

# MAINE STATE LEGISLATURE

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July 13, 1951

Yes

To H. H. Chenevert, Milk Commission  
Re: Fees on Certain Sales

Question 1. Facts: A Maine milk dealer with a plant in Waterville buys milk from H. P. Hood (Boston) plant in Newport, Maine. H. P. Hood buys milk from Maine producers f.o.b. Newport and ships to Boston by trailer tanks. No collection of fee (2¢ per hundredweight) is made on this transaction. H.P.Hood sells a part of this milk to Maine dealers in Maine for fluid consumption in Maine. The question: Can the Milk Commission collect 2¢ per hundredweight fee on the latter transaction and if so from whom?

Opinion. The fact that H. P. Hood sells milk to the Waterville dealer at Newport, Maine, makes H.P.Hood a dealer within the provision of Section 1 of the Maine Milk Control Laws. As such dealer H.P.Hood is liable under the provisions of Section 6 of said Act, to pay the fee of 2¢ per hundredweight based on quantity of milk purchased and sold in Maine. The fact that H.P.Hood buys the milk in Maine and may transport some of it or all of it to Boston and then back into Maine and sell it in Maine does not affect the operation of the law. H.P. Hood can recover 1¢ from the producer in Maine for such milk as H.P. Hood sells in Maine.

Question 2. Facts: A Maine dealer sells surplus milk to another Maine dealer to be used for manufactured products (not to be resold for fluid consumption). This milk would normally be Class II to dealer, being that part of his total receipts which he was unable to sell at retail or wholesale for fluid consumption (Class I use). The dealer contends that since the milk is Class II anyway, and so computed in his blend price to the producers, selling it to another dealer for Class II use does not affect his price to his producers and does not place this milk in Class I category. Question: Does this mean that such dealer-to-dealer sales are Class I only in such areas where dealer-to-dealer prices are established?

Opinion. Section 4 of the Milk Control Laws provides:

"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, but all such sales between dealers shall be considered Class I milk."

This means that the prices in all dealer-to-dealer sales can be established only in those market areas deemed and found to be necessary for stabilizing the market conditions, but in any event all such sales between dealers are considered Class I milk. In other words, such sales between dealers are to be considered Class I milk although the stabilizing price element does not apply; the milk is still in Class I classification and remains there for the purposes of applying the provisions of the law.

Alexander A. LaFleur  
Attorney General

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