

MAINE STATE LEGISLATURE

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VOLUME 1



THE MICHIE COMPANY
CHARLOTTESVILLE, VIRGINIA

Chapter 33.

Maine Milk Commission.

Sec. 1. Definitions.—As used in this chapter, unless the context otherwise requires, the following words shall have the following meaning:

“Books and records” means books, records, accounts, memoranda or other data pertaining to the purchase and distribution of milk.

“Class I milk” means all milk, the utilization of which is not established as Class II milk.

“Class II milk” means all milk, the utilization of which is established:

I. As being sold, distributed or disposed of other than as or in milk which contains not less than $\frac{1}{2}$ of 1% butterfat and not more than 16% butterfat and other than as chocolate or flavored whole or skimmed milk and

II. As actual plant shrinkage; provided that the quantity of shrinkage which is classified as Class II does not exceed 2% of the milk purchased in any pay period.

“Commission” means the Maine milk commission.

“Consumer” means any person other than a milk dealer who purchases milk for fluid consumption.

“Dealer” means any person who purchases or receives milk for sale as the consignee or agent of a producer, or handles for sale, shipment, storage or processing within the state and shall include a producer-dealer as hereinafter defined, but shall not include a store.

“Market” means any city, town or parts thereof, of the state, or 2 or more of the same, or parts thereof, designated by the commission as a natural marketing area.

“Milk” means whole milk and cream, fresh, sour or storage; skimmed milk and buttermilk; irrespective of whether or not any such milk is flavored.

“Person” means any person, firm, corporation, association or other unit.

“Producer” means any person who produces milk and sells his said milk only to dealers as above defined.

“Producer-dealer” means a dealer who himself produces a part or all of his milk or a person who produces milk and sells to a grocery store or dairy products store or similar commercial establishment.

“Retail sale” means a doorstep delivery to other than establishments licensed under the provisions of sections 160 to 166, inclusive, of chapter 25, and over-the-counter sales by stores.

“Store” means a grocery store or dairy products store or any similar commercial establishment, which purchases milk from licensed dealers who have previously processed and bottled or otherwise packaged such milk for sale.

“Wholesale sale” means sale to any other person not included in retail. (R. S. c. 28, § 1. 1949, c. 278, § 4. 1951, c. 64, § 1.)

Sec. 2. Maine milk commission.—The Maine milk commission, as heretofore established, shall consist of 2 producers, a dealer, a producer-dealer and a consumer, all of whom shall be residents of the state. They shall be appointed by the governor with the advice and consent of the council and shall serve for a term of 4 years and until their successors have been duly appointed and qualified. The commissioner of agriculture shall be ex officio a member of said commission. The members of said commission shall elect a chairman and may employ a secretary and such clerks and assistants as may be deemed necessary and may prescribe their duties and fix their compensation, subject to the provisions of the personnel law. Legal services and the services of experts in other lines shall be performed as far as possible by the existing state departments, includ-

ing the department of agriculture, the department of health and welfare and the attorney general's department. Any vacancy in the membership of said commission shall be filled by appointment by the governor, with the advice and consent of the council. Members of the commission shall be allowed actual traveling and other necessary expenses incurred in the performance of their duties and each member shall receive a per diem compensation for the time actually spent in the performance of his duties, such compensation to be determined by the governor and council; provided that the cost of administration of said commission, including expenses and compensation of members, shall not exceed the amount of fees collected under the provisions of this chapter. The commission shall be furnished a suitable office in the state capitol together with all necessary equipment and supplies therefor. (R. S. c. 28, § 2. 1949, c. 278, § 4. 1951, c. 65.)

Sec. 3. Powers and duties.—The commission shall have power to supervise, regulate and control the purchasing, distribution and sale of milk within the state as hereinafter provided, in such a manner as to supplement such supervision and regulations as are now imposed by existing statutes or by lawful ordinances or rules and regulations of the several cities and towns of the state. The commission shall, however, have no power to modify, add to or annul any sanitary regulations imposed by any state or municipal authority, or to compel pasteurization in any market area. In administering the provisions of this chapter, it shall have power to conduct hearings, subpoena and examine under oath dealers with their records, books and accounts and any other person from whom information may be desired to carry out the purposes and intent of this chapter and any member of the commission may sign subpoenas and administer oaths to witnesses. Any member of the commission or its representatives may enter at all reasonable hours all places where milk is being received, processed, stored or otherwise handled and shall have access to all books and records relating to milk for the purpose of ascertaining facts to enable the commission to administer the provisions of this chapter. The commission may adopt, promulgate and enforce all rules and orders necessary to carry out said provisions.

The commission may act as mediator or arbitrator to settle any controversy or issue among or between producers, dealers and consumers, any of whom may petition the commission in writing to change prices or conditions in any market area. (R. S. c. 28, § 3. 1949, c. 278, § 4.)

Sec. 4. Price fixing.—The commission shall hold meetings on the 3rd Thursday of each calendar month, and shall appoint a time at each meeting when any producer, dealer or consumer may present complaints or suggestions for the betterment of the conditions of trade and shall endeavor to effect amicable reconciliations of differences which exist between the various milk interests, and such other meetings as are necessary to properly supervise and control the industry. The chairman shall call a meeting of the commission whenever requested in writing by any 2 members of the commission. The commission is vested with power to establish and change, after investigation and public hearing, minimum prices to be paid to producers by dealers for milk received, purchased, stored, manufactured, processed, sold, distributed or otherwise handled within the state. The commission shall fix and establish, after investigation and public hearing, of which due notice has been given by publishing at least 3 days prior to said hearing in appropriate newspapers, the wholesale and retail prices to be charged for milk distributed for sale within the state, wherever produced, including the following sales:

- I. By dealers to dealers.
- II. By dealers to consumers.
- III. By stores to consumers, except for consumption on the premises where sold.

IV. By dealer to stores either for consumption on the premises or resale to consumers.

V. By any person not included in the foregoing classifications to another person.

VI. By producers to dealers. (1945, c. 293, § 3)

The commission in its discretion may waive public hearing when the sole change to be made in minimum prices is to conform with orders of any federal agency, duly authorized by law to determine prices.

The dealer to dealer prices for all sales shall be established only in such market areas as are necessary for the stabilizing of market conditions, but all such sales between dealers shall be considered Class I milk.

No price shall be established for any 1 or more of said sales unless at the same time a price shall be established for all of said sales in any market.

Prices so fixed shall be just and reasonable taking into due consideration the insuring of an adequate supply of pure and wholesome milk and conditions affecting the milk industry, including a reasonable return to the producer and dealer.

Upon fixing said minimum prices in any market which shall apply to the various grades and classes of milk and which may vary in the several market areas of the state, the commission shall furnish all dealers registered in said market with a schedule of such prices, and shall publish a schedule thereof in appropriate newspapers in said market, and such publication shall constitute an official order with respect to minimum prices and thereafter no dealer, store or other person handling milk in such market shall buy or offer to buy, sell or offer to sell milk for prices less than the scheduled minimum applicable to the particular transaction.

Any dealer who purchases or receives milk for sale as consignee or agent of a producer may deduct an allowance for transportation not in excess of the amount specified in a written agreement between the dealer and producer, a copy of which, signed by both parties, shall have been filed with the commission prior to the beginning of the delivery period.

No method or device shall be lawful whereby milk is bought or sold at prices less than the scheduled minimum applicable to the transaction whether by any discount, rebate, free service, advertising allowance, combination price for milk with any other commodity or for any other consideration. (R. S. c. 28, § 4. 1945, c. 293, § 3. 1949, c. 278, § 4.)

Sec. 5. Licenses; revoking, suspending and withholding; appeal.—

No dealer, as defined in this chapter, shall buy milk from producers or others for sale or shall process, distribute, sell or offer to sell milk in any market in the state designated by the commission unless duly licensed by the commission, provided, however, that no license shall be required of any person who produces or sells milk for consumption only on the premises of the producer or seller. Each person, before engaging in the business of a dealer in any market designated by the commission, shall make application to the commission for a license hereunder, which the commission is authorized to grant.

The license year shall commence on January 1 and end December 31 following. Application for a license shall be made on a form prescribed by the commission.

Licenses required by the provisions of this chapter shall be in addition to any other license required by law.

The commission may, upon proper evidence, decline to grant a license or may suspend or revoke a license already granted upon due notice and after hearing.

No order of the commission suspending, revoking or withholding a license, or refusing to renew an existing license shall be effective until 10 days after the same has been issued and a copy thereof mailed to the holder of or applicant for such license. Within said period of 10 days any party believing himself ag-

grieved by the order of the commission may appeal to the superior court in the county in which he resides or is engaged in business, in term time or vacation, and cause notice of such appeal to be served on the commission. Such court, after hearing, in term time or vacation, shall affirm or reverse the order of the commission, or any modification thereof by the commission.

No appeal taken from an order of the commission shall suspend the operation of such order, except as herein provided. The justice of the superior court before whom such appeal is pending, when in his opinion justice may so require, may order a suspension of or compliance with such order, or with such order as modified by the commission, pending the determination of such appeal. Violation of the provisions of this chapter or of any order, rule or regulation made hereunder, or conviction of violating any other law or regulation of the state relating to the production, distribution and sale of milk, shall be sufficient cause to suspend, revoke or withhold such license. (R. S. c. 28, § 5. 1949, c. 278, § 4.)

Sec. 6. Records and fees.—All dealers in any market designated by the commission shall keep the following records:

A record of the quantity of all milk received or produced, detailed as to location and as to names and addresses of producers or milk dealers from whom received;

A record of the quantity of all milk sold, detailed as to use, location and market outlet;

Such other records and information as the commission may deem necessary for the proper enforcement of the provisions of this chapter.

Each dealer shall furnish their producers a record of the amount of milk purchased, the price per pound or quart, and the total amount paid for each pay-period, also itemized deductions for transportation and other services, and when using the "weight and test" method of payment, the record shall contain the butterfat test and percentages of Class I and Class II of said milk.

Each licensed dealer shall pay to said commission an annual license fee of \$1 and the sums of 3¢ per hundredweight as monthly payments, based on quantity of milk purchased or produced in any market area. One and one-half cents per hundredweight may be deducted by dealers from amounts paid by them to producers of such milk; except that the milk, farm-processed into cream for the manufacture of butter, shall not be subject to such sums of 3¢ per hundredweight.

Dealers shall file reports together with the prescribed hundredweight fees with the Maine milk commission at its office in Augusta not later than the 20th of the following month, on forms provided for this purpose, of all matters on account of which a record is required to be kept and such other information or facts as may be pertinent and material within the scope of the purposes of this chapter. Except that dealers who sell less than 100 quarts of milk per day may file reports and pay the prescribed hundredweight fees every 3 months.

In case the same milk is handled by more than 1 dealer, the first dealer within the state dealing in or handling said milk shall be deemed to be the milk dealer within the meaning of this section. For the purpose of computing fees as above provided, $\frac{1}{2}$ pint of cream shall be considered the equivalent of 1 quart of milk. (R. S. c. 28, § 6. 1949, c. 278, §§ 1, 4. 1951, c. 64, §§ 2, 3. 1953, c. 370, § 1.)

Sec. 7. Expenditure of funds.—Moneys received through the provisions of this chapter shall be paid forthwith to the treasurer of state and shall be appropriated and used for the following purposes:

- I. For the collection of all fees and assessments provided for by this chapter;
- II. For the cost of administering the provisions of this chapter;
- III. 66 $\frac{2}{3}$ % of such moneys raised by assessments for the promotional, educational, experimental plans and the research and advertising purposes as

determined by the Maine dairy council committee and for the compensation of and the expenses incurred by the Maine dairy council committee. All promotional and advertising plans shall be under the supervision of the Maine development commission. (1951, c. 64, § 5. 1953, c. 370, § 2.)

Moneys received through the provisions of this chapter shall remain a continuing carrying account and shall not lapse. (1949, c. 278, § 2. 1951, c. 64, § 5. 1953, c. 370, § 2.)

Sec. 8. Maine dairy council committee.—The Main dairy council committee, as heretofore established, shall consist of the following 5 members: the commissioner of agriculture, 2 producers and 2 dealers to be appointed by the commissioner of agriculture on recommendation of the various producer and dealer associations, individuals or unorganized groups of producers and dealers in the state. Each appointed member shall serve for 2 years, or until his successor is duly appointed and qualified. In case of a vacancy caused by death, resignation or otherwise, the vacancy shall be filled by the commissioner for the unexpired period of the term. The appointed members shall receive the same compensation as the members of the Maine milk commission and be reimbursed for expenses incurred in the performance of their duties. (1949, c. 278, §§ 2, 4. 1951, c. 64, § 6.)

Sec. 9. Penalty.—Whoever violates any of the provisions of this chapter or of any rule or order of the commission shall be punished by a fine of not more than \$100, or by imprisonment for not more than 11 months, or by both such fine and imprisonment. (R. S. c. 28, § 7. 1949, c. 278, § 4.)