

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "^H" to H.P. 1163, L.D. 1704, Bill, "An Act to Prohibit the Sale and Distribution of Certain Milk Products"

Amend the bill by striking out the title and substituting the following:

'An Act to Limit the Use of Biosynthetic Bovine Somatotropin until More Extensive Human and Animal Safety Studies Are Completed'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 7 MRSA §2908, first ¶, as amended by PL 1985, c. 751, §4, is further amended to read:

Any firm, person, corporation or society who ~~shall--sell~~ sells milk or cream in the State without the license or licenses provided in section 2902, or who ~~shall--violate~~ violates any of the provisions of sections 2901 to 2904 and, 3101 to 3103 and 3105, or neglects, fails or refuses to comply with any of the provisions of those sections and the rules, regulations and standards of identity and quality issued thereunder, commits a civil violation for which the following forfeiture may be adjudged:

Sec. 2. 7 MRSA §3101 is amended to read:

§3101. Inspection and analysis

The commissioner shall inspect the production, manufacture, transportation, storage and sale of milk, cream, butter and all other dairy products, substitutes therefor, or imitations thereof.

The commissioner ~~shall~~ must have free access at all reasonable hours to any dairy farm, milk plant, vehicle,

COMMITTEE AMENDMENT "A" to H.P. 1163, L.D. 1704

2 establishment, premises or place where milk or milk products,
3 substitutes therefor, or imitations thereof, are or may be
4 produced, collected, handled, processed, pasteurized, bottled,
5 packaged, stored, sold or otherwise prepared for distribution for
6 the purpose of inspecting such dairy farm, milk plant, vehicle,
7 establishment, premises or place to determine if any of the
8 provisions of sections 2901 to 2904 and, 3101 to 3103 and 3105
9 are being violated; and to secure samples or specimens of any
10 milk, cream, milk products, substitutes or imitations thereof,
11 after paying or offering to pay the market value for such
12 samples. The commissioner shall make or cause to be made
13 examination of samples secured under this section to determine
14 whether or not any provisions of sections 2901 to 2904 and 3101
15 to 3103 are being violated.

16 The commissioner may seize without warrant such cans,
17 bottles, containers and equipment used in the production,
18 handling, processing, pasteurizing, bottling, or ~~used--in--the~~
19 purchase or sale of milk or cream as may be needed as evidence of
20 violation of any provisions of sections 2901 to 2904 and, 3101 to
21 3103 and 3105.

22 The commissioner may, in ~~his~~ the commissioner's discretion,
23 publish the results of all analyses with the names of the
24 persons, firms, corporations, associations and societies from
25 which the samples analyzed were taken or the ~~name~~ names of the
26 milk ~~dealer~~ dealers. He The commissioner may, in ~~his~~ the
27 commissioner's discretion, issue a report of the results of all
28 analyses, for distribution to such newspapers in the State as may
29 request a copy.

30
31 **Sec. 3. 7 MRSA §3104 is amended to read:**

32
33 **§3104. Injunctions by commissioner**

34
35 In addition to any other remedy for the enforcement of
36 sections 2901 to 2904 and, 3101 to 3103 and 3105 or any rule,
37 regulation, order or decision of the commissioner, the Superior
38 Court ~~shall--have~~ has jurisdiction upon complaint filed by the
39 commissioner to restrain or enjoin any person from committing any
40 act prohibited by sections 2901 to 2904 and, 3101 to 3103 and
41 3105 or prohibited by any rule, regulation, order or decision of
42 the commissioner. If it is established, upon hearing, that the
43 person charged has been or is committing any act declared to be
44 unlawful by sections 2901 to 2904 and, 3101 to 3103 and 3105 or
45 is in violation of any rule, regulation, order or decision of the
46 commissioner, the court shall enter a decree perpetually
47 enjoining ~~said~~ that person from further commission of such act or
48 actions. In case of violation of any injunction issued under
49 this section, the court shall summarily try and punish the person
50

for contempt of court. The existence of other civil or criminal remedies shall ~~be~~ is not a defense to this proceeding. The commissioner shall ~~is~~ not be required to give or post a bond when making an application for an injunction under this section.

Sec. 4. 7 MRSA §3105 is enacted to read:

§3105. Restrictions on biosynthetic bovine somatotropin

A veterinarian or a veterinarian's assistant may use biosynthetic bovine somatotropin, known as BST, for medical or research purposes only. It is unlawful for a person who is not a veterinarian or a veterinarian's assistant under the supervision of a veterinarian to administer biosynthetic BST. In addition to other penalties provided by law, if biosynthetic BST is found on a dairy farm, except in conformance with this section, the commissioner shall suspend the farm's operating permit issued under section 2902-A. The suspension may be for a period of up to 30 days and must be in accordance with Title 5, section 10004. This section is repealed January 1, 1993.

FISCAL NOTE

The Department of Agriculture, Food and Rural Resources can enforce this restriction of the use of the growth hormone biosynthetic bovine somatotropin, or BST, utilizing existing staff that currently inspect approximately 650 dairy farms twice a year.

The additional workload and administrative costs associated with the minimal number of new cases filed in the court system will be absorbed within the budgeted resources of the Judicial Department. The collection of additional fines may also increase General Fund revenue. The amount can not be estimated at this time.'

STATEMENT OF FACT

This amendment replaces the original bill. It restricts the use of biosynthetic bovine somatotropin, known as BST, to medical and research purposes. It prohibits anyone except a veterinarian or a supervised veterinarian's assistant from administering biosynthetic BST. The presence of biosynthetic BST on a dairy

COMMITTEE AMENDMENT "A" to H.P. 1163, L.D. 1704

2 farm results in loss of the farm's operating permit if the
restrictions on biosynthetic BST have been violated. These
4 restrictions are repealed on January 1, 1993. This amendment
also adds a fiscal note to the bill.

Reported by the Majority of the Committee on Agriculture
Reproduced and distributed under the direction of the Clerk of the
House
2/6/92 (Filing No. H-897)