

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2000

---

Legislative Document

No. 2662

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S.P. 1069

In Senate, March 31, 2000

**An Act to Amend the Maine Milk Laws.**

(EMERGENCY)

---

Reported by Senator KILKELLY of Lincoln for the Joint Standing Committee on Agriculture, Conservation and Forestry pursuant to Public Law 1999, chapter 362, section 18, and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

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

4  
Whereas, the statutory definitions and provisions relating  
6 to the production and sale of milk and milk products need to be  
revised for efficient administration and enforcement of the laws;  
8 and

10  
Whereas, the efficient administration and enforcement of the  
laws is vital to the interests of the citizens of this State; and

12  
Whereas, in the judgment of the Legislature, these facts  
14 create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
16 necessary for the preservation of the public peace, health and  
safety; now, therefore,

18  
Be it enacted by the People of the State of Maine as follows:

20  
PART A

22  
Sec. A-1. 7 MRSA §2900 is enacted to read:

24  
§2900. Definitions

26  
As used in this chapter, unless the context otherwise  
28 indicates, the following terms have the following meanings.

30  
1. Aseptically processed and packaged. "Aseptically  
32 processed and packaged" means hermetically sealed in a container  
and thermally processed to render the product free of  
34 microorganisms capable of reproducing in the product under normal  
nonrefrigeration conditions of storage and distribution.

36  
2. Bulk milk hauler and sampler. "Bulk milk hauler and  
38 sampler" means a person who collects samples and transports raw  
milk from a farm or raw milk products to or from a farm, milk  
40 plant, receiving station or transfer station and has in that  
person's possession a permit from any state to sample such  
products.

42  
3. Commissioner. "Commissioner" means the Commissioner of  
44 Agriculture, Food and Rural Resources or the commissioner's duly  
authorized agent.

46  
4. Dairy or dairy farm. "Dairy or dairy farm" means any  
48 place or premises where one or more cows, goats or sheep are kept  
and from which milk or milk products are provided, sold or  
50 offered for sale.

2           **5. Farm cheese.** "Farm cheese" means cheese manufactured  
3 within the State on the dairy farm on which the milk is produced  
4 from milk that is heat treated. "Farm cheese" does not include  
5 cheese that has been aged at a temperature above 35 degrees  
6 Fahrenheit for at least 60 days.

8           **6. Heat treated.** "Heat treated" means processed by heating  
9 every particle of milk to a temperature of 145 degrees Fahrenheit  
10 for at least 30 minutes using a double boiler.

12           **7. 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.

16           **8. Milk distributor.** "Milk distributor" means any person  
17 who offers for sale or sells to another person any milk or milk  
18 products in their final form.

20           **9. Milk plant.** "Milk plant" means any place, premises or  
21 establishment where milk or milk products are collected, handled,  
22 processed, stored, pasteurized, aseptically processed, bottled or  
23 otherwise prepared for distribution.

24           **10. Milk producer.** "Milk producer" means any person who  
25 operates a dairy farm and provides, sells or offers milk or milk  
26 products for sale.

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

48           **12. Milk transport tank.** "Milk transport tank" means a  
49 vehicle, including the truck and tank, used by a bulk milk hauler  
50

2 and sampler or milk tank truck driver to transport bulk shipments  
3 of milk from a milk plant, receiving station or transfer station  
4 to another milk plant, receiving station or transfer station.

6 13. Milk transportation company. "Milk transportation  
7 company" means a company responsible for a milk transport tank.

8 14. Not pasteurized. "Not pasteurized" means any milk or  
9 milk product that has not been subjected to the temperature and  
10 time requirements of pasteurization using equipment designed for  
11 pasteurization or has not been aseptically processed and packaged.

12 15. Pasteurization or pasteurized. "Pasteurization" or  
13 "pasteurized" or a similar term means the process of heating  
14 every particle of milk or milk product in properly designed and  
15 operated equipment to the temperature specified and for the time  
16 period specified in any rule adopted pursuant to section 2910 or  
17 any pasteurization process that has been recognized by the United  
18 States Food and Drug Administration to be equally effective and  
19 that is approved by the commissioner.

20 16. Person. "Person" means any individual, plant operator,  
21 partnership, corporation, company, firm, trustee, association or  
22 institution.

23 17. Receiving station. "Receiving station" means any  
24 place, premise or establishment where raw milk is received,  
25 collected, handled, stored or cooled and prepared for further  
26 transporting.

27 18. Transfer station. "Transfer station" means any place,  
28 premises or establishment where milk or milk products are  
29 transferred directly from one milk transport tank to another.

30 Sec. A-2. 7 MRSA §2901, as amended by PL 1999, c. 481, §1, is  
31 repealed.

32 Sec. A-3. 7 MRSA §2901-A, as amended by PL 1999, c. 362, §7,  
33 is further amended to read:

34 **§2901-A. Standards and labeling**

35 Notwithstanding any other requirements of this chapter, milk  
36 and milk products, defined in accordance with standards then in  
37 effect that have been adopted by the United States Government and  
38 labeled in conformity with labeling requirements then in effect  
39 that have been adopted by the United States Government, are  
40 considered to conform with the definitions and labeling  
41 requirements set forth in this chapter; except that containers of  
42 milk and cream packaged in Maine must also bear the name and

2 address of the Maine licensed milk dealer distributor and  
sufficient information to identify the milk plant where packaged.

4 **Sec. A-4. 7 MRSA §2901-B, sub-§§1 and 2**, as enacted by PL 1993,  
c. 663, §1, are amended to read:

6  
8 **1. Notice by producer.** If the criteria for use of the  
certification trademark include absence of the use of rbST, a  
10 milk producer in this State who sells milk to a dealer milk plant  
12 who that uses the trademark must notify that milk dealer plant  
before using rbST within the milking herd of the producer's dairy  
14 farm. Notification to the dealer milk plant must be made at  
least 45 days before using rbST. Notification must be made by  
16 certified mail and sent to the dealer's milk plant's employee  
responsible for milk procurement at the plant location where the  
milk is processed. For purposes of this section, "possession of  
rbST" means use.

18  
20 **2. Failure to provide notice.** If a Maine milk producer  
fails to give the dealer milk plant the notice required in  
22 subsection 1, the dealer milk plant is not required to comply  
with the notice requirements of section 2903-A before refusing to  
24 continue to purchase milk under any contract with that milk  
producer.

26 **Sec. A-5. 7 MRSA §2901-C** is enacted to read:

28 **§2901-C. Licenses and permits**

30 A person required to obtain a permit or license under this  
32 section, section 2902-A or rules adopted under section 2910 or  
pursuant to former section 2902 may not sell, transport or  
34 transfer milk or milk products prior to obtaining the appropriate  
license or permit.

36 **1. Milk distributor license.** A milk distributor shall  
38 obtain a license from the commissioner and shall renew that  
license annually. The license fee is based on the annual volume  
40 of milk or milk products sold or distributed in the State. The  
annual fee may not be lower than \$25 or exceed \$300. The  
42 commissioner shall deposit all money received from milk  
distributor license fees into the General Fund.

44 **2. Bulk milk hauler and sampler permit.** A bulk milk hauler  
46 and sampler who is based in this State shall obtain a permit from  
the commissioner and shall renew that permit annually. For the  
48 purposes of this section, "based in this State" means a bulk milk  
hauler and sampler who does not have a permit from another state  
to sample raw milk or raw milk products.

50

2        3. Receiving station permit. A person who owns or operates  
a receiving station shall obtain a permit for that receiving  
4        station from the commissioner and shall renew that permit  
annually.

6        4. Transfer station permit. A person who owns or operates  
a transfer station shall obtain a permit for that transfer  
8        station from the commissioner and shall renew that permit  
annually.

10       5. Milk transportation company permit. A person who owns  
12       or operates a milk transportation company shall obtain a permit  
for the transportation company from the commissioner and shall  
14       renew that permit annually.

16       **Sec. A-6. 7 MRSA §2902**, as repealed and replaced by PL 1999,  
c. 362, §8, is repealed.

18       **Sec. A-7. 7 MRSA §2902-A, sub-§§1, 2 and 5**, as enacted by PL  
20       1987, c. 700, §2, are amended to read:

22       **1. Sale prohibited.** Following the adoption of and in  
accordance with rules established according to this section, no  
24       operator of a ~~commercial~~ dairy farm may sell any milk to a milk  
dealer, distributor unless the operator holds a valid operating  
26       permit for the farm issued by the commissioner.

28       **2. Issuance of operating permits.** The commissioner, in  
accordance with the Maine Administrative Procedure Act, Title 5,  
30       chapter 375, shall adopt rules for the issuance of operating  
permits. These rules shall must establish permitting procedures  
32       and standards for permit issuance. In establishing these  
procedures and standards, the commissioner shall seek consistency  
34       with applicable federal milk regulations and guidelines and with  
the provisions of agreements among states relating to the  
36       interstate shipment of milk. These permits shall are not be  
transferable with respect to persons or locations or both.

38       **5. Exemption.** An operator of a ~~commercial~~ dairy farm  
40       located outside this State who holds a similar operating permit  
for that farm from a regulatory agency in another state may be  
42       exempted from this permit requirement by the commissioner.

44       **Sec. A-8. 7 MRSA §2903-A**, as enacted by PL 1981, c. 574, §2,  
is amended to read:

46       **§2903-A. Refusal to purchase**

48       **1. Notice of refusal.** A milk dealer plant owner or  
50       operator who has a verbal or written contract with a milk

2 producer for the purchase of milk shall may not refuse to  
3 continue to purchase milk under the contract without first giving  
4 notice to the producer in accordance with this section. The  
5 dealer milk plant owner or operator shall give written notice of  
6 intent to refuse to purchase to the producer and to the  
7 commissioner. The notice shall must state the date upon which  
8 the refusal will become effective.

9  
10 A. Except as provided in paragraph B, the refusal shall  
11 does not become effective until 30 days following the milk  
12 dealer's plant owner or operator's notice of intent to  
13 refuse to purchase milk from the producer.

14 B. If a milk dealer's plant owner or operator's refusal to  
15 continue to purchase milk is based on failure of the  
16 producer's milk to meet the milk dealer's plant owner or  
17 operator's quality criteria or the Interstate Milk Shipments  
18 Conference Standards, whichever is applicable, the refusal  
19 may become effective on less than 30 days' notice. Upon  
20 issuance of notice of intent to refuse purchase because of  
21 failure to meet the criteria or standards, the dealer milk  
22 plant owner or operator shall cause a sample of the refused  
23 milk to be taken immediately and transferred to the  
24 commissioner for testing in the state central laboratory.  
25 Upon receipt of the test results that the sample does not  
26 meet the milk dealer's plant owner or operator's quality  
27 criteria or the Interstate Milk Shipments Conference  
28 Standards, whichever is applicable, refusal to continue to  
29 purchase shall ~~become~~ becomes effective immediately. Notice  
30 shall must be given to the producer by the dealer milk plant  
31 owner or operator immediately upon ~~his~~ the milk plant owner  
32 or operator's receipt of the test results. The state central  
33 laboratory shall mail the results of the test to the milk  
34 dealer plant owner or operator and milk producer.

35  
36 **2. Challenge of refusal; adjudicatory hearing.** If the  
37 producer or dealer the milk plant owner or operator desires to  
38 question the refusal to purchase or the test given under  
39 subsection 1, paragraph B, he either may do so within 10 days  
40 after receipt of the notice from the dealer milk plant owner or  
41 operator of the test results by requesting, in writing, that the  
42 commissioner conduct an adjudicatory hearing pursuant to the  
43 Maine Administrative Procedure Act, Title 5, chapter 375. If a  
44 request for hearing is made by the milk dealer plant owner or  
45 operator, refusal to purchase shall does not become effective  
46 until the hearing is held and a decision upholding the dealer's  
47 milk plant owner or operator's refusal has been issued by the  
48 commissioner. The decision of the commissioner as to the  
reasonableness of the dealer's milk plant owner or operator's



2 refusal to purchase shall-be is considered final agency action  
for purposes of the Maine Administrative Procedure Act.

4 **Sec. A-9. 7 MRSA §2906**, as amended by PL 1999, c. 362, §12,  
is further amended to read:

6  
8 **§2906. Civil suits**

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

14 **Sec. A-10. 7 MRSA §2907**, as amended by PL 1999, c. 362, §13,  
is further amended to read:

16  
18 **§2907. Jurisdiction**

20 The District Court and the Superior Court have concurrent  
jurisdiction in cases arising under sections 2901-A to 2902-A  
22 ~~2904-A~~.

24 **Sec. A-11. 7 MRSA §2908**, as amended by PL 1999, c. 362, §14,  
is further amended to read:

26  
28 **§2908. Violations**

30 Any firm, person, corporation or society who sells milk or  
cream milk products in the State without the license or licenses  
permits provided in section 2902 ~~2901-C and 2902-A~~ or who  
32 violates any of the provisions of sections 2901-A to 2902-A  
~~2904-A~~ or neglects, fails or refuses to comply with any of the  
34 provisions of those sections and the rules, regulations and  
standards of identity and quality issued ~~thereunder~~ pursuant to  
section 2910 commits a civil violation for which the following  
36 forfeiture may be adjudged:

38 1. **First violation.** For the first violation, a forfeiture  
40 ~~net-to-exceed-\$100~~ of not less than \$250 and not more than \$500;  
and

42 2. **Second violation.** For each subsequent violation, a  
44 forfeiture ~~net-to-exceed-\$200~~ of not less than \$500 and not more  
than \$1,000.

46 **Sec. A-12. 7 MRSA §2910, last ¶**, as enacted by PL 1999, c. 362,  
§15, is amended to read:

48  
50 Rules adopted pursuant to this section are major substantive  
rules as defined in Title 5, chapter 375, subchapter II-A, except

2 that amendments to the rules to maintain consistency with the  
3 official standards known as the Pasteurized Milk Ordinance, as  
4 issued by the Secretary of the United States Department of Health  
5 and Human Services, Food and Drug Administration, are routine  
6 technical rules as defined in Title 5, chapter 375, subchapter  
7 II-A. Amendments to the rules may not prohibit the sale of  
8 unpasteurized milk or milk products in the State.

9  
10 **Sec. A-13. 7 MRSA §2910-A** is enacted to read:

11 **§2910-A. Injunctions by commissioner**

12  
13 In addition to any other remedy for the enforcement of  
14 sections 2901-C to 2904-A or a rule, order or decision by the  
15 commissioner adopted or issued pursuant to this chapter, the  
16 commissioner is authorized to apply to the Superior Court for a  
17 preliminary or permanent injunction restraining any person from  
18 violating any provision of sections 2901-C to 2904-A or any rule,  
19 order or decision of the commissioner adopted or issued pursuant  
20 to this chapter. The Superior Court has jurisdiction upon  
21 hearing and for good cause shown to grant a preliminary or  
22 permanent injunction. In case of violation of an injunction  
23 issued under this section, the court may cite the person for  
24 contempt of court. The existence of either civil or criminal  
25 remedies is not a defense in this proceeding. The commissioner  
26 is not required to give or post a bond when making an application  
27 for an injunction under this section.

28  
29  
30  
31 **PART B**

32  
33 **Sec. B-1. 7 MRSA §2952, last ¶**, as repealed and replaced by PL  
34 1975, c. 517, §1, is amended to read:

35 ~~The commission shall hold regular meetings on the 3rd~~  
36 ~~Thursday of each calendar month.~~ The chairman ~~chair~~ shall call  
37 special meetings of the commission whenever requested in writing  
38 by 2 or more members of the commission.

39  
40 **Sec. B-2. 7 MRSA §2953-A, sub-§6** is enacted to read:

41  
42 **6. Compensation.** Members serving pursuant to subsection  
43 4-A, paragraph A, subparagraphs (2) and (4) are compensated for  
44 attendance at Northeast Interstate Dairy Compact meetings in  
45 amounts not to exceed those set forth in Title 3, section 2,  
46 except that employees of the State who are compensated as part of  
47 their employment do not receive additional compensation under  
48 this subsection.

2           **Sec. B-3. 7 MRSA §2954, sub-§1**, as amended by PL 1995, c. 2,  
§1, is further amended to read:

4           **1. Commission empowered to establish prices; public**  
5 **hearing.** The commission is vested with the power to establish  
6 and change, after investigation and public hearing, the minimum  
7 wholesale and retail prices to be paid to producers, dealers and  
8 stores for milk received, purchased, stored, manufactured,  
9 processed, distributed or otherwise handled within the State.  
10 The commission shall hold a public hearing prior to the  
11 establishing or changing of such minimum prices. The commission  
12 may proceed, however, under the emergency rule-making provisions  
13 of Title 5, section 8054 without making findings of emergency  
14 when the only changes to be made in the minimum prices are to  
15 conform with the orders of any federal or other agency duly  
16 authorized by law to establish or negotiate producer prices or  
17 are to respond to other conditions affecting prevailing Class I,  
18 Class II and Class III prices in southern New England, ~~or reflect~~  
19 ~~the Milk Handling Tax as determined by Title 36, chapter 716.~~  
20 Title 5, section 8054, subsection 3, the 2nd sentence, does not  
21 apply to minimum prices adopted under the previous sentence. Due  
22 notice of the public hearing must be given by publishing notice  
23 as provided in Title 5, chapter 375. The commission shall hold  
24 such a public hearing not less frequently than once every 12  
25 months to determine whether the minimum wholesale and retail  
26 prices then established should be changed. In addition to the  
27 data received through the implementation of the information  
28 gathering procedures of its rules as a basis for its  
29 determinations, the commission shall solicit and seek to receive  
30 oral and written testimony at hearings to determine whether the  
31 minimum wholesale and retail prices then established should be  
32 changed and whether the proposed minimum wholesale and retail  
33 prices are just and reasonable.

34           **Sec. B-4. 7 MRSA §2954-A, sub-§1**, as enacted by PL 1985, c.  
35 172, is amended to read:

36           **1. First 15 days.** On or before the 5th day after the end  
37 of the calendar month in which delivery was made, each dealer  
38 shall pay each of his that dealer's producers for milk received  
39 from the producer during the first 15 days of that month at a  
40 rate that is not less than the most recently published Federal  
41 ~~Order No. 1, Zone 21 blend price~~ northeast marketing area milk  
42 marketing order statistical uniform price for Penobscot County.

43           **Sec. B-5. 7 MRSA §2956, 2nd ¶**, as repealed and replaced by PL  
44 1975, c. 517, §5, is amended to read:

45           Each dealer shall furnish his to that dealer's producers a  
46 statement of the amount of milk purchased, the price per  
47  
48  
49

2 hundredweight or quart pound, the total amount paid for each pay  
3 period, the itemized deductions for transportation and other  
4 services, the percentages of milk in each classification and the  
5 butterfat test, protein test and other solids test when weight  
6 and test method of payment is used, and shall pay his Maine  
7 producers the established minimum price for the classification  
8 components of the milk ~~according to its usage~~ adjusted for  
9 butterfat, protein and other solids and shall pay the northeast  
10 marketing area milk marketing order producer price differential  
announced for Suffolk County, Massachusetts.

12 **Sec. B-6. 7 MRSA §3151, first and 5th ¶¶**, as enacted by PL 1983,  
13 c. 573, §4, are amended to read:

14 The Legislature finds that among Maine's dairy farmers,  
15 prices received for milk differ substantially, and that these  
16 differences arise in part from a dual marketing system whereby  
17 approximately 1/2 the milk produced in Maine is marketed in Maine  
18 subject to the price control authority of the Maine Milk  
19 Commission, Maine market, while the other 1/2 is marketed to  
20 handlers selling in southern New England, commonly known as the  
21 Boston market, subject to the price regulations of the New  
22 ~~England Federal Milk Marketing Order, Milk Order No. 1~~ northeast  
23 marketing area milk marketing order.

24 The Legislature finds that dairy farms in Aroostook,  
25 Washington and northern Penobscot Counties presently operate at  
26 ~~significantly~~ significantly higher costs because of their  
27 remoteness from markets and supplies; that they face greater  
28 risks because they operate on a closer margin; that their markets  
29 are less secure; and that negative changes in the overall economy  
30 have a magnified effect in the northern Maine region.

31 **Sec. B-7. 7 MRSA §3152, sub-§1-A**, as amended by PL 1991, c.  
32 266, §4, is further amended to read:

33 **1-A. Base minimum price.** "Base minimum price" means that  
34 part of the minimum Class I, Class II and Class III prices  
35 established by the Maine Milk Commission pursuant to chapter 603  
36 which that corresponds to Class I, Class II and Class III prices  
37 established pursuant to the ~~New-England-Milk-Marketing-Order~~  
38 northeast marketing area milk marketing order, excluding any  
39 amounts established by the Maine Milk Commission to reflect the  
40 increased costs of production pursuant to section 2954,  
41 subsection 2, paragraph A.

42 **Sec. B-8. 7 MRSA §3152, sub-§1-B**, as amended by PL 1991, c.  
43 266, §5, is further amended to read:

2           **1-B. Adjusted base minimum price.** "Adjusted base minimum  
3 price" means that part of the minimum Class I, Class II and Class  
4 III prices established by the Maine Milk Commission pursuant to  
5 chapter 603 which that corresponds to Class I, Class II and Class  
6 III prices established pursuant to the ~~New-England-Milk-Marketing~~  
7 ~~Order~~ northeast marketing area milk marketing order, plus any  
8 amounts established by the Maine Milk Commission to reflect the  
9 increased costs of production pursuant to section 2954,  
10 subsection 2, paragraph A.

11           **Sec. B-9. 7 MRSA §3152, sub-§§2 and 3,** as enacted by PL 1983,  
12 c. 573, §4, are amended to read:

13           **2. Boston market dealer.** "Boston market dealer" means any  
14 dealer as defined in subsection 4 who purchases milk from  
15 producers subject to the price regulations of the ~~New-England~~  
16 ~~Milk-Marketing-Order~~ northeast marketing area milk marketing  
17 order.

18           **3. Boston market producer.** "Boston market producer" means  
19 any Maine milk producer selling to a dealer marketing milk  
20 subject to the ~~New-England-Milk-Marketing-Order~~ northeast  
21 marketing area milk marketing order, or any agricultural  
22 cooperative that buys milk from or handles milk for such a  
23 producer and sells it to such a dealer.

24           **Sec. B-10. 7 MRSA §3152, sub-§4-A,** as enacted by PL 1987, c.  
25 447, §5, is amended to read:

26           **4-A. Eligible marketing cooperative.** "Eligible marketing  
27 cooperative" means an association of milk producers organized to  
28 negotiate producer prices higher than the minimum producer prices  
29 established pursuant to the ~~New-England-Milk-Marketing-Order~~  
30 northeast marketing area milk marketing order and which the  
31 commissioner has determined will not, through its operation,  
32 evade, impair or undermine the purposes of this chapter.  
33 Notwithstanding Title 4, section 1151, subsection 2 and Title 5,  
34 section 10051, subsection 1, the commissioner may revoke the  
35 eligible status of a marketing cooperative upon a determination  
36 that it has through its operation evaded, impaired or undermined  
37 the purposes of this chapter.

38           **Sec. B-11. 7 MRSA §3152, sub-§8-A,** as amended by PL 1991, c.  
39 266, §6, is further amended to read:

40           **8-A. Over-order premium.** "Over-order premium" means that  
41 part of the minimum Class I, Class II and Class III prices  
42 established by the Maine Milk Commission pursuant to chapter 603,  
43 which that exceeds the applicable Class I, Class II and Class III  
44 prices established pursuant to the ~~New-England-Milk-Marketing~~  
45 ~~Order~~

2 ~~Order~~ northeast marketing area milk marketing order as adjusted  
to reflect the increased costs of production pursuant to section  
2954, subsection 2, paragraph A.

4  
6 **Sec. B-12. 7 MRSA §3153, sub-§2, ¶A**, as amended by PL 1999, c.  
210, §1, is further amended to read:

8 A. ~~Effective June--1,--1984~~ January 1, 2000, each Maine  
market dealer shall, on a monthly basis, calculate for its  
10 Maine market producers the amount of payment at the adjusted  
base minimum price that would be payable to its Maine market  
12 producers according to the ~~blend price~~ blend price calculated using that  
dealer's utilization rate, and the amount of payment at ~~the~~  
14 ~~base--minimum--price~~ that would be due its Maine market  
producers according to the ~~blend price~~ blend price calculated using the  
16 applicable ~~utilization--rate~~ component prices and producer  
price differential for Suffolk County, Massachusetts for the  
18 ~~New-England-Milk-Marketing-Order~~ northeast marketing area  
milk marketing order. Each Maine market dealer shall make  
20 an initial payment at ~~the base minimum price to its Maine~~  
~~market producers according to the blend price calculated~~  
22 ~~using the Federal Milk Order utilization rate or the Federal~~  
~~Milk Order Zone 1 blend price, whichever is greater, but~~  
24 ~~shall comply in all other respects~~ using established minimum  
component prices and the producer price differential for the  
26 northeast marketing area milk marketing order for Suffolk  
County, Massachusetts in accordance with chapter 603. Any  
28 additional payment at the adjusted base minimum price that  
would be due its Maine market producers pursuant to that  
30 dealer's applicable utilization rate must be made to the  
Maine Milk Pool. Based on the fact that northern Maine  
32 market producers presently operate at significantly higher  
costs because of their remoteness from markets and supplies,  
34 that they face greater risks because they operate on a  
closer margin and because their markets are less secure,  
36 payments to the Maine Milk Pool at the adjusted base minimum  
price attributable to northern Maine market producers must  
38 be reduced by 1/2 and those producers' initial payments  
under this section must be increased by the corresponding  
40 amounts. The commissioner shall adopt by rule such  
procedures as are necessary to implement this section.

42  
44 **Sec. B-13. 7 MRSA §3153, sub-§4, ¶A**, as amended by PL 1991, c.  
12, is further amended to read:

46 A. If any Boston market producer whose farm is located  
within 140 miles of Boston receives a plant price, excluding  
48 deductions or additions imposed by the ~~so-called Louisville~~  
~~Plan as defined by Part--1001,--Federal Milk Order No.--1,~~  
50 ~~Section--1001.61,--Subsections--c--and--d,--or--any--amendment~~

2           ~~thereby~~, northeast marketing area milk marketing order or  
3           imposed by any other seasonal balancing plan subsequently  
4           adopted by ~~Federal-Order-No.-1~~ the northeast marketing area  
5           milk marketing order, which that is an amount greater than  
6           the amount initially payable to Maine market producers under  
7           subsection 2, paragraph A, the commissioner shall credit  
8           that additional amount against the redistribution from the  
9           Maine Milk Pool to which that producer would otherwise be  
10          entitled in order to avoid potential inequities arising from  
11          equal redistribution;

12          **Sec. B-14. Retroactivity.** This Part applies retroactively to  
13          January 1, 2000.

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

18

### FISCAL NOTE

20

21          The Department of Agriculture, Food and Rural Resources will  
22          incur some minor additional costs to administer certain permit  
23          processes, to administer an injunction process and to cover the  
24          costs incurred by members of the Maine Milk Commission to attend  
25          certain meetings. These costs can be absorbed within the  
26          department's existing budgeted resources.

27          The additional workload and administrative costs associated  
28          with the minimal number of new cases filed in the court system  
29          can be absorbed within the budgeted resources of the Judicial  
30          Department. The collection of additional fines may increase  
31          General Fund revenue by minor amounts.

34

### SUMMARY

36

37          Part A of this bill amends statutory definitions to use  
38          terms consistent with definitions in the proposed major  
39          substantive rules. It increases the fines for violations of the  
40          Maine milk laws. It clarifies activities relating to the sale and  
41          distribution of milk and milk products that require a license or  
42          permit from the Commissioner of Agriculture, Food and Rural  
43          Resources.

44

45          Part B of this bill makes statutory changes to provide for  
46          payment to producers using component pricing.

48

        The bill includes a fiscal note.