

MAINE STATE LEGISLATURE

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EIGHTY-FIRST LEGISLATURE

SENATE

NO. 226

In Senate, March 7, 1923.

Referred to Committee on Judiciary and five hundred copies ordered printed. Sent down for concurrence.

L. ERNEST THORNTON, Secretary.

Presented by Senator Hussey of Aroostook.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-THREE

AN ACT Authorizing the Formation of Non-Profit, Co-operative Associations, with or without Capital Stock, for the Purpose of Encouraging the Orderly Marketing of Fish Products Through Co-operation.

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

Section 1. *Declaration of Policy.*

(a) In order to promote, foster and encourage the distribution of fish and fish products through co-operation; and to eliminate speculation and waste; to make the distribution of fish and fish products between producer and consumer as direct as can be efficiently done; to stabilize the marketing of fish and fish products; and to provide for

7 the organization and incorporation of co-operative market-
8 ing associations for the marketing of such products, this act
9 is passed.

Sect. 2. *Definitions.*

(a) The term "fish and fish products" includes fresh and
2 dried fish, smoked herring, boned herring, sardines, lob-
3 sters, clams, and any fish or fish products.

(b) The term "member" includes actual members of
2 associations without capital stock and holders of common
3 stock in associations organized with capital stock.

(c) The term "association" means any corporation or-
2 ganized under this act, and

(d) The term "person" includes individuals, firms, part-
2 nerships, corporations and associations.

Associations organized hereunder shall be deemed non-
2 profit, inasmuch as they are not organized to make profit
3 for themselves, as such, but only for their members as
4 fishermen and producers of cured, or preserved fish in any
5 form.

(e) For the purpose of brevity and convenience this act
2 may be indexed, referred to and cited as "The Co-operative
3 selling Act."

Sect. 3. *Who may organize.* Five or more persons, a
2 majority of whom are residents of the state, engaged in
3 packing, preserving or curing fish in any form, and the
4 production of fish products, may form a non-profit asso-

5 ciation, with or without capital stock, under the provision
6 of this act.

Sect. 4. *Purposes.* An association may be organized to
2 engage in any activity in connection with the marketing or
3 selling fish and fish products of its members charging a
4 commission of not exceeding six per cent to be distributed
5 among its members at the close of the year, after all
6 charges are paid, in proportion to the sales of the products
7 of each member.

Sect. 5. *Powers.* Each association incorporated under
2 this act shall have the following powers:

(a) To engage in any activity in connection with the
2 marketing, selling, storing, or handling of any fish, shell
3 fish or otherwise, and fish products, produced or delivered
4 to it by its members, or for marketing the by-products
5 thereof.

(b) To buy, lease, hold and exercise all privileges of
2 ownership, over such real or personal property as may be
3 necessary or convenient for the conduct and operation of
4 any of the business of the association, or business incidental
5 thereto.

Sect. 6. *Members.*

(a) Under the terms and conditions prescribed in the
2 by-laws adopted by it, an association may admit as members
3 (or issue common stock to), only persons engaged in the
4 business of curing, preserving, or packing fish in any form,

5 or the by-products thereof, to be handled by or through the
6 association.

(b) If a member of a non-stock association be other than
2 a natural person, such member may be represented by any
3 individual, associate, officer or manager or member thereof,
4 duly authorized in writing.

(c) One association organized hereunder may become
2 a member or stockholder of any other association or asso-
3 ciations organized hereunder.

Sect. 7. *Articles of Incorporation.* Before commencing
2 business, the president, treasurer and a majority of directors
3 shall prepare and file a certificate of organization, setting
4 forth:

(a) The name of the association.

(b) The purposes for which it is formed.

(c) The place where its principal business will be trans-
2 acted.

(d) The term for which it is to exist not exceeding years.

(e) The number of directors thereof, which must be not
2 less than five, the term of office of such directors; and the
3 names and addresses of those who are to serve as incorpo-
4 rating directors for the first term, and or until the election
5 and qualification of their successors.

(f) The name of the clerk and his residence.

(g) If organized without capital stock, whether the
2 property rights and interest of the members shall be equal
3 or unequal; and, if unequal, the general rule or rules appli-

4 cable to all members by which the property rights and in-
5 terests, respectively, of each member shall be deter-
6 mined and fixed; and provision for the admission of new
7 members who shall be entitled to share in the property of
8 the association in accordance with the general rule or rules.
9 This provision or paragraph of the articles of incorporation
10 shall not be altered, amended, or repealed except by the
11 written consent or vote of three fourths of the members.

(h) If organized with capital stock, the amount of such
2 stock and the number of shares into which it is divided and
3 the par value thereof, all stock shall be common stock.

The articles must be subscribed by the incorporators and
2 acknowledged by one of them before a justice of the peace
3 or notary public; and shall be filed in accordance with the
4 provisions of the general corporation law of this state; and
5 when so filed the said articles of incorporation, or certified
6 copies thereof, shall be received in all courts of this state
7 as prima facie evidence of the facts contained therein, and
8 of the due incorporation of such association.

Sect. 9. *Amendments of Articles of Incorporation.* The
2 articles of incorporation may be altered or amended at any
3 regular meeting or special meeting called for the purpose.

An amendment must first be approved by one-third of the
2 directors and then be adopted by a vote representing a
3 majority of all the members of the association, or stock-
4 holders.

Amendments to the articles of incorporation, when so

2 adopted, shall be filed in accordance with the provisions of
3 the general corporation law of this state.

BY-LAWS

Each association incorporated under this act shall within
2 thirty days after its organization, adopt for its govern-
3 ment and management, a code of by-laws, not inconsistent
4 with the powers granted by this act. A majority vote of
5 the members or stockholders, or their written assent, is
6 necessary to adopt such by-laws. Each association, under
7 the by-laws may provide for any or all of the following
8 matters:

(a) The time, place and manner of calling and con-
2 ducting its meetings.

(b) The number of stockholders or members constituting
2 a quorum.

(c) The right of members or stockholders to vote by
2 proxy.

(d) The number of directors constituting a quorum.

(e) The qualification, compensation, duties and terms of
2 office of the directors and officers; time of their election
3 and the mode and manner of giving notice thereof.

(f) The amount of entrance, and membership fees, if
2 any, the manner and method of collecting the same; and
3 the purposes for which they may be used.

(g) The amount which each member or stockholder shall
2 be required to pay annually, or from time to time, if at all,
3 to carry on the business; the charge, if any, to be paid by

4 each member or stockholder as a commission, not exceeding
5 six per cent, to the association for selling the product of
6 such member, and manner of collecting; the method, time
7 and manner of permitting members to withdraw, or the
8 holders of stock to transfer their stock; the manner of
9 assignment and transfer of the interest of members; the
10 condition upon which and time when membership of any
11 member shall cease, not exceeding six months, after notice,
12 providing however, that no member shall withdraw during
13 any packing season; the manner of determining the value
14 of a member's interest and provision for its purchase by
15 the association upon the death or withdrawal of a member
16 or a stockholder, the purchase at a price fixed by con-
17 clusive appraisal by the board of directors.

In case of the withdrawal of a member the board of
2 directors shall equitably and conclusively appraise his
3 property interest in the association and shall fix the amount
4 thereof in money, which shall be paid to him within one
5 year after such withdrawal.

GENERAL AND SPECIAL MEETINGS, HOW CALLED

In the by-laws, each association shall provide for one
2 regular meeting annually.

The board of directors shall have the right to call a special
2 meeting at any time; and not less than one-third of the
3 members or stockholders may file a petition stating the
4 specific business to be acted upon before the association
5 and demand a special meeting at any time. Such meeting

6 shall thereupon be called by the directors. Notice of such
7 meeting, together with a statement of the purposes thereof,
8 shall be mailed to each member at his last post office
9 address at least ten days prior to the meeting.

The business of the association shall be managed by a
2 board of not less than five directors, elected by the members
3 or stockholders from their own number.

When a vacancy on the board of directors occurs other
2 than by expiration of term, the remaining members of the
3 board shall at once call a special meeting of the association
4 or stockholders for the purpose of filling the vacancy, stat-
5 ing in the call, the purpose of said meeting.

STOCK, MEMBERSHIP CERTIFICATE, WHEN ISSUED,
VOTING, LIABILITY, LIMITATION ON TRANSFER
OF OWNERSHIP

When a member of an association established without
2 stock has paid his membership fee in full, he shall receive
3 a certificate of membership. No association shall issue
4 stock to a member until it has been fully paid for. Each
5 member or stockholder shall be entitled to one vote for
6 each share of stock held by him.

ANNUAL REPORT

Each association formed under this act shall prepare and
2 submit to its annual meeting an annual report and a general
3 statement of its business operations during the fiscal year;
4 showing the amount of capital stock paid for and the
5 number of stockholders, if a stock association, or the num-

6 ber of members and amount of membership fee received,
7 if non-stock association; the total expense of operation;
8 the amount of its liabilities and assets, and if the assets
9 warrant it, in the estimation of the directors, they shall
10 declare a dividend to the stockholders or if a non-stock
11 association they shall declare a dividend to each member
12 in proportion to the capital that each has paid in.

CONFLICTING LAWS NOT TO APPLY

Any provisions of law which are in conflict with this act
2 shall be construed as not applying to the association herein
3 provided for.

ASSOCIATIONS ARE NOT IN RESTRAINT OF TRADE

No association organized hereunder and complying with
2 the terms hereof shall be deemed to be a conspiracy, or a
3 combination in restraint of trade, or an illegal monopoly,
4 or, an attempt to lessen competition or to fix prices arbi-
5 trarily.

CONSTITUTIONALITY

If any section of this act shall be declared unconstitutional
2 for any reason, the remainder of this act shall not be
3 affected thereby.

APPLICATION OF GENERAL CORPORATION LAW

The provisions of the general corporation law of this state
2 and all powers and rights thereunder, shall apply to the
3 associations organized hereunder, except where such pro-
4 visions are in conflict with or inconsistent with express
5 provisions of this act.

ANNUAL LICENSE FEE

Each association organized hereunder shall pay an annual
2 license fee of ten dollars, in lieu of all franchises, or license,
3 or corporation or other taxes.

FILING FEES

For filing articles of incorporation, an association or-
2 ganized hereunder shall pay ten dollars; and for filing an
3 amendment to the articles of two dollars and fifty cents.