

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

STATE OF MAINE

Inter-Departmental Memorandum Date August 27, 1975

To Maynard C. Dolloff, Commissioner

Dept. Agriculture

From Joseph E. Brennan, Attorney General

Dept. Attorney General

Subject: Maine Milk Commission

In your memo to this Office concerning the Maine Milk Commission, you have asked whether each licensed dealer will have to pay to the Milk Commission [hereinafter referred to as the Commission] 2¢, 3¢ or 5¢ per hundredweight as monthly payments. The Legislature has enacted three statutory provisions which are inconsistent. Section 3 of P.L. 1975, Chapter 444 provides that 7 M.R.S.A. § 2956, 3rd ¶, is amended to read:

"Each licensed dealer shall pay to said commission an annual license fee of \$1 and the sums of 5¢ 2¢ per hundredweight as monthly payments. . . ."

P.L. 1975, Chapter 514 provides that 7 M.R.S.A. § 2956, 3rd ¶, is amended to read:

"Each licensed dealer shall pay to said commission an annual license fee of \$1 and the sums of 5¢ 3¢ per hundredweight as monthly payments. . . ."

Section 5 of P.L. 1975, Chapter 517 provides that 7 M.R.S.A. § 2956 is, in applicable part, repealed and replaced as follows:

"Each licensed dealer shall pay to said commission an annual license fee of \$1 and the sum of 5¢ per hundredweight as monthly payments. . . ."

When the Legislature enacts inconsistent statutes, certain rules of statutory construction apply. Opinion of the Justices, 311 A.2d 103 (Me., 1973). In the cited case, the Maine Supreme Court said, among other things, that an attempt should be made to perceive a comprehensive legislative design, and that the inconsistencies should then be resolved in such a way as to promote that legislative design. The Court also said that the statute which treats ". . . the common subject-matter in the more direct, special and minute manner will usually be held to prevail." 311 A.2d at 108. When the above principles are applied to the question which you ask, it is the opinion of this Office that each licensed dealer will have to pay to the Commission 3¢ per hundredweight as monthly payments.

Maynard C. Dolloff, Commissioner
Page 2
August 27, 1975

Under the present statutes, each licensed dealer pays to the Commission 5¢ per hundredweight as monthly payments. See 7 M.R.S.A. § 2956. 7 M.R.S.A. § 2957, 2nd ¶, presently provides that out of the sums raised by assessments in section 2956, 3¢ per hundredweight goes to the Maine Dairy Council Committee [hereinafter referred to as the Committee]. Thus, under present law, the Commission itself is left with 2¢ per hundredweight.

Under section 6 of P.L. 1975, Chapter 444, a tax of 3¢ per hundredweight will again be imposed on dealers for Committee purposes; however, the tax will be paid directly to the State Tax Assessor, rather than to the Milk Commission. To reflect this change, Section 4 of Chapter 444 repealed 7 M.R.S.A. § 2957, 2nd ¶. Furthermore, Section 3 of Chapter 444 amended 7 M.R.S.A. § 2956 so as to provide the Commission directly with 2¢ per hundredweight (the amount the Commission is now receiving). In enacting Chapter 444, however, the Legislature was primarily dealing with and focusing upon the Committee, and not upon the amount of money the Commission should be receiving from dealers and retaining for its own use.

P.L. 1975, Chapter 514, on the other hand, deals solely and specially with 7 M.R.S.A. § 2956, 3rd ¶. Under Chapter 514, the Commission would receive 3¢ per hundredweight. Both the Statement of Fact to L.D. 1374 and to Committee Amendment "A" to L.D. 1374 (L.D. 1374, as amended, was enacted as P.L. 1975, Chapter 514) clearly show that the Legislature intended to provide the Milk Commission with an additional 1¢ per hundredweight in income, which will be applied toward defraying the increases in Commission operating expenses.

P.L. 1975, Chapter 517 does provide that each dealer shall pay the Commission 5¢ per hundredweight. However, Chapter 517 does not deal solely and specially with 7 M.R.S.A. § 2956, 3rd ¶, as does Chapter 514. Rather, Chapter 517 deals with many Commission related matters-- membership, powers and duties, establishment of minimum prices, records. There is nothing in Chapter 517 to indicate that the Legislature intended to more than double the amount of money the Commission would be receiving and retaining for its own use--from the present 2¢ to 5¢ per hundredweight to be paid by dealers as monthly payments. In addition, Section 5 of Chapter 517 begins as follows: "7 M.R.S.A. § 2956, as last amended by P.L. 1971, c. 128 §§ 1 and 2, is repealed. . ." (emphasis added) No reference is even made to P.L. 1975, chapter 514, which had amended 7 M.R.S.A. § 2956. This error lends further support to the proposition that the ". . . reasonable interpretation is that . . . [this inconsistent reference in Chapter 517] resulted from draftsmanship inadvertencies. . ." 311 A.2d at 109.


JOSEPH E. BRENNAN
Attorney General

JEB:mfe

cc: Hon. James B. Longley