

MAINE STATE LEGISLATURE

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Legislative Document

No. 271

H. P. 570

House of Representatives, January 31, 1951

Reported by Mr. Duquette from Committee on Taxation. Ordered printed under Joint Rules.

HARVEY R. PEASE, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

**AN ACT to Provide for a Self-Imposed Tax on Sardines for an Industry
Development Fund.**

Emergency preamble. Whereas the packing and merchandising of sardines is one of the most important industries of the state and a benefit to the public generally; and

Whereas, it is vitally necessary to furnish employment and enhance the livelihood of the coastal and other people of Maine; and

Whereas, legislation is necessary to protect the public health and welfare and to promote and conserve the prosperity and welfare of the people of the state by fostering and promoting better methods of production, packing, merchandising and advertising in the sardine industry of this state; and

Whereas, in the judgment of the legislature, these facts create an emergency within the meaning 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:

R. S., c. 14, §§ 244-254, additional. Chapter 14 of the revised statutes,

as amended, is hereby further amended by adding thereto 11 new sections to be numbered 244 to 254, inclusive, to read as follows:

'Sec. 244. Purpose. The packing of sardines is one of the most important industries of the state, and sections 244 to 254, inclusive, will protect the public health and welfare, stabilize the industry and conserve and promote the prosperity and welfare of the state by fostering and promoting better methods of production, packing, merchandising and advertising in the sardine industry of this state.

Sec. 245. Terms defined. For the purpose of sections 244 to 254, inclusive:

The term "sardine" shall be held to include any canned, clupeoid fish being the fish commonly called herring, particularly the clupea harengus.

A "case" of sardines shall mean:

I. 100 one-quarter size cans of sardines packed in oil, mustard or tomato sauce, or any other packing medium;

II. 48 three-quarter size cans packed in tomato or mustard sauce;

III. 48 cans of 15-ounce oval cans packed in mustard or tomato sauce, or any other packing medium.

"Packer" shall mean any person, partnership, association, firm, corporation or entity engaged in packing sardines for sale.

Sec. 246. Excise tax of 25c per case on sardines. The packing of sardines is hereby declared to constitute the introduction of sardines into the channels of trade.

An excise tax of 25c per case is hereby levied and imposed upon the privilege of packing sardines; provided, however, that if on April 1st of any year there shall remain unexpended in the hands of the treasurer of state from excise taxes collected under the provisions of sections 244 to 254, inclusive, the sum of \$500,000, then such excise tax shall not be levied and imposed upon the privilege of packing sardines during the 12 months following such April 1st.

Sec. 247. Packers to file application with state tax assessor. Every packer shall file an application with the state tax assessor on forms prescribed and furnished by the state tax assessor, which shall contain the name under which such packer is transacting business within the state, the place or places of business where packing is taking place, the names and

addresses of the several persons constituting a firm or partnership, and if a corporation, the corporate name and the names and addresses of its principal officers and agents within the state. The state tax assessor will then issue a certificate to the packer and no packer shall pack any sardines until such certificate is furnished as required by this section.

Sec. 248. Reports of production and payment of tax. Every packer shall keep as a part of his permanent records, a record of all sardines packed, which said records shall be open for inspection at all times as hereinafter provided, and every packer shall on or before the 10th day of each month render a report to the state tax assessor, stating the quantity of sardines packed by him during the preceding calendar month, on forms to be furnished by said state tax assessor, and at the same time shall pay to the state tax assessor the tax of 25c per case on all sardines so reported as packed. If it appears to the state tax assessor from inspection of records or otherwise that an additional tax is due or overpayment of tax has been made, additional assessments or refunds shall be made by the state tax assessor. Such additional assessments shall be due upon certification to the taxpayer. Provided, nevertheless, any packer may pay to the state tax assessor in advance a sum of money based on an estimate of his tax for a given number of months, and this sum shall be a credit against future monthly reports of that packer. The state tax assessor shall pay over all receipts from such tax to the treasurer of state daily.

Sec. 249. State tax assessor or his agent to have authority to inspect. The state tax assessor or his duly authorized agent shall have authority to enter any place of business of a packer, or any car, boat, truck or other conveyance in which sardines are to be transported, and duly inspect any books or records of any packer for the purpose of determining what sardines are taxable under this law, or for the purpose of determining the truth or falsity of any statement or return made by any packer, and he shall have authority to delegate such powers to the commissioner of agriculture, his deputies, agents, servants or employees, and to the commissioner of sea and shore fisheries, his deputies, agents, servant or employees.

Sec. 250. Penalty for false return or violation of provisions. Any packer who shall make any false or fraudulent report or return required by sections 244 to 254, inclusive, or who shall evade or violate any of the provisions of said sections shall be punished by a fine of not more than \$500, and his sea food processor's license shall be suspended by the commissioner of sea and shore fisheries, his state license to pack sardines shall be suspended by the commissioner of agriculture and his packer's certificate shall

be suspended by the state tax assessor until such fine and all payments due the state on the aforesaid sardine tax are paid in full. Whenever any packer shall fail to pay any tax due under the provisions of said sections within the time limited herein, the attorney general shall enforce payment of such tax by civil action against the packer for the amount of such tax in either the superior court in Kennebec county or in a municipal court in the county in which such packer has his residence or established place of business.

Sec. 251. Appropriation and use of moneys received. Money received under the provisions of sections 244 to 254, inclusive, by the treasurer of state shall be appropriated and used for the following purposes:

I. For the collection of the tax and enforcement of all provisions of sections 244 to 254, inclusive.

II. The balance in such amounts as shall be from time to time determined by the Maine sardine tax committee:

A. For the purpose of merchandising and advertising Maine sardines for food, under the joint direction of the Maine development commission and the Maine sardine tax committee.

B. For conducting research and investigation of methods of propagating and conserving clupeoid fish, particularly the clupea harengus, with a view of improving both the quality and quantity of the same in Maine waters, and for the implementation of all feasible methods of improving, propagating and conserving the same, under the joint direction of the commissioner of sea and shore fisheries and the Maine sardine tax committee.

Sec. 252. Maine sardine tax committee. The Maine sardine tax committee shall consist of 7 members to be appointed promptly by the commissioner of sea and shore fisheries. Five members of said committee shall constitute a quorum for the transaction of all business and the carrying out of the duties of the committee. Such members shall be practical sardine packers, operating within the state, who shall have been actively engaged in packing sardines for not less than 5 years and each shall be so actively engaged during his continuance in office. A person shall be considered actively engaged in packing sardines if he has during the period derived a substantial portion of his income therefrom, or has been the directing or managing head of an entity that derives a substantial portion of its income from packing sardines. One member of the committee shall be appointed for a term of 1 year, 1 member for a term of 2 years, 1 member for a term

of 3 years, 2 members for a term of 4 years, and 2 members for a term of 5 years, and each member shall serve until his successor is duly appointed and qualified.

Regular appointments thereafter shall be for a term of 5 years. In the case of a vacancy caused by death, resignation or otherwise, the vacancy shall be filled promptly by the commissioner of sea and shore fisheries for the unexpired period of the term.

The members of the committee shall serve without compensation but shall be reimbursed for expenses incurred in the performance of their duties.

Sec. 253. Tax in addition to other taxes. The excise tax imposed and collected under the provisions of sections 244 to 254, inclusive, shall be in addition to other taxes legally imposed or collected under any other provisions of the law of the state now or hereinafter in force.

Sec. 254. Saving clause. If any clause, sentence, or section of this act shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence or section of this act directly involved in the controversy in which said adjudication shall have taken place.'

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