

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

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No. 849

H.P. 598

House of Representatives, February 26, 1991

Reference to the Committee on Agriculture suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative TARDY of Palmyra.

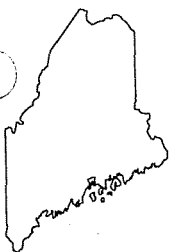
Cosponsored by Senator BRANNIGAN of Cumberland, Representative LORD of Waterboro and Senator EMERSON of Penobscot.

STATE OF MAINE

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

An Act to Stabilize the Maine Dairy Industry.

(EMERGENCY)



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

Whereas, the price of milk has dropped approximately 40% as a result of a milk surplusage west of the Mississippi River; and

Whereas, the magnitude of these price fluctuations jeopardizes the economic viability and stability of the Maine dairy industry and Maine agriculture as a whole; 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:

36 MRSA c. 708-A is enacted to read:

CHAPTER 708-A

MAINE DAIRY FARM STABILIZATION ACT

§4541. Short title

This chapter may be known and cited as the Maine Dairy Farm Stabilization Act.

§4542. Findings and declaration of purpose

1. Findings. The Legislature makes the following findings.

A. Unanticipated fluctuations in milk prices have a highly destabilizing impact on the viability of Maine dairy farmers, many of whom must make commitments to long-term financing arrangements for buildings, equipment and land.

B. These temporary periods of price fluctuation jeopardize the economic viability and stability of the Maine dairy industry and Maine agriculture as a whole.

C. The Maine dairy industry is essential to the viability of the State's rural communities and contributes to the general welfare of the State by generating business activity and employment and preserving open space and other benefits for the people of Maine.

D. Helping to stabilize the Maine dairy industry during these temporary periods constitutes a public purpose and an appropriate expenditure of tax revenues.

2 2. Purpose. The purposes of this chapter are to protect
4 the general welfare of the public and promote the public interest
 by establishing a dairy stabilization system that:

6 (A) Protects the interests of all Maine people,
8 including consumers of milk in Maine, by enhancing the
 viability of Maine dairy farms during periods of price
 fluctuation; and

10 (B) Places an excise tax on the handling of milk for
12 retail sale in Maine and distributes those funds to the
 dairy farmers in this State.

14 **§4543. Definitions**

16 As used in this chapter, unless the context otherwise
18 indicates, the following terms have the following meanings.

20 1. Dealer. "Dealer" means any person who purchases or
22 receives milk for sale as the consignee or agent of a producer or
 handles milk for sale, shipment, storage or processing within the
24 State and includes a producer-dealer, subdealer, store and
 integrated operation.

26 2. Integrated operation. "Integrated operation" means a
 person who is a dealer and who also sells at retail the milk that
28 the dealer handles for sale, shipment, storage or processing
 within the State.

30 3. Milk. "Milk" has the same meaning as in Title 7, §2951,
32 subsection 6.

34 4. Person. "Person" means any individual, partnership,
 firm, corporation, association or other unit and the State and
36 all political subdivisions or agencies of the State, except
 state-owned and state-operated institutions.

38 5. Producer. "Producer" means any person who produces milk
40 and sells that milk to dealers only.

42 6. Producer-dealer. "Producer-dealer" means a dealer who
 produces a part or all of that dealer's milk or a person who
44 produces milk and sells to a grocery store, dairy product store
 or similar commercial establishment.

46 7. Store. "Store" means a grocery store, dairy product
48 store, canteen, milk vending machine operator, milk dispensing
 operator or any similar commercial establishment or outlet or any
50 other sale where milk is sold to consumers for consumption off
 the premises.

2. 8. Subdealer. "Subdealer" means any person who does not
4 process milk but who purchases milk from a dealer and sells that
milk in the same containers in which it was purchased but does
not include a store.

6 §4544. Maine Dairy Farm Stabilization Tax

8 1. Tax. An excise tax is levied and imposed at the rate
10 established in subsection 2 on the handling of milk for retail
sale in this State. The tax must be paid by all milk dealers
12 including importers of milk into the State on all milk handled
for retail sale in this State and on all milk imported into the
14 State for retail sale in this State. If the same milk is handled
by more than one dealer in this State, the first dealer dealing
16 in or handling that milk within the State is considered the
dealer within the meaning of this section.

18 2. Rate. The rate of tax levied under this chapter is
20 established monthly on the basis of the Class I price of milk
established pursuant to Title 7, chapter 603 including all
22 premiums established by the Maine Milk Commission in accordance
with the following chart.

<u>Class I price of milk including</u>	<u>Rate of Maine Dairy</u>
<u>all premiums established by the</u>	<u>Farm Stabilization</u>
<u>Maine Milk Commission</u>	<u>Tax</u>
<u>\$17.00 per hundredweight and above</u>	<u>0¢ per quart</u>
<u>\$16.50 to \$16.99 per hundredweight</u>	<u>5¢ per quart</u>
<u>\$16.00 to \$16.99 per hundredweight</u>	<u>1¢ per quart</u>
<u>\$15.50 to \$15.99 per hundredweight</u>	<u>1.5¢ per quart</u>
<u>\$15.00 to \$15.49 per hundredweight</u>	<u>2¢ per quart</u>
<u>below \$15.00 per hundredweight</u>	<u>2.5¢ per quart</u>

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36 3. Report. On or before December 15th of each year, the
38 Commissioner of Agriculture, Food and Rural Resources shall
submit a report to the joint standing committee of the
40 Legislature having jurisdiction over agricultural matters
describing the total amount of tax collected and distributed
42 under this chapter during the preceding calendar year, the prices
for milk then prevailing on the Maine and Boston markets, the
44 supply and demand for milk in Maine and New England and the
present condition and future prospects of the State's dairy
46 industry. The commissioner shall include recommendations, if
any, concerning changes in the rates of the Maine Dairy Farm
Stabilization Tax.

48
50 4. Tax as additional. Any tax imposed and collected under
this chapter is in addition to any other taxes imposed or
collected under any other law of the State.

2 5. Records and reports. Every dealer, on or before the
4 20th day of each month, shall report to the State Tax Assessor
6 the quantity of milk handled in or imported into the State for
8 retail sale in this State during the preceding month, the
10 quantity of milk sold that was subject to the Maine Dairy Farm
12 Stabilization Tax and any other information the State Tax
14 Assessor by rule determines necessary or useful in the
16 administration of this chapter and the enforcement of the Maine
18 Dairy Farm Stabilization Tax. The State Tax Assessor or a duly
20 authorized agent must have access during reasonable business
22 hours to the dealer's books, invoices and vouchers showing the
24 volume of milk handled for retail sale in this State.

26 6. Due dates. Dealers shall pay to the State Tax Assessor
28 the tax due for each month not later than the 20th day of the
30 following month and submit any information required by the State
32 Tax Assessor on the forms provided.

34 §4545. Maine Dairy Farm Stabilization Fund

36 1. Fund created. The State Tax Assessor shall immediately
38 pay all funds received from the Maine Dairy Farm Stabilization
40 Tax to the Treasurer of State. The Treasurer of State shall keep
42 these funds and all other funds appropriated by the Legislature
44 for the purposes of this chapter in a separate account called the
46 Maine Dairy Farm Stabilization Fund. The Treasurer of State
48 shall invest all money credited to the fund in accordance with
50 applicable provisions of law and all earnings must be credited to
 the fund. The funds must be invested in a manner that ensures
 that all deposits and earnings are available for withdrawal on a
 monthly basis without penalty. Revenue credited to the fund,
 including interest accrued by investment of the fund, must be
 used solely for the purposes of this chapter as provided in
 subsection 2. The funds credited to the fund may not lapse but
 must be carried forward for the purposes of this chapter.

2. Distribution. All funds collected under this chapter
 and all other funds appropriated by the Legislature for the
 purposes of this chapter and interest earnings on these funds
 must be distributed by the Treasurer of State on a monthly basis
 as follows.

A. Ninety percent of the funds collected under this chapter
 and all other funds appropriated by the Legislature for the
 purposes of this chapter and any earnings on these funds
 must be paid each month to the Commissioner of Agriculture,
 Food and Rural Resources for distribution during the
 following month to Maine market producers and Boston market
 producers at the same time that payments from the Maine Milk
 Pool are made. A payment may not be allocated to that

2 portion of a producer's milk production that is in excess of
3 250,000 pounds per month. Notwithstanding any other
4 provisions of law, the funds distributed to producers under
5 this paragraph are appropriated and allotted for the
6 purposes of this paragraph and the Commissioner of
7 Agriculture, Food and Rural Resources or the Maine Milk Pool
8 administrator pursuant to Title 7, section 3154, as the
9 commissioner's designee is authorized to prepare and sign
10 warrants for the payment of the amounts due to producers
11 from the Maine Dairy Farm Stabilization Fund under this
12 chapter.

13
14 B. Four percent of the funds collected each month must be
15 paid into a separate, nonlapsing fund to be appropriated by
16 the Legislature on an annual basis for the acquisition of
17 development rights on agricultural lands or for the
18 preservation of open space.

19
20 C. Four percent of the funds collected each month must be
21 paid into a separate, nonlapsing fund to be appropriated by
22 the Legislature on an annual basis to supplement the Women,
23 Infants and Children Special Supplemental Food Program of
24 the United States Child Nutrition Act of 1966 administered
25 by the Department of Human Services.

26 D. Two percent of the fund must be paid into a separate,
27 nonlapsing fund to be appropriated by the Legislature on an
28 annual basis to cover the actual costs of the administration
29 of this chapter by the Treasurer of State and the
30 Commissioner of Agriculture, Food and Rural Resources. Any
31 remaining balance of these funds after these appropriations
32 must be appropriated back to the Maine Dairy Farm
33 Stabilization Fund for distribution to producers.

34 **§4546. Failure to file statement; false statement**

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37 Any person who refuses or neglects to make any statement,
38 report, payment or return required by this chapter, or who
39 knowingly makes, aids or assists any other person in making a
40 false statement in a return or report to the State Tax Assessor
41 or in connection with an application for refund of any tax, or
42 who knowingly collects, attempts to collect or causes to be paid
43 to that person or to any other person, either directly or
44 indirectly, any refund of that tax without being entitled to a
45 refund, is guilty of a Class E crime.

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47 **Emergency clause.** In view of the emergency cited in the
48 preamble, this Act takes effect when approved.

2

STATEMENT OF FACT

4 This bill establishes a Maine Dairy Farm Stabilization Fund
6 financed by an excise tax on the handling of milk for retail sale
8 in the State and by such other sums as the Legislature may
10 appropriate for the purposes of the Maine Dairy Farm
12 Stabilization Act. The rate of the Maine Dairy Farm
14 Stabilization Tax varies on a monthly basis in relation to the
16 Class I price of milk established by the Maine Milk Commission
18 and increases proportionately as the price of milk falls below
20 the costs of production. The funds collected are redistributed
 so that 90% of the funds is distributed to Maine's dairy farmers
 on the basis of their milk production, 4% is set aside for the
 acquisition of development rights on farmland and the
 preservation of open space and 4% is set aside to supplement the
 Women, Infants and Children Special Supplemental Food Program of
 the United States Child Nutrition Act of 1966. No more than 2%
 of the funds may be used for the purpose of administering the
 Maine Dairy Farm Stabilization Act.