

# MAINE STATE LEGISLATURE

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ONE - HUNDREDDTH LEGISLATURE

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Legislative Document

No. 1339

H. P. 953

House of Representatives, February 8, 1961

Referred to Committee on Agriculture. Sent up for concurrence and 1,000 copies ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Finley of Washington.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-ONE

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AN ACT Providing for a Tax on Eggs for Human Consumption.

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Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 16, §§ 302 - 317, additional. Chapter 16 of the Revised Statutes is amended by adding 16 new sections to be numbered 302 to 317, to read as follows:

‘Tax on Eggs.

Sec. 302. Purpose. The production of eggs is one of the most important agricultural industries of this State, and sections 302 to 317 are enacted into law to promote the prosperity and welfare of this State and of the egg industry of the State by the fostering of promotional, educational, advertising and research programs of the said egg industry of the State.

Sec. 303. Terms defined. The terms used in sections 302 to 317 shall be construed as follows:

I. Egg handler. “Egg handler” means any person engaged in the packing, processing and marketing as defined in this section of eggs produced within the State.

II. Person. “Person” means any individual, partnership, corporation, association or any other business unit.

III. Producer. “Producer” shall mean any person engaged in the production of eggs within the State, regardless whether such eggs are produced by the producer himself, his agents or by agreement with independent contractors.

IV. **Producer-handler.** "Producer-handler" shall mean any producer who ships eggs produced by him to other than a registered egg handler or processor.

V. **Shipment.** "Shipment" shall be deemed to take place when the eggs are located within the State in the car, truck or other conveyance in which the eggs are to be shipped.

VI. **Taxpayer.** "Taxpayer" shall mean any person who collects and pays over, or becomes liable to collect and pay over, any tax imposed under sections 302 to 317.

Sec. 304. **Tax on eggs for human consumption.** A tax is levied and imposed on all eggs produced for human consumption in this State, except as exempted herein, at the rate of 1c per dozen.

Sec. 305. **Collection of tax.** The tax imposed under section 304 shall be collected by the following persons and in the following manner:

I. **Purchase of eggs.** Each egg handler purchasing eggs and paying over, or becoming liable to pay over, the tax imposed by section 304 shall charge and collect from the seller a tax on all eggs for human consumption purchased by him at the rates set forth in said section 304, the said tax to be deducted from the purchase price of all eggs received or so purchased, except that such tax shall not apply to the purchase of any eggs with respect to which a tax has been paid prior to such purchase under any of the provisions of sections 302 to 317.

II. **Eggs handled.** Each egg handler on his own account shall pay a tax on the eggs handled at the rates specified in section 304, except that such tax shall not apply to the handling of any eggs with respect to which a tax has been paid prior to such handling under any of the provisions of sections 302 to 317.

III. **Processed.** Each egg handler, handling eggs as agent or contractor, shall charge and collect from the owner of such eggs, a tax on all eggs handled by him at the rates set forth in section 304, except that such tax shall not apply to any eggs with respect to which a tax has been paid prior to such handling under any of the provisions of sections 302 to 317.

IV. **Eggs shipped.** Each producer-handler who ships eggs other than to registered egg handlers shall pay a tax at the rate specified in section 304 on all such eggs so shipped.

Sec. 306. **Exemptions.** Eggs sold for hatching purposes shall not be taxable under sections 302 to 317.

Sec. 307. **Registration.** In order to facilitate the enforcement of sections 302 to 317, the following persons shall register with the Tax Assessor:

I. **Egg handler.** Egg handlers who during the preceding year have handled more than 4,320 dozen of eggs for human consumption.

II. **Producer-handler.** Producer-handlers who, during the preceding year, have shipped in excess of 4,320 dozen eggs for human consumption.

Each such buyer, handler or producer-handler shall file an application with the Tax Assessor on forms prescribed and furnished by the Tax Assessor which shall contain the name under which said buyer, handler or producer-handler is transacting business within the State, their place or places of business, the names and addresses of the several persons constituting a firm or partnership, and, if a corporation, the corporate name and names and addresses of its principal officers and agents within the State. The Tax Assessor will then issue a certificate to such buyer, handler or producer-handler.

No buyer, handler or producer-handler shall purchase, handle or ship eggs for human consumption except as herein exempted, other than to a registered egg handler or buyer, until such certificate is furnished as required by this section. No certificate shall be assignable, but it may be used by the legal representative of a registered deceased, incompetent, bankrupt or insolvent.

Sec. 308. **Injunctions.** Any buyer, handler or producer-handler who shall engage in any transaction taxable under sections 302 to 317, without a currently valid certificate, as provided in these sections, may be enjoined from further buying, handling or shipping, as the case may be, until he has acquired such a certificate. Procedures for obtaining such injunction shall be governed by chapter 17, section 34, including the notice provisions thereof.

Sec. 309. **Bonds.** When, in the judgment of the Tax Assessor, it is necessary or advisable for the collection of the taxes imposed, he may require from a taxpayer a bond written by a surety company qualified to do business in this State and in such amount and upon such condition as the Tax Assessor may determine. In lieu of such bond he may accept, for delivery to the custody of the Treasurer of State, a deposit of money or securities in such amount and of such kind as he may approve. Such deposit shall be accepted by the Treasurer of State who shall safely keep the same subject to the instructions of the Tax Assessor.

Sec. 310. **Reports and payment of tax.** Every taxpayer shall keep as a part of his permanent records a record of all purchases or shipments of eggs other than to registered buyers or handlers, which said records shall be open for inspection at all times as provided.

Every taxpayer shall, on or before the 20th day of each month, render a report to the Tax Assessor stating the quantity of eggs purchased; handled or shipped, other than to registered buyers or handlers; except that on application to the Tax Assessor, the Tax Assessor may permit the filing of returns other than monthly. Such reports shall be on forms to be furnished by the Tax Assessor and shall contain such further information as the said Tax Assessor shall prescribe.

On the filing of the report, each taxpayer shall pay to the Tax Assessor all taxes due under sections 304 and 305, as reported. The Tax Assessor shall pay over all receipts from such tax to the Treasurer of State daily.

Sec. 311. Authority to inspect. The Tax Assessor or his duly authorized agent shall have authority to enter any place of business of a taxpayer, or any car, truck or other conveyance in which eggs are to be transported, and duly inspect any books or records of any taxpayer for the purpose of determining what eggs are taxable under this law, or for the purpose of determining the truth or falsity of any statement or return made by any taxpayer, and he shall have authority to delegate such powers to the Commissioner of Agriculture, his deputies, agents, servants or employees.

Sec. 312. Determination of tax by Tax Assessor. If any taxpayer, whether the holder of a certificate or not, shall neglect or refuse to make and file any report as required by section 310, or shall file an incorrect or fraudulent report, the Tax Assessor shall determine after an investigation the tax liability of such taxpayer for any particular month or months, and the Tax Assessor shall assess the tax due the State, giving notice of such assessment to the taxpayer liable therefor, and make demand upon him for payment thereof.

In any action or proceeding for the collection of the egg tax, the assessment by the Tax Assessor of the tax due to the State shall constitute prima facie evidence of the claim of the State and the burden of proof shall be upon the taxpayer to show the assessment was incorrect.

Sec. 314. Penalty for false return or violation of provisions; tax may be collected by civil action; jurisdiction. Any taxpayer who shall make any false or fraudulent report or return required by sections 302 to 317, or who shall evade or violate any of the provisions of said sections, shall be punished by a fine of not more than \$500. Whenever any taxpayer shall fail to pay any tax due under said sections, within the time limited herein, the Attorney General shall enforce payment of such tax by civil action against such taxpayer for the amount of such tax, either in the Superior Court or municipal court in and for the county in which such taxpayer has his residence or established place of business, or in the Superior Court for Kennebec County.

Whenever any taxpayer shall fail to pay any tax due, or shall fail to file any report at the time it is required to be filed, for 2 consecutive reporting periods, the Tax Assessor may revoke the taxpayer's certificate of such taxpayer; and such revocation shall become effective upon notice to the taxpayer. Any taxpayer aggrieved by such revocation may apply in writing, within 15 days after notice thereof, to the Tax Assessor for a hearing, setting forth the reasons for the hearing, and the manner of relief sought. Upon receipt of such application the Tax Assessor shall set a time and place for such hearing and give the taxpayer 10 days' notice thereof. After such hearing, the Tax Assessor may make such order as may appear to him just and lawful and shall give notice by furnishing a copy of such order to the applicant. Any taxpayer aggrieved by such order of the Tax Assessor may appeal therefrom within 20 days after notice of such order to the Superior Court. The appellant shall serve upon the Tax Assessor or his duly authorized representative a copy of said petition stating the reasons for the appeal and notifying the Tax Assessor when the appeal is to be heard. Pending judgment of the court, the order of the Tax Assessor shall remain in full force and effect. Any notice required to be given by the Tax Assessor under this section may be given in hand or by registered mail.

**Sec. 314.** Appropriation and use of moneys received. Money received under sections 302 to 317 by the Treasurer of State shall be appropriated and used for the following purposes:

I. Collection and enforcement. For the collection of the tax and enforcement of all provisions of sections 302 to 316.

II. Balance. The balance in such amounts as shall be from time to time determined by the Maine Egg Council:

A. To be used for such purposes as are defined in subsection I and for carrying out sections 302 to 317.

B. The council may cooperate with similar groups in other states and is authorized to pay to regional or national groups organized in whole or in part for the purpose of promoting the egg industry, such part of its receipts as it deems for the best interests of the egg industry of Maine.

**Sec. 315.** Maine Egg Council. A Maine Egg Council is established and shall consist of 7 members to be appointed by the Commissioner of Agriculture from nominations submitted by directors of the Maine Poultry Improvement Association. Four members of said council shall constitute a quorum for the transaction of all business and the carrying out of the duties of the council. Such members shall be egg producers operating within the State, who shall have been actively engaged in the production of eggs for not less than 5 years and each shall be so actively engaged during his continuance in office. A person shall be considered actively engaged in the egg business if he has during the period derived a substantial portion of his income therefrom, or has been the directing or managing head of an entity that derives a substantial portion of its income from the egg business.

Regular appointments shall be for a term of 3 years, and each member shall serve until his successor is duly appointed and qualified. In case of a vacancy caused by death, resignation or otherwise, the vacancy shall be filed promptly by the Commissioner of Agriculture from a list submitted by the directors of the Maine Poultry Improvement Association for the unexpired period of the term. Original appointments shall be 2 members for one year, 2 members for 2 years and 3 members for 3 years.

The members of the council shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties. They are authorized to select and employ such agents and personnel as may be necessary in their judgment and to fix compensation.

**Sec. 316.** Advertising. It shall be unlawful for any egg buyer to advertise or hold out or state to the public or any vendor, directly or indirectly, that the tax or any part thereof imposed by sections 302 to 317 will be assumed or absorbed by the buyer, or that it will not be deducted from the selling price of the eggs sold, or if deducted, that it or any part thereof will be refunded. Any person violating any part of the provisions of this section shall be guilty of a misdemeanor.

**Sec. 317. Tax in addition to other taxes.** All taxes imposed and collected under sections 302 to 317 shall be in addition to any other taxes legally imposed or collected under any other provision of the law of the State now or hereafter in force.'

**Sec. 2. Limitation.** This act shall remain effective for only 2 years after the effective date of this act.