

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1182

S.P. 430

In Senate, March 25, 2009

An Act To Prevent Price Gouging in the Sale of Milk

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

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

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MILLS of Somerset.
Cosponsored by Senator: MARRACHÉ of Kennebec.

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

2 Sec. 1. 7 MRSA §2954-D is enacted to read:

3 §2954-D. Price gouging in the sale of milk

4 1. Unconscionably excessive price prohibited. A person may not sell or offer to
5 sell Class I fluid milk for an unconscionably excessive price, as determined pursuant to
6 subsection 3.

7 2. Commission may investigate and issue orders; appeal. Whenever the retail
8 price to consumers for Class I fluid milk exceeds twice what is paid to producers of the
9 milk, the commission may investigate to determine whether the price is unconscionably
10 excessive, as determined pursuant to subsection 3. If it finds probable cause to believe
11 that the price is unconscionably excessive, the commission may after notice and hearing
12 make findings and issue orders to prohibit such practices. Any person aggrieved by an
13 order of the commission may appeal to the Superior Court.

14 3. Evidence of unconscionably excessive price. An unconscionably excessive price
15 for Class I fluid milk is evidenced by:

16 A. A disparity between the retail price and the producers' price that grossly exceeds a
17 reasonable rate of return;

18 B. Significant increases in retail price that are not the result of an increase paid to
19 producers for raw milk and that are not otherwise justified by changes in cost to the
20 dealer or store;

21 C. Decreases in prices paid to producers that do not yield corresponding decreases in
22 retail prices for the same milk;

23 D. Elevated prices or changes in price that appear to reflect price-fixing or
24 combination activity by 2 or more stores or dealers; or

25 E. Elevated prices that appear to result from regional market share dominance by a
26 store or dealer or by a combination of stores or dealers.

27 4. Penalties. For a violation of its orders, the commission may assess a penalty of
28 up to \$100 per day for each violation. Proceeds from the penalties must be remitted to
29 the Women, Infants and Children Special Supplemental Food Program of the federal
30 Child Nutrition Act of 1966 to be used to purchase milk and milk products for clients of
31 the program.

32 **SUMMARY**

33 This bill prohibits the sale of milk for an unconscionably excessive price. It
34 authorizes the Maine Milk Commission to investigate to determine whether the price is
35 unconscionably excessive whenever the retail price to consumers for milk exceeds twice
36 what is paid to producers of the milk. If the commission finds probable cause to believe
37 that the price is unconscionably excessive, it may after notice and hearing make findings
38 and issue orders to prohibit such practices. The bill specifies certain circumstances that

1 are evidence of an unconscionably excessive price. It authorizes the commission to
2 assess a penalty of up to \$100 per day for each violation with the proceeds to be remitted
3 to the Women, Infants and Children Special Supplemental Food Program to be used to
4 purchase milk and milk products for clients of the program.