

MAINE STATE LEGISLATURE

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(New Draft of H.P. 169, L.D. 213)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1753

H.P. 1280 House of Representatives, June 5, 1987
Reported by Representative TARDY from the Committee on
Agriculture and printed under Joint Rule 2.

EDWIN H. PERT, Clerk

Original bill sponsored by Representative LISNIK of
Presque Isle. Cosponsored by Representatives MAHANY of
Easton, PARADIS of Frenchville and Senator COLLINS of
Aroostook.

STATE OF MAINE

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

AN ACT Relating to the Payment of Dues to
Grower Organizations by Handlers and
Processors of Farm Products.

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

Sec. 1. 7 MRSA §1091, as enacted by PL 1971, c.
438, is amended to read:

§1091. Dues

If a member of a ~~cooperative~~ ~~agricultural~~
~~marketing~~ ~~an~~ ~~association~~ ~~as~~ ~~defined~~ ~~in~~ ~~Title~~ ~~13,~~
section 1774, subsection 3 shall make ~~makes~~ a written
assignment of dues to such that ~~association,~~ ~~such~~
those ~~dues~~ shall be paid out of funds due or to be-

1 come due to such that member for any farm product
2 produced or to be produced by such that member, or
3 for any services performed or to be performed by such
4 that member in the production of farm products. Pursuant to a collective marketing contract any Any per-
5 son who accepts or receives such the product or ser-
6 vices under such contract from the member is bound by
7 such that assignment after receiving written notice
8 from the association and or from the member, and such
9 that person shall withhold the assigned dues from
10 amounts payable by him to the member thereafter dur-
11 ing the period of such the assessment.
12

13 Sec. 2. 7 MRSA §1092, as enacted by PL 1971, c.
14 438, is amended to read:

15 §1092. Assignment

16 No provision which is inserted in any contract or
17 other instrument that is prepared by a dealer or pro-
18 cessor which makes an assignment of the dues de-
19 scribed in section 1091 ineffective is valid.

20 An assignment of dues may not exceed 1% of the
21 total value of the product or services delivered by
22 the member to the dealer or processor.

23 Sec. 3. 7 MRSA §1093, as enacted by PL 1971, c.
24 438, is repealed and the following enacted in its
25 place:

26 §1093. Remittance of dues; accounting

27 1. Sale of farm products. Subject to subsection
28 3, a dealer or processor shall, on or before the 15th
29 day of each month, pay to an association all dues as-
30 signed to the association pursuant to section 1091
31 with respect to farm products received from members
32 by the dealer or processor during the preceding cal-
33 endar month. At the time of each monthly payment of
34 dues, the dealer or processor shall provide to the
35 association a summary statement showing, for each
36 member, the quantity of farm products received, the
37 payment due to the member for those farm products
38 prior to the deduction of dues and the amount of dues
39 deducted therefrom pursuant to the assignment.

1 2. Performance of farm services. Subject to
2 subsection 3, a dealer or processor shall, on or be-
3 fore the 15th day of each month, pay to an associa-
4 tion all dues assigned to the association pursuant to
5 section 1091 with respect to services performed by
6 members in the production of farm products which were
7 received by the dealer or processor during the pre-
8 ceding calendar month. At the time of each monthly
9 payment of dues, the dealer or processor shall pro-
10 vide to the association a summary statement showing,
11 for each member, the quantity of farm products for
12 which services were performed and the amount of dues
13 deducted therefrom pursuant to the assignment.

14 3. Flat rate dues deduction. In the event that
15 the dues assigned to the association pursuant to sec-
16 tion 1091 are not calculated on the quantity of farm
17 products sold or tendered by members to the dealer or
18 processor, the dealer or processor shall pay the dues
19 to the association according to the payment schedule
20 contained in the assignment. No payment schedule may
21 require the payment of assigned dues more frequently
22 than once a month.

23 Sec. 4. 7 MRSa §1096 is enacted to read:

24 §1096. Violation; penalties

25 1. Civil violation. Failure of a dealer or pro-
26 cessor to pay assigned dues to an association within
27 the time required by section 1093 is a civil viola-
28 tion for which a civil penalty of not more than
29 \$1,000 for a first offense and not more than \$2,000
30 for each subsequent offense may be adjudged, to be
31 recovered by the commissioner in a civil action.

32 2. Additional penalty. In the event that a vio-
33 lation is found, the court shall order the dealer or
34 processor, as a further civil penalty, to pay to the
35 association double the amount of the assigned dues
36 that were not paid to the association within the time
37 required by section 1093.

38 3. Private action. Any dealer or processor that
39 fails to pay assigned dues to an association within
40 the time required by section 1093 is liable to that
41 association in a civil action for double the amount

1 of the assigned dues that were not timely paid to the
2 association plus reasonable attorney fees, provided
3 that the filing of a civil violation action pursuant
4 to subsections 1 and 2 shall bar the filing of a private
5 action under this subsection arising from the
6 same events of nonpayment.

7 STATEMENT OF FACT

8 This new draft accomplishes the purpose of L.D.
9 213 while retaining more of the language of the ex-
10 isting law. That purpose is the extension of the
11 dues check-off privilege to agricultural cooperatives
12 that do not have a current contract with a processor
13 or handler, but whose members, nonetheless, sell
14 products or services to the processor or handler.

15 Legislative document 213 also inadvertently takes
16 away the dues check-off privilege from agricultural
17 cooperatives composed of contract poultry growers,
18 who perform services rather than sell products. This
19 new draft corrects that error.

20 This new draft also establishes a time deadline
21 by which a dealer or processor must remit assigned
22 dues to an association. Failure to timely pay over
23 the assigned dues would be a civil violation or, al-
24 ternatively, could result in a private action brought
25 by the association.

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