

# MAINE STATE LEGISLATURE

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CHAPTER 713  
SARDINE TAX

Sec.

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**§ 4691. Purpose**

The packing of sardines is one of the most important industries of the State, and this chapter will protect the public health and welfare, stabilize the industry and conserve and promote the prosperity and welfare of the State by fostering and promoting better methods of production, packing, merchandising and advertising in the sardine industry of this State.

R.S.1954, c. 16, § 260.

**§ 4692. Definitions**

For the purpose of this chapter:

1. **Case.** A "case" of sardines shall mean:
  - A. 100 one-quarter size cans of sardines packed in oil, mustard or tomato sauce, or any other packing medium;
  - B. 48 three-quarter size cans packed in mustard or tomato sauce, or any other packing medium;
  - C. 48 cans of 15-ounce ovals packed in oil;
  - D. 48 cans of 15-ounce ovals containing 13 or more fish packed in tomato or mustard sauce, or any other packing medium;
  - E. 48 cans of 15-ounce ovals containing 12 or less fish packed in mustard or tomato sauce, or any other packing medium except oil.

**2. Packer.** "Packer" shall mean any person, partnership, association, firm, corporation or entity engaged in packing sardines for sale.

**3. Sardine.** "Sardine" shall be held to include any canned, clupeoid fish being the fish commonly called herring, particularly the *clupea harengus*.

R.S.1954, c. 16, § 261; 1957, c. 151, § 2.

### § 4693. Sardine Council

The Maine Sardine Council, as heretofore established, shall consist of 7 members to be appointed by the Commissioner of Sea and Shore Fisheries. Five members of said council shall constitute a quorum and the affirmative vote of at least 4 members shall be necessary for the transaction of all business and the carrying out of the duties of the council. Such members shall be practical sardine packers, operating within the State, who shall have been actively engaged in packing sardines for not less than 5 years and each shall be so actively engaged during his continuance in office. A person shall be considered actively engaged in packing sardines if he has during the period derived a substantial portion of his income therefrom, or has been the directing or managing head of an entity that derives a substantial portion of its income from packing sardines.

Regular appointments shall be for a term of 5 years and each member shall serve until his successor is duly appointed and qualified. In the case of a vacancy caused by death, resignation or otherwise, the vacancy shall be filled promptly by the Commissioner of Sea and Shore Fisheries for the unexpired period of the term.

The members of the council shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties. They are authorized to select and employ an executive secretary-advertising and merchandising manager to administer the advertising, merchandising, research and development program, in concurrence with the Commissioner of Sea and Shore Fisheries and with the advice and cooperation of the Commissioner of Economic Development, and fix his salary. The executive secretary, with the consent of the council, is authorized, subject to the Personnel Law, to engage sufficient clerical personnel and other employees for the efficient performance of his duties.

R.S.1954, c. 16, § 268; 1955, c. 126, § 3; c. 471, § 5; 1957, c. 123, § 10; c. 397, § 12; 1963, c. 251.

**§ 4694. Tax as additional**

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

R.S.1954, c. 16, § 269.

**§ 4695. Rate of tax**

The packing of sardines is declared to constitute the introduction of sardines into the channels of trade.

An excise tax of 25¢ per case, as defined in section 4692, subsections 1 to 3, is levied and imposed upon the privilege of packing sardines.

R.S.1954, c. 16, § 262; 1955, c. 126, § 1; 1957, c. 151, § 3; 1959, c. 28; 1963, cc. 47, 234.

**§ 4696. Packers' applications**

Every packer 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 packer is transacting business within the State, the place or places of business where packing is taking place, the names and addresses of the several persons constituting a firm or partnership, and if a corporation, the corporate name and the names and addresses of its principal officers and agents within the State. The State Tax Assessor will then issue a certificate to the packer and no packer shall pack any sardines until such certificate is furnished as required by this section.

R.S.1954, c. 16, § 263.

**§ 4697. Reports of production and payment of tax**

Every packer shall keep, as a part of his permanent records, a record of all sardines packed, which said records shall be open for inspection at all times, and every packer shall on or before the 10th day of each month render a report to the State Tax Assessor, stating the quantity of sardines packed by him during the preceding calendar month, on forms to be furnished by said State Tax Assessor, and at the same time shall pay to the State Tax Assessor the tax of 25¢ per case on all sardines so reported as packed. If it appears to the State Tax Assessor from inspection of records or otherwise that an additional tax is due or overpayment of tax has been made, additional assessments or refunds

shall be made by the State Tax Assessor. Such additional assessments shall be due upon certification to the taxpayer. Any packer may pay to the State Tax Assessor in advance a sum of money based on an estimate of his tax for a given number of months, and this sum shall be a credit against future monthly reports of that packer. The State Tax Assessor shall pay over all receipts from such tax to the Treasurer of State daily.

R.S.1954, c. 16, § 264; 1955, c. 126, § 2.

### § 4698. Inspections

The State Tax Assessor or his duly authorized agent shall have authority to enter any place of business of a packer, or any car, boat, truck or other conveyance in which sardines are to be transported, and duly inspect any books or records of any packer for the purpose of determining what sardines are taxable, or for the purpose of determining the truth or falsity of any statement or return made by any packer, and he shall have authority to delegate such powers to the Commissioner of Agriculture, his deputies, agents, servants or employees, and to the Commissioner of Sea and Shore Fisheries, his deputies, agents, servant or employees.

R.S.1954, c. 16, § 265.

### § 4699. Appropriation and use of moneys received

Money received under 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 and enforcement of this chapter;

2. **Balance of funds.** The balance in such amounts as shall be from time to time determined by the Maine Sardine Council:

A. For the purpose of merchandising and advertising Maine sardines for food, under the direction of the Maine Sardine Council with the advice and cooperation of the Commissioner of Economic Development, "Merchandising" and "advertising" shall include, among other activities, the purchase of Maine sardines by the Maine Sardine Council through the State Purchasing Agent on a competitive sealed bid basis, and the distribution of such sardines by the council for promotional purposes, to develop and expand foreign markets, to obtain effective distribution and consumer exposure and to create and maintain consumer acceptance and demand.

Such distribution may be at less than the cost of such sardines to the council where reasonably necessary, in the judgment of the council, to accomplish the merchandising and advertising of Maine sardines, and the council may give advertising and promotional allowances for the purposes of promoting the advertising and resale of Maine sardines.

**Director's note:** The last 2 sentences of this paragraph expire December 1, 1965. See P.L., 1963, c. 338.

**B.** For conducting research and investigation of methods of propagating and conserving clupeoid fish, particularly the clupea harengus, with a view of improving both the quality and quantity of the same in Maine waters, and for the implementation of all feasible methods of improving, propagating and conserving the same, under the joint direction of the Commissioner of Sea and Shore Fisheries and the Maine Sardine Council.

**C.** For gathering, studying, classifying and distributing information and data concerning quality, grades, standards, methods of packing and character of the manufactured sardine products, in order to determine and improve their quality and aid in merchandising and advertising them under the direction of the Maine Sardine Council with the advice and cooperation of the Commissioner of Economic Development. Such information and data and the services of the personnel who collect and classify it may be made available to the Commissioner of Agriculture for use in promulgating, establishing and modifying official grades for sardines and for use in assigning and determining grades of sardines and in enforcing applicable provisions of the law. (1955, c. 471, § 4; 1957, c. 123, § 9; c. 151, § 1; c. 397, § 56; 1963, c. 338, § 1.)

R.S.1954, c. 16, § 267; 1955, c. 471, § 4; 1957, c. 123, § 9; c. 151, § 1; c. 397, § 56; 1963, c. 338, § 1.

### § 4700. False returns or violations

Any packer 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, and his wholesale seafood dealer's and processor's license shall be suspended by the Commissioner of Sea and Shore Fisheries, his state license to pack sardines shall be suspended by the Commissioner of Agriculture and his packer's certificate shall be suspended by the State Tax Assessor until such

fine and all payments due the State on the sardine tax are paid in full. Whenever any packer 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 the packer for the amount of such tax in either the Superior Court in Kennebec County or in the District Court in the division in which such packer has his residence or established place of business.

R.S.1954, c. 16, § 266; 1963, c. 402, § 12.