

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 1296

H. P. 889

House of Representatives, February 13, 1963

Referred to Committee on Agriculture. Sent up for concurrence and 800 ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Childs of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

AN ACT Revising Price Controls on Milk.

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

Sec. 1. R. S., c. 32-B, additional. The Revised Statutes are amended by adding a new chapter 32-B, to read as follows:

**Chapter 32-B.
Milk Control.**

Sec. 1. Division of Milk Control. The Milk Control Board, as hereinafter provided, constitutes the Division of Milk Control of the Department of Agriculture.

Sec. 2. Definitions. Terms used in this chapter shall be construed as follows unless a different meaning is clearly apparent from the language or context:

“Board” means the Milk Control Board as constituted herein.

“Distributor” means any person who produces and sells, who purchases for sale or sells, or who receives on consignment for sale, more than 2 quarts of milk daily within the State for consumption, disposition or use within the State, except those who sell milk for consumption on the premises. A producer who delivers or sells milk to a distributor only shall not be deemed a distributor. Distributor shall include a store.

“Division of Milk Control” means the Division of Milk Control of the Department of Agriculture.

“Market” means any municipality, or 2 or more of the same designated by the board as a natural marketing area.

“Milk” means fluid milk, cream, skim milk or buttermilk, fresh, sour or storage, irrespective of whether or not such milk is flavored.

“Person” means any person, association, firm, partnership or corporation or cooperative association.

“Producer” means any person who produces milk within the State.

“Store” means a grocery store or dairy products store or any similar commercial establishment, which purchases milk from licensed distributors who have previously processed and bottled or otherwise packaged such milk for sale.

Sec. 3. Maine Milk Control Board. There shall be a Milk Control Board to consist of 7 members, 2 of whom shall be producers, 2 of whom shall be distributors and 3 of whom shall be consumers, to be appointed by the Governor, with the advice and consent of the Council, for a term of 5 years. The terms of each member shall be fixed in his commission and each shall continue in office until his successor has been appointed and qualified. One member shall be designated by the Governor as chairman. If a vacancy shall occur in said board, it shall be filled for the unexpired term by the Governor with the advice and consent of the Council.

Sec. 4. Compensation of members. The members of said board shall be paid \$15 a day, each, for such time as they are actually engaged in the service of the State, and their actual expenses.

Sec. 5. Assistants. The board may employ an executive secretary and such assistants as may be deemed necessary, subject to the provisions of the Personnel Law.

Sec. 6. Duties. It shall be the duty of the board to be informed at all times as to the supply, production and quality of milk in the State that the public may be assured of an adequate daily production in the State of a proper quantity and quality. It shall be the duty of the board to be informed at all times as to the transportation, processing, storage and distribution of milk sold, consumed or used in the State. To the end that no part of the State shall lose or have impaired its reasonable requirements of milk of a proper quality, the board shall have power to supervise, regulate and control the production, distribution and sale of milk within the State. To the end of safeguarding and protecting the public from the harm and economic loss it would sustain if the production of milk was substantially curtailed, the board shall secure the cooperation of those engaged in the industry to maintain fair and lawful trade practices. The authority herein conferred shall supplement and be in addition to but not in lieu of such supervision and regulations as are now imposed by existing statutes or by lawful ordinances or rules and regulations of the several municipalities of the State. The board shall have no power to modify, add to or annul any sanitary regulations imposed by any state or municipal authority, or to compel pasteurization in any market area. In administering the provisions of this chapter, it shall have power to conduct hearings, subpoena and examine under oath dealers with their records, books and accounts and any other person from whom information may be desired to carry out the purposes and intent of this chapter and any member of the board may sign subpoenas and administer oaths to witnesses. Any member of the board or its representatives may enter at all reasonable hours all places where milk is being received, processed, stored or

otherwise handled and shall have access to all books and records relating to milk for the purpose of ascertaining facts to enable the board to administer the provisions of this chapter. The board may adopt, promulgate and enforce all rules and orders necessary to carry out said provisions.

The board may act as mediator or arbitrator to settle any controversy or issue among or between producers, distributors and consumers, any of whom may petition the board in writing to change prices or conditions in any market area.

Sec. 7. Authority to fix price. Whenever the board shall determine, either upon complaint or upon its own initiative, after public notice and hearing, that the public health is menaced, jeopardized or likely to be impaired or deteriorated by the loss or substantial lessening of a supply of milk of proper quality in a specified market, the board shall fix the just and reasonable minimum prices that shall be paid producers or associations of producers by distributors, and the manner of payment, as long as such condition is found to prevail in such market. The prices so fixed need not be uniform in all markets and may be changed from time to time in accordance with the findings of the board or after such notice and public hearing as deemed by the board in the public interest. Nothing in this chapter shall be construed to prohibit a producers' cooperative, organized under the laws of this State, or similar laws of other states, from blending the proceeds from the sale of its milk in all markets and all classifications, and distributing the same to its members in accordance with a contract with its members, or in making deductions from sums due members of such sums as may be authorized by the membership to be so deducted.

Sec. 8. Consumer price fixing. The price charged consumers and others for milk by distributors shall not be fixed by the board unless the board shall determine, either upon complaint or upon its own initiative, after public notice and hearing, that the public health is menaced, jeopardized or likely to be impaired or deteriorated by the loss or substantial lessening of a supply of milk of proper quality in a specified market. In the event that the board so finds, they shall fix the just and reasonable minimum prices that shall be charged consumers and others for milk by distributors. The board shall cause an audit to be made of a sufficient number of distributors' accounts to determine the cost of distribution which shall be the basis for the determination of the minimum consumer prices. The prices so fixed need not be uniform in all markets and may be changed from time to time in accordance with the findings of the board or after such notice and public hearing as deemed by the board in the public interest. It is the express legislative intent that the establishment of consumer controls shall be for the purpose of market stabilization to assure the public of a supply of milk of proper quality and quantity. The board by fixing minimum retail prices shall not unreasonably disturb or destroy the normal price differentials that prevail in a free competitive market. In establishing consumer controls the board shall give due consideration to:

- I. Lower consumer prices on multiple quart container sales;
- II. Greater flexibility in the form of price variables between home deliveries and store purchases;

- III. Lower consumer prices on quantity sales regardless of where made; and
- IV. Reasonable price flexibility in such other consumer markets as may be warranted.

Sec. 9. **Producer direct sales.** A licensed producer who produces and sells direct to the consumer the milk produced on his own farm and who purchases no milk for resale shall not be subject to the price fixing powers of the board.

Sec. 10. **Volume purchases at wholesale.** The board shall provide for a lower wholesale price for volume purchases of milk for the use of institutions or organizations.

Sec. 11. **School milk.** School milk shall be free from all price controls.

Sec. 12. **Accepting established grades.** The board may accept established and defined classes and grades of milk or may establish and define such classes and grades, and shall specify to what classes or grades the prices fixed pursuant to section 7 shall apply.

Sec. 13. **Licenses; revoking, suspending and withholding; appeal.** No distributor, except stores, shall buy milk from producers or others for sale or shall process, distribute, sell or offer to sell milk in any market in the State designated by the board unless duly licensed by the board. No license shall be required of any person who produces or sells milk for consumption only on the premises of the producer or seller. Each person, before engaging in the business of a distributor in any market designated by the board, shall make application to the board for a license hereunder, which the board is authorized to grant.

The license year shall commence on January 1st and end on December 31st following. Application for a license shall be made on a form prescribed by the board.

Licenses required by the provisions of this chapter shall be in addition to any other license required by law.

The board may, upon proper evidence, decline to grant a license or may suspend or revoke a license already granted upon due notice and after hearing.

No order of the board suspending, revoking or withholding a license, or refusing to renew an existing license shall be effective until 10 days after the same has been issued and a copy thereof mailed to the holder of or applicant for such license. Within said period of 10 days any party believing himself aggrieved by the order of the board may appeal to the Superior Court in the county in which he resides or is engaged in business and cause notice of such appeal to be served on the board. Such court, after hearing, shall affirm or reverse the order of the board, or any modification thereof by the board.

No appeal taken from an order of the board shall suspend the operation of such order, except as otherwise provided. The Justice of the Superior Court before whom such appeal is pending, when in his opinion justice may so require, may order a suspension of or compliance with such order, or with such order as modified by the board, pending the determination of such appeal. Violation of this chapter or of any order, rule or regulation made hereunder, or conviction of

violating any other law or regulation of the State relating to the production, distribution and sale of milk, shall be sufficient cause to suspend, revoke or withhold such license.

Sec. 14. Records and fees. All distributors in any market designated by the board shall keep the following records:

- I. A record of the quantity of all milk received or produced, detailed as to location and as to names and addresses of producers or milk distributors from whom received;
- II. A record of the quantity of all milk sold, detailed as to use, location and market outlet; and
- III. Such other records and information as the board may deem necessary for the proper enforcement of the provisions of this chapter.

Each distributor shall furnish their producers a record of the amount of milk purchased, the price per pound or quart, and the total amount paid for each pay period, also itemized deductions for transportation and other services, and when using the "weight and test" method of payment, the record shall contain the butterfat test and percentages of Class I and Class II of said milk.

Each licensed distributor shall pay to said board an annual license fee of \$1 and the sums of 3c per hundredweight as monthly payments, based on quantity of milk purchased or produced in any market area. One and one-half cents per hundredweight may be deducted by distributors 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 3c per hundredweight.

Distributors shall file reports together with the prescribed hundredweight fees with the Milk Control Board at its office in Augusta not later than the 20th of the following month, on forms provided for this purpose, of all matters on account of which a record is required to be kept and such other information or facts as may be pertinent and material within the scope of the purposes of this chapter. Except that distributors who sell less than 100 quarts of milk per day may file reports and pay the prescribed hundredweight fees every 3 months.

In case the same milk is handled by more than one distributor, the first distributor within the State dealing in or handling said milk shall be deemed to be the milk distributor within the meaning of this section. For the purpose of computing fees as above provided, $\frac{1}{2}$ pint of cream shall be considered the equivalent of one quart of milk.

Sec. 15. Rules and regulations. In administering this chapter, the Milk Control Board shall have the power to make orders hereunder, conduct hearings, subpoena and examine under oath producers and distributors, their books, records, documents, correspondence and accounts, and any other person it deems necessary to carry out the purposes and intent hereof. The board may adopt, promulgate and enforce such reasonable rules and regulations as are deemed necessary to carry out this chapter.

Sec. 16. Expenditure of funds. Moneys received through this chapter shall be paid forthwith to the Treasurer of State and shall be appropriated and used for the following purposes:

- I. For the collection of all fees and assessments provided for by this chapter;
- II. For the cost of administering the provisions of this chapter;
- III. 66 $\frac{2}{3}$ % of such moneys raised by assessments for the promotional, educational, experimental plans and the research and advertising purposes as determined by the Maine Dairy Council Committee.

Moneys received through this chapter shall remain a continuing carrying account and shall not lapse.

Sec. 17. Penalties. Anyone violating any provision of this chapter or order hereunder, or any rule or regulation of the Milk Control Board made hereunder, or failing to answer a subpoena or to testify before the board, shall be punished by a fine of not more than \$100 or by imprisonment for not more than 11 months, or by both, and each day during which such violation shall continue shall be deemed a separate violation.

Sec. 18. Conferences authorized. The Milk Control Board shall have the power to confer and agree with legally constituted similar boards or authorities of other states, or agencies of the Federal Government, and to adopt necessary regulations to effect a uniformity in regulation and assure an adequate and proper milk supply in the State.

Sec. 19. Maine Dairy Council Committee. The Maine Dairy Council Committee, as heretofore established, shall consist of the following 5 members: the Commissioner of Agriculture, 2 producers and 2 distributors to be appointed by the Commissioner of Agriculture on recommendation of the various producer and distributor associations, individuals or unorganized groups of producers and distributors in the State. Each appointed member shall serve for 2 years, or until his successor is duly appointed and qualified. In case of a vacancy caused by death, resignation or otherwise, the vacancy shall be filled by the commissioner for the unexpired period of the term. The appointed members shall receive the same compensation as the members of the Maine Milk Control Board and be reimbursed for expenses incurred in the performance of their duties.'

Sec. 2. Status of present members of the Maine Milk Commission and first appointments of new members. Each member of the Maine Milk Commission in office on the effective date of this act shall remain in office until the expiration of the respective term of office.

Sec. 3. Certain regulations retained. All regulations of the Maine Milk Commission in effect on the effective date of this act relative to producer prices and control, except in case of producer direct sales, shall remain in effect until changed by the Maine Milk Control Board.

Sec. 4. R. S., c. 33, repealed. Chapter 33 of the Revised Statutes, as amended, is repealed.