

# MAINE STATE LEGISLATURE

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**PUBLIC DOCUMENTS**

OF THE

**STATE OF MAINE**

BEING THE

**REPORTS**

OF THE VARIOUS

**PUBLIC OFFICERS  
DEPARTMENTS AND  
INSTITUTIONS**

FOR THE TWO YEARS

**JULY 1, 1928 - JUNE 30, 1930**

STATE OF MAINE

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REPORT

OF THE

ATTORNEY GENERAL

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for the calendar years

1929-1930

## MILK BOTTLES

April 28, 1930

Hon. Frank P. Washburn,  
Commissioner of Agriculture,  
Augusta, Maine  
Dear Sir:

Referring to your inquiry regarding the branding of milk bottles containing five-eighths of one pint, I am of the opinion that the only safe course is to brand these bottles with those words.

P. L. 1929, Chapter 192, amends P. L. 1927, Chapter 259, Section 1, so as to permit the use of bottles containing five-eighths of a pint and prohibits the use of any milk bottles except these and those containing one quart, one pint or one-half pint.

Section 2 of P. L. 1927, Chapter 259 penalizes the use of bottles which "do not comply as to size and markings" with the provision of section 1.

This Act of 1927 was passed for the purpose of overcoming the effect of *Old Tavern Farm v. Fickett*, 125 Me. 123, which interpreted the existing statutes so as to permit the use of all bottles other than quart, pint and one-half pint bottles provided they were branded with their exact capacity, not in fluid ounces but in liquid measure, viz: quarts, pints and gills.

Ten ounces may be the same in fact as five-eighths of one pint but the Legislature has, it seems to me, chosen to require that the bottles be branded with the category of quart and pint measurements.

Reference to the Legislative Record shows that these bottles were referred to in discussion as ten-ounce bottles but it is my recollection that in the hearing before the committee the suggestion was made by those who opposed the law that ten ounces meant nothing to the ordinary consumer; hence the words "five-eighths of a pint" were inserted in the belief that the consumer would know what a pint is even though he did not know what a liquid ounce is.

Discussion in committee or in Legislature has, however, little legal bearing on the question one way or the other where the wording of the statute taken in connection with the previous history of the legislation is so clear.

Very truly yours,

CLEMENT F. ROBINSON

Attorney General