

MAINE STATE LEGISLATURE

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NEW DRAFT OF H. P. 762--L. D. 427.

N I N E T Y - F I R S T L E G I S L A T U R E

Legislative Document

No. 876

H. P. 1340

House of Representatives, March 30, 1943.

Reported by Mr. Denny from Committee on Agriculture and laid on the table to be printed under joint rules.

HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FORTY-THREE

AN ACT Relating to the Milk Control Board.

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

Sec. 1. P. L., 1935, c. 13, § 1, amended. Section 1 of chapter 13 of the public laws of 1935, as amended, is hereby repealed and the following enacted in place thereof :

“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, association, or other business unit.

“Dealer” means any person who purchases or receives milk for sale as the consignee or agent of a producer, or handles for sale, shipment, storage, or processing within the state and shall include a producer-dealer as hereinafter defined, but shall not include a store.

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

“Producer-dealer” means a dealer who himself produces a part or all of his milk or a person who produces milk and sells to a grocery store or dairy products store or similar commercial establishment.

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

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

“Milk” means whole milk and cream, fresh, sour, or storage; skimmed milk and buttermilk; irrespective of whether or not any such milk is flavored.

“Class I milk” means all milk, the utilization of which is not established as Class II milk.

“Class II milk” means all milk, the utilization of which is established (1) as being sold, distributed, or disposed of other than as or in milk which contains not less than $\frac{1}{2}$ of 1% butterfat and not more than 16% butterfat and other than as chocolate or flavored whole or skimmed milk and (2) as actual plant shrinkage; provided, that the quantity of shrinkage which is classified as Class II does not exceed 2% of the milk purchased in any pay period.

“Store” means a grocery store or dairy products store or any similar commercial establishment, which purchases milk from licensed dealers who have previously processed and bottled or otherwise packaged such milk for sale.

“Retail sale” means a door-step delivery to other than establishments licensed under chapter 83 of the public laws of 1935, as amended, and over-the-counter sales by stores.

“Wholesale sale” means sale to any other person not included in retail.

“Books and records” means books, records, accounts, memoranda, or other data pertaining to the purchase and distribution of milk.

Sec. 2. P. L., 1935, c. 13, § 2, amended. Section 2 of chapter 13 of the public laws of 1935 is hereby amended to read as follows:

‘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, **who shall serve for a term of 4 years and until their successors have been duly appointed and qualified.** 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 compensa-

tion, 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. P. L., 1935, c. 13, § 3, amended. Section 3 of chapter 13 of the public laws of 1935 is hereby repealed and the following enacted in place thereof:

'Sec. 3. Powers and duties of the board. The board shall have power to supervise, regulate, and control the purchasing, distribution, and sale of milk 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 lawful ordinances or rules and regulations of the several cities and towns 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 power to conduct hearings, subpoena and examine under oath 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. Any member of the board or its representatives may enter at all reasonable hours all places where milk is being received, processed, stored, or otherwise handled and shall have access to all books and records relating to milk for the purpose of ascertaining facts to enable the board to administer this act. The board may adopt, promulgate, and enforce all rules and orders necessary to carry out the provisions of this act.

The board may act as mediator or arbitrator to settle any controversy or issue among or between producers, dealers, and consumers, any of whom

may petition the board in writing to change prices or conditions in any market area.'

Sec. 4. P. L., 1935, c. 13, § 5, amended. Section 5 of chapter 13 of the public laws of 1935, as amended, is hereby repealed and the following enacted in place thereof:

'**Sec. 4. Price fixing, when authorized.** The board shall hold meetings on the 3rd Thursday of each calendar month, and shall appoint a time at each meeting when any producer, dealer, or consumer may present complaints or suggestions for the betterment of the conditions of trade and shall endeavor to effect amicable reconciliations of differences which exist between the various milk interests and such other meetings as are necessary to properly supervise and control the industry. 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 prices to be paid to producers by dealers for milk received, purchased, stored, manufactured, processed, sold, distributed, or otherwise handled within the state. The board shall fix and establish, after investigation and public hearing, of which due notice has been given by publishing at least 3 days prior to said hearing in appropriate newspapers, the wholesale and retail prices to be charged for milk distributed for sale within the state, wherever produced, including the following sales:

1. By dealers to dealers.
2. By dealers to consumers.
3. By stores to consumers, except for consumption on the premises where sold.
4. By dealer to stores either for consumption on the premises or resale to consumers.
5. By any person not included in the foregoing classifications to another person.
6. By producers to dealers.

The board in its discretion may waive public hearing when the sole change to be made in minimum prices is to conform with orders of any federal agency, duly authorized by law to determine prices.

The dealer to dealer prices for all sales shall be established only in such market areas as are necessary for the stabilizing of market conditions, but all such sales between dealers shall be considered Class I milk.

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

Prices so fixed shall be just and reasonable taking into due consideration the insuring of an adequate supply of pure and wholesome milk and conditions affecting the milk industry, including a reasonable return to the producer and dealer.

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 market areas of the state, the board shall furnish all 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, store, or other person handling milk in such market shall buy or offer to buy, sell, or offer to sell milk for prices less than the scheduled minimum applicable to the particular transaction.

Any dealer who purchases or receives milk for sale as consignee or agent of a producer may deduct an allowance for transportation not in excess of the amount specified in a written agreement between the dealer and producer, a copy of which, signed by both parties, shall have been filed with the board prior to the beginning of the delivery period.

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. 5. P. L., 1935, c. 13, § 6, amended. Section 6 of chapter 13 of the public laws of 1935, as amended, is hereby repealed and the following enacted in place thereof:

'Sec. 5. Licenses, how issued; revoked, suspending, and withholding; appeal. No dealer, as defined in this act, shall buy milk from producers or others for sale or shall process, distribute, sell, or offer to sell milk in any market in the state designated by the board unless duly licensed by the 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. Each person, before engaging in the business of a dealer in any market designated by the board, shall make application to the board for a license hereunder, which the board is authorized to grant.

The license year shall commence on January 1 and end December 31 following. Application for a license shall be made on a form prescribed by the board.

Licenses required by this act shall be in addition to any other license required by law.

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, revoking, or withholding 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 or applicant for such license. Within said period of 10 days any party believing himself aggrieved by the order of the board may appeal to the superior court in the county in which he resides or is engaged in business, in term time or vacation, and cause notice of such appeal to be served on the board. Such court, after hearing, in term time or vacation, shall affirm or reverse the order of the board, or any modification thereof by the board.

No appeal taken from an order of the board shall suspend the operation of such order, except as herein provided. The justice of the superior court before whom such appeal is pending, when in his opinion justice may so require, may order a suspension of or compliance with such order, or with such order as modified by the board, pending the determination of such appeal. Violation of the provisions of this act or of any order, rule, or regulation made hereunder, or conviction of violating any other law or regulation of the state relating to the production, distribution, and sale of milk, shall be sufficient cause to suspend, revoke, or withhold such license.'

Sec. 6. P. L., 1935, c. 13, § 7, amended. Section 7 of chapter 13 of the public laws of 1935, as amended, is hereby repealed and the following enacted in place thereof:

'Sec. 6. Records and fees. All dealers in any market designated by the board shall keep the following records: A record of the quantity of all milk received or produced, detailed as to location and as to names and addresses of producers or milk dealers from whom received;

A record of the quantity of all milk sold, detailed as to use, location and market outlet;

Such other records and information as the board may deem necessary for the proper enforcement of this act.

Each dealer shall furnish their producers a record of the amount of milk purchased, the price per pound or quart and the total amount paid for each pay period, also itemized deductions for transportation and other services, and when using the "weight and test" method of payment, the record shall contain the butterfat test and percentages of Class I and Class II of said milk.

Each licensed dealer shall pay to said board an annual license fee of \$1 and the sums of 1c per hundredweight as monthly payments, based on quantity of milk purchased and/or produced in any market area, such sums to be used to meet the cost of administering this act. One-half cent per hundredweight may be deducted by dealers from amounts paid by them to producers of such milk.

Dealers shall file reports together with the prescribed hundredweight fees with the milk control board at its office in Augusta not later than the 20th of the following month, on forms provided for this purpose, of all matters on account of which a record is required to be kept and such other information or facts as may be pertinent and material within the scope of the purposes of this act.

In case the same milk is handled by more than 1 dealer, the 1st dealer within the state dealing in or handling said milk shall be deemed to be the milk dealer within the meaning of this section. For the purpose of computing fees as above provided, $\frac{1}{2}$ pint of cream shall be considered the equivalent of 1 quart of milk. All moneys received by said board shall be paid by the board to the treasurer of state forthwith and all such sums are hereby appropriated for the purpose of administering this act.'

Sec. 7. P. L., 1935, c. 13, §§ 8, 9, renumbered. Sections 8 and 9 of chapter 13 of the public laws of 1935 are hereby renumbered to be sections 7 and 8, respectively.

Sec. 8. P. L., 1935, c. 13, additional. Chapter 13 of the public laws of 1935, as amended, is hereby further amended by adding thereto a new section to be numbered 9 and to read as follows:

'Sec. 9. Intent of act. It is the intention of this act to continue in office the present members of the milk control board for the duration of their present terms of office.'