

# MAINE STATE LEGISLATURE

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

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Legislative Document

No. 1182

S. P. 386

In Senate, March 2, 1955.

Referred to Committee on Agriculture. Sent down for concurrence and 750 copies ordered printed.

CHESTER T. WINSLOW, Secretary.

Presented by Senator Wyman of Washington.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-FIVE

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AN ACT Relating to the Duties of the Commissioner of Agriculture Re Sardine  
Canning Inspection Law.

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

**Sec. 1. R. S., c. 32, § 258, amended.** Section 258 of chapter 32 of the revised statutes is hereby amended by adding at the end thereof the following sentence:

'Before issuing such license or renewing it, the Commissioner may by adequate inspection determine that the laws and regulations relating to the packing of sardines and the operation of sardine plants are being observed.'

**Sec. 2. R. S., c. 32, § 259, amended.** Section 259 of chapter 32 of the revised statutes is hereby amended to read as follows:

**Sec. 259. Repeal or revocation of license; appeal.** ~~The commissioner shall have the power to revoke or suspend any license issued under the provisions of sections 258 to 267, inclusive, whenever it is determined by himself or any of his deputies that any of the provisions of said sections have been violated.~~ The Commissioner shall have the power to refuse to issue, to refuse to renew, to revoke or to suspend any license issued under the provisions of sections 258 to 267, inclusive, whenever he determines that any of the provisions of said sections or rules or regulations promulgated or established thereunder have been violated. Any person, firm, corporation, association or society whose license has been so revoked or suspended shall discontinue the packing of sardines until the provisions of said sections have been complied with and a new license issued or the suspension removed. The Commissioner may revoke or suspend such license temporarily until there is a compliance with the provisions of said sections as

hereinafter provided, or permanently for the unexpired period of such license. ~~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; such notice shall appoint a time of hearing before said commissioner. On the date of hearing, the licensee may present such evidence to the said commissioner as he deems fit and after hearing all the testimony, the said commissioner shall decide whether the license shall be revoked or not. On refusal to issue or to renew and before revoking or suspending any license, the Commissioner shall give written notice to the applicant or licensee affected stating that he contemplates refusing to issue or renew said license or the revocation or suspension of the same and giving his reasons therefor; such notice shall appoint a time of hearing before said Commissioner. On the date of hearing, the applicant or licensee may present evidence to the Commissioner, and after hearing all the testimony, the said Commissioner shall decide whether or not the license shall be issued, renewed, revoked or suspended. Any licensee who feels aggrieved or dissatisfied with the decision of the Commissioner may appeal from said decision within 10 days to the Superior Court.~~

**Sec. 3. R. S., c. 32, § 261, amended.** The 1st paragraph of section 261 of chapter 32 of the revised statutes is hereby repealed and the following enacted in place thereof:

**'The Commissioner shall by adequate inspection, by such methods, including sampling procedures, and at such times including before, during and after packing, as he may from time to time deem appropriate, see that sardines are packed in conformity with the requirements of the Federal Food and Drug Act, the laws of this State, including the provisions of sections 258 to 267, inclusive, and the rules and regulations promulgated or established thereunder by the Commissioner, and shall determine the grade or quality of each lot of sardines for which he shall have established grades under section 263. He shall make uniform rules and regulations which shall have the effect of law for carrying out the provisions of said sections and for insuring sardines are packed in a sanitary environment and manner and for the sanitary storage and condition of packing media, and may fix standards of quality when such standards are not fixed by law; and he shall authorize the persons packing sardines in conformity with the requirements of said sections to mark the container of said sardines with a statement certifying that the food contained therein was packed, inspected and passed under the provisions of sections 216 to 228, inclusive. Any sardines falsely marked shall be deemed to be misbranded, and any person, firm, corporation, association or society who shall misbrand or falsely mark any container of sardines or sell or offer for sale such misbranded containers shall be punished by a fine of not more than \$500 for each container thus falsely marked.**

Beginning April 15, 1956, every holder of a license issued under the provisions of section 258 shall, before packing sardines in  $\frac{1}{4}$  size cans, or in other containers for which grades shall have been established by the Commissioner under section 263, have on file with the Commissioner of Agriculture a code plan satisfactory to the Commissioner, which plan shall show the plant where packed, lot and the calendar year of packing, and may at the option of the licensee show such other information as is desired. Optional coding information may, but need not

be included in the plan filed. Said code plan shall define "lot" as not more than the entire output of one packing plant for one day. Said plan shall remain effective until modified or rescinded by said licensee and another approved code plan is filed. After April 15, 1956, no such licensee shall pack, process, manufacture, sell, ship, deliver, consign or have in his possession sardines for which a code plan is required unless said code appears legibly and permanently upon each container and also upon the shipping case containing said sardines.

Beginning April 15, 1956, the Commissioner shall issue a certificate for each lot of sardines, as defined in the applicable code plan on file with him, stating the fact of his inspection, the date of inspection, the code, the number of containers in the lot, the number of cans inspected, and the quality or grade of said lot, which said certificate shall be prima facie evidence of the facts therein stated. No licensee shall sell, ship, deliver or transfer possession or remove from the jurisdiction of the Commissioner any sardines for which a code plan is required unless and until such certificate shall have been issued therefor.

Sec. 4. R. S., c. 32, § 261, amended. Section 261 of chapter 32 of the revised statutes is hereby amended by adding at the end thereof the following paragraphs:

'Whenever the Commissioner or any inspector has reasonable cause to believe that sardines are packed in violation of any of the provisions of sections 258 to 267, inclusive, or regulations promulgated under authority of said sections or that the finished product does not meet the standards and requirements of such sections and regulations, the Commissioner or any inspector may detain or place an embargo upon such sardines by marking or tagging the same, giving notice that such sardines were packed in violation of the provisions of sections 258 to 267, inclusive, and that they have been detained or embargoed, and warning all persons not to remove or dispose of the same by sale or otherwise until permission for removal or disposal is given by the Commissioner or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission.

The Commissioner or inspector detaining such sardines shall promptly petition the judge of a municipal court or the Superior Court within whose jurisdiction the sardines are detained for a libel for condemnation of such sardines, the procedure of which shall conform, as nearly as may be, to the procedure for libelling intoxicating liquors.

If the court finds that the sardines were packed in violation of sections 258 to 267, inclusive, or regulations issued thereunder, it shall enter a decree that they shall be destroyed at the expense of the claimant thereof, under supervision of the Commissioner, or any of his inspectors, and all court costs and fees, and storage and other proper expenses shall be taxed against the claimant; provided that when the sardines can be brought into conformity with the provisions of sections 258 to 267, inclusive, by proper labelling or by other process, the court, after such costs, fees and expenses have been paid, and a bond to the Commissioner or his successors in office, in such sum as the court may direct, with good and sufficient sureties, conditioned that such sardines shall be so labelled or processed, has been approved by the court, may order that such sardines be delivered to the claimant thereof for such labelling or processing under the supervi-

sion of the Commissioner or any inspector. The expense of such supervision shall be paid by the claimant. Provided further that when the product is not in conflict with the laws of a foreign country to which it is intended for export, and is labelled on the outside of the shipping package to show that it is intended for export, the court, after the costs, fees and expenses have been paid, and a bond to the Commissioner or his successors in office in such sum not less than twice the value of such goods as the court may direct with good and sufficient sureties, conditioned that such fish shall be exported to a foreign country, to be named therein, with whose laws such fish are not in violation and shall not be reimported into the United States by any person whomsoever, may order such fish to be redelivered to the claimant for export under the supervision of the Commissioner or any of his inspectors.'

Sec. 5. R. S., c. 32, § 263, amended. The last sentence of the 1st paragraph of section 263 of chapter 32 of the revised statutes is hereby repealed and the following sentence enacted in place thereof:

'After the packing process is completed, the fish sealed in the cans shall be free from defects, no detached heads or tails present.'

Sec. 6. R. S., c. 32, § 263, amended. The last sentence of the 2nd paragraph of section 263 of chapter 32 of the revised statutes is hereby repealed and the following sentence enacted in place thereof:

'After the packing process is completed, the fish sealed in the cans shall be free from defects, no detached heads or tails present.'

Sec. 7. R. S., c. 32, § 263, amended. The last sentence of the 3rd paragraph of section 263 of chapter 32 of the revised statutes is hereby repealed and the following sentence enacted in place thereof:

'After the packing process is completed, the fish sealed in the cans shall be free from defects, no detached heads or tails present.'

Sec. 8. R. S., c. 32, § 263, amended. Section 263 of chapter 32 of the revised statutes is hereby amended by adding at the end thereof the following paragraphs:

'The Commissioner may establish official grades for sardines packed within the State and may from time to time modify such grades. Such grades may specify among other things, the number of fish per container, the amount, quality and nature of the packing medium or fill, the quality, appearance, odor, character, taste and texture of the fish packed, the style of pack, their workmanship and their arrangement in the container, the quality of the substances contained in the container, the size and type of the container, and tolerances allowing for reasonable variation from grades. The Commissioner may also establish and promulgate regulations for the marking, branding or labelling of sardines, and the use of grades established by him. Such grades shall not be lower than the standards set out in sections 258 to 267, inclusive. The Commissioner may also promulgate regulations providing that products that do not meet such standards may be sold if labelled "herring."

Before establishing, amending or modifying any such grades, the Commissioner shall hold public hearings in such places within the State as shall be reasonably convenient for the packers. Notice of such hearing shall be sent by registered mail to holders of licenses issued under section 258, and notice of such hearings shall also be advertised for 3 successive weeks prior thereto in a newspaper or newspapers of general circulation within the county where the hearing is to be held. In establishing such grades or regulations the Commissioner may consider, among other things, packing practices in Maine and in other jurisdictions, consumer expectancy, habits and desires, the types of fish available, conditions of sanitation, tastes and preferences of varying parts of the consumer public, marketing practices, and market experience. Upon the establishment of such grades or tolerances the Commissioner shall notify by registered mail all such licensed holders setting forth clearly the requirements of or the grades so established and the date when they become effective.

Sardines intended for export shall not be deemed to be packed in violation of section 263 if

- I. They accord to the specifications of the foreign purchaser;
- II. The product is not in conflict with the laws of the foreign country to which it is intended for export;
- III. Is labelled on the outside of the shipping package to show that it is intended for export; and
- IV. The licensee under section 258 gives a bond with good and sufficient sureties in an amount not less than twice the value of the sardines running to the Commissioner and his successors in office conditioned that such fish shall be exported to a foreign country to be named therein with whose laws it is not in conflict, and shall not be reimported into the United States by any person.'

Sec. 9. R. S., c. 32, § 267, repealed and replaced. Section 267 of chapter 32 of the revised statutes is hereby repealed and the following enacted in place thereof :

'Sec. 267. Penalty. Any person, firm, corporation, association or society who shall pack sardines in the State for sale without the license provided for in section 258, or who shall violate any of the provisions of sections 258 to 267, inclusive, or neglect or refuse to comply with any of the provisions required in said sections or in any way violate any of their provisions may be punished by a fine not exceeding \$500 or by imprisonment for not more than 6 months, or by both such fine and imprisonment for each and every offense.'

Sec. 10. R. S., c. 32, § 267-A, additional. Chapter 32 of the revised statutes is hereby amended by adding thereto a new section to be numbered 267-A, to read as follows :

'Sardine Industry Advisory Board.

Sec. 267-A. Sardine Industry Advisory Board. The Commissioner after such consultation with members of the industry as he regards desirable shall ap-

point 7 practical sardine packers as defined in section 268 of chapter 16 to a Board to be known as the Sardine Industry Advisory Board. Initially 2 members shall be appointed for 1-year terms, 2 members for 2-year terms and 3 members for 3-year terms. All appointments thereafter shall be for 3-year terms except appointments to complete unexpired terms. Members shall serve without pay. The Board shall meet with the Commissioner at Augusta at least every 2 months, and oftener if called by the Commissioner; who shall also call a meeting of the Board on written request of 3 members.

The Board shall advise the Commissioner and the Commissioner shall consult with the Board on matters of general interest to the sardine industry within the jurisdiction of the Commissioner.'