

MAINE STATE LEGISLATURE

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(EMERGENCY)
(After Deadline)
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1688

H. P. 1660

House of Representatives, June 9, 1981

Reference to the Committee on Agriculture suggested and Ordered Printed.

(Approved for introduction by a Majority of the Legislative Council pursuant to Joint Rule 27)

EDWIN H. PERT, Clerk

Presented by Representative Sherburne of Dexter.

Cosponsors: Representative Jalbert of Lewiston, Representative Locke of Sebec and Representative Jacques of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Establish Temporary Minimum Prices to be Paid to Milk Dealers and Retailers and to Facilitate Compliance of the Milk Commission with Recent Cases before the Maine Courts.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, under the criteria announced by the Supreme Judicial Court it is possible that no order of the commission prior to Order 80-6 other than Order 80-5 can now be regarded as valid with respect to dealer margins; and

Whereas, as a result of the decisions by the Superior Court and the Supreme Judicial Court for the first time since 1935 no minimum dealer and retailer prices currently exist; and

Whereas, the Maine Milk Commission does not have the data, staff and other resources necessary to promptly adopt a valid order to establish dealer and retailer minimum; and

Whereas, the production and distribution of milk is an industry within the State affected with a public interest; and

Whereas, the absence of valid, enforceable dealer and retailer minimum prices for even a short period of time will cause serious and potentially permanent economic dislocations for the milk industry of this State; and

Whereas, the only feasible solution to this problem is for the Legislature to enact temporary dealer and retailer minimum prices while giving the Maine Milk Commission the time and resources to adopt a valid enforceable order for dealer and retailer minimum prices; and

Whereas, in the judgment of the Legislature these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 7 MRSA § 2956, 3rd ¶, as repealed and replaced by PL 1975, c. 770, § 45, is amended to read:

Each licensed dealer shall pay to ~~said~~ the commission an annual license fee of \$1 and the sum of ~~3¢~~ 5¢ per hundredweight as monthly payments, based on quantity of milk purchased or produced in any market area, or purchased or produced in an uncontrolled area and sold in any market area. ~~One~~ Two and one-half cents per hundredweight may be deducted by dealers 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 ~~3¢~~ 5¢ per hundredweight.

Sec. 2. 7 MRSA § 2961 is enacted to read:

§ 2961. Temporary minimum prices to be paid to dealers and retailers for the sale of milk

Notwithstanding any other provision of this chapter, minimum prices to be paid to dealers and retailers for the sale of milk shall be as provided in this section.

1. Purpose. The purpose of this section is to provide the Maine Milk Commission with an interim basis for establishing minimum prices to be paid to dealers and retailers for the sale of milk as authorized by this chapter pending an opportunity for the commission to establish a new pricing order in full compliance with all the requirements of this chapter, as interpreted by *Cumberland Farms Northern, Inc. v. Maine Milk Commission, Me.*, 377 A.2d 84 (1977) and *Cumberland Farms Northern, Inc. v. Maine Milk Commission*, Law Docket No. Cum-80-5, decided April 23, 1981, "Cumberland Farms, 1981."

2. Interim minimum prices. Except as provided in subsections 3, 4 and 5, the minimum prices to be paid to dealers and retailers for the sale of milk shall be those contained in Maine Milk Commission Order 81-6, adopted April 30, 1981.

3. Time limit for order. As soon as possible, but no later than 180 days from the effective date of this section, the commission shall adopt an order establishing

prices in accordance with this chapter in effect immediately prior to the effective date of this section, provided that prices established by that order shall not be invalid by reason of any defects in the commission's investigatory procedure of the kind described in Part II of the Supreme Judicial Court's decision in Cumberland Farms, 1981. The prices established by the commission pursuant to this subsection shall supersede the prices established pursuant to subsection 2.

4. Adoption of order. No later than one year from the effective date of this section, the Maine Milk Commission may adopt an order establishing minimum dealer and retailer prices in accordance with this chapter in effect immediately prior to the effective date of this section. The prices established by the commission pursuant to this subsection shall supersede the prices established pursuant to subsection 3.

5. Changes in prices. Notwithstanding subsections 2, 3 and 4, the commission shall adopt orders which shall adjust the prices established pursuant to those subsections to reflect changes in producer prices established pursuant to section 2954, subsection 2, paragraph A.

6. Automatic termination. This section shall terminate at the earlier of either one year from the effective date of this section or upon the effective date of an order of the commission issued pursuant to subsection 4.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this bill is reflected in the emergency preamble.