

MAINE STATE LEGISLATURE

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Milk Commission Order (Maine)
7 M.R.S.A. § 2954

JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

May 9, 1978

TO: Richard Poulin, Executive Secretary, Maine Milk Commission
FROM: Donald G. Alexander, Deputy Attorney General
Re: Statewide Control of Milk Pricing

This responds to your request for an opinion, dated April 27, 1978, in which you ask whether the Maine Milk Commission has authority to establish price controls in all areas of the State or only in those areas (markets) which were regulated under a previous statute. You ask further whether the Commission has discretion to establish price controls statewide or only in a certain market and whether a public hearing would be necessary to establish price controls on a state-wide basis as opposed to the current system where price controls are established in specified markets with the unspecified areas of the State remaining unregulated.

We would answer as follows:

1. The Maine Milk Commission has power to regulate the prices of milk sold in all areas of the State. Its powers are not limited to those areas regulated immediately prior to the effectiveness of the 1975 amendments to the Maine Milk Commission laws.
2. The Commission has discretion to regulate prices statewide or only in certain specified marketing areas, it is not required to regulate prices statewide.
3. As the current Maine Milk Commission order specifies the marketing areas in which prices are regulated, a public hearing would be necessary to amend the current order to extend the range of price controls into currently unregulated areas.

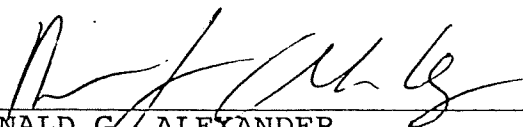
DISCUSSION:

The Maine Milk Commission Law, 7 M.R.S.A. § 2954-2, contemplates that the Commission will establish price regulations which, among other factors, take into consideration "varying conditions in various marketing areas" of the State. Further, § 2954, sub-§ 5 in discussing establishment of minimum prices, talks in terms of establishing minimum prices in any market. Subsection 5 further contemplates that the prices may vary among the several market areas of the State.

Under the law which existed prior to enactment of P.L. 1975, Chapter 517, it was the practice of the Commission to designate certain marketing areas of the State. See 7 M.R.S.A. § 2954, 1973 ed. and 1964 ed. These marketing areas included most of the populated areas of the State. However, as price regulation only extended to these marketing areas, the unlisted areas of the State, primarily rural in nature, were exempt from consumer price regulation. The Commission has carried over the marketing area concept to the new law, continuing as it adopted each order, a listing of the market areas to which price regulation applies and exemption, by implication, of unlisted areas. This practice does not violate the current law which, as indicated above, contemplates that prices may be established for various marketing areas. However, it would also be within the Commission's discretion to designate a marketing area, or several areas which include the entire State. The effect of that change would be to extend milk price regulation to all areas of the State. Such would also be allowed under the present law.

Section 2954-1 specifies that the Commission may only change pricing orders "after investigation and public hearing." Therefore, as the current price order specifies marketing areas and thus makes some areas exempt from regulation, it would be necessary to amend the current price order and thus hold a public hearing to extend milk price regulation statewide without regard to the boundaries of the current marketing areas.

I hope this information is helpful.


DONALD G. ALEXANDER
Deputy Attorney General

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