

MAINE STATE LEGISLATURE

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

Legislative Document

No. 1530

H. P. 1284

House of Representatives, April 27, 1953.

Reported by Mr. Bailey from Committee on Agriculture and printed under Joint Rules No. 10.

HARVEY R. PEASE, Clerk.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-THREE

AN ACT Imposing a Tax on Milk Producers for Promotional Purposes.

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

Sec. 1. R. S., c. 14, §§ 255-266, additional. Chapter 14 of the revised statutes is hereby amended by adding thereto 12 new sections to be numbered 255 to 266, inclusive, to read as follows:

'Milk Tax

Sec. 255. Purpose. The production of milk is one of the most important agricultural industries of this state, and the following sections were enacted into law to promote the prosperity and welfare of this state and of the dairy industry of the state by the fostering of promotional, educational, advertising and research programs of the said dairy industry of the state.

Sec. 256. Terms defined. The terms used in sections 255 to 266, inclusive, shall be construed as follows:

“Handler” means any person who purchases or receives milk for sale as a consignee or agent of a producer or handles for sale, shipment, storage or processing any milk produced in the state of Maine, and shall include a producer-dealer as hereinafter defined.

“Producer-dealer” means any dealer who himself produces a part or all of his milk and sells milk other than to the handler.

“Producer” means any person who produces milk and sells said milk to a handler as defined above.

“Milk” means cows’ milk and shall include cream in the proportion that 1 quart of cream shall be considered the equivalent of 4 quarts of milk.

Sec. 257. Tax of 2c per hundredweight on milk. A tax is levied and imposed at the rate of 2c per hundredweight on all milk produced in this state except that no tax shall be imposed upon any milk used on the farm where produced.

Sec. 258. Handler entitled to deduct tax from purchasing price. Each handler purchasing milk and paying, or becoming liable to pay, the tax imposed by section 257 shall charge and collect from the producer a tax at the rate of 2c per hundredweight to be deducted from the purchase price of all milk received or so purchased by such handler.

Producer-dealers shall pay a tax of 2c per hundredweight on all milk produced and sold other than to a handler.

Sec. 259. Handlers to file applications with state tax assessor; contents of applications; handlers not to receive or sell until certificate is issued. Each handler, as defined in section 256, 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 handler is transacting business within the state, the place or places of business and location of said handler’s plants. The state tax assessor will then issue a certificate to the handler and no handler shall receive or sell any milk until such certificate is furnished as required by this section. Such certificate shall remain in force until surrendered or revoked as hereinafter provided. Every handler who shall cease to receive or sell milk shall surrender such certificate to the state tax assessor.

Any handler who shall receive or sell any milk without a currently valid handler’s certificate, as provided in these sections, may be enjoined from further receiving or selling any milk until he has acquired such a certificate. Jurisdiction is granted to the supreme judicial court and superior court to hear such cases in term time or vacation and to enter such orders and decrees as the nature of the case may require.

Sec. 260. Report of shipments to be made on 20th of each month for preceding month; tax to be paid on filing of report. Every handler shall

keep as a part of his permanent records a record of all purchases, sales and shipments of milk, which said records shall be open for inspection at all times as hereinbefore provided, and every handler shall, on or before the 20th day of each month, render a report to the state tax assessor stating the quantity of milk received by him during the preceding calendar month, and every handler who is a producer-dealer shall include in such report the quantity of milk produced and sold by him other than to a handler, except that upon application to the state tax assessor, handlers who sell less than 100 quarts of milk per day may be permitted by the assessor to file reports quarterly upon the 20th day of the month following the quarter. Such reports shall be on forms to be furnished by said tax assessor, and shall contain such further information as said state tax assessor shall prescribe. On the filing of said report, each handler shall pay to the state tax assessor a tax at the rate of 2c per hundredweight upon all milk so reported. The state tax assessor shall pay over all receipts from such tax to the treasurer of state daily.

Sec. 261. 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 any handler and to inspect any books and records of any handler for the purpose of determining what milk is taxable under the provisions of sections 255 to 266, inclusive, or for the purpose of determining the truth or falsity of any statement or return made by any handler, and he shall have authority to delegate such power to the commissioner of agriculture, his deputies, agents, servants or employees.

Sec. 262. Determination of tax by assessor. If any handler, whether the holder of a certificate or not, shall neglect or refuse to make and file any report as required by section 260, or shall file an incorrect or fraudulent report, the state tax assessor shall determine after an investigation the tax liability of such handler for any particular month or months, and the state tax assessor shall assess the tax due the state, giving notice of such assessment to the handler liable therefor, and make demand upon him for payment thereof.

In any action or proceeding for the collection of the milk tax, the assessment by the state tax assessor of the tax due to the state shall constitute prima facie evidence of the claim of the state and the burden of proof shall be upon the handler to show the assessment was incorrect.

Sec. 263. Penalty for false return or violations of provisions; tax may

be collected by civil action; jurisdiction. Any handler of milk, as defined in section 256, who shall make any false or fraudulent report or return required by sections 255 to 266, 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. Whenever any handler 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 such handler for the amount of such tax, either in the superior court or municipal court in and for the county in which such handler has his residence or established place of business or in the superior court for Kennebec county.

Whenever any handler shall fail to pay any tax due, or shall fail to file any report at the time it is required to be filed, for 2 consecutive reporting periods, the state tax assessor may revoke the handler's certificate of such handler; and such revocation shall become effective upon notice to the handler. Any handler aggrieved by such revocation may apply in writing, within 15 days after notice thereof, to the state tax assessor for a hearing, setting forth the reasons for the hearing, and the manner of relief sought. Upon receipt of such application the assessor shall set a time and place for such hearing and give the handler 10 days' notice thereof. After such hearing the assessor may make such order as may appear to him just and lawful and shall give notice by furnishing a copy of such order to the applicant. Any handler aggrieved by such order of the assessor may appeal therefrom within 20 days after notice of such order to the superior court. Not less than 14 days before the sitting of said superior court, the appellant shall serve upon the state tax assessor or his duly authorized representative a copy of said petition stating the reasons for the appeal and notifying the state tax assessor when the appeal is to be heard. Pending judgment of the court, the order of the state tax assessor shall remain in full force and effect. Any notice required to be given by the state tax assessor under this section may be given in hand or by registered mail.

Sec. 264. Appropriation of moneys received. Moneys received through the provisions of sections 255 to 266, inclusive, by the treasurer of state shall be appropriated and used for the following purposes:

- I. For the collection of the tax provided for by section 257 and the enforcement of all the provisions of sections 255 to 266, inclusive.
- II. The remaining sum shall be used for such purposes as are defined in section 255 or for carrying out the provisions of sections 255 to 266, inclusive. The committee may cooperate with similar committees in

other states and is hereby authorized to pay to a New England committee such part of its receipts as it deems for the best interests of the dairy industry of Maine.

Sec. 265. Maine milk tax committee. There is hereby established the Maine milk tax committee which shall consist of the following 5 members: the commissioner of agriculture and 4 producers as defined herein, to be appointed by the commissioner of agriculture on recommendation of the various producer associations, individuals or unorganized groups of producers in the state. Each appointed member shall serve for 2 years, or until his successor is duly appointed and qualified. In case of a vacancy caused by death, resignation or otherwise, the vacancy shall be filled by the commissioner for the unexpired period of the term. The appointed members shall receive the same compensation as the members of the Maine milk commission and be reimbursed for expenses incurred in the performance of their duties.

Sec. 266. Tax in addition to other taxes. All taxes imposed and collected under the provisions of sections 255 to 266, inclusive, shall be in addition to any other taxes legally imposed or collected under any other provision of the law of the state now or hereinafter in force.'

Sec. 2. Effective date. The tax imposed by this act shall be initially levied on milk received by a handler or sold by a producer-dealer on the 1st day of the month next following the effective date of this act.