

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

NEW DRAFT

EIGHTY - SEVENTH LEGISLATURE

Legislative Document

No. 632

NEW DRAFT OF H. P. 36, L. D. 9

H. P. 1414

House of Representatives, February 15, 1935.

Reported by Mr. Clark from Committee on Agriculture and laid on table to be printed under joint rules. 500 copies ordered printed.

HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-FIVE

AN ACT to Create a Milk Control Board.

Emergency preamble. Whereas, the distribution and sale of milk and cream within this state is a business affecting the public health, welfare and general interest of all the people of the state, and

Whereas, unfair, destructive and uneconomic practices in the business of said distribution and sale of milk and cream have developed which threaten the disruption of said business and great loss to all persons engaged in said business and which create a situation which cannot be adequately controlled and remedied by existing statutes, and

Whereas, in the judgment of the Legislature these facts create an emergency within the meaning of section 16 of Article XXXI of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety, now therefore,

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

Sec. 1. Definitions. As used in this act, unless the context otherwise requires, "board" means the state agency, created by this act to be known as the "milk control board".

“Person” means any person, firm, corporation or association.

“Dealer” means any person who purchases and sells milk within the state for consumption within the state.

“Producer” means any person who produces milk for fluid consumption and sells his said milk only to dealers as above defined.

“Producer-dealer” means any person who sells milk to consumers within the state and who himself produces the whole or a substantial part of said milk.

“Consumer” means any person other than a milk dealer who purchases milk for fluid consumption.

“Market” means any city, town or village of the state, or 2 or more of the same designated by the board as a natural marketing area.

“Milk” means fluid milk and cream.

Sec. 2. Milk control board created. Within 7 days from the effective date of this act, the governor with the advice and consent of the council, shall appoint as members of a “milk control board” 2 producers, a dealer and a producer-dealer all of whom shall be residents of the state. The commissioner of agriculture shall be ex officio a member of said board. The members of said board shall elect a chairman and may employ a secretary and such clerks and assistants as may be deemed necessary and may prescribe their duties and fix their compensation, subject to the approval of the governor and council. Legal services and the services of experts in other lines shall be performed as far as possible by the existing state departments including the department of agriculture, the department of health and welfare, and the attorney-general’s department. Any vacancy in the membership of said board shall be filled by appointment by the governor, with the advice and consent of the council. Members of the board shall be allowed actual traveling and other necessary expenses incurred in the performance of their duties and each member shall receive a per diem compensation for the time actually spent in the performance of his duties, such compensation to be determined by the governor and council; provided that the cost of administration of said board, including expenses and compensation of members, shall not exceed the amount of fees collected under the provisions of this act. The board shall be furnished a suitable office in the state capitol together with all necessary equipment and supplies therefor.

Sec. 3. Powers and duties of the board. The board shall have power to supervise, regulate and control the distribution and sale of milk for consumption within the state as hereinafter provided in such a manner as to

supplement such supervision and regulations as are now imposed by existing statutes or by the lawful ordinances or rules and regulations of the several towns and cities of the state. The board shall however have no power to modify, add to or annul any sanitary regulations imposed by any state or municipal authority, or to compel pasteurization in any market area. In administering this act it shall have the power to conduct hearings, subpoena and examine under oath, dealers and producer-dealers with their records, books and accounts and any other person from whom information may be desired to carry out the purposes and intent of this act and any member of the board may sign subpoenas and administer oaths to witnesses. The board may adopt, promulgate and enforce all rules and orders necessary to carry out the provisions of this act and any member of the board or its representative shall have access to and may enter at all reasonable hours all places where milk is being distributed or sold. The board may act as mediator or arbitrator to settle any controversy or issue among or between producers, dealers, producer-dealers, and consumers, any of whom may petition the board in writing to change prices or conditions in any market area.

Sec. 4. Limitations on powers of the board. The board shall not exercise its powers in any market except upon written application of a producers', dealers' or producer-dealers' association, supplying in the judgment of the board a substantial proportion of the milk consumed in such market. But in a community which is not of sufficient size to support a producers', dealers' or producer-dealers' association, the board may exercise its powers upon the written petition of producers, dealers or producer-dealers supplying a substantial proportion of the milk in the community.

Sec. 5. Price fixing, when authorized. The board shall hold meetings on the call of the chairman, and shall appoint a time at each meeting when any producer, dealer, producer-dealer or consumer may present complaints or suggestions for the betterment of the conditions of trade and shall endeavor to effect amicable reconciliation of differences which exist between the various milk interests. The chairman shall call a meeting of the board whenever requested in writing by any 2 members of the board. The board is hereby vested with power to establish and change after investigation and public hearing, minimum wholesale and retail prices to be charged for milk distributed for sale within the state for fluid consumption, wherever produced, including the following classes:

1. By producer to consumer, dealer or producer-dealer.

2. By dealer or producer-dealer to stores either for consumption on the premises or resale to consumers.
3. By dealer or producer-dealer to consumer.
4. By stores to consumer.
5. By wholesaler to retailer.
6. By any person not included in the foregoing classifications to another person for commercial purposes.

No price shall be established for any one or more of said classes unless at the same time a price shall be established for all of said classes in any market.

Upon fixing said minimum prices in any market which shall apply to the various grades and classes of milk and which may vary in the several markets and localities of the state, the board shall furnish all dealers and producer-dealers registered in said market with a schedule of such prices, and shall publish a schedule thereof in appropriate newspapers in said market, and such publication shall constitute an official order with respect to minimum prices and thereafter no dealer, producer-dealer, wholesaler, store or other person handling milk in such market for commercial purposes shall buy or sell milk for prices less than the scheduled minimum applicable to the particular transaction.

No method or device shall be lawful whereby milk is bought or sold at prices less than the scheduled minimum applicable to the transaction, whether by any discount, rebate, free service, advertising allowance, combination price for milk with any other commodity, or for any other consideration.

Sec. 6. Licenses; how issued. The board shall require all dealers and producer-dealers in any market designated by said board to be licensed by said board, provided however, that no license shall be required of any person who produces or sells milk for consumption only on the premises of the producer or seller. The board may, upon proper evidence, decline to grant a license or may suspend or revoke a license already granted upon due notice and after hearing.

No order of the board suspending or revoking a license or refusing to renew an existing license shall be effective until 10 days after the same has been issued and a copy thereof mailed to the holder of such license. Within said period of 10 days any party believing himself aggrieved by the order of the board may appeal to the term of the superior court next to be held in the county wherein the holder of such license resides and cause notice of such appeal to be served on the board. Such court, after hearing, shall affirm or reverse the order of the board. If such appeal be seasonably taken

the order of the board shall be stayed and the applicant permitted to continue operation, upon payment of the required fees, until final determination of such appeal.

Sec. 7. Records, license fees. All dealers and producer-dealers in any market designated by the board shall keep such records as the board directs. Each licensed dealer and producer-dealer shall pay to said board an annual license fee of \$1 and such further sums not exceeding 1 cent per hundred-weight as monthly payments based on quantity of milk sold and distributed by dealers and producer-dealers in any market area, as in the opinion of the board may be necessary to meet the cost of administering this act in such market area. One-half of any amounts paid by any dealer or producer-dealer based on the quantity of milk sold and distributed by him, may be deducted from the price paid by him to the producers of such milk. For the purpose of computing fees as above provided, $\frac{1}{2}$ pint of cream shall be considered the equivalent of 1 quart of fluid milk. Any producer who sells on his own premises not exceeding 10 quarts of milk or its equivalent in cream per day shall not be considered a producer-dealer and shall not be required to be licensed or to pay the fee herein provided for. All moneys received by said board shall be paid by the board to the treasurer of the state monthly and all such sums are hereby appropriated for the purpose of administering this act.

Sec. 8. Penalty. Whoever violates any of the provisions of this act or of any rule or order of the board shall be punished by a fine of not more than \$100 or by imprisonment for not more than 11 months or by both such fine and imprisonment.

Sec. 9. Constitutionality. If any section or other part of this act is, for any reason, held to be unconstitutional such decision shall not affect the validity of the remaining portions of this act.

Emergency clause. In view of the emergency cited in the preamble, this act shall take effect when approved.