

MAINE STATE LEGISLATURE

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AGRICULTURE, CONSERVATION AND FORESTRY

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**STATE OF MAINE
SENATE
119TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 667, L.D. 1889, Bill, "An Act to Amend the Maine Milk Laws"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 7 MRSA c. 601 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 601

MILK AND MILK PRODUCTS

Sec. 2. 7 MRSA §2901, first ¶, as amended by PL 1979, c. 541, Pt. A, §72, is further amended to read:

As used in this section, and sections 2901-A to 2904 and ~~3101--to--3103~~, unless the context otherwise indicates, the following terms shall have the following meanings.

Sec. 3. 7 MRSA §2901, sub-§1-A, as enacted by PL 1971, c. 164, §1, is amended to read:

1-A. **Adulterated and misbranded milk and milk products.** "Adulterated milk and milk products" means milk or milk products which that upon analysis are found to contain added water or ~~which contain~~ any unwholesome substance, or milk or milk products which that contain any antibiotics, pesticide or chemical

COMMITTEE AMENDMENT

R. S.

2 residues, or which ~~that~~ if defined in sections 2901 to 2904 and
3 3101 to 3103 this section or defined in the regulations
4 promulgated rules adopted by the commissioner do not conform to
5 the definition thereof, ~~shall be deemed to be adulterated~~. Milk
6 or milk products ~~shall be deemed~~ are considered to be misbranded
7 if the labeling is false, improper or misleading in any
8 particular, or the labeling does not comply with the requirements
9 promulgated rules adopted by the commissioner.

10 **Sec. 4. 7 MRSA §2901, sub-§17** is repealed and the following
11 enacted in its place:

12 **17. Milk.** "Milk" means the lacteal secretion, practically
13 free from colostrum, obtained by the complete milking of one or
14 more healthy cows, goats or sheep.

15 **Sec. 5. 7 MRSA §2901, sub-§22**, as amended by PL 1981, c. 315,
16 §5, is repealed and the following enacted in its place:

17 **22. Milk products.** "Milk products" includes cream, light
18 cream, light whipping cream, heavy cream, heavy whipping cream,
19 whipped cream, whipped light cream, sour cream, acidified sour
20 cream, cultured sour cream, milk, butter, evaporated milk,
21 sweetened condensed milk, nonfat dry milk solids, half and half,
22 sour half and half, acidified sour half and half, cultured sour
23 half and half, concentrated milk and milk products, skim milk,
24 reconstituted or recombined milk and milk products, low-fat milk,
25 light milk, reduced fat milk, homogenized milk, frozen milk
26 concentrate, eggnog, cultured milk, cultured reduced-fat milk,
27 cultured light milk, cultured low-fat milk, cultured skim milk,
28 buttermilk, yogurt, reduced fat yogurt, light yogurt, low-fat
29 yogurt, nonfat yogurt, cottage cheese, creamed cottage cheese,
30 acidified milk, acidified reduced-fat milk, acidified light milk,
31 acidified low-fat milk, acidified skim milk, low-sodium milk,
32 low-sodium reduced-fat milk, low-sodium light milk, low-sodium
33 low-fat milk, low-sodium skim milk, lactose-reduced milk,
34 lactose-reduced reduced-fat milk, lactose-reduced light milk,
35 lactose-reduced low-fat milk, lactose-reduced skim milk,
36 aseptically processed and packaged milk and milk products, milk,
37 reduced-fat milk, light milk, low-fat milk and skim milk with
38 added safe and suitable microbial organisms and any other milk
39 product, frozen dessert or frozen dessert mix, cheese or any
40 other product designated as a milk product by the commissioner
41 made by the addition or subtraction of milk fat or the addition
42 of safe and suitable optional ingredients for protein, vitamin or
43 mineral fortification.

44 **Sec. 6. 7 MRSA §2901, sub-§23-A** is enacted to read:

RWS

2 23-A. Not pasteurized. "Not pasteurized" means any milk or
3 milk product that has not been subjected to the temperature and
4 time requirements of pasteurization using equipment designed for
5 pasteurization or has not been aseptically processed and
6 packaged. For the purposes of this subsection, "aseptically
7 processed and packaged" means hermetically sealed in a container
8 and thermally processed to render the product free of
9 microorganisms capable of reproducing in the product under normal
10 nonrefrigeration conditions of storage and distribution.

11 Sec. 7. 7 MRSA §2901-A, as enacted by PL 1973, c. 67, is
12 amended to read:

13 **§2901-A. Standards and labeling**

14 Notwithstanding any other requirements of this chapter, milk
15 and milk products, defined in accordance with standards then in
16 effect which that have been adopted by the United States
17 Government and labeled in conformity with labeling requirements
18 then in effect which that have been adopted by the United States
19 Government, ~~shall be deemed~~ are considered to conform with the
20 definitions and labeling requirements set forth in this chapter;
21 except that containers of milk and cream shall packaged in Maine
22 must also bear the name and address of the Maine licensed milk
23 dealer and sufficient information to identify the milk plant
24 where packaged as ~~required by section 2903~~.

25 Sec. 8. 7 MRSA §2902, as amended by PL 1989, c. 888, §§3 and
26 4, is repealed the following enacted in its place:

27 **§2902. Licensing fees**

28 A person may not sell milk or milk products prior to
29 obtaining a license pursuant to rules adopted under section 2910
30 or pursuant to former section 2902.

31 1. Milk distributor license fee. A milk distributor
32 license fee is based on the annual volume of milk sold or
33 distributed in the State. The annual fee may not be lower than
34 \$25 or exceed \$300.

35 2. General Fund. All money received from milk distributor
36 license fees by the commissioner must be deposited in the General
37 Fund.

38 Sec. 9. 7 MRSA §2903, as amended by PL 1985, c. 32, is
39 repealed.

40 Sec. 10. 7 MRSA §2904, as amended by PL 1977, c. 694, §139,
41 is repealed.

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Sec. 11. 7 MRSA §2905 is repealed.

Sec. 12. 7 MRSA §2906, as repealed and replaced by PL 1977, c. 696, §98, is amended to read:

§2906. Civil suits

The district attorney for the county in which any violation of sections ~~2901 to 2904 and 3101 to 3103~~ 2901-A to 2902-A has occurred shall, if requested, assist the commissioner in suits arising ~~thereunder~~ under those sections.

Sec. 13. 7 MRSA §2907 is amended to read:

§2907. Jurisdiction

The District Court and the Superior Court shall have concurrent jurisdiction in cases arising under sections ~~2901 to 2904 and 3101 to 3103~~ 2901-A to 2902-A.

Sec. 14. 7 MRSA §2908, first ¶, as amended by PL 1991, c. 725, §1, is further amended to read:

Any firm, person, corporation or society who sells milk or cream in the State without the license or licenses provided in section 2902, or who violates any of the provisions of sections ~~2901 to 2904, 3101 to 3103 and 3105,~~ 2901-A to 2902-A 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. 15. 7 MRSA §2910 is enacted to read:

§2910. Standards for milk and milk products

The commissioner, in a manner consistent with the Maine Administrative Procedure Act, shall establish standards by rule for the inspection and examination, licensing, permitting, testing, labeling and sanitation of milk and milk product production and distribution.

The standards must be consistent with the requirements of the official standards, known as the Pasteurized Milk Ordinance, as issued by the Secretary of the United States Department of Health and Human Services, Food and Drug Administration, except that the standards may not prohibit the sale of unpasteurized milk and milk products in the State.

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2 Rules adopted pursuant to this section are major substantive
3 rules as defined in Title 5, chapter 375, subchapter II-A.

4 **Sec. 16. 7 MRSA cc. 607 and 609**, as amended, are repealed.

6 **Sec. 17. 10 MRSA c. 503**, as amended, is repealed.

8 **Sec. 18. Report; legislation authorized.** The Department of
9 Agriculture, Food and Rural Resources shall submit rules
10 provisionally adopted in accordance with the Maine Revised
11 Statutes, Title 7, section 2910 to the Legislature for review as
12 major substantive rules no later than January 3, 2000. The Joint
13 Standing Committee on Agriculture, Conservation and Forestry is
14 authorized to report out legislation relating to the Maine milk
15 laws during the Second Regular Session of the 119th Legislature.'

16
17 Further amend the bill by inserting at the end before the
18 summary the following:

20 **FISCAL NOTE**

22
23 The Department of Agriculture, Food and Rural Resources will
24 incur some minor additional costs to adopt certain rules
25 pertaining to milk quality. These costs can be absorbed within
26 the department's existing budgeted resources.'

28 **SUMMARY**

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31 This amendment replaces the original bill. It retains
32 several sections of a statute proposed for repeal in the original
33 bill. This bill directs the Department of Agriculture, Food and
34 Rural Resources to provisionally adopt major substantive rules
35 for the inspection, licensing, testing, labeling and sanitation
36 of milk and milk products. It requires these rules to be
37 submitted to the Legislature no later than January 3, 2000 and
38 authorizes the Joint Standing Committee on Agriculture,
39 Conservation and Forestry to report out legislation relating to
40 the milk laws during the Second Regular Session of the 119th
41 Legislature.

42 The amendment also adds a fiscal note to the bill.