

MAINE STATE LEGISLATURE

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Maine
REVISED STATUTES
1964

*Prepared Under the Supervision
of the
Committee on Revision of Statutes*

Being the Tenth Revision of the
Revised Statutes of the State
of Maine, 1964

Volume 1
CONSTITUTION

Titles 1 to 10



Boston, Mass.
Boston Law Book Co.

Orford, N. H.
Equity Publishing Corporation

St. Paul, Minn.
West Publishing Co.

Text of Revised Statutes
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CHAPTER 503

MILK AND MILK CONTAINERS

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SUBCHAPTER I

GENERAL PROVISIONS

Sec.
2801. Definitions.

§ 2801. Definitions

As used in this chapter, the following words and phrases shall have the following meanings:

1. **Commissioner.** "Commissioner" means the Commissioner of Agriculture or his duly authorized agents.

2. **Milk dealer.** "Milk dealer" means any person who owns or operates a milk plant or receiving station.

3. **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.

4. **Person.** "Person" means any person, firm, corporation or society.

1961, c. 152, § 1.

SUBCHAPTER II

STANDARDS

Sec.

2851. Rules and regulations; tests.

2852. Standard measure.

2853. Capacity of milk bottles and jars.

§ 2851. Rules and regulations; tests

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.

§ 2852. Standard measure

All milk and cream bought and sold by measure for consumption within this State shall be bought and sold by wine measure, the standard for which shall be 231 cubic inches to the gallon, and for subdivisions of the gallon in the same proportion.

R.S.1954, c. 32, § 100.

§ 2853. 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 chapter 501 or by the manufacturer, as provided in section 2954. The use, for the distribution of milk or cream to the consumer, of glass bottles or jars of any other capacity than as 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. 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 this section shall not be legal measures except for the distribution of milk or cream.

R.S.1954, c. 32, § 106; 1957, c. 260, § 2.

SUBCHAPTER III

TESTING

Sec.

- 2901. Regulations on testing.
- 2902. Taking of samples.
- 2903. Testing equipment.
- 2904. Access.
- 2905. Babcock tester's license.
- 2906. Composite test period.

§ 2901. 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.

§ 2902. 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 com-

missioner 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.

§ 2903. 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 this chapter or the rules and regulations issued thereunder are being violated.

1961, c. 152, § 1.

§ 2904. Access

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.

§ 2905. 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.

§ 2906. 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.

SUBCHAPTER IV

MARKING AND STAMPING

Sec.

2951. Marking and proving of measures and cans.

2952. Marking milk containers; sealing.

2953. —Penalty for violation.

2954. Marking of bottles and jars sealed by manufacturer; bond.

2955. Marking of glassware.

§ 2951. Marking and proving of measures and cans

All measures, cans or other vessels used in the purchase or sale of milk or cream, except glass bottles and jars sealed in accordance with sections 2853 and 2954, shall be tried and proved by the standard mentioned in section 2852, by the sealer of weights and measures of the city or town in which the person, firm or corporation purchasing or selling such milk or cream resides or has a place of business. The sealer of weights and measures shall, agreeably to such a standard, plainly stamp thereon the quantity which such measures, cans or other vessels hold, together with the year in which such measures, cans or other vessels are sealed. Whoever by himself, clerk, servant or agent sells by measure any milk or cream by any other than the measure so tried, sealed and marked shall forfeit for each offense the sum of \$10. Any measure, can or other vessel used in the purchase or sale of milk or cream, lawfully sealed shall be deemed to be lawfully sealed under this section.

R.S.1954, c. 32, § 101.

§ 2952. Marking milk containers; sealing

All cans or containers sold for use in the purchase or sale of milk or cream at wholesale shall have their capacity plainly, con-

spicuously and indelibly marked thereon in terms of liquid quarts. They shall be sealed by the manufacturer thereof or by a sealer of the town where the user resides or has a usual place of business. The sealer of weights and measures shall, agreeably to such a standard, plainly stamp thereon the quantity which such measures, cans or other vessels hold, together with the year in which such measures, cans or other vessels are sealed. The commissioner shall prescribe regulations governing the sealing of such cans or containers by the manufacturer and may authorize such sealing by any manufacturer upon his agreement to conform to said regulations. The commissioner may at any time, for cause, revoke the authority so given by him to any manufacturer. When sealed by the manufacturer, such cans or containers shall be marked with his name, initials or trademark and with any other designating marks which the commissioner may require. The sealing of such containers by the manufacturer shall not exempt the user from the laws relative to giving a false or insufficient measure, using a false measure or having the same in possession with intent to use. Sealers of the town where the user resides or has a usual place of business may at least annually inspect all cans or containers marked and sealed in accordance with this section and shall make a record of such inspections. When once sealed, a can or container need not again be sealed while in the same condition as when first sealed. The words "container" and "containers" as used in this section and section 2953 shall not apply to bottles or jars.

R.S.1954, c. 32, § 104.

§ 2953. —Penalty for violation

Whoever, by himself or by his servant or agent, or as the servant or agent of another person, sells any can or container to be used in the purchase or sale of milk or cream at wholesale that is not marked and sealed as required by section 2952, shall be punished by a fine not exceeding \$10 for each can or container so sold. Whoever, by himself or by his servant or agent, or as the servant or agent of another person, uses any can or container in the purchase or sale of milk or cream at wholesale that is not marked and sealed as required by section 2952, shall be punished by a fine not exceeding \$10 for each offense. The commissioner, his deputies and sealers shall enforce this section and section 2952.

R.S.1954, c. 32, § 105.

§ 2954. Marking of bottles and jars sealed by manufacturer; bond

Such bottles or jars as are sealed by the manufacturer shall be clearly and permanently marked with their capacity, with word "Sealed" and for purposes of identification, with the name, initials or trademark of the manufacturer, and the manufacturer's mold designation which identifies the pattern or design of the bottle. The capacity designation and the word "Sealed" shall not be on the bottom of the bottle. The manufacturer's mark of the mold designation which identifies the pattern or design of the bottle shall be approved by the State Sealer of Weights and Measures upon application by the manufacturer, and upon filing by the manufacturer, with the Treasurer of State, of a bond payable to the State in the sum of \$1,000, with sureties to be approved by the Attorney General, conditioned upon his conforming to the requirements of this section. A record of the bonds furnished, and of each manufacturer's mark of the mold designations shall be kept in the office of the State Sealer of Weights and Measures.

R.S.1954, c. 32, § 107.

§ 2955. 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.

SUBCHAPTER V

ENFORCEMENT AND JURISDICTION

Sec.

- 3001. Sale or use of bottles not complying with law.
- 3002. Prosecutions.
- 3003. Jurisdiction.
- 3004. Penalties.

§ 3001. Sale or use of bottles not complying with law

Any manufacturer who sells milk or cream bottles to be used in this State that do not comply as to size and markings with sections 2853 and 2954 shall forfeit \$500, to be recovered by the Attorney General in an action upon the bond of such manufacturer. Any dealer who uses, for the purpose of selling milk or cream, jars or bottles that do not comply with the requirements of section 2853 as to markings and capacity shall be punished by a fine of not more than \$50 for each offense.

R.S.1954, c. 32, § 108.

§ 3002. Prosecutions

The county attorney for the county in which any violation of this chapter has occurred shall, if requested, assist the commissioner in the prosecution of cases arising thereunder.

1961, c. 152, § 1.

§ 3003. Jurisdiction

The District Court and the Superior Court shall have concurrent jurisdiction in cases arising under this chapter.

1961, c. 152, § 1; 1963, c. 402, § 60.

§ 3004. Penalties

Any person, firm or corporation who shall fail, neglect or refuse to comply with any of the provisions of this chapter, 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.