

MAINE STATE LEGISLATURE

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H. of S.

L.D. 1282

DATE: 5-14-03

(Filing No. S-160)

AGRICULTURE, CONSERVATION AND FORESTRY

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**STATE OF MAINE
SENATE
121ST LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 413, L.D. 1282, Bill, "An Act To Amend the Laws Governing Agricultural Marketing and Bargaining"

Amend the bill by striking out all of section 1 and inserting in its place the following:

Sec. 1. 7 MRSA §1091, as amended by PL 1987, c. 384, §1, is repealed.

Sec. 2. 7 MRSA §1091-A is enacted to read:

§1091-A. Dues and fair share fees

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

A. "Association" has the same meaning as in Title 13, section 1774, subsection 3.

B. "Fair share fee" means a fee deducted by a dealer or processor from a producer who is not an association member.

2. Association dues. When a member of an association makes a written assignment of dues to that association, those dues must be paid out of funds due or to become due to that member for any farm product produced or to be produced by that member or for any services performed or to be performed by that member in the production of farm products. A person who accepts or receives the product or services from the member is bound by that assignment after receiving written notice from the association or from the

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2 member, and that person shall withhold the assigned dues from
3 amounts payable by that person to the member thereafter during
4 the period of the assessment.

6 3. Fair share fees for contracts entered into after the
7 association agreement. A nonmember producer who supplies farm
8 products to a dealer or processor subject to collective
9 bargaining and who enters into a preseason contract with the
10 dealer or processor after the association has signed an agreement
11 with that dealer or processor must be assessed a fair share fee
12 equal to 50% of the amount charged to association members as
13 dues. The dealer or processor shall withhold the fair share from
14 the nonmember in the same manner as member dues are withheld.
15 The nonmember shall make a written assignment directing the
16 dealer or processor to have the fair share fee:

18 A. Remitted to the association and used to defray the costs
19 incurred by the association as the recognized collective
20 bargaining unit in fulfilling its duty to represent
21 producers in their relations with the dealer or processor; or

22 B. Deposited in a fund established by the dealer or
23 processor for awarding educational scholarships to
24 contributing nonmembers and association producers.

26 4. Fair share fees for contracts entered into before the
27 association agreement. Except as provided in subsection 5, a
28 dealer or processor subject to collective bargaining may not
29 assess or withhold a fair share fee from a nonmember producer who
30 enters into a preseason contract to supply farm products to that
31 dealer or processor before the association has signed an
32 agreement with that dealer or processor unless the nonmember
33 producer directs the processor or dealer to do so in accordance
34 with this subsection.

36 A nonmember producer may make a written assignment directing the
37 dealer or processor to withhold a fair share fee equal to 50% of
38 the amount charged to association members as dues for deposit in
39 a fund established by the dealer or processor for awarding
40 educational scholarships to contributing nonmembers and
41 association producers.

44 5. Changes in nonmember contract. The dealer or processor
45 shall withhold a fair share fee from a nonmember in accordance
46 with subsection 3 when:

48 A. The nonmember entered into a preseason contract to
49 supply farm products to a dealer or processor before the
50 association signed an agreement with that dealer or
51 processor; and

2 B. The nonmember consents to a change or changes in that
4 nonmember's contract after the association has signed an
6 agreement with that dealer or processor and the change or
 changes provide an increase in contract value.'

8 Further amend the bill in section 2 in that part designated
10 "**§1092.**" in the first paragraph in the last line (page 1, line 44
 in L.D.) by striking out the following: "1091" and inserting in
 its place the following: '~~1091~~ 1091-A'

12 Further amend the bill in section 3 in that part designated
14 "**§1093.**" in subsection 1 in the 4th line (page 2, line 9 in L.D.)
 by striking out the following: "1091" and inserting in its place
 the following: '~~1091~~ 1091-A'

16 Further amend the bill in section 3 in that part designated
18 "**§1093.**" in subsection 2 in the 4th line (page 2, line 23 in
20 L.D.) by striking out the following: "1091" and inserting in its
 place the following: '~~1091~~ 1091-A'

22 Further amend the bill in section 3 in that part designated
24 "**§1093.**" in subsection 3 in the 3rd line (page 2, line 35 in
 L.D.) by striking out the following: "1091" and inserting in its
 place the following: '~~1091~~ 1091-A'

26 Further amend the bill in section 4 in subsection 2 in the
28 11th line (page 3, line 6 in L.D.) by inserting after the
 following "consecutive" the following: 'business'

30 Further amend the bill by striking out all of section 5 and
32 inserting in its place the following:

34 '**Sec. 5. 13 MRSA §1958-B, sub-§5, ¶D,** as repealed and replaced
36 by PL 1989, c. 703, §2, is amended to read:

38 D. Upon notification by the parties as provided in this
40 subsection, the commissioner shall submit to the parties a
42 list containing an odd number of names of members of the
44 panel of arbitrators who are available for the specific
46 pending arbitration and have expressed a willingness to
48 serve. The parties shall alternately strike names from the
50 list until a single name is left, who ~~shall-be~~ shall serve
 as the arbitrator. The order of striking names must be
 determined by chance.

52 Further amend the bill by relettering or renumbering any
54 nonconsecutive Part letter or section number to read
56 consecutively.

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SUMMARY

This amendment distinguishes between nonmember producers who enter into contracts with a dealer or processor based on whether the contract was entered into before or after the association signed an agreement with the dealer or processor. It establishes the fair share fee at 50% of association member dues. It allows a nonmember signing a contract after the association's agreement is signed to choose between having that nonmember's fair share dues paid to the association or deposited in a scholarship fund established by the dealer or processor. It gives a nonmember signing a contract before the association's agreement is signed the option of having a fair share fee withheld and deposited in a scholarship fund established by the dealer or processor but requires a dealer or processor to withhold the fair share fee if the nonmember's contract changes after the association signs an agreement and the changes increase the value of the nonmember's contract. It also removes the provision that allows an arbitrator to issue a decision equal to or within the parameters of the final offer of either of the parties.