

MAINE STATE LEGISLATURE

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

Legislative Document

No. 190

H. P. 254

House of Representatives, January 25, 1951.

Referred to Committee on Agriculture. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Jennings of Strong.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

AN ACT Creating the Maine Frozen Dairy Products Law.

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

R. S., c. 27, §§ 224-A - 224-I, additional. Chapter 27 of the revised statutes is hereby amended by adding thereto 9 new sections, to be numbered 224-A to 224-I, inclusive, to read as follows:

'Maine Frozen Dairy Products Law

Sec. 224-A. Short title. Sections 224-A to 224-I, inclusive, shall be known and may be cited as the "Maine frozen dairy products law."

Sec. 224-B. Definitions. As used in sections 224-A to 224-I, inclusive, the following words and phrases shall have the following meanings:

"Commissioner," unless otherwise specified, shall mean the commissioner of agriculture.

"Frozen dairy product mix" shall mean any unfrozen mixture to be used in the manufacture of frozen dairy products for sale or resale and shall contain in whole or in part the ingredients enumerated under the definition of frozen dairy products.

“Frozen dairy products” shall mean the frozen products made from cream or a mixture of milk and cream or a combination of dairy products of equivalent composition, sweetened with sugar or other suitable sweetening agent and containing natural or imitation flavoring. Frozen dairy products shall include ice cream, frozen custard, ice milk, sherbet, ices and related food products, and frozen dairy product mix. They may or may not contain egg-yolk solids and may be frozen with or without agitation. They shall contain no fats or oils other than butter fat except those necessarily contained in the flavoring.

“Frozen dairy products plant” shall mean any place, premises or establishment and any part thereof where frozen dairy products, such as ice cream, frozen custard, ice milk, sherbet, ices and related food products are assembled, processed, manufactured or converted into form for distribution or sale and rooms or premises where such frozen dairy products manufacturing equipment is washed, sterilized or kept.

“Home made” or “home maid” or similar terminology applied to these frozen dairy products shall mean frozen dairy products manufactured and frozen under conditions normally found in the home.

“Retail manufacturer” shall mean any manufacturer of frozen dairy products who is not defined as a wholesale manufacturer.

“Wholesale manufacturer” shall mean a person who manufactures frozen dairy products, any of which are sold to another for resale.

Sec. 224-C. Application for license. Each manufacturer of frozen dairy products and frozen dairy product mix for sale shall, during the month of June in each year, file with the commissioner an application for a license, upon a form prescribed by the commissioner. The application shall show the location of the plant at which frozen dairy products or frozen dairy product mix are to be manufactured and the name of the brand or brands, if any, under which the same are to be sold. The license shall be for 12 months, beginning July 1. Each such license shall cover 1 group of buildings constituting a frozen dairy products plant in 1 location.

The provisions of this section shall not apply to frozen dairy products:

- I. Manufactured by any state institution or boarding house, such as homes for the aged and children, and served to patrons thereof for consumption on the premises where manufactured;
- II. Manufactured and sold by any church or religious organization, grange or similar fraternal order solely for the benefit of such organization;

III. Manufactured and commonly called "home made" or "home maid," all the dairy products of which are produced on the premises where manufactured and sold;

provided that in the above cases the milk products shall be produced from blood tested herds found to be free from Bang's disease and tuberculosis.

Sec. 224-D. License; fees. The commissioner, if satisfied that the frozen dairy products plant named in the application is maintained in accordance with the standards of sanitation and that only pure and wholesome ingredients produced under sanitary conditions are used as prescribed in the rules and regulations promulgated under the provisions of sections 224-A to 224-I, inclusive, shall issue a license for the manufacture of frozen dairy products and frozen dairy product mix. No license shall be issued if any statement in the application shall be false or misleading, or if the brand name or label or advertisement of the frozen dairy product and frozen dairy product mix involved in the application shall give a false indication of origin, character, composition or place of manufacture, or shall be otherwise false or misleading in any particular.

The license fee for a retail manufacturer of frozen dairy products shall be \$2. The license fee for a wholesale manufacturer to manufacture frozen dairy products or frozen dairy products mix within the state, or to sell within the state, as the case may be, shall be \$10.

Sec. 224-E. Disposition of fees, etc. All fees received by the commissioner under the provisions of sections 224-A to 224-I, inclusive, shall be paid by him to the treasurer of state. All fines, penalties and costs recovered under the provisions of sections 224-A to 224-I, inclusive, shall accrue to the treasurer of state and shall be paid into the treasury of the county where the offense is prosecuted. All fines and penalties recovered, and money received or collected, shall be paid to the treasurer of state and all such fines and penalties, together with all fees, shall be credited to the department of agriculture and shall be expended by the commissioner for the purposes of sections 224-A to 224-I, inclusive.

Sec. 224-F. Revocation or suspension of license. The commissioner shall have the power to revoke or suspend any license issued under the provisions of sections 224-A to 224-I, inclusive, when it appears that any statement upon which it was issued was false or misleading or that any frozen dairy product manufactured, sold, offered or exposed for sale, or held for sale by the licensee is adulterated or misbranded or is manufactured in a plant or transported in a vehicle or stored in equipment not maintained in

accordance with the standards of sanitation prescribed by the rules and regulations promulgated by the commissioner or that the brand name or any label or advertising of any frozen dairy product manufactured, sold, offered or exposed for sale or held for sale with the licensee gives a false indication of origin, character, composition or place of manufacture or is otherwise false or misleading in any particular.

Any person, firm, corporation, association or society whose license has been revoked or suspended shall discontinue the manufacture of frozen dairy products or frozen dairy products mixes until the provisions of sections 224-A to 224-I, inclusive, have been complied with and a new license issued or the suspension removed. Before revoking or suspending any license, the commissioner shall give written notice to the licensee affected, stating that he contemplates the revocation or suspension of the same and giving his reasons therefor and appointing a time for hearing.

At the hearing the licensee may present such evidence to the commissioner as he deems fit, and after hearing all the testimony, the said commissioner shall decide whether the license shall be revoked or suspended or not. Any licensee who is aggrieved by the decision of the commissioner may, within 10 days thereafter, appeal to any justice of the superior court by presenting to him a petition therefor, in term time or vacation. Such justice shall fix a time and place for hearing, which may be in term time or vacation, and cause notice thereof to be given to the said commissioner; and after hearing, such justice may affirm or reverse the decision of the commissioner and the decision of such justice shall be final. Pending judgment of such justice, the decision of the commissioner shall remain in full force and effect. The commissioner shall, within 3 days after notice of such appeal, forward to the justice a certified copy of the proceedings.

Sec. 224-G. Prohibition of sale. No person shall sell, advertise or offer or expose for sale any frozen dairy product or frozen dairy product mix unless the manufacturer thereof shall be licensed under the provisions of sections 224-A to 224-I, inclusive. No person shall sell, offer for sale or advertise for sale any frozen dairy product or frozen dairy product mix if the label upon it or the advertising accompanying it shall give a false indication of the origin, character, composition or place of manufacture, or shall be otherwise false or misleading in any particular. No person shall sell, advertise or offer or expose for sale any frozen dairy product for which a standard has not been established by the commissioner, regardless of trade name or brand or coined name. No person shall sell or offer, advertise or expose for sale any frozen dairy product or frozen dairy product mix which

does not conform to the standards of strength, quality, purity and identity now or hereafter to be fixed by the commissioner.

Sec. 224-H. Rules and regulations. The commissioner shall, after investigation and public hearing, adopt and promulgate rules and regulations to supplement and give full effect to the provisions of sections 224-A to 224-I, inclusive. Such rules and regulations shall establish sanitary regulations pertaining to the manufacture and distribution of frozen dairy products, including the construction, sanitary conditions of buildings, grounds and equipment where frozen dairy products are manufactured; sanitary conditions of persons in direct physical contact with frozen dairy products during manufacture; sanitary condition of containers in which frozen dairy products are held or shipped and the sanitary conditions of premises, buildings, surroundings and equipment where frozen dairy products are sold; and among other things, shall establish standards of strength, quality, purity and identity for frozen dairy products, including ice cream, frozen custard, ice milk, sherbet, ices and related food products. Such rules and regulations shall be filed and open for public inspection at the office of the commissioner and shall have the force of law.

Sec. 224-I. Penalties. Any person, firm or corporation violating any of the provisions of sections 224-A to 224-I, inclusive, or any rule or regulation duly promulgated thereunder, or neglecting or refusing to comply with the provisions thereof shall be punished by a fine of not more than \$100 for the 1st offense nor more than \$200 for each subsequent offense.'