

MAINE STATE LEGISLATURE

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October 22, 1963

Walter B. Steele, Jr., Executive Secretary
John W. Benoit, Assistant

Milk Commission
Attorney General

Hundredweight Fee Assessments

Your memorandum of October 11, 1963, is hereby acknowledged.

FACTS:

A dealer, licensed pursuant to the Maine Milk Commission Law, maintains a processing plant in New Hampshire and sells milk and cream from its own stores within the State of Maine. The dealer's milk supply is reported to be in the State of Vermont.

The Maine Milk Commission has assessed the dealer for hundredweight fees based upon the information supplied the Commission in the "dealer's monthly report" for August, 1963.. These fees were due and payable on or before September 30, 1963.

QUESTION:

Whether the Maine Milk Commission may assess the hundredweight fees against the dealer upon the given facts?

ANSWER:

Yes.

REASON:

The applicable provision of law is:

. . . .

Sec. 6. Records and fees. . . .

. . . .

Walter B. Steele, Executive Secretary
Maine Milk Commission

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October 22, 1963

"Each licensed dealer shall pay to said commission an annual license fee of \$1.00 and the sums of 3¢ per hundredweight as monthly payments, based on quantity of milk purchased or produced in any market area, or purchased or produced in an uncontrolled area and sold in any market area. One and one-half cents per hundredweight may be deducted by dealers from amounts paid by them to producers of such milk; except that the milk; farm-processed into cream for the manufacture of butter, shall not be subject to such sums of 3¢ per hundredweight." (Emphasis supplied) R. S., c. 33, § 6, as amended.

The portion of the statute given emphasis above was added to the section by the 99th Legislature. See: Public Laws of 1959, c. 236.

Your memorandum acknowledges that on August 31, 1955, James Glynn Frost, Deputy Attorney General, forwarded a written opinion to the Maine Milk Commission stating that the Commission could legally assess hundredweight fees against a Maine dealer for milk purchased out of state by him on the basis that the Maine dealer was the first handler of the milk in Maine.

We need not incorporate by reference the principle expressed in the August, 1955 opinion in order to reach the same conclusion as expressed therein. We note that the material section was amended in 1959. The language added to Section 6 allows for the assessment of the hundredweight fees for the reason that the given facts indicate that the dealer is purchasing milk in an uncontrolled area and is selling the same in a market area in this State.

Respectfully yours,

John W. Bencit
Assistant Attorney General

JWB/slf