

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 2579

S.P. 971

In Senate, March 23, 1988

Referred to the Committee on Agriculture and ordered printed. Sent down for concurrence.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator BLACK of Cumberland.

Cosponsored by Representative SHERBURNE of Dexter,
Representative NUTTING of Leeds.

STATE OF MAINE

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

AN ACT to Establish Operating Permits for
Commercial Dairy Farms.

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

6 Sec. 1. 7 MRSA §2901, sub-§1-C is enacted to
7 read:

8 1-C. Commercial dairy farm. Commercial dairy

1 farm means any farm the operator of which sells milk
2 from the farm to a milk dealer.

3 Sec. 2. 7 MRSA §2902-A is enacted to read:

4 §2902-A. Operating permits

5 1. Sale prohibited. Following the adoption of
6 and in accordance with rules established according to
7 this section, no operator of a commercial dairy farm
8 may sell any milk to a milk dealer, unless the
9 operator holds a valid operating permit for the farm
10 issued by the commissioner.

11 2. Issuance of operating permits. The
12 commissioner, in accordance with the Maine
13 Administrative Procedure Act, Title 5, chapter 375,
14 shall adopt rules for the issuance of operating
15 permits. These rules shall establish permitting
16 procedures and standards for permit issuance. In
17 establishing these procedures and standards, the
18 commissioner shall seek consistency with applicable
19 federal milk regulations and guidelines and with the
20 provisions of agreements among states relating to the
21 interstate shipment of milk. These permits shall not
22 be transferable with respect to persons or locations
23 or both.

24 3. Permit granted; requirements; suspension. A
25 permit shall be granted upon the express condition
26 that the permittee shall at all times conduct his
27 operation and maintain his facilities in accordance
28 with the requirements of state law and any rules
29 adopted under this chapter and chapter 609. Any
30 violation which results in a health or safety hazard
31 may lead to suspension of a permit in accordance with
32 Title 5, chapter 375, section 10004 for a period of up
33 to 30 days. A suspension or revocation of a permit
34 for longer than 30 days, or a refusal to renew a
35 permit, shall be in accordance with Title 5, chapter
36 375, subchapter V.

37 4. Hearing on suspension of permit. Upon
38 receiving a written request from a person whose permit
39 has been suspended, or who has been given a notice of

1 intent to suspend by the commissioner, the
2 commissioner shall within 72 hours conduct a hearing
3 to ascertain the facts involved in the case and, based
4 upon the evidence presented at that hearing, shall
5 affirm, modify or rescind the suspension or
6 notification of intent to suspend.

7 5. Exemption. An operator of a commercial dairy
8 farm located outside this State who holds a similar
9 operating permit for that farm from a regulatory
10 agency in another state may be exempted from this
11 permit requirement by the commissioner.

12 STATEMENT OF FACT

13 The purpose of this bill is to establish a permit
14 program under which commercial dairy farms selling
15 milk to milk dealers shall be required to have a
16 permit issued by the Department Agriculture, Food and
17 Rural Resources.

18 Three purposes are served by the establishment of
19 such a program. First, if a particular farm does not
20 meet sanitation or other regulatory standards, a
21 permit program allows regulatory action to be taken
22 with respect to that farm. Under the present
23 situation, the problems that an individual farm may be
24 having in meeting standards may negatively affect all
25 of the farms which ship to the same dealer or market
26 as the farm with problems. Second, with a permit
27 program in place, farmers shall be protected from
28 arbitrary actions by their dealers, as well as by
29 regulators. Due process protections attached to
30 permits require notice and hearing when regulatory
31 action is taken against a permit holder. Also, the
32 permit program provides a rational mechanism for the
33 resolution of problems. The third reason for a permit
34 program is that it should help in the achievement of
35 the department's and industry's long-sought goal of
36 interstate reciprocity in farm inspections and in
37 other requirements related to interstate milk shipment
38 and handling.

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