

MAINE STATE LEGISLATURE

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AGRICULTURE, CONSERVATION AND FORESTRY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 167, L.D. 216, Bill, "An Act To Make Revisions to the Laws Governing Agriculture"

Amend the bill by inserting after Part B and before the summary the following:

PART C

Sec. C-1. 7 MRSA §213, sub-§§1 and 2, as enacted by PL 1983, c. 608, §2, are repealed.

Sec. C-2. 7 MRSA §214, as amended by PL 1991, c. 780, Pt. DDD, §21 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

§214. Coordination of purchases of foodstuffs from Maine concerns

1. Food purchasing coordinator. There--is--established--in the--Bureau--of--Purchases--the--position--of--coordinator--who--shall--be responsible The commissioner shall designate an employee of the department to serve as a food purchasing coordinator to assist in the development of connections between state and school purchasers, Maine food producers and brokers and wholesalers of food.

2. Annual meeting. The State--Purchasing--Agent--or--his designee food purchasing coordinator shall cause to be held an annual meeting which that brings together producers, wholesalers, buyers and food service professionals to enhance opportunities for cooperation and expand the purchase of local foodstuffs by state institutions and public schools.

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2 **3. Advisory committee.** The State ~~Purchasing Agent or~~ a
3 designee commissioner shall establish an advisory committee to
4 discuss possibilities and review proposals for expanding
5 purchases of local foodstuffs. ~~At least one representative from~~
6 ~~the following state agencies shall be invited to serve on this~~
7 ~~advisory committee. The Department of Agriculture, Food and~~
8 ~~Rural Resources, the Department of Corrections, the Department of~~
9 ~~Education, the Department of Health and Human Services, the~~
10 ~~Department of Marine Resources, and the Bureau of Child and~~
11 ~~Family Services. Representation from other state agencies, local~~
12 ~~institutions or from the private sector shall be chosen by the~~
13 ~~State Purchasing Agent who shall serve as chairman of the~~
14 ~~advisory committee. The commissioner shall invite one or more~~
15 ~~representatives from each of the following agencies to serve on~~
16 ~~the advisory committee: the Department of Education; the~~
17 ~~Department of Marine Resources; the Department of Corrections;~~
18 ~~the Department of Administrative and Financial Services, Bureau~~
19 ~~of Purchases; the Executive Department, State Planning Office;~~
20 ~~the Department of Health and Human Services; the University of~~
21 ~~Maine System; and the Maine Community College System.~~

22 **Sec. C-3. 7 MRSA §302**, as amended by PL 1991, c. 780, Pt.
23 DDD, §21, is repealed.

24 **Sec. C-4. 7 MRSA §471**, as enacted by PL 1993, c. 58, §1 and
25 amended by PL 2003, c. 689, Pt. B, §7, is further amended to read:

26 **§471. Farmers' Market Program**

27 The department, ~~in cooperation~~ shall cooperate with the
28 Commissioner of Health and Human Services or the commissioner's
29 designee, ~~shall adopt rules to institute and administer a program~~
30 to promote the purchase of state-grown and processed food
31 products at local farmers' markets and farmstands by
32 nutritionally at-risk groups through programs administered by the
33 Department of Health and Human Services under Title 22, chapter
34 851.

35 **Sec. C-5. Commissioner of Agriculture, Food and Rural Resources to**
36 **convene food policy working group.** The Commissioner of
37 Agriculture, Food and Rural Resources shall convene a working
38 group to review statutory provisions and examine emerging issues
39 relating to food policy and to assist the commissioner in
40 developing and articulating a food policy for the State. In
41 addition to state agencies represented on the advisory committee
42 established under the Maine Revised Statutes, Title 7, section
43 214, the commissioner shall invite participation by the
44 University of Maine Cooperative Extension, the Maine Farm Bureau,
45 the Maine Organic Farmers and Gardeners Association, the

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2 Agriculture Council of Maine, a regional or statewide coalition
3 organized to promote the consumption of locally grown foods and
4 farmers. The commissioner may invite persons from the private
5 sector to participate in the working group, including
6 representatives of grocers associations and food distributors.
7 The commissioner shall send notices and agenda for meetings of
8 the working group to members of the Joint Standing Committee on
9 Agriculture, Conservation and Forestry.

10 **Sec. C-6. Report; legislation authorized.** No later than January
11 2, 2006, the Commissioner of Agriculture, Food and Rural
12 Resources shall submit a report to the Joint Standing Committee
13 on Agriculture, Conservation and Forestry summarizing the
14 discussions of the commissioner's working group on food policy
15 convened under section 5 and presenting the commissioner's
16 recommendations relating to food policy along with implementing
17 legislation. The Joint Standing Committee on Agriculture,
18 Conservation and Forestry may submit legislation to the Second
19 Regular Session of the 122nd Legislature pertaining to food
20 policy and the promotion of locally produced food.

22 **PART D**

24 **Sec. D-1. 7 MRSA §1333, sub-§1, ¶A,** as enacted by PL 2003, c.
26 386, §6, is amended to read:

28 A. "Cervid" means a member of the cervidae family and
29 hybrids, including deer, elk, caribou, reindeer and related
30 species, specified by the commissioner by rule with the
31 written concurrence of the Commissioner of Inland Fisheries
32 and Wildlife.

34 **Sec. D-2. 7 MRSA §1341, sub-§4-A,** as enacted by PL 2003, c.
36 386, §8, is amended to read:

38 **4-A. Domesticated cervid.** "Domesticated cervid" means--a
39 ~~member of the cervidae family and hybrids, including deer, elk,~~
40 ~~caribou, reindeer and related species~~ has the same meaning as
41 "cervid" in section 1333, subsection 1, paragraph A.

42 **Sec. D-3. 7 MRSA §1351** is amended to read:

44 **§1351. Breeding and raising mink**

46 Mink that have been propagated in captivity for 2 or more
47 generations ~~shall be~~ are considered domesticated animals subject
48 to ~~all the laws of the State with reference to possession,~~
49 ~~ownership and taxation as are at any time applicable to~~
50 ~~domesticated animals~~ this Title. Such domesticated mink, or the

pelts or products thereof shall--be--deemed are considered
agricultural products and the breeding, raising, producing in
captivity and marketing thereof--shall-be--deemed of mink is an
agricultural pursuit. Any person, firm or corporation engaged in
breeding and raising mink shall be--licensed comply with the
permitting requirements for importation and possession of
wildlife under Title 12, section-2106 chapter 915, subchapter 15.

Sec. D-4. 8 MRSA §281-A, as enacted by PL 2003, c. 31, §1,
is amended to read:

§281-A. Standardbred horses eligible for registration

Notwithstanding section 281, a foal resulting from
insemination ~~during the 2003, 2004 or 2005 breeding season~~ may be
registered as a Maine Standardbred if it is the offspring of a
stallion registered with the department to stand at stud in the
State for the breeding season during which the insemination took
place and all other registration requirements are met.

PART E

Sec. E-1. 7 MRSA §2992-A, sub-§2, ¶A, as enacted by PL 1995,
c. 693, §8 and affected by §25, is amended to read:

A. ~~Two~~ Four members appointed by organizations of producers
~~who sell milk on the Maine market. The~~ Not more than 2
members appointed under this paragraph may ~~not~~ be from the
same marketing organization. At least one member must be
appointed by an independent organization of Maine milk
producers; and

Sec. E-2. 7 MRSA §2992-A, sub-§2, ¶B, as enacted by PL 1995,
c. 693, §8 and affected by §25, is repealed.

Sec. E-3. 7 MRSA §2992-A, sub-§4, as enacted by PL 1995, c.
693, §8 and affected by §25, is repealed.

Sec. E-4. 7 MRSA §2998-B, sub-§2, ¶A, as enacted by PL 1995,
c. 693, §15 and affected by §25, is amended to read:

A. ~~Two~~ Four members appointed by organizations of Maine
milk producers ~~who sell milk on the Maine market. The~~ Not
more than 2 members appointed under this paragraph may ~~not~~
be from the same marketing organization. At least one
member must be appointed by an independent organization of
Maine milk producers; and

2 **Sec. E-5. 7 MRSA §2998-B, sub-§2, ¶B**, as enacted by PL 1995,
c. 693, §15 and affected by §25, is repealed.

4 **Sec. E-6. 7 MRSA §2998-B, sub-§4**, as enacted by PL 1995, c.
693, §15 and affected by §25, is repealed.

8 **PART F**

10 **Sec. F-1. 7 MRSA §2901-B, first ¶**, as enacted by PL 1993, c.
12 663, §1, is amended to read:

14 The department shall adopt rules permitting the use of the
16 certification trademark provided for in section 443-B on milk or
18 milk products. The initial rules must include limitations
20 relating to the use of milk from cows that have been treated with
22 recombinant bovine somatotropin, referred to in this section as
24 "rbST." The rules ~~may require~~ must include a requirement that
the department receive written consent from producers to draw
blood from their milking herd, examine historical milk production
records, inspect medicine storage places, and ~~to~~ perform other
inspections reasonably necessary to verify compliance with the
trademark criteria.

26 **Sec. F-2. 7 MRSA §2951, sub-§6** is amended to read:

28 **6. Milk.** "Milk" means ~~whole-milk-and-cream,--fresh,--sour-or~~
~~storage,--skimmed-milk-and-buttermilk,--irrespective-of-whether-or~~
~~not-any-such-milk-is-flavored, any of the following, regardless~~
30 of the presence of any flavoring:

32 A. Whole milk or cream, whether fresh, sour or storage;

34 B. Skimmed milk; or

36 C. Buttermilk.

38 **Sec. F-3. 7 MRSA §2952**, as amended by PL 1999, c. 679, Pt. B,
40 §1 and affected by §14 and amended by PL 2003, c. 689, Pt. B, §6,
is repealed and the following enacted in its place:

42 **§2952. Organization**

44 **1. Members.** The Maine Milk Commission, as established by
Title 5, section 12004-E, subsection 2, consists of the following
46 5 members:

48 A. The commissioner or the commissioner's designee, ex
50 officio; and

2 B. Four members, who must be residents of the State,
3 appointed by the Governor, subject to review by the joint
4 standing committee of the Legislature having jurisdiction
5 over agriculture matters and subject to confirmation by the
6 Legislature.

7 2. Conflict of interest. In addition to the limitations
8 imposed under Title 5, section 18, the following conflict of
9 interest restrictions apply.

10 A. A member of the commission appointed under subsection 1,
11 paragraph B may not, at the time of appointment or while
12 serving as a member of the commission, have a business or
13 professional relationship or connection with or a financial
14 interest in any producer, dealer, store or other person
15 whose activities are subject to the jurisdiction of the
16 commission. The retail purchase of milk for consumption is
17 not a violation of this paragraph.

18 B. An employee of the commission may not have a business or
19 professional relationship or connection with or a financial
20 interest in any producer, dealer, store or other person
21 whose activities are subject to the jurisdiction of the
22 commission. The retail purchase of milk for consumption is
23 not a violation of this paragraph.

24 C. A member or employee of the commission may not render, or
25 be a member of a firm that renders, any professional or
26 other service for or against a producer, dealer, store or
27 other person whose activities are subject to the
28 jurisdiction of the commission.

29 3. Terms; vacancies. Members of the commission appointed
30 under subsection 1, paragraph B serve for a term of 4 years or
31 until their successors are duly appointed and qualified, except
32 that the initial terms of these members are for one, 2, 3 and 4
33 years so that the terms of the members of the commission are
34 staggered.

35 A vacancy in the membership of the commission must be filled by
36 appointment by the Governor.

37 4. Chair; employees and resources. The members of the
38 commission shall elect a chair. With the approval of the
39 commission, the commissioner may employ, subject to the Civil
40 Service Law, a secretary and such officers, clerks, assistants
41 and other employees as the commission determines necessary. To
42 the extent possible, the commission shall make use of
43 professional, expert or other resources available within the
44 various departments of State Government, including, but not
45 various departments of State Government, including, but not
46 various departments of State Government, including, but not
47 various departments of State Government, including, but not
48 various departments of State Government, including, but not
49 various departments of State Government, including, but not
50 various departments of State Government, including, but not

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2 limited to, the department, the Department of Health and Human
4 Services and the Department of the Attorney General, and such
6 departments shall, as resources allow, provide necessary and
8 appropriate services at the request of the commission. To the
10 extent these services are not available or otherwise adequate,
12 the commission may employ appropriate experts, professionals or
14 others to assist it in carrying out its duties.

16 5. Compensation; office; supplies. Members of the commission
18 are compensated as provided in Title 5, chapter 379, as
20 determined by the Governor. The administrative costs of the
22 commission, including expenses and compensation of members, may
24 not exceed the amount of fees collected under this chapter. The
26 commission must be furnished a suitable office at the seat of
28 government, together with all necessary equipment and supplies.

30 6. Special meetings. The chair shall call special meetings
32 of the commission whenever requested in writing by 2 or more
34 members of the commission.

36 Sec. F-4. 7 MRSA §2952-A is enacted to read:

38 §2952-A. Powers and duties

40 1. Powers; general. The commission may:

42 A. Establish and change the minimum wholesale and retail
44 prices for the sale of milk within the State;

46 B. Adopt and enforce all rules and orders necessary to carry
48 out this chapter; and

50 C. In administering this chapter:

(1) Conduct hearings;

(2) Subpoena and examine under oath persons whose
activities are subject to the jurisdiction of the
commission, including producers, dealers and stores and
their officers, agents and representatives; and

(3) Subpoena and examine the business records, books
and accounts of persons whose activities are subject to
the jurisdiction of the commission, including
producers, dealers and stores and their officers,
agents and representatives.

Any member of the commission and any employee designated by
the commission may sign subpoenas and administer oaths to
witnesses.

2 2. Limitations. The commission may not modify, add to or
annul any sanitary regulations imposed by any state or municipal
4 authority or compel pasteurization in any market area.

6 3. Duties. The commission shall:

8 A. Not less than once every 3 years, conduct independent
studies of the economics and practices of the milk industry
10 in order to assist the commission in establishing minimum
prices. The studies must include the compilation of cost
12 data for farms at 3 different levels of production; and

14 B. Ensure that distributors give 30 days' notice before
terminating delivery to any customer in their delivery area
16 or in the traditional delivery area of a distributor they
have purchased. The 30-day notice does not apply to
18 cancellations resulting from a failure to pay bills.

20 4. Authority; accounts and records. To enable the
commission to perform its duties, the commission may inquire into
22 the management of the businesses of the producers, dealers and
stores to obtain from them all necessary information. Every
24 producer, dealer and store shall keep and render to the
commission, at such times and in such manner and form as may be
26 prescribed by the rules of the commission, accounts of all
business transacted that is related to the production,
28 purchasing, processing, sale or distribution of milk. Such
accounts must reasonably reflect, in such detail as the
30 commission considers appropriate, income, expense, assets,
liabilities and such other accounting entries as the commission
32 considers necessary, to assist the commission in making its
determinations as to:

34 A. Minimum prices generally;

36 B. Separate minimum price categories to be established to
reflect different container costs;

40 C. Separate minimum price categories to be established for
different quantities of milk packaged and sold in separate
42 containers;

44 D. Separate minimum price categories to reflect identifiable
distribution costs; and

46 E. All matters pertinent to the proper performance of its
48 duties.

2 The commission shall adopt routine technical rules that establish
4 procedures to enable the commission to inspect the records, books
6 and accounts of dealers, producers and stores at their various
8 offices and places of business at reasonable times. Rules
10 adopted pursuant to this subsection are routine technical rules
12 as defined in Title 5, chapter 375, subchapter 2-A.

14 **Sec. F-5. 7 MRSA §2953**, as amended by PL 2003, c. 648, §1, is
16 repealed.

18 **Sec. F-6. 7 MRSA §2953-A, sub-§4-A, ¶A**, as amended by PL 1993,
20 c. 274, §1, is further amended to read:

22 A. Maine's representatives to the Northeast Interstate
24 Dairy Compact are as follows:

26 (1) The commissioner or designee;

28 (2) The chair of the Maine Milk Commission or
30 designee; and

32 (4) A dairy farmer who is engaged in the production of
34 milk at the time of appointment or reappointment, to be
36 appointed by the Governor and subject to review by the
38 joint standing committee of the Legislature having
40 jurisdiction over agricultural matters and confirmation
42 by the Legislature.

44 ~~Delegation--members--may--not--serve--more--than--3--consecutive~~
46 ~~terms--with--no--single--term--of--more--than--4--years.~~

48 **Sec. F-7. 7 MRSA §2953-A, sub-§4-A, ¶B**, as enacted by PL 1989,
50 c. 437, is repealed.

Sec. F-8. 7 MRSA §2954, sub-§2, as amended by PL 1995, c. 2,
§2, is further amended to read:

38 **2. Considerations in establishing prices.** ~~In-establishing~~
40 ~~and-changing~~ The minimum wholesale and retail prices, ~~--the--prices~~
42 ~~se~~ established shall by the commission must be just and
44 reasonable taking into due consideration the public health and
46 welfare and the insuring of an adequate supply of pure and
48 wholesome milk to the inhabitants of this State under varying
50 conditions in various marketing areas; prevailing prices in
neighboring states; seasonal production and other conditions
affecting the costs of production, transportation and marketing
in the milk industry, including a reasonable return to producer,
dealer and store; ~~taking-into-consideration~~ and the public need
for the establishment of retail milk prices at the lowest
practicable levels.

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2 A. The minimum wholesale prices paid to producers are based
4 on the prevailing Class I, Class II and Class III prices in
6 southern New England, ~~After~~ except that, after
8 investigation, the Maine Milk Commission may set different
10 minimum wholesale prices paid to producers to reflect the
12 costs of producing milk in this State.

10 B. The minimum wholesale prices paid to dealers must be
12 established to reflect the lowest prices at which milk
14 purchased from producers in this State at minimum prices in
16 the State can be received, processed, packaged and
18 distributed within the State at a just and reasonable
20 return, and in addition must include the amount of any tax
22 determined by Title 36, chapter 716.

18 C. The minimum retail prices established for payment by
20 consumers ~~shall~~ must be based on the minimum wholesale price
22 paid to dealers and a rate of return ~~deemed~~ determined to be
24 just and reasonable by the Maine Milk Commission.

22 D. In establishing and changing minimum wholesale and
24 retail prices, the commission shall consider the effect of
26 possible pricing decisions on the ability of the Maine dairy
28 industry to compete in supplying milk to Maine consumers
30 and, in such a consideration, shall include the following
32 factors:

30 (1) The strength and viability of the Maine dairy
32 industry as a whole;

32 (2) The extent of any social or economic benefits of
34 maintaining dairy processing plants in different
36 geographic regions or natural marketing areas of the
38 State; and

38 (3) The encouragement of consumption by Maine
40 consumers of milk produced and processed within the
42 State, consistent with the Constitution of Maine and
44 the United States Constitution.

42 E. The commission may not set different minimum wholesale
44 prices for different retail delivery volumes of milk.

46 **Sec. F-9. 7 MRSA §2954, sub-§4, as repealed and replaced by PL**
48 **1975, c. 517, §3, is amended to read:**

48 **4. Commission empowered to establish classifications of**
50 **milk.** The commission ~~is vested with power to~~ may establish and
change, after investigation and public hearing, classifications

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of milk according to its various usages and shall specify to what classification the prices established under this chapter shall apply.

Sec. F-10. 7 MRSA §2954, sub-§5, as amended by PL 1987, c. 402, Pt. A, §80, is further amended to read:

5. Minimum price schedule. ~~Upon establishing said minimum~~
~~Minimum prices in any market which shall apply to the various~~
~~classifications of milk and which set by the commission~~ may vary in the several market areas of the State, ~~the.~~ The commission shall furnish all dealers registered in said each market with a schedule of such applicable prices and shall publish a the schedule thereof in appropriate newspapers in said that market. ~~Such order shall become effective in accordance with Title 5, chapter 375, and thereafter~~ Once minimum prices for a market take effect, no dealer, store or other person handling milk in such that market shall may buy or offer to buy, sell or offer to sell milk for prices less than the scheduled minimum prices established for that market.

Sec. F-11. 7 MRSA §2954, sub-§6, as repealed and replaced by PL 1983, c. 573, §1, is amended to read:

6. Schedule of maximum transportation allowances; adjustments. The commission may annually establish a schedule of maximum transportation allowances which that may be charged by any Maine dealer for hauling milk from a producer's farm to the dealer's dairy plant. The commission shall base its schedule on the recommendations of the commissioner pursuant to section ~~3157~~ 3156 and shall conduct hearings prior to establishing that schedule. Any dealer may petition the commission at any time to approve a proposed adjustment in that schedule of transportation charges for that dealer. The burden ~~shall be~~ is on the dealer to substantiate the need and reasonableness of such a proposed adjustment, and in the absence of evidence, the proposed adjustments shall must be denied.

Sec. F-12. 7 MRSA §2954, sub-§§7 and 8, as repealed and replaced by PL 1975, c. 517, §3, are amended to read:

7. Prohibition. ~~It shall be unlawful for any~~ A person to may not engage in any practice destructive of the scheduled minimum prices for milk established under this chapter for any market, including but not limited to offering any discount, rebate, gratuity, advertising allowance or combination price for milk with any other commodity. ~~In addition to any penalty otherwise provided by law, the commission after notice and hearing may prohibit any such practice, and any person feeling himself aggrieved by any order of the commission issued under~~

~~this chapter may appeal to the Superior Court.~~ A purchaser of milk at retail may tender a coupon or any item of value if the coupon or item of value is not brand specific and is redeemable for cash by the retailer and if the total value tendered by the purchaser is not less than the minimum retail price established by the commission.

8. Milk produced outside the State. Whenever milk produced outside the State becomes a subject of regulation by the State in the exercise of its police powers, this chapter shall apply ~~and~~ the powers of the commission shall attach. After any such milk so produced shall come within the jurisdiction of this State, any no sale or purchase by dealers of such milk within this State may occur at a price less than the scheduled minimum price established according to usage in any given market shall be unlawful.

Sec. F-13. 7 MRSA §2954, sub-§10, as enacted by PL 1985, c. 42, §1, is repealed.

Sec. F-14. 7 MRSA §2954, sub-§13, as amended by PL 1995, c. 2, §3, is repealed.

Sec. F-15. 7 MRSA §2954, sub-§15, as corrected by RR 1991, c. 1, §17, is repealed.

Sec. F-16. 7 MRSA §2954-A, as amended by PL 1999, c. 679, Pt. B, §4 and affected by §14, is further amended to read:

§2954-A. Payment by dealers to producers

Payment by dealers to producers is governed by this section. For purposes of this section, the term "delivery month" means the calendar month in which milk is delivered to a dealer from the producer.

1. First 15 days. On or before the 5th day after the end of the calendar a delivery month in which delivery was made, each a dealer shall pay each of that dealer's producers the producer for milk received from the that producer during the first 15 days of that the delivery month at a rate that is not less than the most recently published northeast marketing area milk marketing order statistical uniform price for Penobscot County.

2. Balance due. Each A dealer shall make payment to his producers pay the producer for the balance due for milk received during that delivery month as follows.

A. On or before the 20th day after the end of that the delivery month, each the dealer shall pay his producers the

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2 amount--calculated--as--the--initial--payment--according--to--the
Maine--Milk--Pool--statute,--section--3153,--subsection--2,
4 paragraph--A,--and--Milk--Pool--rules,--minus--the--amount--of--the
payment--made--to--the--producer--under--subsection--1. the
6 producer for milk received from that producer during the
delivery month an initial payment calculated using the
8 minimum prices set by the commission pursuant to section
2954, subsection 2, paragraph A minus;

10 (1) Any portion of that amount deposited in the Maine
12 Milk Pool or deducted pursuant to section 3153,
subsection 2; and

14 (2) The amount of the payment made to the producer
16 under subsection 1.

18 B. On or before the 5th day after the end of the month in
which the payments required by section subsection 1 and
20 paragraph A are made, each dealer shall pay each of his the
dealer's producers any sums received on behalf of his the
22 producers pursuant to ~~the Maine Milk Pool statute~~, section
3153, subsection 4 and Maine Milk Pool rules.

24 ~~This--subsection--does--not--apply--to--any--over--order--premium~~
~~established--by--the--commission--as--part--of--the--minimum--wholesale~~
26 ~~prices--to--producers--for--any--month--in--which--section--3153,~~
~~subsection--2,--paragraph--C--and--section--3153,--subsection--5,~~
28 ~~paragraphs--A--and--B--are--operational.~~

30 3. Penalties. The license of any dealer who violates this
32 section may be suspended or revoked in accordance with Title 5,
chapter 375.

34 Sec. F-17. 7 MRSA §2956, sub-§2, as repealed and replaced by
36 PL 1975, c. 517, §5, is amended to read:

38 2. Use, location and market outlet. A record of the
quantity of all milk sold, detailed as to use, location and
40 market outlet; and

42 Sec. F-18. 7 MRSA §2956, 2nd ¶, as amended by PL 1999, c. 679,
Pt. B, §5 and affected by §14, is further amended to read:

44 Each dealer shall furnish to that dealer's producers a
46 statement of the amount of milk purchased, the price per
hundredweight or pound, the total amount paid for each pay
48 period, the itemized deductions for transportation and other
services, the percentages of milk in each classification and the
50 butterfat test, protein test and other solids test when weight
and test method of payment is used, and shall pay Maine producers

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~~the established minimum price for the components of the milk adjusted for butterfat, protein and other solids and shall pay the northeast marketing area milk marketing order producer price differential announced for Suffolk County, Massachusetts in accordance with section 2954-A.~~

Sec. F-19. 7 MRSA §2959, sub-§1, as enacted by PL 1985, c. 717, §4, is amended to read:

1. Injunction. In addition to any other remedy set forth in this chapter for the enforcement of this chapter or any rule, order or decision of the commission, the Superior Court shall have has jurisdiction upon complaint filed by the commission, or any person duly authorized to act for the commission, including, but not limited to, its executive secretary, to restrain or enjoin any person from committing any act prohibited by this chapter or prohibited by any rule, order or decision of the commission. If it is established upon hearing that the person charged has been or is committing any unlawful act ~~declared to be unlawful by~~ under this chapter or is in violation of any rule, order or decision of the commission, the court shall enter a decree ~~perpetually~~ enjoining that person from committing further ~~commission of that act or actions~~ such violations. In case of violation of any injunction issued under this section, the court shall summarily try and punish the person for contempt of court. The existence of other civil or criminal remedies shall ~~be~~ is no defense to this proceeding. The commission or its authorized agent shall ~~may~~ not be required to give or post a bond when making an application for an injunction under this section.

Sec. F-20. 7 MRSA §2961, as corrected by RR 1997, c. 2, §29, is repealed.

Sec. F-21. 7 MRSA §2962, first ¶, as enacted by PL 1985, c. 717, §6, is amended to read:

When the commission, after such investigation as it deems considers appropriate, believes that a violation of this chapter or of any rule, order or decision of the commission has occurred, it may order any person to cease that violation. Before issuing such an order, the commission shall afford any person who would be aggrieved by the order an opportunity for a hearing. In any such investigation or hearing, the commission may exercise all of the powers given to it by section 2953 ~~2952-A~~. Any person aggrieved by a final order issued under this section may obtain judicial review of the order in Superior Court by filing a petition in accordance with Title 5, section 11001, and the Maine Rules of Civil Procedure, Rule 80C. In responding to such a petition, the commission may seek enforcement of its order,

including civil penalties for any violation found, and the court, if it upholds the order, may order its enforcement, including civil penalties.

Sec. F-22. 7 MRSA §2984, sub-§1, as enacted by PL 1983, c. 484, §2, is amended to read:

1. Cost accounting data. Through reliance upon cost accounting data, relating to the dealer, gathered or received by the commission pursuant to section ~~2953~~ 2952-A or 2986 for any 3-month period within one year preceding and one year following the date of an alleged violation, unless the dealer proves that changed circumstances render any cost accounting data relied upon by the commission incapable of proving that the violation occurred; or

Sec. F-23. 7 MRSA §2985, sub-§1, as enacted by PL 1983, c. 484, §2, is amended to read:

1. Cost accounting data. Through reliance upon cost accounting data, relating to the retailer, gathered or received by the commission pursuant to section ~~2953~~ 2952-A or 2986 for any 3-month period within one year preceding and one year following the date of an alleged violation, unless the retail store proves that changed circumstances render the cost accounting data relied upon by the commission incapable of proving that the violation occurred;

Sec. F-24. 7 MRSA §2986, as enacted by PL 1983, c. 484, §2, is repealed and the following enacted in its place:

§2986. Investigations; hearings; inspections

1. Investigatory powers. To aid the commission in determining if a dealer or retail store is selling fluid milk below cost, the commission may:

A. Conduct investigations and hearings;

B. Subpoena and examine under oath persons possessing relevant information, including, but not limited to, dealers and retail stores and their officers, agents and representatives;

C. Subpoena and examine the business records, books and accounts of dealers, retail stores or other persons who possess relevant business records, books or accounts; and

D. Inspect at reasonable times the business records, books and accounts of a dealer or retail store at the dealer's or store's office or place of business.

2 **2. Oaths and subpoenas.** Any member of the commission or
3 any employee designated by the commission may sign subpoenas and
4 administer oaths to witnesses.

6 **Sec. F-25. 7 MRSA §3152, sub-§1-A,** as amended by PL 1999, c.
7 679, Pt. B, §7 and affected by §14, is further amended to read:

8 **1-A. Base minimum price.** "Base minimum price" means that
9 ~~part of the minimum Class I, Class II and Class III prices~~
10 ~~established by the Maine Milk Commission pursuant to chapter 603~~
11 ~~that corresponds to Class I, Class II and Class III prices~~
12 established pursuant to the northeast marketing area milk
13 marketing order, ~~excluding any amounts established by the Maine~~
14 ~~Milk Commission to reflect the increased costs of production~~
15 ~~pursuant to section 2954, subsection 2, paragraph A.~~

18 **Sec. F-26. 7 MRSA §3152, sub-§1-B,** as amended by PL 1999, c.
19 679, Pt. B, §8 and affected by §14, is further amended to read:

20 **1-B. Adjusted base minimum price.** "Adjusted base minimum
21 price" means ~~that part of the minimum Class I, Class II and Class~~
22 ~~III prices established by the Maine Milk Commission pursuant to~~
23 ~~chapter 603 that corresponds to Class I, Class II and Class III~~
24 ~~prices established pursuant to the northeast marketing area milk~~
25 ~~marketing order, the base minimum price plus any amounts~~
26 established by the Maine Milk Commission to reflect the increased
27 costs of production pursuant to section 2954, subsection 2,
28 paragraph A.

30 **Sec. F-27. 7 MRSA §3152, sub-§4-A,** as repealed and replaced by
31 PL 2001, c. 471, Pt. A, §10 and affected by §11, is amended to
32 read:

34 **4-A. Eligible marketing cooperative.** "Eligible marketing
35 cooperative" means an association of milk producers organized to
36 negotiate producer prices higher than the minimum producer prices
37 established pursuant to the northeast marketing area milk
38 marketing order and which that the commissioner has determined
39 will not, through its operation, evade, impair or undermine the
40 purposes of this chapter. ~~Notwithstanding Title 4, section 152,~~
41 ~~subsection 9 and Title 5, section 10051, subsection 1, the~~
42 ~~commissioner may revoke the eligible status of a marketing~~
43 ~~cooperative upon a determination that it has through its~~
44 ~~operation evaded, impaired or undermined the purposes of this~~
45 ~~chapter.~~

48 **Sec. F-28. 7 MRSA §3152, sub-§8,** as enacted by PL 1983, c.
49 573, §4, is amended to read:

8. **Northern Maine market producer.** "Northern Maine market producer" means any Maine milk producer located in Aroostook County and or Washington County, ~~and~~ or that portion of Penobscot County north of and including the minor civil divisions of Medway, T.A.R. 7 and Long A T.W.P. selling who sells to a dealer determined by the commissioner to be marketing milk on the Maine market, ~~or~~ any agricultural cooperative that buys milk or handles milk for such a producer and sells it to such a dealer.

Sec. F-29. 7 MRSA §3152-A, sub-§1, as enacted by PL 1985, c. 646, §3, is amended to read:

1. **Exemption; pool payments.** An agricultural cooperative ~~which that~~ is a producer-dealer under section 3152, subsection 10, ~~shall be~~ is exempt from payment into and redistributions out of the Maine Milk Pool to the extent that the milk sold or otherwise distributed by the agricultural cooperative ~~which is a producer-dealer~~ does not exceed 5,000,000 pounds a month. Nothing in this subsection exempts an agricultural cooperative that is a producer-dealer from any other requirements of this chapter. In any month in which the milk sold or otherwise distributed by the agricultural cooperative ~~which that~~ is a producer-dealer exceeds 5,000,000 pounds, the agricultural cooperative ~~which is a producer-dealer~~ shall be ~~considered the dealer for purposes of this chapter for the amount of~~ make payment into and redistributions out of the Maine Milk Pool in accordance with this chapter with respect to that milk which that is in excess of 5,000,000 pounds.

Sec. F-30. 7 MRSA §3153, sub-§2, as amended by PL 2001, c. 433, §1, is further amended to read:

2. **Collections from dealers.** Collections from dealers ~~shall~~ must be made as follows.

A. Effective January 1, 2000, each Maine market dealer shall, on a monthly basis, calculate for its Maine market producers the amount of payment at the adjusted base minimum price that would be payable to its Maine market producers according to the price calculated using that dealer's utilization rate, referred to in this subsection as "the Maine sample payment amount," and the amount of payment that would be due its Maine market producers according to the price calculated using the applicable component prices and producer price differential for Suffolk County, Massachusetts for the northeast marketing area milk marketing order, referred to in this subsection as "the comparable Boston payment amount." ~~Each Maine market dealer shall make an initial payment using established minimum component prices and the producer price differential for the~~

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2 northeast-marketing-area-milk-marketing-order-for-Suffolk
County,-Massachusetts-in-accordance-with-chapter-603.-Any
4 additional-payment-at-the-adjusted-base-minimum-price-that
would-be-due-its-Maine-market-producers-pursuant-to-that
6 dealer's-applicable-utilization-rate-must-be-made-to-the
Maine-Milk-Pool. Except as otherwise provided in this
8 paragraph, in any month in which the Maine sample payment
amount is more than the comparable Boston payment amount,
10 the Maine market dealer shall pay to the Maine Milk Pool the
amount of the difference. Based on the fact that northern
12 Maine market producers presently operate at significantly
higher costs because of their remoteness from markets and
14 supplies, that they face greater risks because they operate
on a closer margin and because their markets are less
16 secure, payments to the Maine Milk Pool at the adjusted base
minimum price attributable to northern Maine market
18 producers must be reduced by 1/2 and those producers'
initial payments under this section must be increased by the
20 corresponding amounts. ~~The commissioner shall adopt by rule~~
~~such procedures as are necessary to implement this section.~~

22 (1) For any month in which there is only one Maine
market dealer subject to this paragraph and the milk
24 sold or otherwise distributed by that dealer during
that month does not exceed 1,000,000 pounds, the
26 additional payment due to the Maine Milk Pool must
instead be made by that dealer to its Maine market
28 producers.

30 B. ~~For any month in which the amount of money payable to~~
~~producers at the adjusted base minimum price at a dealer's~~
32 ~~utilization rate would be less than the amount of money~~
~~payable to that dealer's producers at the base minimum price~~
34 ~~based upon the Maine sample payment amount is less than the~~
~~comparable Boston payment amount, the Maine market~~
36 ~~utilization rate, the dealer may deduct the difference from~~
~~the next month's initial payment to producers at the base~~
38 ~~minimum price under section 2954-A, subsection 2, paragraph~~
A. Upon the termination of their business relationship,
40 producers shall be are liable to dealers for all sums
advanced under this paragraph which that have not been
42 recouped by way of deduction.

44 C. For any month in which the Maine Milk Commission has
established minimum prices payable to producers that include
46 an over-order premium which that the commission has
determined is attributable to the activity of an eligible
48 marketing cooperative, this paragraph shall ~~apply~~ applies.
Each Maine market dealer shall, on a monthly basis,
50 calculate for its Maine market producers the amount of

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payment from the over-order premium that would be payable to its Maine market producers according to the blend price calculated using that dealer's utilization rate. With respect to those producers who have designated an eligible marketing cooperative to receive the over-order premium, the dealer shall make the payment to the eligible marketing cooperative. With respect to those producers who have not designated an eligible marketing cooperative to receive the over-order premium, the dealer shall make the payment into the Maine Milk Pool. ~~In-making-the-payments-required-by-this-paragraph,-Maine-market-dealers-shall-comply-in-all-other-respects-with-chapter-603.~~

D. For any month in which the Maine Milk Commission has established minimum prices payable to producers that include an over-order premium which that the commission has determined is not attributable to the activity of an eligible marketing cooperative, the over-order premium shall is not be pooled.

F. For any month in which the Maine Milk Commission has included in Class I, Class II or Class III prices any amounts to reflect the increased costs of production pursuant to section 2954, subsection 2, paragraph A, those amounts must be paid into the Maine Milk Pool for redistribution ~~to-eligible-Maine-and-Boston-market-producers-on-an-equal-basis~~ in accordance with subsection 4.

~~G.--For-any-month-in-which-there-is-only-one-Maine-market-dealer-subject-to-collection-under-subsection-2,-paragraph-A-and-the-milk-sold-or-otherwise-distributed-by-that-dealer-during-that-month-does-not-exceed-1,000,000-pounds,-the-additional-payment-at-the-adjusted-base-minimum-price-under-subsection-2,-paragraph-A-due-to-the-Maine-Milk-Pool-instead-must-be-made-by-that-dealer-to-its-Maine-market-producers.~~

Sec. F-31. 7 MRSA §3153, sub-§4, as amended by PL 1999, c. 679, Pt. B, §13 and affected by §14, is further amended to read:

4. Redistribution of pool; base minimum price. The commissioner shall, by rule, adopt such procedures as ~~are necessary~~ to redistribute payments into the Maine Milk Pool at ~~the-base-minimum-price~~ under subsection 2, paragraphs A and F on an equal basis to eligible Maine market producers and eligible Boston market producers, except that:

A. If any Boston market producer whose farm is located within 140 miles of Boston receives a plant price, excluding deductions or additions imposed by the northeast marketing area milk marketing order ~~or-imposed-by-any-other-seasonal~~

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~~balancing--plan--subsequently--adopted--by--the--northeast marketing-area-milk-marketing-order--that-is-an-amount~~ that is greater than the amount initially payable of the initial payment to Maine market producers under section 2954-A, subsection 2, paragraph A, the commissioner shall credit that additional amount against the redistribution from the Maine Milk Pool to which that producer would otherwise be entitled in order to avoid potential inequities arising from equal redistribution;

B. If the credit ~~for--any--producer--calculated--under paragraph-A~~ against redistribution exceeds the pool payment due that the producer, that producer shall pay ~~an-amount equal-to-the-difference~~ into the Maine Milk Pool ~~not an amount equal to exceed the excess~~ or that producer's share of the cost of promotion, whichever is less. The commissioner may provide by rule that these amounts shall must be deducted from future ~~base--minimum--price~~ pool payments made under this subsection to that producer or from ~~over-order-premium~~ pool payments due to that producer, ~~or that--these--amounts--shall--be--deducted--by--that--producer's dealer~~ under subsection 5, or from future payments ~~for--that producer's due to that producer for milk and paid over to the-Maine-Milk-Pool-by-the-dealer~~; and

C. If the commissioner determines that payments from the pool will be made to dairies, cooperatives or some other entity as a representative of producers, then the dairy, cooperative or other representative shall pay to the producer the amount owed to that producer within such time period as ~~shall--be~~ is determined by the procedures established by rule under this subsection.

Sec. F-32. 7 MRSA §3153, sub-§5, as amended by PL 1987, c. 874, §§3 and 4, is further amended to read:

5. Redistribution of pool; over-order premium.
~~Redistribution of payments into the pool and--the--following over-order-premiums--apply~~ under subsection 2, paragraph C is governed by this subsection.

A. ~~Subject-to-paragraph-C,--for~~ For any month in which subsection 2, paragraph C is in effect, the commissioner shall pay those Maine market producers whose over-order premium was paid into the Maine Milk Pool a an initial redistribution on--their--milk under this paragraph. In calculating the rate of this redistribution and the timing of its payment, the commissioner shall attempt to achieve, insofar as practicable, an initial redistribution ~~of--the over-order-premium-which~~ that ensures that Maine producers

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2 who are not members of eligible marketing cooperatives
3 receive an initial redistribution equivalent to that
4 received by Maine producers who are members of eligible
5 marketing cooperatives. The commissioner shall consider the
6 following factors:

7 (1) The gross rate of redistribution used by eligible
8 marketing cooperatives to calculate payment to their
9 members;

10 (2) Reasonable administrative and other charges
11 deducted by eligible marketing cooperatives from the
12 redistributions made to their members;

13 (3) The timing of the redistributions made by an
14 eligible marketing cooperative to its members; and

15 (4) Such other factors as may be relevant to the goal
16 of achieving, insofar as practicable, price equity
17 among producers.
18

19 B. The commissioner shall redistribute the remainder of the
20 ~~ever-order--premium~~ amount paid into the Maine Milk Pool
21 under subsection 2, paragraph C on an equal basis to
22 eligible Maine market producers and eligible Boston market
23 producers; except that if any Maine market producer or
24 Boston market producer receives an additional premium other
25 than one attributable to the activity of an eligible
26 marketing cooperative, the commissioner shall credit that
27 additional premium against the redistribution to which that
28 producer would otherwise be entitled under this paragraph in
29 order to avoid potential inequities arising from equal
30 redistribution.
31

32 C. If the commissioner determines that the basis for
33 redistribution adopted by an eligible marketing cooperative
34 is disadvantageous to Maine producers belonging to that
35 cooperative, that the cooperative has not made
36 redistributions to its Maine members in a timely manner or
37 that the administrative or other fees deducted by the
38 cooperative from redistributions to its ~~member~~ members are
39 excessive, unjust or unreasonable, ~~he~~ the commissioner may
40 commence proceedings to revoke the eligible status of the
41 cooperative pursuant to section ~~3152--subsection-6~~ 3155-B.
42

43 D. The commissioner shall, by rule, adopt such procedures
44 as are necessary to implement this subsection. If the
45 commissioner determines that payments from the pool will be
46 made to dairies, cooperatives or some other entity as a
47 representative of producers, then the dairy, cooperative or
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COMMITTEE AMENDMENT

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other representative shall pay to the producer the amount owed to that producer within such time period as is determined by the procedures established by rule under this subsection.

Sec. F-33. 7 MRSA §3153, sub-§6 is enacted to read:

6. Rules. The commissioner shall adopt by routine technical rule such procedures as are necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. F-34. 7 MRSA §3153-B, sub-§3, as enacted by PL 2003, c. 648, §2, is amended to read:

3. Determination of target prices. The Maine Milk Commission shall establish 3 tiers of production, each representing a range of annual production. The commission shall use the most recent studies conducted in accordance with section ~~2953~~ 2952-A, subsection 3, paragraph A to estimate the short-run break-even point within each tier.

Sec. F-35. 7 MRSA §3154, first ¶, as enacted by PL 1983, c. 573, §4, is amended to read:

In the event that information ~~requestered~~ requested is not adequately provided by any dealer, the commissioner may require producers who may be eligible for participation in the ~~milk-pool~~ Maine Milk Pool to furnish such reports and other information as may be necessary to determine their eligibility and the extent of their participation.

Sec. F-36. 7 MRSA §3154, 4th ¶, as enacted by PL 1987, c. 447, §10, is amended to read:

An eligible marketing cooperative, or an organization applying for recognition as an eligible marketing cooperative, shall furnish the commissioner all information, records and reports necessary for the commissioner to determine and monitor the cooperative's initial eligibility and its ongoing compliance with this chapter. In addition to any other available remedies, the commissioner may commence proceedings pursuant to section ~~3152, subsection 6~~ 3155-B, to revoke the eligible status of a cooperative which ~~which~~ that willfully fails to provide information, records or reports requested by the commissioner.

Sec. F-37. 7 MRSA §3155-B is enacted to read:

§3155-B. Eligible marketing cooperative; revocation of status

2 Notwithstanding section 3155-A, Title 4, section 152,
4 subsection 9 and Title 5, section 10051, subsection 1, the
6 commissioner may revoke the eligible status of a marketing
cooperative upon a determination that it has through its
operation evaded, impaired or undermined the purposes of this
chapter.

8
10 **PART G**

12 **Sec. G-1. Department recommendations for revisions.** The
14 Department of Agriculture, Food and Rural Resources shall develop
16 recommendations to address legal ambiguities and other issues in
18 the Maine Revised Statutes, Title 7 identified as in need of
20 revision by the department and the Office of Policy and Legal
Analysis.

22
24 **SUMMARY**

26 This amendment adds several parts to the bill. Part C makes
28 revisions to statutory provisions relating to institutional food
30 purchasing. It directs the Commissioner of Agriculture, Food
32 and Rural Resources to establish an advisory committee to
34 consider expanding the purchase of food that is locally produced.
36 It directs the commissioner to convene a working group to discuss
issues relating to food policy and to submit a report with
recommendations to the Second Regular Session of the 122nd
Legislature. It authorizes the Joint Standing Committee on
Agriculture, Conservation and Forestry to submit legislation that
session pertaining to food policy and the promotion of locally
produced foods.

38 Part D clarifies the definition and use of the word
40 "cervids." It removes a time restriction on foals resulting from
insemination being registered as Maine standardbreds.

42 Part E revises the board memberships for the Maine Dairy
44 Promotion Board and the Maine Dairy and Nutrition Council.

46 Part F makes several clarifications to the Maine milk laws.

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2 Part G directs the Department of Agriculture, Food and Rural
Resources to submit its recommendations to clarify ambiguities in
4 the Maine Revised Statutes, Title 7 and seek drafting assistance
from the Office of Policy and Legal Analysis.

6

FISCAL NOTE REQUIRED
(See attached)

8

COMMITTEE AMENDMENT



122nd MAINE LEGISLATURE

LD 216

LR 0275(02)

An Act To Make Revisions to the Laws Governing Agriculture

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Agriculture, Conservation and Forestry

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund