

MAINE STATE LEGISLATURE

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CHAPTER 707

MILK TAX

Sec.

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§ 4501. Purpose

The production of milk is one of the most important agricultural industries of this State, and this chapter is enacted into law to promote the prosperity and welfare of this State and of the dairy industry of the State by the fostering of promotional, educational, advertising and research programs of the said dairy industry of the State.

R.S.1954, c. 16, § 270.

§ 4502. Definitions

The terms used in this chapter shall be construed as follows:

1. Handler. "Handler" means any person who purchases or receives milk for sale as a consignee or agent of a producer or handles for sale, shipment, storage or processing any milk produced in the State, and shall include a producer-dealer.

2. Milk. "Milk" means cows' milk and shall include cream in the proportion that one quart of cream shall be considered the equivalent of 4 quarts of milk.

3. Producer. "Producer" means any person who produces milk and sells said milk to a handler.

4. Producer-dealer. "Producer-dealer" means any dealer who himself produces a part or all of his milk and sells milk other than to the handler.

R.S.1954, c. 16, § 271.

§ 4503. Milk Tax Committee

The Maine Milk Tax Committee, as heretofore established, shall consist of the following 5 members: the Commissioner of Agriculture and 4 producers, to be appointed by the Commissioner of Agriculture on recommendation of the various producer associations, individuals or unorganized groups of producers 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.

R.S.1954, c. 16, § 280.

§ 4504. Tax additional to other taxes

All taxes imposed and collected under this chapter shall be in addition to any other taxes legally imposed or collected under any other provision of the law of the State now or hereafter in force.

R.S.1954, c. 16, § 281.

§ 4505. Tax of 2¢ per hundredweight

A tax is levied and imposed at the rate of 2¢ per hundredweight on all milk produced in this State, except that no tax shall be imposed upon any milk used on the farm where produced.

R.S.1954, c. 16, § 272.

§ 4506. Handler may deduct tax from purchase price

Each handler purchasing milk and paying, or becoming liable to pay, the tax imposed by section 4505 shall charge and collect from the producer a tax at the rate of 2¢ per hundredweight to be deducted from the purchase price of all milk received or so purchased by such handler.

Producer-dealers shall pay a tax of 2¢ per hundredweight on all milk produced and sold other than to a handler.

R.S.1954, c. 16, § 273.

§ 4507. Applications for certificate; no activity until certificate issued

Each handler shall file an application with the State Tax Assessor, on forms prescribed and furnished by the State Tax Assessor which shall contain the name under which such handler is transacting business within the State, the place or places of business and location of said handler's plants. The State Tax Assessor will then issue a certificate to the handler and no handler shall receive or sell any milk until such certificate is furnished as required by this section. Such certificate shall remain in force until surrendered or revoked. Every handler who shall cease to receive or sell milk shall surrender such certificate to the State Tax Assessor.

Any handler who shall receive or sell any milk without a currently valid handler's certificate may be enjoined from further receiving or selling any milk until he has acquired such a certificate. Jurisdiction is granted to the Superior Court to hear such cases and to enter such orders and decrees as the nature of the case may require.

R.S.1954, c. 16, § 274; 1961, c. 417, § 22.

§ 4508. Determination of tax by Tax Assessor

If any handler, whether the holder of a certificate or not, shall neglect or refuse to make and file any report as required by section 4509, or shall file an incorrect or fraudulent report, the State Tax Assessor shall determine after an investigation the tax liability of such handler for any particular month or months, and the State Tax Assessor shall assess the tax due the State, giving notice of such assessment to the handler liable therefor, and make demand upon him for payment thereof.

In any action or proceeding for the collection of the milk tax, the assessment by the State Tax Assessor of the tax due to the State shall constitute prima facie evidence of the claim of the State and the burden of proof shall be upon the handler to show the assessment was incorrect.

R.S.1954, c. 16, § 277.

§ 4509. Reports; payment of tax

Every handler shall keep as a part of his permanent records a record of all purchases, sales and shipments of milk, which said records shall be open for inspection at all times, and every handler

shall, on or before the 20th day of each month, render a report to the State Tax Assessor stating the quantity of milk received by him during the preceding calendar month, and every handler who is a producer-dealer shall include in such report the quantity of milk produced and sold by him other than to a handler, except that upon application to the State Tax Assessor, handlers who sell less than 100 quarts of milk per day may be permitted by the Tax Assessor to file reports quarterly upon the 20th day of the month following the quarter. Such reports shall be on forms to be furnished by said Tax Assessor, and shall contain such further information as said State Tax Assessor shall prescribe. On the filing of said report, each handler shall pay to the State Tax Assessor a tax at the rate of 2¢ per hundredweight upon all milk so reported. The State Tax Assessor shall pay over all receipts from such tax to the Treasurer of State daily.

R.S.1954, c. 16, § 275.

§ 4510. Inspections

The State Tax Assessor or his duly authorized agent shall have authority to enter any place of business of any handler and to inspect any books and records of any handler for the purpose of determining what milk is taxable under this chapter or for the purpose of determining the truth or falsity of any statement or return made by any handler, and he shall have authority to delegate such power to the Commissioner of Agriculture, his deputies, agents, servants or employees.

R.S.1954, c. 16, § 276.

§ 4511. Appropriation of moneys received

Moneys received through this chapter by the Treasurer of State shall be appropriated and used for the following purposes:

1. **Collection and enforcement.** For the collection of the tax provided for by section 4505 and the enforcement of this chapter;

2. **Balance of funds.** The remaining sum shall be used for such purposes as are defined in section 4501 or for carrying out this chapter.

The committee may cooperate with similar committees in other states and is authorized to pay to a New England committee such part of its receipts as it deems for the best interests of the dairy industry of Maine.

R.S.1954, c. 16, § 279.

§ 4512. Penalties; civil action to collect tax; jurisdiction

Any handler of milk who shall make any false or fraudulent report or return required by this chapter, or who shall evade or violate any of the provisions of this chapter, shall be punished by a fine of not more than \$500. Whenever any handler shall fail to pay any tax due under this chapter, within the time limited, the Attorney General shall enforce payment of such tax by civil action against such handler for the amount of such tax, either in the Superior Court in and for the county or the District Court in the division in which such handler has his residence or established place of business or in the Superior Court for Kennebec County.

Whenever any handler shall fail to pay any tax due, or shall fail to file any report at the time it is required to be filed, for 2 consecutive reporting periods, the State Tax Assessor may revoke the handler's certificate of such handler. Such revocation shall become effective upon notice to the handler. Any handler aggrieved by such revocation may apply in writing, within 15 days after notice thereof, to the State Tax Assessor for a hearing, setting forth the reasons for the hearing, and the manner of relief sought. Upon receipt of such application the Tax Assessor shall set a time and place for such hearing and give the handler 10 days' notice thereof. After such hearing the Tax Assessor may make such order as may appear to him just and lawful and shall give notice by furnishing a copy of such order to the applicant. Any handler aggrieved by such order of the Tax Assessor may appeal therefrom within 20 days after notice of such order to the Superior Court. The appellant shall, when the appeal is taken, give to the State Tax Assessor or his duly authorized representative written notice of the appeal with a copy of the complaint stating the reasons for the appeal. Pending judgment of the court, the order of the State Tax Assessor shall remain in full force and effect. Any notice required to be given by the State Tax Assessor under this section may be given in hand or by registered mail.

R.S.1954, c. 16, § 278; 1959, c. 317, § 5; 1963, c. 402, § 13.