

MAINE STATE LEGISLATURE

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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

Sec. 61. Penalty for violation of sections 54 to 58, or for acting as dealer or repairman without certificate. — Any person who violates any provisions of sections 54 to 58, inclusive, or conducts a business of dealer or repairman without having a certificate then in full force shall be fined not more than \$100 for the first offense, and not more than \$200 for each subsequent offense. (1957, c. 260, § 1.)

Sec. 62. Exclusion.—Sales of any commodities by the manufacturers thereof under written purchase orders or contracts which clearly stipulate the weight or unit measure or other basis upon which the selling price is based, or which fix the selling price pursuant to established trade practices or customs in the industry, may be made in accordance with the provisions of such purchase orders or contracts notwithstanding any of the provisions of sections 25 to 30, inclusive. (1957, c. 260, § 1.)

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.

“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 and a sub-dealer, 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 individual, partnership, firm, corporation, association or other unit, and the state and all political subdivisions or agencies thereof, except state owned and operated institutions.

“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 and over-the-counter sales by stores.

“Store” means a grocery store, dairy product store, canteen, milk vending machine operator, milk dispensing operator or any similar commercial establishment or outlet or any other sale [place] where milk is sold to consumers for consumption off the premises where sold.

“Sub-dealer” means any person who does not process milk and who purchases milk from a dealer and sells such milk in the same containers in which he purchased it, but shall not include a store.

“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. 1957, c. 384, §§ 1-6. 1961, c. 410, § 1.)

Effect of amendments. — The 1957 amendments of class I and class II milk, made amendment repealed the former definitions and changes in the definitions of “dealer”,

"person", "retail sale" and "store" and added the definition of "sub-dealer".

ber 1, 1961, changed the definition of "store."

The 1961 amendment, effective Decem-

Sec. 2. Maine milk commission.—The Maine milk commission, as heretofore established, shall consist of 2 producers, a dealer, a producer-dealer and 2 consumers, 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, including 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. 1957, c. 384,

Effect of amendment. — The 1957 amendment substituted "2 consumers" for "a consumer" in the first sentence.

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. The commission in administering the provisions of this chapter shall adopt such policies as are consistent with the promotion of marketing programs which progressively eliminate those conditions in the milk industry necessitating the present law. The commission shall cooperate with the commissioner of agriculture and with representatives of the industry in devising marketing programs to implement such policies. 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.

(1957, c. 407.)

Effect of amendment. — The 1957 amendment inserted the third and fourth sentences of the first paragraph. As only the first paragraph was affected by the amendment, the second paragraph is not set out.

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)

Sales by producers of raw milk produced and sold to consumers on the premises of the producer are excluded from the provisions of this chapter in respect to such sales.

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 commission is vested with power to establish and change, after investigation and public hearing, classifications of milk according to its various usages, and shall specify to what classification the prices fixed and established under the provisions of this chapter shall apply.

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. All sales between dealers shall be considered milk of such classification as the commission by appropriate rules may provide.

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 public health and welfare and the insuring of an adequate supply of pure and wholesome milk to the inhabitants of this state under varying conditions in various marketing areas, seasonal production and other conditions affecting the costs of production, transportation and marketing in 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 classifications 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. Such order shall become effective in accordance with chapter 20-A 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 prices established for that market.

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.

It shall be unlawful for any person to engage in any practice destructive of the scheduled minimum prices for milk established under the provisions of this chapter for any market, including but not limited to any discount, rebate, gratuity, advertising allowance or combination price for milk with any other commodity. In addition to any penalty otherwise provided by law, the commission after notice and hearing may prohibit any such practice, and any person feeling himself aggrieved by any order of the commission issued under the provisions of this chapter may appeal to the superior court as provided in section 5.

The minimum prices established for sales of milk by producers to dealers may, if such sales are made by bulk tank, be increased by such amounts per hundred-weight as may be determined by the Maine milk commission. Violation of this paragraph shall be sufficient cause for the Maine milk commission to revoke or withhold a dealer's license.

Whenever milk produced outside the state becomes a subject of regulation by the state in the exercise of its police powers, the provisions of this chapter shall apply and the powers of the commission shall attach. After any such milk so produced shall come within the jurisdiction of this state, any sale of such milk within this state at a price less than the scheduled minimum price established in any given market shall be unlawful. (R. S. c. 28, § 4. 1945, c. 293, § 3. 1949, c. 278, § 4. 1955, c. 341. 1957, c. 312; c. 384, §§ 8-12. 1961, c. 219; c. 410, § 2; c. 417, § 102.)

Effect of amendments. — The 1955 amendment added the first sentence of the present next to the last paragraph of this section.

The first 1957 amendment inserted the second paragraph. The second 1957 amendment inserted the fourth paragraph and rewrote the present fifth, seventh, eighth and tenth paragraphs, which paragraphs were formerly the third, fifth, sixth and eighth, respectively.

P. L. 1961, c. 219, substituted "may" for

"shall" near the beginning of the present next to last paragraph and added the last sentence of such paragraph. P. L. 1961, c. 410, § 2, effective December 1, 1961, added the last paragraph. P. L. 1961, c. 417, § 102, substituted "order shall become effective in accordance with chapter 20-A" for "publication shall constitute an official order with respect to minimum prices" near the beginning of the second sentence of the present eighth paragraph.

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

The hearing officer as designated in chapter 20-A may, upon proper evidence, decline to grant a license or may suspend or revoke a license already granted upon due notice and after hearing.

Violation 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.

Upon revocation or suspension of a license it shall not be reissued until the commission shall determine upon application and hearing that the cause for such revocation or suspension no longer exists, and that the applicant is otherwise qualified. (R. S. c. 28, § 5. 1949, c. 278, § 4. 1957, c. 384, § 13. 1961, c. 394, § 19.)

Effect of amendments. — The 1957 amendment added the last paragraph above as the last paragraph of this section.

The 1961 amendment substituted "hearing officer as designated in chapter 20-A"

for "commission" near the beginning of the fourth paragraph, deleted the former fifth paragraph, deleted the first two sentences of the present fifth paragraph and deleted "of the provisions" near the begin-

ning of the present first sentence of that paragraph. affected by the amendments, they are not set out.

As the first three paragraphs were not

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

I. 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;

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

III. Such other records and information in such form and at such times as the commission may deem necessary for the proper enforcement of the provisions of this chapter.

Each dealer shall furnish his producers a statement of the amount of milk purchased, the price per hundred weight or quart, the total amount paid for each pay period, the itemized deductions for transportation and other services, the percentages of milk in each classification and the butterfat test when weight and test method of payment is used.

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, or purchased or produced in an uncontrolled area and sold 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.

(1957, c. 384, §§ 14, 15. 1959, c. 236.)

Effect of amendments.—The 1957 amendment numbered the former second, third and fourth paragraphs as subsections "I," "II" and "III," respectively, of the first paragraph and inserted in subsection III "in such form and at such times." It also rewrote the present second paragraph.

The 1959 amendment added the words "or purchased or produced in an uncontrolled area and sold in any market area" at the end of the first sentence in the third paragraph from the end of the section. As the last two paragraphs were not changed by the amendments, they are not set out.

Sec. 7. Expenditure of funds.

III. 66⅔% 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. (1951, c. 64, § 5. 1953, c. 370, § 2. 1955, c. 471, § 6)

Effect of amendment.—The 1955 amendment deleted the former second sentence of subsection III, which read: "All promotional and advertising plans shall be under

the supervision of the Maine development commission." As the rest of the section was not changed by the amendment, only subsection III is set out.

Sec. 9-A. Injunction.—In addition to any other remedy set forth in this chapter for the enforcement of this chapter or any rule, regulation, order or decision of the commission, the superior court shall have jurisdiction upon complaint filed by the commission, or any person duly authorized to act for the commission, including but not limited to its executive secretary, to restrain or enjoin any person from committing any act prohibited by this chapter or prohibited by any rule, regulation, order or decision of the Commission. If it is established upon hearing that the person charged has been or is committing any act declared to be unlawful by this chapter or is in violation of any rule, regulation, order or decision of the commission, 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 commission or its authorized agent shall not be required to give or post a bond when making an application for an injunction under this section. (1961, c. 410, § 3.)

Effective date.—The 1961 act amending this section became effective on its approval, December 1, 1961.

Sec. 10. Constitutionality.—If any section or other part of this chapter is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. (1957, c. 384, § 16.)

Chapter 34.

Soil Conservation Districts.

Sec. 1. Policy.—Conservation of soil and water resources may involve adjustments in land and water use and the development, improvement and protection of these resources under various combinations of use. It is declared to be the policy of the legislature to provide for the conservation of the soil and soil and water resources of this state, and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands and protect and promote the health, safety and general welfare of the people of this state. (R. S. c. 29, § 1. 1963, c. 401, § 1.)

Effect of amendment.—The 1963 amendment added the first sentence, added “declared to be” before “the policy” near the beginning of the present second sentence and added “and water” before “resources” in the present second sentence.

Sec. 1-A. Limitation of authority.—The powers and duties conferred upon the soil conservation committee or the soil conservation districts under this chapter shall not infringe upon or impair in any way the rights of any owner of riparian lands located upon, or any rights heretofore or hereafter granted by the legislature to any person, firm, corporation, association, public or quasi-public body to use or take the water in or from, any lake, pond, river, stream, brook or any other body of water located wholly or partly in the state of Maine. (1963, c. 401, § 2.)

Sec. 2. Definitions.

V. Due notice. “Due notice” means notice published at least twice, with an interval of 6 days, in a newspaper or other publication of general circulation within the appropriate area, as well as notice through the United States mail, in the name of the district, directed to all affected property owners as their names shall appear on the tax records, except that in the event that land occupiers shall be domiciled in states or territories other than the state of Maine, then such land occupiers shall be notified by registered mail at their last known address. At any hearing held pursuant to such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates. (R. S. c. 29, § 2. 1963, c. 401, § 3.)

Effect of amendment.—The 1963 amendment deleted “or by posting at a reasonable number of conspicuous places within the appropriate area” and substituted everything appearing after “appropriate area” at the end of the first sentence of subsection V.

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