sources of milk and milk products.

It shall be unlawful for any milk dealer to neglect, refuse or fail to maintain true recording thermometer chart records, washing and sanitizing chart records, and such other records and tests as are required to comply with the rules and regulations promulgated by the commissioner. Such chart records shall be held for a period of at least 90 days, or until released by the commissioner.

It shall be unlawful for any milk dealer to neglect, fail or refuse to thoroughly clean and subject effectively to bactericidal treatment, in compliance with the rules and regulations promulgated by the commissioner, any cans, bottles, utensils or equipment prior to each use in the production, handling, storage, transportation and sale of milk or milk products.

It shall be unlawful for any milk dealer or person to neglect, fail or refuse to keep any room or place where milk or milk products are stored, bottled or handled, otherwise than in a clean and sanitary condition and in compliance with the rules and regulations promulgated by the commissioner.

It shall be unlawful for any person to hinder, obstruct or interfere in any way with the commissioner in the performance of his duty by refusing entrance or access to any place or equipment which he is authorized to enter or have access to; or by refusing to deliver to him a sample or samples of milk and milk products, substitutes therefor or imitation thereof sold, offered or exposed for sale by the person to whom such request is made.

It shall be unlawful for any person to sell, offer or expose for sale pasteurized milk or cream which has not been handled, processed or packaged in a milk plant operated by a dealer licensed in accordance with section 87-C. (1961, c. 163, § 1. 1963, c. 255, §§ 3, 4.)

Effect of amendment.—The 1963 amendment substituted "natural" for "raw" in the third paragraph, substituted "and address of the licensed dealer and sufficient information to identify the milk plant where packaged" for "or trade name of the dealer" at the end of the third paragraph and added the last paragraph.

Sec. 87-E. Examination of milk or milk products.—The examination of milk and milk products shall conform to the procedures in the current edition of "Standard Methods for the Examination of Dairy Products" recommended by

the American Public Health Association, or shall conform to the official methods of "Association of Official Agricultural Chemists." (1961, c. 163, § 1.)

Sec. 87-F. Inspection of milk and cream.—

I. Raw milk or cream. Raw milk or raw cream means raw milk or raw cream which is to be consumed raw, produced upon dairy farms complying with the provisions of sections 87-A to 87-G and the rules and regulations issued thereunder.

The standard plate count of raw milk shall not be more than 50,000 colonies of bacteria per milliliter. The standard plate count of raw cream shall not be more than 50,000 colonies of bacteria per gram.

II. Standard plate count. The standard plate count of pasteurized milk shall not be more than 20,000 colonies of bacteria per milliliter.

III. Phosphatase test. All pasteurized milk, pasteurized cream, pasteurized flavored milk product and pasteurized flavored dairy drinks, skim milk and fat-free milk as defined by sections 87-A to 87-G shall show efficient pasteurization as evidenced by a satisfactory phosphatase test.

IV. Pasteurized cream. Pasteurized cream means cream produced from raw milk or from raw cream which has been pasteurized. The standard plate count of pasteurized cream shall not be more than 50,000 colonies of bacteria per gram.

V. Pasteurized milk. Pasteurized milk means milk which has been pasteurized, cooled and placed in the final container in a milk plant operated by a licensed dealer. Milk shall be pasteurized under the following provisions and specifications and in compliance with the rules and regulations promulgated by the commissioner.

A. Floors. Floors of all rooms in which milk is handled shall be constructed of concrete or other equally impervious and easily cleaned material. They shall be smooth, properly drained and provided with trapped drains and kept clean.

B. Walls and ceilings. Walls and ceilings of rooms in which milk is handled or stored shall have a smooth and washable light-colored surface and be kept clean.

C. Doors and windows. All openings into the outer air shall be effectively screened to prevent the access of flies. Doors shall be self-closing.

D. Lighting and ventilation. All rooms shall be well lighted and ventilated.

E. Protection from contamination. The various milk plant operations shall be so located and conducted as to prevent any contamination of the milk or to the cleaned equipment. There shall be a separate room for pasteurizing, cooling and bottling operations and a separate room for washing and sterilizing bottles, cans and equipment. Cans of raw milk shall not be unloaded directly into the pasteurizing room and the same equipment shall not be used for both raw and pasteurized milk. Rooms in which milk is handled, stored or processed shall not open directly into any stable, living quarters or any undesirable or unsanitary place.

F. Toilet facilities. Every plant shall be provided with toilet facilities. Toilet rooms shall be kept in a clean condition, good repair and well ventilated. All privies or earth closets shall be of a sanitary type and shall be located at least 50 feet from the milk plant. Toilet rooms shall not open directly into any room in which milk, milk products, equipment or containers are handled or stored.

G. Water supply. The water supply shall be easily accessible, adequate and of a safe, sanitary quality.

H. Equipment. All equipment with which milk comes in contact shall be of smooth, impervious, noncorrodible, nontoxic material; shall be so constructed and so located as to be easily cleaned; and shall be kept in good

repair. Only sanitary milk piping of a type which can be easily cleaned shall be used. All single service containers, closures, gaskets and other articles used shall have been manufactured, packaged, transported and handled in a sanitary manner. The construction and operation of all pasteurizing vats and other equipment shall meet with the approval of the commissioner and shall be in compliance with rules and regulations promulgated by him.

I. Disposal of wastes. All wastes shall be properly disposed of.

J. Containers and equipment. All milk and milk product containers and equipment, except single service containers, shall be thoroughly cleaned after each usage, and subjected effectively to bactericidal treatment before each usage in compliance with the rules and regulations promulgated by the commissioner. Milk dealers shall thoroughly clean and effectively sanitize all empty containers before returning them or causing them to be forwarded to a producer or to another dealer.

K. Storage and handling of containers and equipment. After bactericidal treatment, all bottles, cans and other milk and milk product containers and equipment shall be transported and stored in such a manner as to be protected from contamination. Between bactericidal treatment and usage, and during usage, containers and equipment shall not be handled or operated in such a manner as to permit contamination of the milk.

L. Storage of caps, parchment paper, single service containers and gaskets. Milk bottle caps, cap or container stock, parchment paper for milk cans, single service containers and gaskets shall be purchased and stored only in sanitary tubes, wrappings or cartons; shall be kept therein in a clean, dry place until used, and shall be handled in a sanitary manner.

M. Cooling. Pasteurized milk and milk products shall be cooled immediately in approved equipment to a temperature of 50° F., or less, and held at this temperature until delivered to the consumer. This provision shall not be deemed to include milk products to be used for culturing.

N. Bottling and packaging. Bottling and packaging of pasteurized milk, pasteurized skim milk, pasteurized nonfat or fat-free milk, pasteurized flavored milk and pasteurized flavored dairy drink shall be done at the place of pasteurization in approved mechanical equipment in such manner as to prevent any part of the person or clothing from coming in contact with any surface with which milk or milk products come in contact. Overflow milk shall not be sold for human consumption.

O. Capping. Capping of milk, cream, skim milk, nonfat or fat-free milk, flavored milk or flavored dairy drink shall be done in a sanitary manner by approved mechanical equipment. Hand capping is prohibited. The cap or cover shall protect the pouring lip to at least its largest diameter.

P. Personnel, cleanliness. All persons who come in contact with milk, milk products, containers and equipment shall wear clean outer garments and shall keep their hands clean at all times while engaged in such work.

Q. Vehicles. All vehicles used for the transportation of milk, cream, skim milk, nonfat or fat-free milk, flavored milk or flavored dairy drink shall be constructed and operated so as to protect their contents from the sun, from freezing and from contamination. All vehicles used for the distribution of milk or cream shall have the name of the distributor prominently displayed thereon. Milk tank trucks shall be constructed, maintained, operated, washed and sanitized in accordance with the requirements of sections 87-A to 87-G pertaining to all other milk handling equipment. (1961, c. 163, § 1.)

Sec. 87-G. Rules and regulations.—The commissioner shall, after investigation and public hearing, adopt and promulgate rules and regulations to supplement and give full effect to sections 87-A to 87-G. Such rules and regulations shall establish sanitary regulations pertaining to the production, processing, handling and distribution of milk, cream and other dairy products, including

the construction, sanitary condition of buildings, grounds and equipment where milk or milk products are produced, processed, handled and distributed. Such rules and regulations shall be filed and open for public inspection at the office of the commissioner and shall have the force of law. (1961, c. 163, § 1.)

Sec. 87-G-1. Injunction.—In addition to any other remedy for the enforcement of sections 87-A to 87-G or any rule, regulation, order or decision of the commissioner, the superior court shall have jurisdiction upon complaint filed by the commissioner to restrain or enjoin any person from committing any act prohibited by sections 87-A to 87-G or prohibited by any rule, regulation, order or decision of the commissioner. If it is established, upon hearing, that the person charged has been or is committing any act declared to be unlawful by sections 87-A to 87-G or is in violation of any rule, regulation, order or decision of the commissioner, the court shall enter a decree perpetually enjoining said person from further commission of such act or actions. In case of violation of any injunction issued under this section, the court shall summarily try and punish the person for contempt of court. The existence of other civil or criminal remedies shall be no defense to this proceeding. The commissioner shall not be required to give or post bond when making an application for an injunction under this section. (1963, c. 255, § 5.)

Sec. 87-H. Penalties.—Any firm, person, corporation or society who shall produce grade A milk, or pasteurized grade A milk for sale in the state or who shall sell milk or cream in the state without the license or licenses provided in section 87-C, or who shall violate any of the provisions of sections 87-A to 87-G, or neglects, fails or refuses to comply with any of the provisions of said sections and the rules and regulations issued thereunder, shall be punished by a fine of not more than \$100, for the first offense, and by a fine of not more than \$200 for each subsequent offense. (1961, c. 163, § 1.)

Sec. 87-I. County attorney to assist.—The county attorney for the county in which any violation of sections 87-A to 87-G has occurred shall, if requested, assist the commissioner in the prosecution of cases arising thereunder. (1961, c. 163, § 1.)

Sec. 87-J. Jurisdiction.—The district court and the superior court shall have concurrent jurisdiction in cases arising under sections 87-A to 87-G. (1961, c. 163, § 1. 1963, c. 402, § 59.)

Effect of amendment.—The 1963 amendment substituted “The district court” for “Trial justices shall have original jurisdiction concurrent with municipal courts” and added “shall have concurrent jurisdiction.”

Application of 1963 act.—See note to § 9.

Production and Sale of Milk.

Secs. 88-91. Repealed by Public Laws 1961, c. 163, § 2.

Milk Dealers.

Secs. 92-99. Repealed by Public Laws 1961, c. 163, § 2.

Standard Measure of Milk and Containers; Cleansing, Testing, Grading, Etc.

Sec. 106. Capacity of milk bottles and jars.—Glass bottles and jars used for the sale of milk or cream shall be of one of the following capacities only: One gallon, a multiple of the gallon, 2 quarts, one quart, one pint, $\frac{5}{8}$ of one pint, $\frac{1}{2}$ of one pint or one gill and shall be sealed as full measure under the provisions of chapter 32-A or by the manufacturer, as provided in section 107. The use,

for the distribution of milk or cream to the consumer, of glass bottles or jars of any other capacity than as herein provided is prohibited and declared to be illegal. All dealers in milk or cream who use, for the distribution of milk or cream to consumers, glass bottles or jars which have not been sealed by the manufacturer, shall bring such bottles or jars to the office of their city or town sealer to be sealed as aforesaid. If a bottle or jar has once been sealed by a sealer of weights and measures, or by the manufacturer, it shall not in any case be necessary to have it sealed again at any time while it is used for the distribution of milk or cream to consumers. Glass bottles or jars sealed under the provisions of this section shall not be legal measures except for the distribution of milk or cream. (R. S. c. 27, § 94. 1947, c. 268, § 1. 1957, c. 260, § 2.)

Effect of amendment. — The 1957 a former reference to “section 208 of amendment substituted the reference in chapter 100” the first sentence to “chapter 32-A” for

Sec. 109. Repealed by Public Laws 1961, c. 152, § 2.

Sec. 109-A. Definitions.—As used in sections 109-A to 109-L, the following words and phrases shall have the following meanings:

I. Commissioner. “Commissioner” means the commissioner of agriculture or his duly authorized agents.

II. Milk dealer. “Milk dealer” means any person who owns or operates a milk plant or receiving station.

III. Milk plant. “Milk plant” or “receiving station” means any place, premises, establishment or vehicle at which milk or cream from producers is received, collected, gathered or otherwise handled.

IV. Person. “Person” means any person, firm, corporation or society. (1961, c. 152, § 1.)

Sec. 109-B. Milk or cream for resale.—All milk or cream purchased from producers for use in or to be resold by any milk plant in this state, the value of which is determined in whole or in part by the amount of milkfat therein contained, shall be weighed or measured in compliance with the rules and regulations promulgated by the commissioner, and shall be tested by the Babcock test or official methods of the Association of Official Agricultural Chemists to ascertain the amount of milkfat therein contained. The test shall be made by the operators or owners of the milk plant purchasing said milk or cream, or may be made by the commissioner or his deputies. Bacteriological and other quality tests that may be used as a basis of payment for milk purchased from producers shall be made and conducted in compliance with the rules and regulations issued by the commissioner. (1961, c. 152, § 1.)

Sec. 109-C. Taking of samples.—The commissioner may enter upon the premises of any milk plant, dairy farm or receiving station, and may take possession of any or all samples of milk or cream for the purpose of testing their milkfat contents, which are on the premises or in the possession of any person, or may take samples from producers’ deliveries and may test the same then and there. The owner, operator or manager of any milk plant or receiving station for milk or cream shall, if requested by the commissioner, give him full access to all records appertaining to the tests thereof, and said commissioner may make transcripts therefrom. The results of the tests made by said commissioner may, at the discretion of said commissioner, be communicated to the owner, operator or manager or to any or all of the producers of the milk plant or receiving station from whom such samples have been taken. (1961, c. 152, § 1.)

Sec. 109-D. Testing equipment.—The commissioner may enter the premises of any milk plant for milk or cream and may inspect all testing equipment, materials, samples and methods to determine if any of the provisions of sections

109-A to 109-L, or the rules and regulations issued thereunder are being violated. (1961, c. 152, § 1.)

Sec. 109-E. Regulations on testing.—The commissioner shall promulgate such uniform rules and regulations concerning the weighing, measuring, sampling, care of samples and the making of tests as he deems proper. No person shall credit any producer with a lesser percentage of milkfat than is actually contained in the milk or cream received from the producer. (1961, c. 152, § 1.)

Sec. 109-F. Obstruction to duty.—It shall be unlawful for any person to hinder, obstruct or impede the commissioner in the discharge of his duty or to refuse him access to the testing equipment or to the test records. (1961, c. 152, § 1.)

Sec. 109-G. Marking of glassware.—No bottles, pipettes or other measuring glasses shall be used to determine the value of milk and cream received from producers, unless said glassware has been marked ineffaceably by the Maine Agricultural Experiment Station for accuracy.

The director of the Maine Agricultural Experiment Station shall cause to be tested for accuracy all bottles, pipettes or other measuring glasses forwarded to him. He shall cause them to be ineffaceably lettered as proof that they have been so tested. Persons or corporations for whom such service is performed shall pay to the director the actual cost incurred.

No person shall use any sulfuric acid of less than 1.82 of specific gravity tested at 60° F., in the Babcock test for the purpose of measuring the milkfat contents in milk or cream as a basis for apportioning the value of such milk or cream. (1961, c. 152, § 1.)

Sec. 109-H. Babcock tester's license.—No person either for himself or in the employ of any other person, firm or corporation, shall manipulate the Babcock test or official methods of the Association of Official Agricultural Chemists for the purpose of measuring the milkfat contents in the milk or cream as a basis for apportioning the value of such milk or cream, unless he first shall have secured a tester's certificate from the commissioner, stating that the applicant is competent and well qualified to perform such work.

The commissioner shall make rules and regulations governing the application for and the granting of such certificate and may revoke such certificate for cause. The fee for issuing a certificate shall be \$1 and shall be deposited in the state treasury. (1961, c. 152, § 1.)

Sec. 109-I. Composite test period.—All composite sample periods shall end on the 15th and on the last day of each month, or at such other times as may be approved by the commissioner. No person shall test composite samples before the end of the current period. All composite samples shall be held in good condition for 12 days, in a cool, dark place after the close of the period, for check-testing. Within 7 days after the end of the last previous sampling period, the dealer shall give the producer written notice of such test for the last previous sampling period. Within 3 days after each day on which the dealer received milk from a producer, the dealer shall give the producer written notice of the daily quantity received. (1961, c. 152, § 1.)

Sec. 109-J. Penalties.—Any person, firm or corporation who shall fail, neglect or refuse to comply with any of the provisions of sections 109-A to 109-L, or the rules and regulations issued thereunder, shall be punished by a fine of not more than \$100 for the first offense, nor more than \$200 for each subsequent offense. (1961, c. 152, § 1.)

Sec. 109-K. County attorney.—The county attorney for the county in which any violation of sections 109-A to 109-L, has occurred shall, if requested,

assist the commissioner in the prosecution of cases arising thereunder. (1961, c. 152, § 1.)

Sec. 109-L. Jurisdiction.—The district court and the superior court shall have concurrent jurisdiction in cases arising under sections 109-A to 109-L. (1961, c. 152, § 1. 1963, c. 402, § 60.)

Effect of amendment.—The 1963 amendment substituted “The district court” for “Trial justices shall have original jurisdiction, concurrent with municipal courts” and added “shall have concurrent jurisdiction.”

Application of 1963 act.—See note to § 9.

Secs. 110-113. Repealed by Public Laws 1961, c. 152, § 2.

Sale of Milk to Certain Institutions.

Sec. 113-A. Pasteurized milk only to be sold to certain institutions.—Only pasteurized milk shall be sold to the state, any public hospital, any school lunch program, or any charitable or educational institution which is supported in whole or in part by aid granted by the state or any municipality.

The provisions of this section shall not apply to nursing homes. (1957, c. 307.)

Protection of Milk Dealers in the Use of Containers.

Sec. 118. Search warrant for vessels held in wrongful possession.—Whenever any person or corporation having complied with section 114 or the agent of any such person or corporation shall make oath before the proper officer of the district court that he has reason to believe and does believe that any person or corporation has wrongfully in possession or is secreting any of his or its milk cans, jugs, bottles or jars, marked and described as provided in section 114, said officer shall, if satisfied that there is reasonable cause for such belief, issue a search warrant to discover and obtain the same, and may cause to be brought before said court the person or an agent or employee of the corporation in whose possession such cans, jugs, bottles or jars are found, and shall thereupon inquire into the circumstances of such possession. If the court finds that such person or corporation has been guilty of a willful violation of sections 115, 116 or 117, it shall impose the penalty prescribed in the section or sections so violated, and shall award to the owner possession of the property taken upon such search warrant. (R. S. c. 27, § 106. 1963, c. 402, § 61.)

Effect of amendment.—The 1963 amendment divided the section into two sentences, substituted “proper officer of the district court” for “judge of any municipal court or before any trial justice” near the beginning of the section, substituted “said officer” for “said judge or trial justice” near the middle of the present first sentence, substituted “the court” for “said judge or trial justice” at the beginning of the present second sentence and made other minor changes.

Application of 1963 act. — See note to § 9.

Protection of Milk Dealers in the Use of Containers.

Secs. 122-126: Repealed by Public Laws 1961, c. 152, § 2.

Dealers in Livestock.

Sec. 138. Records; health requirements; sanitation of trucks and premises.—The commissioner may require licensed livestock dealers to keep certain records of transaction in any or all classes of livestock. The commissioner may also require that livestock sold by licensed livestock dealers shall meet certain health requirements established by him.

A licensed dealer shall at all times keep his motor vehicles or trucks and prem-

ises in a sanitary condition. No cattle known to be affected with tuberculosis or brucellosis shall be transported in any vehicle with other cattle except those going directly for slaughter.

All motor vehicles, trucks or other conveyances used to transport known reactors to tuberculosis and brucellosis shall be cleaned and disinfected before being used for the transportation of any other livestock. (1949, c. 417. 1951, c. 295. 1955, c. 106. 1959, c. 102.)

Effect of amendments.—The 1955 amendment deleted provisions of the former second paragraph as to health certificates showing tuberculosis tests and re-

testing cattle for tuberculosis.

The 1959 amendment rewrote this section.

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.

Trees and Shrubs.

Sec. 160. Jurisdiction.—The district court and the superior court shall have concurrent jurisdiction of prosecutions for violations of sections 153 to 159. All prosecutions shall be instituted by the commissioner and shall be directed by him; all penalties recovered for any violation of the provisions of said sections shall accrue to the treasurer of state for deposit in the general fund. (R. S. c. 27, § 141. 1945, c. 297, § 10. 1963, c. 402, § 62.)

Effect of amendment.—The 1963 amendment substituted “The district court” for “Trial justices shall have original jurisdiction, concurrent with municipal courts” at the beginning of the first sentence,

added “shall have concurrent jurisdiction” and deleted “of the provisions” following “violations” in that sentence.

Application of 1963 act.—See note to § 9.

European Corn Borer.

Sec. 162. Districts established and quarantined; notice published.—The commissioner shall have authority to establish districts comprising that portion of the state known or suspected of being infested with the European corn borer and to quarantine such districts against the further spread of the borer. He may alter the boundary lines of such district or establish new districts as conditions may require and he shall give notice of such establishment by publication in some newspaper published in such district, if any, otherwise in the state paper. (R. S. c. 27, § 143. 1959, c. 363, § 20.)

Effect of amendment.—The 1959 amendment substituted the words “the state paper” for the words “some paper published

in Augusta,” formerly appearing at the end of this section.

Sec. 164. Penalty; jurisdiction.—Whoever violates any quarantine regulations established by the commissioner under the provisions of section 162 and whoever neglects or refuses to comply with the requirements of section 163 shall be punished by a fine of not less than \$10, nor more than \$50. The district court and the superior court shall have concurrent jurisdiction of actions brought for

the recovery of penalties imposed by sections 153 to 179, and of prosecutions for violations thereof. (R. S. 27, § 145. 1963, c. 402, § 63.)

Effect of amendment.—The 1963 amendment substituted “The district court” for “Trial justices shall have original jurisdiction, concurrent with municipal courts” at the beginning of the last sentence, added “shall have concurrent jurisdiction” and deleted “the provisions of” preceding “sections” in that sentence.

Application of 1963 act.—See note to § 9.

Bee Industry.

Sec. 174. Notification.—All persons owning bees within the state shall annually notify the commissioner of the keeping of bees and the location thereof and shall forward to the commissioner for deposit with treasurer of state an annual license fee of 10¢ per colony for all bees in the hive on May 15 of each year. No license fee returned shall be less than \$1 per beekeeper. Such license fees shall accrue to the general fund. (R. S. c. 27, § 155. 1945, c. 54, § 2. 1949, c. 410, § 4. 1957, c. 276.)

Effect of amendment.—Prior to the 1957 amendment the last sentence provided that the money should be used to assist in carrying out the provisions of sections 165 to 176.

DIVISION OF INSPECTION.

Adulterated or Misbranded Goods.

Sec. 181. Definition. — The term “drug” as used herein shall be held to include all medicines and preparations recognized in the United States pharmacopoeia or national formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation or prevention of disease of man or other animals. (R. S. c. 27, § 158. 1949, c. 343, § 1. 1951, c. 74, § 5; c. 205, § 5. 1953, c. 334, § 4. 1957, c. 331, § 3. 1959, c. 241, § 3.)

Effect of amendments. — The 1957 amendment deleted the former first paragraph which defined the term “commercial feeding stuff”. Section 10 of such amendatory act provided that it should become effective January 1, 1958.

second paragraph which defined the term “commercial fertilizer.”

Effective date. — P. L. 1959, c. 241, amending this section, provided in section 11 thereof as follows: “The provisions of this act shall become effective January 1, 1960.”

The 1959 amendment deleted the former

Secs. 182, 183. Repealed by Public Laws 1957, c. 331, § 4.

Editor’s note.—Section 10 of the act repealing these sections provided that it should become effective January 1, 1958.

Secs. 184-186. Repealed by Public Laws 1959, c. 241, § 4.

Effective date.—P. L. 1959, c. 241, repealing §§ 184-186, provided in section 11 thereof as follows: “The provisions of this act shall become effective January 1, 1960.”

Sec. 188. Repealed by Public Laws 1959, c. 241, § 5.

Effective date.—P. L. 1959, c. 241, repealing this section, provided in section 11 thereof as follows: “The provisions of this act shall become effective January 1, 1960.”

Sec. 189. When goods deemed adulterated.—For the purpose of this chapter an article shall be deemed to be adulterated:

I. Repealed by Public Laws 1959, c. 241, § 6.

II. In case of a drug:

A. If, when a drug is sold under or by a name recognized in the United States pharmacopoeia or national formulary, it differs from the standard of strength, quality or purity as laid down in the United States pharmacopoeia

or national formulary official at the time of investigation, or as fixed by the commissioner: provided that no drug defined in the United States pharmacopoeia, the national formulary or by said commissioner shall be deemed to be adulterated under the provision if the standard of strength, quality or purity be plainly stated, so as to be understood by the nonprofessional person, upon the bottle, box or other container thereof, although the standard may differ from that laid down in the United States pharmacopoeia, national formulary or that fixed by said commissioner.

B. If its strength or purity differs from the professed standard or quality under which it is sold.

III. In case of **meat or meat products:**

If any sodium sulphite, sodium bisulphite or any drug, chemical, chemical compound or preservative from which sulphur dioxide can be liberated has been added thereto or mixed therewith. [1951, c. 220. 1953, c. 308, § 50. 1957, c. 331, § 7]. (R. S. c. 27, § 168. 1949, c. 343, § 4. 1951, c. 52; c. 74, § 7; c. 205, § 9; c. 220. 1953, c. 308, § 50; c. 334, § 5. 1957, c. 331, §§ 6, 7. 1959, c. 241, § 6.)

Effect of amendments.—The 1957 amendment repealed former subsection I which related to commercial feeding stuff and renumbered former subsections II, III and IV to appear as “I”, “II” and “III” respectively. Section 10 of the amendatory act provided that it should become effective January 1, 1958.

The 1959 amendment repealed subsection

I of this section, as renumbered by the 1957 amendment, relating to commercial fertilizer.

Effective date.—P. L. 1959, c. 241, repealing subsection I of this section, as renumbered by P. L. 1957, c. 331, § 7, provided in section 11 thereof as follows: “The provisions of this act shall become effective January 1, 1960.”

Sec. 190. “Misbranded” defined.—The term “misbranded” as used herein shall apply to all articles of commercial feeding stuff, commercial fertilizer, drug or food, the package or label of which shall bear any statement, design or device regarding such article, or the ingredients or substances contained therein, which shall be false or misleading in any particular, or which is falsely branded in any particular.

For the purpose of this chapter an article shall also be deemed to be misbranded:

I. Repealed by Public Laws 1959, c. 241, § 7.

II. In case of a **drug:**

A. If it be an imitation of or offered for sale under the name of another article.

B. If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or except in the case of a physician’s prescription compounded by a physician or a registered pharmacist, if the package fails to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate or acetanilide, or any derivative or any preparation of any such substances contained therein. [1957, c. 331, § 9]. (R. S. c. 27, § 169. 1951, c. 74, § 8; c. 205, §§ 10, 11. 1953, c. 308, §§ 51, 52; c. 334, § 6. 1957, c. 331, §§ 8, 9. 1959, c. 241, § 7.)

Effect of amendments.—The 1957 amendment repealed former subsection I which related to commercial feeding stuff and renumbered former subsections II and III to appear as “I” and “II”, respectively. Section 10 of the amendatory act

provided that it should become effective January 1, 1958.

The 1959 amendment, effective January 1, 1960, repealed subsection I of this section (as renumbered by the 1957 amendment), relating to commercial fertilizer.

Secs. 209-211. Repealed by Public Laws 1959, c. 241, § 8.

Effective date.—P. L. 1959, c. 241, repealing §§ 209-211, provided in section 11

thereof as follows: “The provisions of this act shall become effective January 1, 1960.”

Maine Commercial Fertilizer Law.

Effective date.—P. L. 1959, c. 241, adding of this act shall become effective January sections 215-A to 215-J, provided in sec- 1, 1960.” tion 11 thereof as follows: “The provisions

Sec. 215-A. Title.—Sections 215-A to 215-J shall be known as the “Maine Commercial Fertilizer Law”. (1959, c. 241, § 1.)

Sec. 215-B. Enforcing official.—Sections 215-A to 215-J shall be administered by the commissioner of agriculture, hereinafter in sections 215-A to 215-J referred to as the “commissioner”. (1959, c. 241, § 1.)

Sec. 215-C. Definitions.—When used in sections 215-A to 215-J:

I. The term “agricultural lime” means any substance that contains calcium or magnesium intended or sold for fertilizing purposes or for neutralizing soil acidity, and shall include gypsum if intended for agricultural use.

II. The term “brand” means a term, design or trade mark used in connection with one or several grades of commercial fertilizer.

III. The term “bulk fertilizers” means commercial fertilizer distributed in a non-packaged form.

IV. The term “commercial fertilizer” includes mixed fertilizer or fertilizer materials, or both.

V. The term “commissioner” means the commissioner of agriculture or his authorized agent.

VI. The term “distribute” means to offer for sale, sell, barter or otherwise supply commercial fertilizers. The term “distributor” means any person who distributes.

VII. The term “fertilizer material” means any substance containing nitrogen, phosphorus, potassium or any recognized plant nutrient element or compound which is used primarily for its plant nutrient content or for compounding mixed fertilizers except unmanipulated animal and vegetable manures.

VIII. The term “grade” means any commercial fertilizer having a specific and the same guarantee.

IX. “Guaranteed analysis”:

A. “Guaranteed analysis” shall mean the minimum percentage of plant nutrients claimed in the following order and form:

Total nitrogen (N)	per cent
Available phosphoric acid (P ₂ O ₅)	per cent
Soluble potash (K ₂ O)	per cent
Magnesium (Mg)	per cent

B. The term “guaranteed analysis” in paragraph A includes:

1. For unacidulated mineral phosphatic materials and basic slag, both total and available phosphorus or phosphoric acid and the degree of fineness. For bone, tankage and other organic phosphatic materials, total phosphorus or phosphoric acid.

2. Additional plant nutrients expressed as the elements, when permitted by the commissioner.

3. Potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of 100 pounds per ton, when permitted by regulation.

4. For agricultural lime the minimum percentages of total calcium and total magnesium, and for gypsum the minimum percentage of calcium and sulfur.

X. The term “mixed fertilizers” means any combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth.

XI. The term “official sample” means any sample of commercial fertilizer taken by the commissioner.

XII. The term “per cent” or “percentage” means the percentage by weight.

XIII. The term "person" includes individual, partnership, association, firm and corporation.

XIV. The term "registrant" means the person who registers commercial fertilizer under sections 215-A to 215-J.

XV. The term "ton" means a net weight of 2,000 pounds avoirdupois.

XVI. Words importing the singular number may extend and be applied to several persons or things and words importing the plural number may include the singular. (1959, c. 241, § 1.)

Sec. 215-D. Registration.—Each brand and grade of commercial fertilizer shall be registered before being offered for sale, sold or distributed in this state. The application for registration shall be submitted to the commissioner on form furnished by the commissioner and shall be accompanied by a fee of \$9 per plant food element guaranteed. Upon approval by the commissioner, a copy of the registration shall be furnished to the applicant. All registrations expire on December 31st of each year. The application shall include the following information:

I. The net weight;

II. The brand and grade;

III. The guaranteed analysis;

IV. The name and address of the registrant.

The fees so collected by the commissioner shall be deposited with the treasurer of state and appropriated for carrying out sections 215-A to 215-J, including the cost of inspection, sampling and analysis of commercial fertilizer. Such funds shall not lapse, but shall remain a continuing carrying account.

A distributor shall not be required to register any brand and grade of commercial fertilizer which is already registered under sections 215-A to 215-J by another person.

The plant nutrient content of each and every brand and grade of commercial fertilizer must remain uniform for the period of registration. (1959, c. 241, § 1.)

Sec. 215-E. Labeling.—Any commercial fertilizer distributed in this state in containers shall have placed on or affixed to the container a label setting forth in clearly legible form the information required by section 215-D, subsections I to IV.

If distributed in bulk, a written or printed statement of the information required by section 215-D, subsections I to IV, shall accompany delivery and be supplied to the purchaser at time of delivery. (1959, c. 241, § 1.)

Sec. 215-F. Inspection, sampling and analysis.—It shall be the duty of the commissioner to inspect and sample for analysis in accordance with section 208, commercial fertilizers distributed within this state at such time and place to such an extent as he may deem necessary to determine whether such commercial fertilizers are in compliance with sections 215-A to 215-J. The commissioner is authorized to enter upon any public or private premises during regular business hours in order to have access to commercial fertilizers subject to sections 215-A to 215-J and the rules and regulations pertaining thereto.

The methods of sampling, sample preparation and analysis shall be those adopted from sources such as the Journal of the Association of Official Agricultural Chemists. The commissioner, in determining for administrative purposes whether a commercial fertilizer is deficient in any component, shall be guided solely by the official sample as defined and obtained and analyzed as provided for in this section.

When the inspection and analysis of an official sample indicate a commercial fertilizer has been adulterated or misbranded, the results of analysis shall be forwarded by the commissioner to the distributor or manufacturer. Upon request within 30 days, the commissioner shall furnish to the registrant a portion of the sample concerned. (1959, c. 241, § 1.)

Sec. 215-G. Misbranding.—No person shall distribute misbranded fertilizer. A commercial fertilizer shall be deemed to be misbranded:

I. If false or misleading statements concerning its agricultural value are made on the container or in any advertising matter accompanying or associated with the commercial fertilizer;

II. If it is distributed under the name of another fertilizer;

III. If its container is not labeled as required in section 215-E and in regulations prescribed under sections 215-A to 215-J;

IV. If any word, statement or other information required by or under authority of sections 215-A to 215-J to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

V. If it is a grade of commercial fertilizer which is not registered with the commissioner and the prescribed fee paid in accordance with sections 215-A to 215-J. (1959, c. 241, § 1.)

Sec. 215-H. Adulteration.—No person shall distribute an adulterated commercial fertilizer. A commercial fertilizer shall be deemed to be adulterated:

I. If its weight, composition, quality, strength or purity do not conform in each particular to the claims made upon the affixed guaranty;

II. If it contains any material in sufficient amount to be deleterious to growing plants;

III. If it is found to contain any pulverized leather, hair, ground hoofs, horns, wool waste, peat, garbage tankage or any nitrogenous ingredients derived from any inert material whatsoever, unless the same has been so treated as to be available as plant food as determined by the methods adopted by the Association of Official Agricultural Chemists, without an explicit printed statement of fact, conspicuously affixed to the package of such fertilizer and accompanying and going with every lot or package of the same, in which fertilizer the above named materials aid in making up the required or guaranteed analysis. (1959, c. 241, § 1.)

Sec. 215-I. Regulations, standards and definitions.—The commissioner is charged with the enforcement of sections 215-A to 215-J, and after due public hearing, is empowered to promulgate and adopt such reasonable rules and regulations as may be necessary to carry into effect the full intent and meaning of sections 215-A to 215-J. The commissioner is empowered to adopt regulations establishing definitions and standards for commercial fertilizer ingredients and such other regulations as may be necessary for the enforcement of any provisions of sections 215-A to 215-J.

I. "Withdrawal from sale" orders. When the commissioner has reasonable cause to believe a commercial fertilizer is being distributed in violation of any of the provisions of sections 215-A to 215-J, or of any of the prescribed regulations under sections 215-A to 215-J, he may issue and enforce a written or printed "withdrawal from sale" order warning the distributor not to dispose of the fertilizer in any manner until written permission is given by the commissioner or the court. The commissioner shall release the commercial fertilizer so withdrawn when the provisions and regulations have been complied with and all costs and expenses incurred in the withdrawal have been paid. If compliance is not obtained within 30 days, the commissioner may begin proceedings for condemnation.

II. Condemnation and confiscation. Any lot of commercial fertilizer not in compliance with sections 215-A to 215-J, shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which said commercial fertilizer is located. In the event the court finds the

said commercial fertilizer to be in violation of the provisions of sections 215-A to 215-J, and orders the condemnation of said commercial fertilizer, it shall be disposed of in any manner consistent with the quality of the commercial fertilizer and the laws of the state. In no instance shall the disposition of said commercial fertilizer be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial fertilizer or for permission to process or relabel said commercial fertilizer to bring it into compliance with sections 215-A to 215-J. (1959, c. 241, § 1.)

Sec. 215-J. Penalties.—Any person, firm or corporation violating any of the provisions of sections 215-A to 215-J, or any rule or regulation duly promulgated thereunder, or neglecting or refusing to comply with the provisions thereof shall be punished by a fine of not more than \$100 for the first offense and not more than \$200 for each subsequent offense.

Nothing in sections 215-A to 215-J shall be construed as requiring the commissioner to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the provisions of sections 215-A to 215-J, when he believes that the public interests will be best served by a suitable notice of warning in writing. (1959, c. 241, § 1.)

Maine Food Law.

Sec. 219. Injunctions.—In addition to the remedies provided, the commissioner is authorized to apply to the superior court and such court shall have jurisdiction upon hearing and for cause shown, to grant a preliminary or permanent injunction restraining any person from violating any provision of section 218. (1953, c. 334, § 2. 1961, c. 417, § 100.)

Effect of amendment.—The 1961 amendment deleted references to justice of the superior court and justice of the supreme judicial court, and substituted “court” for “justice” and “preliminary” for “temporary.”

Sec. 221. Article detained, embargoed and condemned.

When an article detained or embargoed under the preceding paragraph has been found by such agent to be adulterated or misbranded, he shall petition the proper officer of the district court or superior court in whose jurisdiction the article is detained or embargoed for a libel for condemnation of such article. When such agent has found that an article so detained or embargoed is not adulterated or misbranded, he shall remove the tag or other marking.

(1963, c. 402, § 64.)

Effect of amendment.—The 1963 amendment deleted “the provisions of” following “embargoed under” near the beginning of the second paragraph and substituted “proper officer of the district court” for “judge of a municipal” near the middle of

that paragraph.

As the rest of the section was not affected by the amendment, it is not set out.

Application of 1963 act.—See note to § 9.

Sec. 225. Misbranded food.

XI. If it bears or contains any artificial flavoring, artificial coloring or chemical preservative, unless it bears labeling stating the fact. If the artificial flavoring and artificial coloring declaration does not refer to the entire contents of the package, the words “artificial flavoring” and “artificial coloring” must follow immediately each of the ingredients of the package containing one or more of these substances. The common or usual name of any chemical preservative must be immediately followed by the words “chemical preservation”. To the extent that compliance with the requirements of this subsection is impracticable, exemptions shall be established by regulations promulgated by the commissioner. The provisions of this subsection, and subsections VII and IX, with respect to arti-

ficial coloring, shall not apply in the case of butter, cheese or ice cream. (1953, c. 334, § 2. 1959, c. 272.)

Effect of amendment.—The 1959 amendment rewrote subsection XI of this section. Since the amendment affected subsection XI of this section only, the rest of the section is not set out.

Packing of Food.

Sec. 228-A. Packing of food; permit; inspection.—The commissioner shall, upon application for permit and receipt of such fee as he deems necessary from any food packer or processor, inspect all operations of said packer or processor for compliance with the provisions of the Maine food law and shall cause the same law to be diligently enforced. Each such permit shall cover one group of buildings constituting a packing plant in one location.

Only the holder of such a permit may mark or label any food so inspected as packed or processed or inspected and passed under provisions of the Maine food law.

Said commissioner may cancel any permit whenever there is a lack of compliance with the Maine food law. He shall establish such rules and regulations as he deems necessary. He shall make such charges as will be reasonable and as nearly as may be to cover the cost of the service rendered. All such fees and all such money thus collected for services rendered by the commissioner shall be paid by him to the treasurer of state. Said fees and money are appropriated for the purposes of this section.

The commissioner may employ such agents and assistants, subject to the provisions of the personnel law, and make such purchases as may be necessary in the performance of his duties. (1957, c. 261, § 1.)

Storage and Transportation of Frozen Foods.

Sec. 228-B. Storage and transportation of frozen foods.—No person, firm or corporation engaged in the business of freezing, storing or transporting frozen foods shall store or transport such foods within this state unless they are stored or transported under suitable refrigeration which shall insure good keeping qualities and under temperatures and holding conditions approved by the commissioner of agriculture.

The commissioner may, after public hearings, make reasonable regulations for the storing and transportation of frozen foods, including temperature control, sanitation and other matters in accordance with recognized standards necessary for the protection of public health and the preservation of such foods in wholesome condition.

Any person, firm or corporation who shall violate this section or any regulation made hereunder shall be punished by a fine of not more than \$100 for the first offense, and by a fine of not less than \$100 nor more than \$500 for each subsequent offense.

Nothing in this section shall be construed to apply to delivery by a retailer to the home of the purchaser. (1963, c. 186.)

Maine Commercial Feed Law.

Editor's note.—Public Laws 1957, c. 331, which inserted this subdivision, provided in § 10 thereof that this act should become effective January 1, 1958.

Sec. 236-A. Title.—Sections 236-A to 236-K, inclusive, shall be known as the "Maine Commercial Feed Law." (1957, c. 331, § 1.)

Sec. 236-B. Enforcing official.—Sections 236-A to 236-K, inclusive, shall

be administered by the commissioner of agriculture, hereinafter referred to as the "commissioner." (1957, c. 331, § 1.)

Sec. 236-C. Definitions.—As used in sections 236-A to 236-K, inclusive, the following words and phrases shall have the following meanings:

"Brand" means the term, design or trademark and other specific designation under which an individual commercial feed is distributed in this state.

"Commercial feed" means all materials which are distributed for use as feed for animals other than man except:

I. Unmixed whole seed and meals made directly from the entire seeds;

II. Unground hay;

III. Whole or ground straw, stover, silage, cobs and hulls when not mixed with other materials.

"Commissioner" means the commissioner of agriculture or his authorized agent. (1959, c. 31, § 1.)

"Distribute" means to offer for sale, sell, barter or otherwise supply commercial feeds.

"Distributor" means one who registers a commercial feed or feeds under the provisions of sections 236-A to 236-K, inclusive, or who offers for sale, sells, barter or otherwise supplies commercial feeds.

"Label" means a display of written, printed or graphic matter upon the container in which a commercial feed is distributed.

"Official sample" means any sample of commercial feed taken by the commissioner.

"Per cent" or "percentage" means percentage by weight.

"Person" includes individual, partnership, corporation, firm, association and agent.

"Sell" or "sale" includes exchange.

"Ton" means a net weight of 2,000 pounds avoirdupois. (1957, c. 331, § 1. 1959, c. 31, § 1.)

Effect of amendment.—The 1959 amendment inserted the definition of "Commissioner".

Sec. 236-D. Registration.—

I. Each brand of commercial feed shall be registered before being offered for sale, sold or otherwise distributed in this state. The application for registration shall be submitted to the commissioner on forms furnished by the commissioner, and shall be accompanied by a fee of \$20 per brand, and if the commissioner so requests shall also be accompanied by a label or other printed matter describing the product. Upon approval by the commissioner, a copy of the registration shall be furnished to the applicant. All registrations expire on December 31st of each year unless sooner cancelled. The fees so collected by the commissioner shall be deposited with the treasurer of state and appropriated for carrying out the provisions of sections 236-A to 236-K, inclusive, including the cost of inspection, sampling and analysis of commercial feed. Such funds shall not lapse, but shall remain a continuing carrying account.

The applications shall include the following information:

A. The name and principal address of the person guarantying the commercial feed;

B. The name or brand under which the commercial feed is to be sold;

C. The guaranteed analysis, listing the minimum percentage of crude protein, minimum percentage of crude fat and maximum percentage of crude fiber. For mineral feeds, the list shall include the following if added: Minimum and maximum percentage of calcium (Ca), minimum percentage of

phosphorus (P), minimum percentage of iodine (I) and minimum and maximum percentages of salt (NaCl). Other nutritional substances or elements, determinable by laboratory methods, may be guaranteed by permission of the commissioner. When any such other items are guaranteed, they shall be subject to inspection and analysis in accordance with the methods and regulations that may be prescribed by the commissioner. Products sold solely as mineral and vitamin supplements and guaranteed as specified in this section need not show guarantees for protein, fat and fiber;

D. The common or usual name of each ingredient used in the manufacture of the commercial feed.

II. A distributor shall not be required to register any brand of commercial feed which is already registered by another person.

III. Changes in the guarantee of either chemical or ingredient composition of a commercial feed may be permitted provided satisfactory evidence is submitted showing that such changes would not result in a lowering of the feeding value of the product for the purpose for which designed.

IV. The commissioner is empowered to refuse registration of any application not in compliance with all provisions of sections 236-A to 236-K, inclusive, and to cancel any registration when it is subsequently found to be in violation of any provision of sections 236-A to 236-K, inclusive, or when he has satisfactory evidence that the registrant has used fraudulent or deceptive practices in attempted evasion of the provisions of sections 236-A to 236-K, inclusive, or regulations thereunder. No registration shall be refused or cancelled until the registrant shall have been given opportunity to be heard before the commissioner. (1957, c. 331, § 1.)

Sec. 236-E. Labeling.—Any commercial feed offered for sale or sold or otherwise distributed in this state in bags, barrels or other containers shall have placed on or affixed to the container in written or printed form the net weight and the information required by paragraphs A, B, C and D of subsection I of section 236-D.

If distributed in bulk, a written or printed statement of the net weight and the information required by paragraphs A, B, C and D of subsection I of section 236-D shall accompany delivery and be furnished to the purchaser. (1957, c. 331, § 1.)

Sec. 236-F. Adulteration.—No person shall distribute an adulterated commercial feed. A commercial feed shall be deemed to be adulterated:

I. If any material or substance is present in such amounts to render it injurious to animal health when fed in accordance with directions for use on the label, if there be one;

II. If any valuable constituent has been in whole or part omitted or abstracted therefrom or any less valuable substance substituted therefor;

III. If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling;

IV. If it contains added hulls, screenings, straw, cobs or other high fiber material unless the name of each such material is clearly and prominently stated on the label;

V. If it contains more than 1% of weed seeds considered injurious to livestock or more than 15 viable weed seeds in the aggregate per ounce. (1957, c. 331, § 1. 1959, c. 31, § 2.)

Effect of amendment.—Prior to the 1959 adding of any poisonous, deleterious or amendment subsection I applied to the non-nutritive ingredient.

Sec. 236-G. Misbranding.—No person shall distribute misbranded feed. A commercial feed shall be deemed to be misbranded:

I. If its labeling is false or misleading in any particular;

II. If it is distributed under the name of another feed;

III. If its container is not labeled as required in section 236-E and in regulations prescribed under the provisions of sections 236-A to 236-K, inclusive;

IV. If it purports to be or is represented as a feed ingredient, or if it purports to contain or is represented as containing a feed ingredient, unless such feed ingredient conforms to the definition of identity, if any, prescribed by regulation of the commissioner; in the adopting of such regulations the commissioner shall give due regard to commonly accepted definitions such as those issued by the Association of American Feed Control Officials.

V. If any word, statement or other information required by or under authority of sections 236-A to 236-K, inclusive, to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

VI. If it is a brand of commercial feed which is not registered with the commissioner and the prescribed fee paid in accordance with section 236-D. (1957, c. 331, § 1.)

Sec. 236-H. Inspection, sampling and analysis.—It shall be the duty of the commissioner to inspect and sample for analysis in accordance with section 208, commercial feeds distributed within this state at such time and place to such an extent as he may deem necessary to determine whether such commercial feeds are in compliance with the provisions of sections 236-A to 236-K, inclusive. The commissioner is authorized to enter upon any public or private premises during regular business hours in order to have access to commercial feeds subject to the provisions of sections 236-A to 236-K, inclusive, and the rules and regulations pertaining thereto.

The methods of sampling and analysis shall be those adopted from sources such as the Journal of the Association of Official Agricultural Chemists.

The commissioner, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided solely by the official sample as defined in section 236-C and obtained and analyzed as provided for in the first 2 paragraphs of this section.

When the inspection and analysis of an official sample indicate a commercial feed has been adulterated or misbranded, the results of analysis shall be forwarded by the commissioner to the distributor or manufacturer. Upon request within 30 days, the commissioner shall furnish to the registrant a portion of the samples concerned. (1957, c. 331, § 1.)

Sec. 236-I. Regulations, standards and definitions.—The commissioner is charged with the enforcement of the provisions of sections 236-A to 236-K, inclusive, and after due public hearing is empowered to promulgate and adopt such reasonable rules and regulations as may be necessary to carry into effect the full intent and meaning of sections 236-A to 236-K, inclusive. The commissioner is empowered to adopt regulations establishing definitions and standards for commercial feed ingredients and such other regulations as may be necessary for the enforcement of any provision of sections 236-A to 236-K, inclusive. (1957, c. 331, § 1.)

Sec. 236-J. Detained commercial feeds.—

I. "Withdrawal from sale" orders. When the commissioner has reasonable cause to believe a commercial feed is being distributed in violation of any of the provisions of sections 236-A to 236-K, inclusive, or of any of the prescribed regulations under sections 236-A to 236-K, inclusive, he may issue and enforce a written or printed "withdrawal from sale" order warning the distributor not to dispose of the feed in any manner until written permission is given by the

commissioner or the court. The commissioner shall release the commercial feed so withdrawn when the provisions and regulations have been complied with and all costs and expenses incurred in the withdrawal have been paid. If compliance is not obtained within 30 days, the commissioner may begin proceedings for condemnation.

II. Condemnation and confiscation. Any lot of commercial feed not in compliance with the provisions of sections 236-A to 236-K, inclusive, shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which said commercial feed is located. In the event the court finds the said commercial feed to be in violation of the provisions of sections 236-A to 236-K, inclusive, and orders the condemnation of said commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state. In no instance shall the disposition of said commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial feed or for permission to process or re-label said commercial feed to bring it into compliance with the provisions of sections 236-A to 236-K, inclusive. (1957, c. 331, § 1.)

Sec. 236-K. Penalties.—Any person, firm or corporation violating any of the provisions of sections 236-A to 236-K, inclusive, or any rule or regulation duly promulgated thereunder, or neglecting or refusing to comply with the provisions thereof shall be punished by a fine of not more than \$100 for the first offense and not more than \$200 for each subsequent offense.

Nothing in sections 236-A to 236-K, inclusive, shall be construed as requiring the commissioner to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the provisions of sections 236-A to 236-K, inclusive, when he believes that the public interests will be best served by a suitable notice of warning in writing. (1957, c. 331, § 1.)

Maine Economic Poisons Law.

Sec. 238. Definitions.—As used in sections 237 to 247, the following words and phrases shall have the following meanings:

I. Active ingredient. "Active ingredient" means:

A. In the case of an economic poison other than a plant regulator, defoliant or desiccant, an ingredient which will prevent, destroy, repel or mitigate insects, nematodes, fungi, rodents, weeds or other pests;

B. In the case of a plant regulator, an ingredient which, through physiological action will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof;

C. In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant;

D. In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

II. Adulterated. "Adulterated" shall apply to economic poison if its strength or purity falls below the professed standard or quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted.

III. Antidote. "Antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment.

IV. Commissioner. "Commissioner" means the commissioner of agriculture or his authorized agents.

V. Defoliant. "Defoliant" means any substance or mixture of substances in-

tended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

VI. Desiccant. "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissues.

VII. Device. "Device" means any instrument or contrivance intended for trapping, destroying, repelling or mitigating insects or rodents or destroying, repelling or mitigating fungi, weeds, nematodes or such other pests as may be designated by the commissioner, but not including equipment used for the application of economic poisons when sold separately therefrom.

VIII. Economic poison. "Economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects, rodents, nematodes, fungi, weeds or other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the commissioner shall declare to be a pest and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

IX. Fungi. "Fungi" means all non-chlorophyll-bearing thallophytes, that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts, as, for example, rusts, smuts, mildews, molds, yeasts and bacteria, except those on or in living man or other animals.

X. Fungicide. "Fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any fungi.

XI. Herbicide. "Herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed.

XII. Inert ingredient. "Inert ingredient" means an ingredient which is not an active ingredient.

XIII. Ingredient statement. "Ingredient statement" means either a statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients in the economic poison, which ingredient statement must be used if the preparation is highly toxic to man; or a statement of the name of each active ingredient, together with the name of each and total percentage of the inert ingredients if there are any in the economic poison; and in addition, in case the economic poison contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

XIV. Insect. "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising 6-legged, usually winged forms, as beetles, bugs, bees and flies, and to other allied classes of arthropods whose members are wingless and usually have more than 6 legs, as spiders, mites, ticks, centipedes and wood lice.

XV. Insecticide. "Insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects which may be present in any environment whatsoever.

XVI. Label. "Label" means the written, printed or graphic matter on, or attached to, the economic poison or device or the immediate container thereof, and the outside container or wrapper of the retail package of the economic poison or device.

XVII. Labeling. "Labeling" means all labels and other written, printed or graphic matter upon the economic poison or device or any of its containers or wrappers accompanying the economic poison or device at any time to which reference is made on the label or in literature accompanying the economic poison or device, except when accurate, non-misleading reference is made to current official publications of the federal government, state experiment stations or any other similar federal or state institutions or official agencies authorized by law to conduct research in the field of economic poisons.

XVIII. Misbranded. "Misbranded" shall apply to any economic poison or device if:

A. Its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

B. It is an imitation of or is offered for sale under the name of another economic poison or device;

C. The labeling accompanying it does not contain instructions for use which are necessary and, if complied with, adequate for the protection of the public;

D. This labeling bears any reference to registration under this chapter;

E. The label does not contain a warning or caution statement which may be necessary and, if complied with, adequate to prevent injury to living man and other vertebrate animals;

F. The label of the retail package which is presented or displayed under customary conditions of purchase does not bear an ingredient statement, unless the outside container or wrapper is of such material that the ingredient statement on the immediate container can be clearly read;

G. Any required word, statement or other information is not prominently placed on the label with such conspicuousness as compared with other words, statements, designs or graphic matter in the labeling and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

H. In the case of an insecticide, rodenticide, fungicide, herbicide or nematocide, when used as directed or in accordance with commonly recognized practice, it shall be injurious to living man or other vertebrate animals or vegetation, except weeds, to which it is applied, or to the person applying such economic poison;

I. In the case of a plant regulator, defoliant or desiccant when used as directed it shall be injurious to living man or other vertebrate animals, or vegetation to which it is applied, or to the person applying such economic poison. Physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when this is the purpose for which the plant regulator, defoliant or desiccant was applied, in accordance with the label claims and recommendations; or

J. Distributed in bulk and a written or printed statement of the information required on labels of economic poisons in packaged form does not accompany delivery and is not supplied to the purchaser at the time of delivery.

XIX. Nematocide. "Nematocide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating nematodes.

XX. Nematode. "Nematode" means invertebrate animals of the phylum nemathelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms.

XXI. Person. "Person" means any individual, partnership, association, corporation or organized group of persons whether incorporated or not.

XXII. Plant regulator. "Plant regulator" means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants and soil amendments.

XXIII. Registrant. "Registrant" means the person registering any economic poison pursuant to sections 237 to 247.

XXIV. Rodenticide. "Rodenticide" means any substance or mixture of sub-

stances intended for preventing, destroying, repelling or mitigating rodents or any other vertebrate animal which the commissioner shall declare to be a pest.

XXV. Weed. "Weed" means any plant which grows where not wanted. (1951, c. 205, § 1. 1961, c. 56, § 1.)

Effect of amendment.—The 1961 amendment assigned subsection numbers to the definitions, rewrote subsection I, added subsections IV to VII, inserted "nematodes" in subsection VIII and added "and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant" at the end of that subsection, inserted "or device" following "economic poison" twice in subsection XVI and three times in subsection XVII,

redesignated former subsections I to VIII of the definition of "misbranded" as paragraphs A to H of subsection XVIII, added "or device" at the end of paragraph B of subsection XVIII, deleted "the provisions of" in paragraph D of that subsection, inserted "or nematocide" in paragraph H of that subsection, added paragraphs I to J to that subsection, and added subsections XIX to XXIII.

Sec. 242. Powers of commissioner; rules and regulations.—The commissioner is authorized to make necessary rules and regulations for carrying out sections 237 to 247, including rules and regulations providing for the collection and examination of samples of economic poisons or devices; and, after opportunity for a hearing, to declare as a pest any form of plant or animal life or virus which is injurious to plants, men, domestic animals, articles or substances; to determine whether economic poisons are highly toxic to man; to determine standards of coloring or discoloring for economic poisons; and to subject economic poisons to all the requirements of this chapter. (1951, c. 205, § 1. 1961, c. 56, § 2.)

Effect of amendment.—The 1961 amendment inserted "or devices" preceding the first semicolon.

Sec. 243. Prohibitions.

V. Adulterated or misbranded. Any economic poison which is adulterated or misbranded or any device which is misbranded. (1961, c. 56, § 3.)

Effect of amendment.—The 1961 amendment added "or any device which is misbranded" at the end of subsection V.

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 246. Seizure; forfeiture.—Any economic poison or device that is distributed, sold, offered for sale within this state, or delivered for transportation or transported in intrastate or interstate commerce, not in compliance with sections 237 to 247, shall be subject to seizure on complaint of the commissioner to any court of competent jurisdiction in the locality where it may be found. If the court finds the economic poison or device to be in violation of sections 237 to 247, and orders its condemnation, it shall be denatured, processed, relabeled, destroyed or otherwise disposed of as provided in sections 237 to 247. In no instance shall the court order such disposition of economic poisons or devices without first having given the claimant an opportunity to apply to the court for the release of said economic poisons or devices or permission to process or relabel them to bring them into compliance with sections 237 to 247. (1951, c. 205, § 1. 1961, c. 56, § 4.)

Effect of amendment.—The 1961 amendment divided the former second sentence into two sentences, inserted "or device"

twice and "or devices" twice and made other minor changes.

Sec. 247. Cooperation with federal government and other states.—In order to avoid confusion endangering the public health resulting from diverse requirements, particularly as to the labeling and coloring of economic poisons; to avoid increased costs to the people of this state due to the necessity of com-

plying with diverse requirements in the manufacture and sale of such poisons; and to secure uniformity between the requirements of the several states and the federal government relating to such poisons, the commissioner is authorized to cooperate with and, after due public hearing, to adopt such rules and regulations, applicable to and in conformity with the primary standards established, as have been or may be prescribed by the federal government or any other state, or agency thereof, with respect to economic poisons or devices. (1951, c. 205, § 1. 1961, c. 56, § 5.)

Effect of amendment.—The 1961 amendment added “or devices” at the end of this section.

Slaughterhouses and Meat Processing Plants.

Sec. 248. Licenses for slaughterhouses and meat processing plants; registration of custom slaughterhouses; carcasses stamped; destruction of carcasses. — No person, firm, partnership, corporation, association or society shall operate a slaughterhouse or meat processing plant within the state unless such person, firm, partnership, corporation, association or society be licensed by the commissioner. 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; nor of the farmer or other person who raises and slaughters his own poultry for consumption or sale; nor a custom slaughterhouse, nor a custom meat processing plant. 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 first 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 one year from the first day of August in each year, or unless sooner revoked as provided in section 249. The owner of a custom slaughterhouse or custom meat processing plant shall register with the commissioner annually on August 1st on forms supplied by the commissioner signifying intent to operate his establishment in accordance with the definition of custom slaughterhouse or custom meat processing plant as defined in section 250.

All carcasses of meat from animals, except poultry, that are slaughtered in a licensed slaughterhouse in Maine and which are to be used for human consumption shall be stamped with the license number issued by the commissioner to the licensed establishment, type and design of stamp to be approved by the commissioner. The meat shall be stamped on all parts that are to be portioned in wholesale cuts and the edible meat by-products shall be so stamped. The provisions of the stamping requirement shall not apply to meat or meat by-products held for custom processing, storage, packaging or freezing for owners of the products which shall not be for sale, and shall be marked with the name and address of the owner. No person, firm, partnership, corporation, association or society shall have in his possession for sale, sell, offer or expose for sale or hold for further processing for subsequent sale any meat or meat by-products, except poultry, which comes from carcasses or parts not bearing approved state or federal marks. All carcasses of meats or parts, except poultry, found in wholesale or retail sales outlets which do not bear the approved state or federal marks may be condemned for sale and destroyed for food purposes.

Any slaughterhouse operator shall call a veterinarian or state inspector to examine any animal or carcass and its parts to determine the wholesomeness

and fitness for food whenever the operator notices there is an abnormality which may cause the animal or its carcass to be unacceptable for human food. Any carcass or parts determined to be unfit for human consumption shall be destroyed for human food by the slaughterhouse operator, under the supervision of the examiner of the meat. (R. S. c. 27, § 188. 1951, c. 219. 1955, c. 107, § 1. 1959, c. 357, § 1. 1963, c. 89, § 1.)

Effect of amendments.—The 1955 amendment rewrote the first paragraph.

The 1959 amendment rewrote this section.

The 1963 amendment, applicable only to Washington county and which shall expire December 31, 1965, added "or sale" following "consumption" and substituted

"this being incidental to his general livelihood" for "by himself or his family" in the second sentence.

Application of 1963 act to Washington County only; expiration date.—Section 2 of P. L. 1963, c. 89, provides that such act shall apply only to Washington county and shall expire December 31, 1965.

Sec. 249. Revocation and suspension of license; appeals; hearing.—

The commissioner shall have the power to revoke or suspend any license issued under the provisions of sections 248 to 254, inclusive, whenever it is determined by himself or any of his deputies that any of said provisions have been violated. Any person, firm, partnership, corporation, association or society whose license has been revoked or suspended shall discontinue slaughtering, butchering, operating and processing 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 sections 248 to 254, inclusive, as hereinafter provided, or permanently for the unexpired period of such license. Before revoking or suspending any license, the commissioner shall give written notice to the licensee affected stating that he contemplates the revocation or suspension of the same and giving his reasons therefor; such notice shall appoint a time for hearing before said commissioner. On the date of hearing the licensee may present such evidence to the commissioner as he deems fit, and after hearing all the testimony, the said commissioner shall decide as to whether the license shall be revoked or not. Any licensee who is aggrieved by the decision of the commissioner may within 10 days thereafter appeal to the superior court by filing a complaint. The court shall fix a time and place for hearing and cause notice thereof to be given to the said commissioner. After hearing, the court may affirm or reverse the decision of said commissioner and the decision of the court shall be final. Pending judgment of such court, the decision of such commissioner shall remain in full force and effect. The commissioner shall, within 3 days after notice of such appeal, forward to such court a certified copy of the proceedings. (R. S. c. 27, § 189. 1961, c. 317, § 73; c. 417, § 101.)

Effect of amendments.—P. L. 1961, c. 317, § 73 substituted "the superior court by filing a complaint" for "any justice of the superior court by presenting to him a petition therefor, in term time or vacation" at the end of the sixth sentence of this section, divided the former seventh sentence into two sentences, substituted "the court"

for "such justice" in three places in those sentences and deleted "which may be in term time or vacation" following "place for hearing" in the present seventh sentence. P. L. 1961, c. 417, § 101, substituted "court" for "justice" in the present ninth and tenth sentences.

Sec. 250. Definitions.—The term "slaughterhouse" shall mean any establishment wherein animals or poultry are slaughtered for human consumption except custom slaughterhouse.

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 except custom meat processing plant.

The term "custom slaughterhouse" or "custom meat processing plant" shall mean an establishment in which animals are slaughtered or products processed for owners for consumption by the owner or his family. Carcasses slaughtered or products processed in such establishments shall not be stamped or sold in trade. Such establishments shall display at all times, a sign in the slaughtering room or processing room, in a conspicuous manner stating in block letters 2 inches high CARCASSES (OR PRODUCTS) PROCESSED HERE NOT LEGAL FOR SALE.

The term "humane method" shall mean a method whereby the animal, other than poultry, is rendered insensible to pain by mechanical, electrical, chemical or other means that is rapid and effective, before being shackled, hoisted, thrown, cast or cut; or a method of slaughtering, including handling and other preparation for slaughtering, required by or used in connection with the ritual of the Jewish faith or any other religious faith whereby the animal suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument.

The term "commissioner" shall mean the commissioner of agriculture or his authorized agent. (R. S. c. 27, § 190. 1955, c. 107, § 2. 1959, c. 357, § 2. 1961, c. 161, § 1.)

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

The 1959 amendment again rewrote this section, excepting custom slaughterhouses and meat processing plants from the first and third paragraphs and adding the fourth paragraph.

The 1961 amendment added the fifth and the last paragraphs.

Editor's note.—Section 4 of c. 161, P. L. 1961, amending this section, provides: "This act shall be in effect on and after July 1, 1962. The commissioner, by administrative order, may exempt from compliance with this act for a period not to exceed one year after July 1, 1962, if he finds that earlier compliance would cause any person an undue hardship."

Sec. 251. Sanitary requirements; equipment; advertising and labels; regulations; inspection; humane methods.—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 manner as to protect them from rapid decomposition, adulteration or contamination.

Licensed slaughterhouses shall be equipped with a refrigerated room of sufficient size for the immediate cooling of freshly slaughtered carcasses. Both hot and cold water, clean and potable, shall be distributed through the plant under adequate pressure and in quantities sufficient for all operating needs, including attached hose connections installed conveniently for cleaning purposes. There shall be an approved type of sink with hot and cold water for washing of equipment. Lavatory and toilet facilities shall be available on the premises and installed in compliance with the rules and regulations of the Maine department of health and welfare.

Meat or meat products for which a definition of standard of quality and identity has been established under this chapter shall be identified when sold or offered for sale with the common or usual name of the product and type or grade, and such other labeling information as is required by the regulations.

Meat or meat products for which a definition of standard of quality and identity has been established under this chapter shall be identified in any advertisement with the common or usual name followed by the type or grade, when applicable.

The commissioner shall promulgate regulations for carrying out the provisions of sections 248 to 254, fix standards of quality and identity for meat and

meat products, and by adequate inspection, enforce the provisions of sections 248 to 254.

The commissioner shall, after hearing, promulgate regulations governing humane method of slaughter and may from time to time revise regulations which shall conform substantially to the rules and regulations promulgated by the Secretary of Agriculture of the United States pursuant to the Federal Humane Slaughter Act of 1958, public law 85-765, 72 Stat. 862, and any amendments thereto. The use of a manually operated hammer, sledge or poleax shall not be deemed to be a humane method of slaughter within the meaning of sections 248 to 254. Any state humane agent may witness the slaughtering methods in any licensed slaughterhouse and may report to the commissioner who may permit said agent to submit testimony at a hearing held under section 249.

It shall be unlawful in any licensed slaughterhouse to shackle, hoist or otherwise bring animals, other than poultry, into position for slaughter by any method which shall cause injury or pain, nor bleed or slaughter any animals, other than poultry, except by a humane method. This paragraph shall not apply to animals slaughtered by or for the owner, the meat and meat products from which are not sold or offered for sale. (R. S. c. 27, § 191. 1955, c. 107, § 3. 1959, c. 357, § 3. 1961, c. 161, § 2.)

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

Prior to the 1959 amendment, the present fifth paragraph constituted the last sentence of the first paragraph. The amendment also inserted the present second, third and fourth paragraphs.

The 1961 amendment added the sixth and the last paragraphs.

Editor's note.—Section 4 of c. 161, P. L. 1961, amending this section, provides: "This act shall be in effect on and after July 1, 1962. The commissioner, by administrative order, may exempt from compliance with this act for a period not to exceed one year after July 1, 1962, if he finds that earlier compliance would cause any person an undue hardship."

Sec. 254. Penalty.—Any person, firm, partnership, corporation, association or society who shall conduct, operate or manage a slaughterhouse or slaughter animals in a slaughterhouse without the license provided for in section 248, or who shall violate any of the provisions of sections 248 to 254, or neglect or refuse to comply with any of the provisions thereof, or sells, offers for sale, keeps with intent to sell, transports or gives away any carcass or part thereof, or any meat product for human food that is not sound, healthful, wholesome and fit for human food, shall be punished by a fine of not more than \$100 for the first offense, and not more than \$200 for each subsequent offense.

(1959, c. 357, § 4.)

Effect of amendment.—The 1959 amendment rewrote the first paragraph and struck out the second paragraph of this

section. Since the third paragraph was not affected by the amendment, it is not set out.

Sec. 254-A. Ritual slaughter.—Nothing contained in sections 248 to 254 shall be construed to prohibit, abridge or in any way hinder the religious freedom of any person or group. In order to protect freedom of religion, ritual slaughter and the handling or other preparation of livestock for ritual slaughter are exempted from the terms of sections 248 to 254. For the purposes of this section the term "ritual slaughter" means slaughter in accordance with the ritual requirements of a religious faith. (1961, c. 161, § 3.)

Editor's note.—Section 4 of c. 161, P. L. 1961, adding this section, provides: "This act shall be in effect on and after July 1, 1962. The commissioner, by administrative order, may exempt from com-

pliance with this act for a period not to exceed one year after July 1, 1962, if he finds that a earlier compliance would cause any person an undue hardship."

Horse Meat.**Sec. 255. Sale of horse meat.**

Any person, firm or corporation who shall violate any of the provisions of this section shall be punished by a fine of not more than \$100 for the first offense and by a fine of not more than \$200 for each subsequent offense, and the district and superior courts shall have concurrent jurisdiction of the offense. (R. S. c. 27, § 195. 1963, c. 402, § 65.)

Effect of amendment.—The 1963 amendment substituted "district" for "municipal" near the end of the last paragraph.

Application of 1963 act.—See note to § 9.

Packing of Food.

Secs. 256, 257. Repealed by Public Laws 1957, c. 261, § 2.

Cross reference.—For present provision re packing of food, see c. 32, § 228-A.

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, except that in the year 1961 said license shall run from April 15th to December 31st, unless sooner revoked as herein provided, and except that in the year 1962 said license shall run from January 1st to December 31st, unless sooner revoked. 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. 1961, c. 401, § 1.)

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

ber 30, 1961, added the exception to the third sentence.

The 1961 amendment, effective Novem-

Sec. 259. Repeal, revocation or refusal to issue 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, 1958, the commissioner may 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. Certificates shall be issued only to those packers who make written request to the commissioner, which requests must state that the applicant applies for certificates for the entire seasonal output of the year in which the application is made, or for the entire output of the balance of such season if the application is made after the season has begun, and such application shall include all plants operated by the individual, corporation or company making the application.

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 proper officer of the district 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. 1957, c. 92, § 1. 1963, c. 402, § 66.)

Effect of amendments. — The 1955 amendment repealed the former first paragraph of this section and enacted the present first, second and third paragraphs in place thereof. It also added the last three paragraphs.

The 1957 amendment rewrote the third paragraph.

The 1963 amendment substituted "proper officer of the district court" for "judge of a municipal court" in the next to the last paragraph.

Application of 1963 act.—See note to § 9.

Sec. 262. Fees; disposition.—Each packer shall pay monthly, not later than the 10th day of each month, 3¢ per case on the amount of sardines packed during the previous month, toward the cost of maintaining the inspection provided for in section 261 and as a part of the fee for obtaining and retaining his license. The inspection fee provided for may be increased by the commissioner after consultation with the sardine industry advisory board to an amount not to exceed 8¢ per case, in the event the fee of 3¢ per case is not adequate to cover the cost of such inspection, but such increased fee shall be reasonable and shall cover as nearly as may be possible the cost of such inspection. All license fees and all money received under the provisions of sections 258 to 267, inclusive, by the commissioner shall be paid by him to the treasurer of state and the same are hereby appropriated for carrying out the provisions of sections 258 to 267, inclusive, and for no other purpose. (R. S. c. 27, § 202. 1945, c. 78, § 1. 1953, c. 171, § 3. 1957, c. 92, § 2. 1961, c. 34.)

Effect of amendments. — The 1957 approval, February 21, 1961, substituted amendment inserted the second sentence. "8¢" for "5¢" in the second sentence. The 1961 amendment, effective on its

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 oil feeding device or mechanism shall deliver to the $\frac{1}{4}$ size keyless cans oil at a rate of not less than 19.66 cubic centimeters of oil per can. The minimum count of fish for $\frac{3}{4}$ size cans shall be 4 fish. The mustard sauce feeding device or mechanism shall deliver to the $\frac{3}{4}$ size cans mustard sauce at a rate of not less than 2 ounces of mustard sauce per can and the tomato sauce feeding device or mechanism shall deliver tomato sauce to the $\frac{3}{4}$ size cans at a rate of not less than 2 ounces of tomato sauce per can. The mustard sauce feeding device or mechanism shall deliver mustard sauce to all $\frac{1}{4}$ size cans at a rate of not less than one ounce of mustard sauce per can and the tomato sauce feeding device or mechanism shall deliver tomato sauce to all $\frac{1}{4}$ size cans at a rate of not less than one ounce of tomato sauce per can. After the packing process is completed, the fish sealed in the cans shall be free from defects, no detached heads or tails present. 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. It shall be unlawful to place covers indicating the contents as 4 fish or 4 sardines on cans containing more than 4 fish. The shipping containers used for cans which indicate the contents as 4 fish or 4 sardines shall be plainly and conspicuously marked with letters no less than $\frac{1}{2}$ inch in height with the words 4 fish cans. It shall be unlawful to place cans containing more than 4 fish in shipping containers marked with the words 4 fish cans.

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 oil feeding device or mechanism shall deliver oil to all $\frac{1}{4}$ size key cans at a rate of not less than 24.5 cubic centimeters of oil per can. The minimum count for $\frac{3}{4}$ size cans shall be 4 fish. The mustard sauce feeding device or mechanism shall deliver mustard sauce to all $\frac{1}{4}$ size key

cans at a rate of not less than one ounce of mustard sauce per can and shall deliver mustard sauce to all $\frac{3}{4}$ size cans at a rate of not less than 2 ounces of mustard sauce per can. The tomato sauce feeding device or mechanism shall deliver tomato sauce to all $\frac{1}{4}$ size key cans at a rate of not less than one ounce of tomato sauce per can and shall deliver tomato sauce to all $\frac{3}{4}$ size cans at a rate of not less than 2 ounces of tomato sauce per can. 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 sardines, the quality of the vegetable salad oil used shall be a pure, edible vegetable oil, which shall be clear and thoroughly refined. It shall be a deodorized oil free from rancidity, objectionable flavor and shall satisfactorily stand the 5-hour cold test, so called. Its color shall not be darker than 7 lovibond units. The oil shall have a free fatty acid content of not more than .07% and shall retain a satisfactory flavor after heating to 400° Fahrenheit. In packing all sardines, the olive oil used shall possess a typical greenish to light yellow color and shall possess a free fatty acid content, calculated as oleic, of not more than 1.4%. The olive oil shall be free of defects and possess a good typical odor and a good typical flavor. In packing all sardines, the tomato sauce used shall possess a fairly good red tomato color and shall be free of defects and shall possess a fairly good tomato puree (tomato pulp) flavor. It shall have not less than 8.37% salt-free tomato solids and a specific gravity of not less than 1.035.

The minimum count of fish, which may be any size, per #1 oval can, commonly known as a one 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 device or mechanism feeding oil, mustard sauce, tomato sauce or other packing medium shall deliver the mustard sauce, tomato sauce, oil or other packing medium to all #1 oval cans, commonly known as one pound or 15-ounce oval cans, at a rate of not less than 2 ounces per can.

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 device feeding mustard sauce, tomato sauce, oil or other packing medium shall deliver mustard sauce, tomato sauce, oil or other packing medium to all 8-ounce oval cans at a rate of not less than one ounce per can. Sardines thus packed shall be plainly and conspicuously marked "MAINE SARDINES."

Fish packed which do not comply with sections 258 to 267 and which do not comply with the official standards of grade promulgated by the commissioner shall not be sold in the United States, its territories or possessions, unless each can in said cases is plainly and conspicuously marked with the word "herring". Neither the word "sardine" nor the word "sardines" shall appear on the case or on the cans.

Sardines which are officially designated as substandard grade, for which a certificate is issued, shall not be sold in the United States, its territories or possessions, unless each can in the lot has the words "substandard grade, good food — not high quality" so placed as to be easily seen when the name of the product or pictorial representation thereof is viewed, and appear conspicuously enough to be seen under ordinary conditions of purchase. The words "substandard grade, good food — not high quality" shall be printed in 2 lines across the cover of all cans in letters not less than $\frac{1}{8}$ of an inch in height and be enclosed in lines which are not less than $\frac{1}{32}$ of an inch in width. The above wording shall be printed on all wrappers, labels, cartons or other outer coverings of the cans with a permanent type of indelible ink, or by means of other approved procedure. The words "substandard grade" shall appear in letters not less than one inch in height on both ends of the shipping container.

The commissioner, or any duly authorized agent of the commissioner, shall detain or place an embargo upon sardines officially designated as substandard grade, for which a certificate is issued, by marking or tagging the same 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. Such sardines shall be detained or placed under embargo until the goods are marked in accordance with this section or the commissioner has received a bond covering the export provisions of this section.

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. 1957, c. 92, § 3. 1959, c. 243, § 1. 1961, c. 33.)

Effect of amendments.—The first 1955 amendment revised sentences in the first three paragraphs and added the last three paragraphs. The second 1955 amendment added a sentence in the first paragraph. The 1957 amendment, which became effective on its approval, March 29, 1957,

rewrote the former first six paragraphs which now appear as the first five paragraphs.

The 1959 amendment repealed the former sixth paragraph and inserted in lieu thereof the present sixth, seventh and eighth paragraphs.

The 1961 amendment added the last three sentences in the first paragraph. This section became effective on its approval, April 29, 1959.

Effective date.—The 1959 act amending

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 c⁺ 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.)

Trademarks Under Maine Sardine Tax Law.

Sec. 267-B. Trademarks.—In order to carry out better the objectives of the Maine sardine tax law, the Maine sardine council may develop and register trademarks. The commissioner of agriculture may delegate to the Maine sardine council the authority to regulate the use of the state of Maine trademark when used in the processing and sale of Maine sardines. (1963, c. 366.)

Sec. 267-C. License.—After notice of establishment of a trademark by the council, it shall be unlawful to use such trademark without first securing a permit or license from the Maine sardine council. Any violations of this section shall be punishable for the first offense by a fine of not more than \$50 and for each subsequent offenses [offense by] a fine of not more than \$200. (1963, c. 366.)

Sec. 267-D. Price.—The Maine sardine council shall have the authority to establish minimum prices for which canned sardines bearing a council regulated trademark may be sold by a processor. (1963, c. 366.)

Sec. 267-E. Rules and regulations.—The Maine sardine council may prescribe rules and regulations for carrying out the purposes of sections 267-B to 267-G, and may issue licenses to processors who request authority to use the trademark and who shall abide by such rules and regulations. The council may charge a fee on a case basis for the use of trademarks established by the council or of the state of Maine trademark used on canned sardines. The council shall have the right to cancel any license, for a period of time to be determined by the council, for failure to abide by the rules and regulations prescribed by the council; and the council shall have the right to cancel all outstanding licenses

at any time that the council deems such action necessary to the best interest of the sardine industry as a whole. (1963, c. 366.)

Sec. 267-F. Fees.—All fees charged for use of the trademarks and from the issuance of licenses shall be paid to the treasurer of state and the same are appropriated for carrying out sections 267-B to 267-G, and for promoting the prosperity of this state and the sardine industry by fostering and promoting better methods of processing, merchandising and advertising of Maine sardines under the direction of the Maine sardine council. (1963, c. 366.)

Sec. 267-G. Enforcement; jurisdiction.—The council or a duly authorized representative may recover penalties imposed for violation of section 267-C in a civil action brought in the name of the council, and if it prevails in such action shall recover full costs; or the council may prosecute for violations thereof by complaint or indictment. The district court and the superior court shall have concurrent jurisdiction of actions brought for the recovery of penalties imposed by section 267-C, and of prosecutions for violations thereof. All fines received under section 267-C by county treasurers shall be paid by them to the treasurer of state and the same are appropriated for carrying out sections 267-B to 267-G. (1963, c. 366.)

Packing of Apples.

Sec. 269. Standard grades established.—The grades for apples recommended by the United States department of agriculture and recognized in the central markets of the country as government grades and such other grades or standards as may be promulgated by the commissioner under the provisions of sections 32 to 38, inclusive, are made the official state grades for apples of the state presented for intrastate or interstate shipment. All containers as presented for shipment whether by truck, train or boat shall have written, stamped or attached thereon the provisions required in section 270. (R. S. c. 27, § 208. 1949, c. 312, § 1. 1953, c. 206, § 3. 1957, c. 223, § 2.)

Effect of amendment. — The 1957 amendment made two sentences of the former first sentence and inserted the clause "and such other grades or stand- ards as may be promulgated by the commissioner under the provisions of sections 32 to 38, inclusive," in the present first sentence.

Sec. 270. Marks required on outside of package; sale in bulk or in open packages.—Every closed package or container of apples, which is packed, sold, distributed, 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 stating the name and address of the owner or shipper of the apples at the time of packing, the name of the variety, the class or grade of the apples contained therein and the minimum size or the numerical count of the apples in the packages, together with the minimum volume of the apples in the container. If the apples were grown in Maine, that fact shall be plainly designated.

(1961, c. 32, § 1.)

Effect of amendment.—The 1961 amendment divided the first paragraph into two sentences, substituted "apples" for "fruit" preceding "in the packages" and made a change in the location of the words "or

the numerical count" in the present first sentence.

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 272-A. Advertising.—When apples are advertised for sale by radio, television, newspapers or any other medium in which the price is to be quoted, such advertisement must state the correct grade, size and variety.

No signs, flyers, advertisements or false labels shall be used to sell or offer for sale or expose for sale any apples which do not conform to the standards as established in section 269. When signs, flyers or posters are used to advertise the

price of apples, the variety, size or numerical count, and grade must be shown on such signs, flyers and posters. (1957, c. 223, § 3. 1961, c. 32, § 2.)

Effect of amendment.—The 1961 amendment added “or numerical count” in the last sentence.

Sec. 273. Sale and movement of apples.—No person, firm or corporation shall within this state sell, distribute, transport, offer or expose for sale, distribution or transportation any apples that do not conform to the apple grades established in section 269. Nothing in this section shall apply to any person, firm or corporation supplying apples consigned to a processing plant for use therein. No provisions of sections 268 to 276, inclusive, shall be construed to prevent a grower or shipper of apples from delivering the same to a packing house for grading or to a processing plant or cold storage plant where apples are stored and prepared for market. Apples which do not meet the established grades or classifications as provided by section 269 may be sold as culls provided the package or container is conspicuously marked with the word “culls”. The commissioner shall diligently enforce the provisions of this section and in person or by deputy shall have free access, ingress and egress at all reasonable hours to any place or any building wherein apples are stored, transported, sold, offered or exposed for sale or for transportation. He may also in person or by deputy upon tendering the market price take samples of apples therefrom. (R. S. c. 27, § 212. 1957, c. 223, § 4.)

Effect of amendment. — The 1957 amendment deleted the words “were grown outside of the state, which” formerly preceding the words “do not conform” in the first sentence, made a former proviso of the first sentence into a separate sentence, and inserted the present third and fourth sentences.

Controlled Atmosphere Storage of Apples.

Sec. 276-A. Sale, exchange or transport of “controlled atmosphere” apples.—No person shall sell or exchange or offer or expose for sale or exchange or transport for sale any apples represented as having been exposed to “controlled atmosphere,” “modified atmosphere,” alone or with other words, or shall so use any such term or form of words or symbols of similar import on any container or lot of apples advertised, sold, offered for sale or transported for sale within this state unless such apples have been kept in a room or storage building with not more than 5% oxygen for a minimum of 90 days. (1961, c. 31, § 1.)

Sec. 276-B. Registration.—Any person owning or operating a controlled atmosphere room or storage building or packers or repackers of apples coming under section 276-A shall register with the commissioner on a form prescribed by the commissioner. The registration period shall commence on August 1st and end on July 31st of each year. Owners or operators of such a room or storage building shall register on or before August 1st of each year except the registration period for apples grown in 1961 shall commence on November 1, 1961 and end on July 31, 1962.

The commissioner shall assign each approved registrant a registration number preceded by the letters “Maine C. A.” This number shall be clearly marked on all containers coming under section 276-A and shall be in accordance with all provisions of law pertaining to markings for apples. (1961, c. 31, § 1.)

Sec. 276-C. Air components determinations.—Each owner or operator shall make the required air components determinations daily. The percent of oxygen shall be reduced to 5% within 20 days after date of sealing. (1961, c. 31, § 1.)

Sec. 276-D. Records.—A record on a form approved by the commissioner

shall be kept at a convenient location adjacent to said room or storage building from the day of sealing to the day of opening of said room or storage building, and shall be subject to review by the commissioner or his authorized agents at any time for a period of at least one year. It shall include owner or operator's name and address, room number, date of sealing, date of opening, capacity in bushels, lot identification, number of bushels within each lot, daily air components determination recordings showing date of test, time of test, percentage of carbon dioxide, percentage of carbon dioxide and oxygen, percentage of oxygen, temperature and comments.

Each owner or operator shall submit to the department, within 20 days after date of sealing, a report in writing for each room showing room number, date of sealing and number of bushels contained therein. (1961, c. 31, § 1.)

Beverages.

Sec. 277. Repealed by Public Laws 1963, c. 257, § 2.

Sec. 277-A. Definitions.—As used in sections 277-A to 277-J, the following terms shall have the following meanings:

I. Beverage. "Beverage" means any non-alcoholic flavored carbonated drink, soda water, non-alcoholic still drinks, diluted fruit or vegetable juices whether sweetened or unsweetened, seasoned or unseasoned with salt or spice, or still or carbonated mineral waters used as a drink. The term shall not include undiluted concentrated fruit or vegetable juice nor such juice when reconstituted to its original volume.

II. Beverage plant. "Beverage plant" means any place, premise or establishment, or any part thereof, where beverages are assembled, processed, manufactured, bottled or converted into form for distribution or sale and such rooms or premises where beverage product manufacturing equipment and containers are washed, sanitized and stored.

III. Bottling. "Bottling" means filling, capping, packaging and enclosing in bottles or other containers.

IV. Non-nutritive sweeteners. "Non-nutritive sweeteners" mean saccharin, saccharin salt, sodium cyclamate, calcium cyclamate and such other artificial sweetening agents as may be permitted in regulations promulgated by the commissioner.

V. Sweetening ingredient. "Sweetening ingredient" means cane sugar, beet sugar, dextrose, corn syrup, in liquid or dried form, honey or any syrup made from any such sugars or any combination of such sugars. (1963, c. 257, § 1.)

Sec. 277-B. Licenses.—No person within this state shall manufacture or bottle for sale any beverage without first having filed with the commissioner an application for a license accompanied with a fee of \$15 and having been issued a license to operate a beverage plant. Upon receipt of such application containing information required by the commissioner and being satisfied that the applicant has complied with sections 277-A to 277-J and regulations promulgated thereunder, the commissioner shall issue the applicant a license to manufacture and sell beverages.

No person manufacturing or bottling any beverage outside of the state for retail sale within the state shall sell or offer to sell the same within the state unless such person shall have made application and secured a license to sell beverages from the commissioner upon the payment of \$15. The commissioner may issue a license to sell beverages manufactured or bottled outside of the state unless being satisfied from inspection by an inspector of his department or from a statement from the agency having enforcement of the beverage law in the state where such beverage establishment is located, that such establishment complies with the requirements of sections 277-A to 277-J and regulations promul-

gated thereunder, and upon his approving such establishment on the basis of such inspection or statement.

All such licenses shall run for the current year until the 30th day of June following the date of the issuance, on which date they shall terminate unless sooner revoked as provided in section 277-G, and shall be renewed annually thereafter subject always to such revocation. (1963, c. 257, § 1.)

Sec. 277-C. Plant.—Every beverage plant used for the preparation, manufacture and bottling of any beverage shall be adequately lighted and ventilated and all floors shall be constructed of cement, concrete or tile laid in cement or other material impervious to water, and shall have sufficient pitch to insure drainage; walls and ceilings shall be varnished or painted in light color and kept clean; doors, windows and other openings of any room in which beverages or the ingredients of such beverages shall be prepared shall be screened. Wash basins, sinks and toilets shall be provided for employees. No toilet shall open directly into any room used for the preparation or bottling of any beverage. The syrup room shall be separately enclosed, well ventilated and lighted, provided with sinks and taps for hot and cold water, thoroughly protected against vermin, flies, dirt and dust and so constructed as to be easily cleaned.

Every beverage plant shall be equipped with mechanical container-washing apparatus and machinery, and with mechanical and sanitary machines for bottling and for carbonating, if carbonated beverages are manufactured.

All machines, apparatus, vessels, fountains, tanks or other equipment, caps and ingredients used in the manufacture of beverages shall be kept in a sanitary condition. No vessels or tanks shall be used for syrup mixing or for storing such mixed syrup unless they are of glass or stainless steel, porcelain lined, block tin lined or made of some other suitable impervious material.

Beverage plants shall be located in buildings so constructed that the bottling operation is performed in separate rooms, but such construction shall allow for modern practices in the loading or unloading of trucks in the same rooms, and for modern practices in the use of conveyor systems or other means of mechanical handling. (1963, c. 257, § 1.)

Sec. 277-D. Rules and regulations.—The commissioner shall, after investigation and public hearing, adopt and promulgate rules and regulations to supplement and give full effect to sections 277-A to 277-J. Such rules and regulations shall establish sanitary regulations for manufacture and bottling of beverages, including the construction, sanitary conditions of buildings, grounds and equipment, sanitary conditions of persons in direct contact with the beverage or its ingredients. Such rules and regulations shall, among other things, establish standards of identity and composition, including a maximum standard of content for any substance that may be deleterious and minimum standards of composition for the proper enforcement of sections 277-A to 277-J and for the protection of the public health and welfare. Such rules and regulations shall be filed and open for public inspection at the office of the commissioner and shall have the force of law.

It shall be unlawful to sell, offer for sale or have in possession with intent to sell any beverage not manufactured or bottled in a beverage plant located in this state and licensed by the commissioner or located without this state and approved by the commissioner pursuant to section 277-B.

Beverages manufactured or bottled in a beverage plant not so licensed or approved shall be deemed to be a misbranded food within the meaning of section 225. (1963, c. 257, § 1.)

Sec. 277-E. Labeling.—Whenever artificial colors or flavors are used in the manufacture of a beverage, the bottle or other container or the crown thereof shall be distinctly labeled [labeled] “Artificially colored and flavored.” Whenever

artificial coal tar colors are used, nothing but certified colors as approved by the United States food and drug administration shall be allowed.

All open containers or receptacles that contain artificial color or artificial flavor shall be so labeled, and said labels shall be prominently displayed on container or suitable location so as to be likely to be read by the purchaser. (1963, c. 257, § 1.)

Sec. 277-F. Cleaning of containers.—All reusable glass containers used in the manufacture of beverages shall, before being filled or refilled, be thoroughly cleaned and sanitized by washing in an automatic washing machine in a solution of not less than 3% caustic alkali, at a temperature not lower than 110° F. to be followed by a rinsing in potable water. All other reusable and all single service containers shall be cleaned and sanitized before being filled or refilled by suitable means approved by the commissioner. (1963, c. 257, § 1.)

Sec. 277-G. Revocation of license.—The commissioner shall have the power to revoke or suspend any license issued under section 277-B when it is determined by him that any of the provisions of sections 277-A to 277-J, or rules or regulations promulgated thereunder, have been violated. Any person, firm or corporation whose license has been so revoked or suspended shall discontinue the manufacture and sale within the state of beverages until 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 said sections as hereinafter provided or permanently for the unexpired period of such license. (1963, c. 257, § 1.)

Sec. 277-H. Notice prior to revoking license; procedure; appeal.—Before revoking or suspending any license, the commissioner shall give written notice to the licensee affected stating that he contemplates the revocation or suspension of the same and giving his reasons therefor. Such notice shall appoint a time of hearing before said commissioner and shall be mailed by registered mail to the licensee. On the day of the hearing the licensee may, by himself or counsel, present such evidence to the said commissioner as he deems fit and after hearing all the testimony the said commissioner shall decide the question in such manner as to him appears just and right. Any licensee who feels aggrieved or dissatisfied with the decision of the said commissioner may appeal from said decision within 10 days to the superior court in the county where the licensee resides, or in the case of a nonresident, to the superior court in the county of Kennebec. (1963, c. 257, § 1.)

Sec. 277-I. Penalty.—Any person, firm or corporation who shall violate sections 277-A to 277-J, or shall neglect or refuse to comply with the provisions thereof, shall be punished by a fine of not more than \$100 for the first offense, and by a fine of not more than \$200 for each subsequent offense. (1963, c. 257, § 1.)

Sec. 277-J. Disposal of fees and fines.—All fees received by the commissioner under sections 277-A to 277-J, and all money and fines received by him under sections 277-A to 277-J, by virtue of sections 5 and 9 shall be paid by him to the treasurer of state for deposit in the general fund. (1963, c. 257, § 1.)

Secs. 278-285. Repealed by Public Laws 1963, c. 257, § 2.

Maine Frozen Dairy Products Law.

Sec. 291. Revocation or suspension of license.

At the hearing the licensee may present such evidence to the commissioner as he deems fit, and after hearing all the testimony, the said commissioner shall decide whether the license shall be revoked or suspended or not. Any licensee

who is aggrieved by the decision of the commissioner may, within 30 days thereafter, appeal to the superior court by filing a complaint. The court shall fix a time and place for hearing and cause notice thereof to be given to the said commissioner. After hearing, the court may affirm or reverse the decision of the commissioner and the decision of the court shall be final. Pending judgment of the court, the decision of the commissioner shall remain in full force and effect. The commissioner shall, within 3 days after notice of such appeal, forward to the court a certified copy of the proceedings. (1951, c. 184. 1961, c. 317, § 74.)

Effect of amendment.—Prior to the 1961 amendment, the appeal, provided for in the third paragraph of this section, was taken within "10 days" to "any justice of the superior court" by presentation of a "petition" to him in term time or vacation, and

the hearing was set by and held before the justice.

As the rest of the section was not affected by the amendment, only the third paragraph is set out.

Branding of Potatoes.

Sec. 295. Grades.—The official state grades for potatoes shall be promulgated by the commissioner under the provisions of sections 32 to 38, inclusive, and made the official state grades for potatoes of the state presented for intrastate or interstate shipment and all containers as presented for shipment, whether by truck, train or boat, shall have written, stamped or attached thereon the name and address or serial number of the person producing or marketing the product, as well as the name and grade, state or federal, of the product contained therein. No potatoes shall be offered for sale, had in possession for sale, prepared for sale, exposed for sale, sold, shipped, delivered for sale or consigned unless and until said potatoes shall have been graded or packed in conformity with the provisions of sections 295 to 301, inclusive. Potatoes purchased under the government support program shall be exempted from the provisions of sections 295 to 301, inclusive. (R. S. c. 27, § 225. 1949, c. 302, § 1. 1957, c. 104, § 1.)

Effect of amendment.—Prior to the 1957 amendment the official state grades were those recommended by the Bureau of Agricultural Economics of the U. S. Department of Agriculture and such

other grades as may be promulgated by the commissioner. The 1957 amendment also inserted the words "state or federal" near the end of the first sentence.

Sec. 296. Branding mandatory. — It shall be unlawful for any person, firm, association, organization or corporation, or agent, representative or assistant to any person, firm, association, organization or corporation to expose for sale, or sell, ship, deliver or consign or have in possession potatoes prepared for market unless such container has been legibly and conspicuously tagged, branded, labeled or stenciled before being removed from the premises where prepared for market with the name and address of the person or persons responsible for the grading and packing, and the name of the grade, net weight and the word "potatoes." It shall be unlawful for any person, firm, association, organization or corporation or agent, or representative, or assistant to any person, firm, association, organization or corporation to expose for sale or sell at wholesale or retail any potatoes unless the container in which such potatoes have been placed has been legibly and conspicuously tagged, branded, labeled or stenciled with the name and address of the person or persons responsible for the grading and packing and the names of the grade together with the true net contents of said container. Bulk shipments shall be accompanied by 2 cards not less than 4 by 6 inches in size, placed on the inside of car near each door. Likewise cards in size as herein described shall be prominently displayed on all bulk shipments made by truck or other conveyance. Upon each card shall appear the name and address of the consignor, the name of the grade, the name of the loading station, the date of loading and the name and address of the consignee, if known. It shall be con-

clusive evidence that potatoes are for sale when contained in containers intended for delivery or transit, or when same are exposed for sale, or when the same are in the process of delivery or transit, or are located at a depot, station, boat dock or any place where potatoes are held in storage or for immediate or future sale or transit. (R. S. c. 27, § 226. 1957, c. 104, § 2.)

Effect of amendment. — The 1957 amendment substituted the words “net weight and the word ‘potatoes’” for the words “together with true net contents” at the end of the first sentence, deleted the former second sentence relative to color of tags and substituted the present second sentence therefor.

Sec. 297. False or misleading branding.—No person, firm, association, organization or corporation or agent, representative or assistant to any person, firm, association, organization or corporation shall sell, expose for sale or ship for sale potatoes in open or closed packages if the packages containing them or the label on them shall bear any statement, design or device regarding such potatoes which shall be false or misleading in any particular or if such potatoes are packed in such a manner that the face or shown surface shall not be an average of the contents of the package, or if such potatoes fail to meet the minimum grade requirements established as a state grade by the commissioner of agriculture. This provision shall be construed to also prohibit the repeated use of any container or sub-container, bearing any markings required by the provisions of sections 295 to 301, inclusive, or any designation of brands, quality or grade unless all such markings which do not properly and accurately apply to the potatoes repacked or replaced shall first be completely removed, erased or obliterated. Nothing in sections 295 to 301, inclusive, shall be construed to conflict with any Maine or federal law or regulations regarding net weight markings on containers or sub-containers. (R. S. c. 27, § 227. 1957, c. 104, § 3.)

Effect of amendment. — The 1957 amendment inserted the designations following the word “person” at the beginning of the first sentence and added the last clause of the first sentence relative to failure to meet minimum grade requirements.

Sec. 298. Sale without grading by grower.—No provisions of sections 295 to 301, inclusive, shall be construed to prevent a grower or shipper of potatoes from selling or delivering the same within the state unpacked, or selling his crop in bulk, or any part thereof, to a packer for grading, packing or storage within the state; nor shall any provision of said sections prevent any person from manufacturing the same into any by-product, or from selling the same unpacked to any person actually engaged in the operation of a commercial by-products factory for the sole and express purpose of being used within the state in the manufacture of a by-product for resale. (R. S. c. 27, § 228. 1949, c. 302, § 2. 1957, c. 104, § 4.)

Effect of amendment. — The 1957 amendment repealed the former second paragraph of this section.

Sec. 299. Enforcement; jurisdiction.—The commissioner shall diligently enforce all of the provisions of sections 295 to 301, inclusive. He, either in person or by a duly authorized representative, shall have free access, ingress and egress during business hours to any place or any building wherein potatoes are packed, stored, transported, sold, offered or exposed for sale or for transportation. He may also, in person or by duly authorized representative, open any box, barrel or other container and may, upon tendering market price, take samples therefrom. He may recover penalties imposed for violation of said sections in a civil action brought in his own name and if he prevails in such action shall recover full costs; or he may prosecute for violations thereof by complaint or indictment.

The district court and the superior court shall have concurrent jurisdiction of

actions brought for the recovery of penalties imposed by sections 295 to 301, and of prosecutions for violations thereof. All fees received under the provisions of sections 295 to 301, inclusive, by the commissioner and all money and fines received by him under the provisions of said sections shall be paid by him to the treasurer of state and the same are appropriated for carrying out the provisions of said sections. The commissioner shall establish such rules and regulations as may be needed for the proper enforcement of the provisions of sections 295 to 301, inclusive. (R. S. c. 27, § 229. 1961, c. 317, § 75. 1963, c. 402, § 67.)

Effect of amendments.—The 1961 amendment deleted “of the provisions” preceding “of said sections” and substituted “a civil action” for “an action of debt” in the last sentence of the first paragraph of this section.

The 1963 amendment substituted “The district court” for “Trial justices shall

have original jurisdiction, concurrent with municipal courts” at the beginning of the first sentence of the last paragraph, added “shall have concurrent jurisdiction” therein and deleted “the provisions of” preceding “sections” in that sentence.

Application of 1963 act.—See note to § 9.

State Sealer of Weights and Measures.

Secs. 311-319. Repealed by Public Laws 1957, c. 260, § 3.

Cross reference.—For present provisions as to state sealer of weights and measures, see c. 32-A.

Maine Potato Marketing Act.

Sec. 323. Administration.—

I. Approval by 2/3 of producers participating in referendum. No marketing order or amendment thereto issued pursuant to sections 320 to 335 shall become effective unless and until the commissioner determines that the issuance of such order is approved and favored by at least 2/3 of the producers who participated in a referendum on the question of its approval and who, during the preceding fiscal year, have been engaged in the production of potatoes for market within the production area specified in such marketing order, and who, during such year, have produced at least 2/3 of the volume of potatoes produced for market within such production area specified herein by all producers who participated in the said referendum.

(1963, c. 192.)

Effect of amendment.—The 1963 amendment added “specified herein by all producers who participated in the said refer-

endum” at the end of subsection I.

As the rest of the section was not affected by the amendment, it is not set out.

Trademarks Under Potato Tax Law.

Sec. 336. Trademarks.—In order to better carry out the objectives of the potato tax law, the Maine potato commission may develop and register trademarks. The commissioner of agriculture may delegate to the Maine potato commission the authority to regulate the use of the state of Maine trademark when used in packaging potatoes, both fresh and processed. (1963, c. 253.)

Sec. 337. License.—After notice of the establishment of a trademark by the commission, it shall be unlawful to use said trademark without first securing a permit or license from the Maine potato commission. Any violations of this section shall be punishable for the first offense by a fine of not more than \$50 and for any subsequent offenses by a fine of not more than \$200. (1963, c. 253.)

Sec. 338. Price.—The Maine potato commission shall have the authority to set prices on trademarked potatoes sold by licensed shippers or processors. (1963, c. 253.)

Sec. 339. Buying and selling.—In order to promote the prosperity of this

state and of the potato industry by fostering and promoting better methods of production, processing, merchandising and advertising, the Maine potato commission shall have the authority to buy and sell potatoes or processed potato products. (1963, c. 253.)

Sec. 340. Rules and regulations; contract.—The Maine potato commission may prescribe rules and regulations for carrying out the purposes of sections 336 to 339, and may issue licenses to shippers or processors who shall enter into a contract with the commission and agree to abide by the rules and regulations. The commission may charge a fee on a per package or per hundred-weight basis for the use of trademarks established by the commission or of the state of Maine trademark used on potatoes, fresh or processed. The commission shall reserve the right to cancel any license for failure to abide by the rules and regulations of the commission, or for breach of the terms of any contract entered into with the commission; and the commission shall have the right to cancel all outstanding licenses at any time that the commission deems such action necessary to the best interest of the potato industry as a whole. The commission shall also have the right to grant an exclusive license for the use of such trademarks to a single co-operative which shall, by contract with the commission, be empowered to issue licenses to shippers and processors on such terms and conditions as the commission may require. (1963, c. 253.)

Sec. 341. Enforcement; jurisdiction.—The commission or a duly authorized representative may recover penalties imposed for violation of section 337 in a civil action brought in the name of the commission, and if it prevails in such action shall recover full costs; or the commission may prosecute for violations thereof by complaint or indictment. The district court and the superior court shall have concurrent jurisdiction of actions brought for the recovery of penalties imposed by section 337, and of prosecutions for violations thereof. All fines received under section 337 by county treasurers shall be paid by them to the treasurer of state and the same are appropriated for carrying out sections 336 to 340. (1963, c. 253.)

Chapter 32-A.

Maine Weights and Measures Law.

Sec. 1. Short title.—This chapter shall be known and may be cited as the "Maine Weights and Measures Law." (1957, c. 260, § 1.)

Sec. 2. Definitions. — As used in this chapter, the following words and phrases shall have the following meanings:

"Cord" when used in connection with wood intended for fuel purposes shall mean the amount of wood that is contained in a space of 128 cubic feet, when the wood is ranked and well stowed and $\frac{1}{2}$ of the kerf of the wood is included.

"Dealer" shall mean any person engaged in the business of dealing in, selling, buying, exchanging or trading in weighing or measuring devices in this state.

"Inspector" shall mean a state inspector of weights and measures.

"Licensed public weighmaster" shall mean and refer to all persons who shall, for hire, weigh or measure any commodity, produce or article and issue therefor, a weight certificate, which shall be accepted as the accurate weight, upon which the purchase or sale of such commodity is based.

"Person" shall mean both the plural and singular, as the case demands, and shall include individuals, partnerships, corporations, companies, societies and associations.

"Repairman" shall mean any person engaged in the business of adjusting or repairing weighing or measuring devices in this state or an employee thereof engaged in such business.