

# MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT  
OF THE  
**ATTORNEY GENERAL**

For the Years  
1967 through 1972

those of the 1963 law (emphasis supplied), it is my understanding that the increases for the group, while approximating 10.25% in some cases, were rarely exactly 10.25%. Similarly, the rate of increase for the statutory salaried State executive officers approximates those rates of increase of the 1963 law. Consequently it appears that these employees are being paid consistently with the terms and conditions of the 1963 law; and as the law of 1967 does not authorize an increase for the statutory salaried State executive officers, an increase cannot now be made.

*QUESTION NO. 5:*

If the answer to Question NO. 4 is “yes”, are these officers entitled to a retroactive longevity pay adjustment back to the time they became eligible for their second longevity step?

*ANSWER NO. 5:*

The answer to NO. 4 was “no”.

GARTH K. CHANDLER  
Assistant Attorney General

September 26, 1967  
Maine Milk Commission

Walter B. Steele, Jr.  
Executive Secretary

H. P. Hood & Sons Premium Offer; 7 M.R.S.A. § 2954

*FACTS:*

On September 7, 1967, this office issued an opinion concerning a proposed premium offer to be printed on quart and half-gallon cartons of milk to be sold at retail stores in this State. In that opinion, it was determined that the reference offer violated the provisions of 7 M.R.S.A. § 2954, i.e., that the offer was destructive of the schedule of minimum prices for milk established by the Maine Milk Commission. The contents of our September 7, 1967 opinion are incorporated herein.

On September 21, 1967, officials of H. P. Hood & Sons met with the Executive Secretary of the Maine Milk Commission and with attorneys in this office. At that time, a general discussion was had of the reference opinion and of certain changes in the offer which had been made by the milk firm since the issuance of our opinion.

As the matter now stands, H. P. Hood & Sons intends to exclude, from both the front and rear sections of the cartons, the “burst reading” containing the words “SPECIAL OFFER! SEE SIDE PANEL”. Thus, the quart and half-gallon milk cartons will thereafter contain the following references regarding the premium offer (the description of the item is omitted here, as not being material):

“PREMIUM OFFER NO. 1”; “HOOD’S EXCITING PREMIUM PROGRAM OF USEFUL ITEMS. . .”; “NOW. . . A continuing series of offers exclusive on Hood milk cartons!” and “This is the *first offer* – watch for the second offer soon!”

H. P. Hood & Sons proposes to make this offer available to the general public in the

State of Maine during the months of November and December, 1967 and January, 1968. The language on the cartons provides that the offer will expire on April 30, 1968, in order "to allow the general public a reasonable time in which to accept the offer." (Quoting from a letter dated September 22, 1967 by Lawrence W. Sullivan, Esquire, counsel for H. P. Hood & Sons)

Counsel for H. P. Hood & Sons has stated that it is the company's belief that the reference promotional program does not in any way violate the Maine Statutes relative to the Maine Milk Commission Law.

*QUESTION:*

Whether the reference premium offer to be advanced by H. P. Hood & Sons upon both quart and half-gallon cartons is in violation of the provisions of the Maine Milk Commission statute?

*ANSWER:*

Yes.

*REASON:*

The Maine Milk Commission statute provides, inter alia, that:

"It shall be unlawful for any person to engage in any practice destructive of the scheduled minimum prices for milk established under this chapter for any market, including but not limited to any discount, rebate, gratuity, advertising allowance or combination price for milk with any other commodity." 7 M.R.S.A. § 2954. (Third paragraph from the end of the section.)

We believe that certain of the language appearing in *Maine Milk Commission v. Cumberland Farms Northern*, 160 Me. 385, 388 is pertinent. There, it is stated, inter alia, that:

"Notwithstanding the fact that the obligation to redeem is contingent, its customers are purchasing milk on better terms than they can receive from competitors who offer no expectation of the rebate. To allow such and similar practices to exist would bring chaos to the milk industry."

The language proposed to be printed upon the subject milk cartons by H. P. Hood & Sons states that the Company is advancing a premium offer; which offer is advanced exclusively on Hood milk cartons. In common parlance, the meaning of the word "premium" is "a reward or recompense; a prize in a competition; also, any extra reward or compensation to spur competitors or workers. \* \* \* bonus". (Webster's *New Collegiate Dictionary*). The language in the offer is so written as to lead the reader to conclude that the offer only exists through the medium of the Company's milk carton.

From a reading of 7 M.R.S.A. § 2954 and certain of the language appearing in *Maine Milk Commission v. Cumberland Farms*, supra, we conclude that the reference premium offer constitutes a violation of the Maine Milk Commission Law.

JOHN W. BENOIT  
Assistant Attorney General