

# MAINE STATE LEGISLATURE

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EIGHTY - SEVENTH LEGISLATURE

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Legislative Document

No. 521

S. P. 401

In Senate, February 12, 1935.

Referred to Committee on Agriculture and 500 copies ordered printed.  
Sent down for concurrence.

ROYDEN V. BROWN, Secretary.

Presented by Senator Blaisdell of Hancock.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
THIRTY-FIVE

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**AN ACT Relative to Agricultural Marketing Agreements.**

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

**Sec. 1. Formulation and enforcement of marketing agreements.** A condition, productive of widespread agricultural distress and disorganization of trade and industry, vitally affecting the public welfare of this state, hereby is declared to exist, and it is further declared that said condition may reasonably be expected to continue. It therefore hereby is declared to be the policy of the state of Maine to endeavor to promote the rehabilitation of agriculture and in eliminating the causes of collapse of agricultural purchasing power, and to that end and for the purpose of remedying the distress in the agricultural industry of this state, to permit and encourage the formulation and enforcement of marketing agreements among producers, manufacturers, distributors and others handling or processing within the state of Maine agricultural products produced or marketed within this state.

**Sec. 2. Approval by commissioner of agriculture of marketing agreements.** (a) The commissioner of agriculture may approve any marketing agreement among producers, associations of producers, manufacturers, processors, distributors, and/or others handling any agricultural product produced or marketed within the state, submitted to the commissioner for

approval under this act, if the commissioner finds after due notice and opportunity to be heard that (1) the agreement has been executed or is approved by persons producing, handling, or representing a substantial majority of the volume, measured in dollars or units of output, of the intrastate business of the industry covered by that agreement, and that (2) the provisions of that agreement are not inequitable to the producers of the commodity or commodities covered nor contrary to the interests of the consumers thereof and of the general public. In approving any such agreement, the commissioner may impose such conditions for the protection of consumers, employees, and others, and in the furtherance of the public interest, and may make such changes in, and provide for, such exceptions to, and exemptions from, the provisions of the agreement as submitted, as he may deem necessary to effect the purposes of this act.

(b) Any marketing agreement under this act may include such provisions regulating trade and marketing practices and charges in the industry covered and may contain or provide for such limitation or regulation of production and/or marketing, and such other provisions, as may reasonably be calculated to aid in the accomplishment of the purposes of that marketing agreement and of this act. Each marketing agreement shall provide for the establishment of, and shall be administered under, the direction and supervision of the commissioner, by a group of citizens of this state who are members of the industry covered, which shall be known as the control board for that marketing agreement. The duties and powers of such board shall be such as are specified for it in the marketing agreement or, from time to time delegated to it, by the commissioner.

(c) The commissioner, whenever any marketing agreement approved hereunder so provides and he finds that such is necessary to effectuate its purposes and enforce its provisions, may institute by public announcement and make effective as to all members of the industry covered by that agreement a system of licenses, in which event he shall issue to each person covered by that agreement a license to engage in the marketing, processing, and/or distribution within the state of the commodity or commodities involved. Such licenses shall be subject to all the provisions of the marketing agreement approved under this act and covering the industry involved, and such rules, regulations and orders applicable thereto and in effect under this act. The commissioner may at any time revoke or suspend any such license, after due notice and opportunity to be heard, for any violation of the marketing agreement or of this act, or of any applicable rule, regulation or order issued pursuant to this act. Following institution of any such licensing system hereunder, any person who thereafter without such license

engages within the state in marketing, processing, distributing or handling the agricultural product covered shall be guilty of a misdemeanor and shall be punishable by a fine of not more than \$500 for each day during which such violation continues. Trial justices and judges of municipal courts shall have jurisdiction concurrent with the superior courts in all prosecutions under this section.

(d) A certified copy of each marketing agreement, rule, regulation or order approved or promulgated under this act shall be filed with the secretary of state.

**Sec. 3. Fair competition; violation.** The provisions of any marketing agreement approved by the commissioner under this act shall constitute the legal standards of fair competition and fair trade practices for the industry covered by that agreement, in all of its transactions within this state. Violation of any such standards by any person engaged within this state in that industry shall be deemed the use of an unfair method of competition contrary to the public policy and welfare of this state and shall constitute a violation of this act and a misdemeanor, and upon conviction thereof the person guilty of such violation shall be punished by a fine of not more than \$500 for each offense, and each day such violation continues shall be deemed a separate offense. In all prosecutions under this act trial justices and judges of municipal courts shall have jurisdiction concurrent with the superior courts.

**Sec. 4. Penalty.** (a) Any person who shall violate any provision of this act or any rule, regulation or order promulgated pursuant to this act shall be guilty of a misdemeanor and for each and every such violation shall be punished by a fine of not more than \$500 and each day violation continues shall be deemed a separate offense. Trial justices and judges of municipal courts shall have jurisdiction concurrent with the superior courts of this state in all prosecutions under this act.

(b) In addition to, and apart from, any other penalty provided, any violation of this act is hereby declared to be a public nuisance and may be enjoined or abated in a suit filed and prosecuted in the superior court. The superior court is hereby vested with jurisdiction to prevent and restrain violation of any marketing agreement, rule, regulation or order approved or promulgated under this act, or the engaging in business within this state without such license as may be required therefor under this act, and it shall be the duty of the several county attorneys in their respective counties to institute proceedings in equity to prevent and restrain such acts. Any person subject to any marketing agreement approved hereunder, or to any

marketing agreement or license approved or issued under the National Agricultural Adjustment act and effective under this act as to intrastate transactions in this state, and/or the attorney-general of this state, and/or the appropriate control board, may institute suit to prevent or restrain any violation or threatened violation, in intrastate commerce within this state, or any provision of a marketing agreement or license effective under this act, or of any provision of this act or any rule, regulation or order in effect under this act. The superior court is hereby invested with jurisdiction of such suits.

(c) In any prosecution or suit under this act, a certified copy from the state department of agriculture of any marketing agreement, license, rule, regulation or order approved or promulgated under this act, shall be received as prima facie evidence, of the due approval or promulgation under this act of that agreement, license, rule, regulation or order, and of the facts stated therein.

(d) An appeal from any action of the commissioner, under this act may be taken within 10 days thereafter, by any person adversely affected thereby, to the superior court. The hearing on such appeal shall be as in equity cases. Pending such hearing no injunction shall be issued against the commissioner or other officer of this state, in regard to that action, but the court shall advance the case on the calendar and hear the same as soon as possible. Pending final determination of any such review the action appealed from shall remain in full force and effect. Before issuing any writ of review hereunder the court shall require the applicant for such writ to file a bond with the court in such sum as the court shall specify, conditioned upon compliance with the marketing agreement, rule, regulation or order involved, and with this act, pending final determination of such review, and conditioned further upon payment of the costs incurred therein if the action appealed from is sustained by the court.

**Sec. 5. Rules to be promulgated by the commissioner; fees.** The commissioner is empowered to make all necessary rules, regulations and orders to carry out the intent, policy and purposes of this act (including requirements for the making of reports, the keeping of accounts and records and the inspection thereof by the commissioner or his representative), violation of any of which shall be a violation of this act. The commissioner may fix and collect a fee of not more than \$100 for approving any marketing agreement hereunder, to be used to defray in part the expense of administration of this act. Any marketing agreement approved under this act may require each person subject thereto to pay his pro rata share of the expense of administration and enforcement of that agreement and of this

act, and failure to pay such share within 15 days after notice to do so, and after opportunity for hearing on the reasonableness of the amount required to be paid, shall constitute a violation of this act. In addition to other penalties or remedies for such violation provided in this act, the proper control board may institute civil action to collect any such share.