

MAINE STATE LEGISLATURE

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NINETY-SEVENTH LEGISLATURE

Legislative Document

No. 1291

H. P. 1101

House of Representatives, March 15, 1955

Referred to the Committee on Agriculture, sent up for concurrence and 2,000 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Bowie of Durham.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-FIVE

AN ACT Relating to Milk Control.

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

Sec. 1. R. S., c. 33, § 1, amended. Section 1 of chapter 33 of the revised statutes is hereby amended by adding after the 1st paragraph thereof, the following paragraph:

“Administrator” means the Milk Administrator.”

Sec. 2. R. S., c. 33, § 1, amended. Section 1 of chapter 33 of the revised statutes is hereby amended by repealing the 5th paragraph, as follows:

“~~Commission~~” ~~means the Maine milk commission.~~

Sec. 3. R. S., c. 33, & 2, repealed and replaced. Section 2 of chapter 33 of the revised statutes is hereby repealed and the following enacted in place thereof:

Sec. 2. Milk Administrator; bond. The Governor, with the advice and consent of the Council, shall appoint a Milk Administrator for a term of 4 years and until his successor has been appointed and qualified and shall set his salary. He shall be a person qualified by training and experience for the duties of his office, and shall, prior to entering upon his duties, give a bond to the State in the sum of \$50,000, conditioned upon the faithful performance of his duties. He shall devote his entire time to his duties hereunder. He shall annually, during or before the month of December, report to the Governor upon the activities of his office and the state of the dairy industry, making any recommendations relating thereto.’

Sec. 4. R. S., c. 33, § 3, amended. Section 3 of chapter 33 of the revised statutes is hereby amended to read as follows:

'Sec. 3. Powers and duties. The ~~commission~~ **Administrator** 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 ~~commissioner~~ **administrator** 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 the provisions of this chapter, ~~he~~ **he** 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 chapter and ~~any member of the commission~~ **the administrator or his duly authorized agent** may sign subpoenas and administer oaths to witnesses. ~~Any member of the commission or its representatives~~ **The Administrator or his duly authorized agent** 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 ~~commission~~ **Administrator** to administer the provisions of this chapter. ~~The commission may adopt, promulgate and enforce all rules and orders necessary to carry out said provisions.~~

The ~~commission~~ **Administrator** may act as mediator or arbiter to settle any controversy or issue among or between producers, dealers and consumers, any of whom may petition the ~~commission~~ **Administrator** in writing to change prices or conditions in any market area.

To assure the consumers of the State of dairy products of at least standard quality, the Administrator shall have power, after due notice and public hearing, to issue rules and regulations as hereinafter provided. Such hearing may be called upon petition filed with the Administrator or upon the Administrator's own motion. Notice of such hearing shall be announced by advertising in a newspaper having general circulation in the State. Such notice shall specify a time not less than 14 days thereafter and the place to be designated by the Administrator at which the hearing shall be held and at which persons having an interest therein shall have an opportunity to be heard. A record of such hearing shall be made. After such notice and hearing, the Administrator shall issue rules and regulations based upon evidence presented at such hearing. A copy of such rules and regulations shall be filed in the office of the Secretary of State.'

Sec. 5. R. S., c. 33, § 4, amended. Section 4 of chapter 33 of the revised statutes is hereby amended to read as follows:

'Sec. 4. Price fixing. The ~~commission~~ **Administrator** 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 commission whenever requested in writing by any 2 members of the commission.~~ The **Administrator** shall call a meeting whenever requested by the industry. The **commission Administrator** is 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 ~~commission~~ **Administrator** 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:

I. By dealers to dealers.

II. By dealers to consumers.

III. By stores to consumers, except for consumption on the premises where sold.

IV. By dealer to stores either for consumption on the premises or resale to consumers.

V. By any person not included in the foregoing classifications to another person.

VI. By producers to dealers.

The ~~commission~~ **Adminitrator** in ~~its~~ his 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 ~~commission~~ **Administrator** 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 ~~commissioner~~ **Administrator** 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. 6. R. S., c. 33, § 5, amended. Section 5 of chapter 33 of the revised statutes is hereby amended to read as follows:

'Sec. 5. Licenses; revoking, suspending and withholding; appeal. No dealer, as defined in this chapter, 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 ~~commission~~ **Administrator** unless duly licensed by the ~~commission~~ **Administrator**, 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 ~~commission~~ **Administrator**, shall make application to the ~~commission~~ **Administrator** for a license hereunder, which the ~~commission~~ **Administrator** 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 ~~commission~~ **Administrator**.

Licenses required by the provisions of this chapter shall be in addition to any other license required by law.

The ~~commission~~ **Administrator** 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 ~~commission~~ **Administrator** 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 ~~commission~~ **Administrator** 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 ~~commission~~ **Administrator**. Such court, after hearing, in term time or vacation, shall affirm or reverse the order of the ~~commission~~ **Administrator**, or any modification thereof by the ~~commission~~ **Administrator**.

No appeal taken from an order of the ~~commission~~ **Administrator** 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 ~~commission~~ **Administrator**, pending the de-

termination of such appeal. Violation of the provisions of this chapter 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. 7. R. S., c. 33, § 6, amended. Section 6 of chapter 33 of the revised statutes is hereby amended to read as follows:

'Sec. 6. Records and fees. All dealers in any market designated by the ~~commission~~ **Administrator** 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 ~~commission~~ **Administrator** may deem necessary for the proper enforcement of the provisions of this chapter.

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 ~~commission~~ **Administrator** an annual license fee of \$1 and the sums of 3c per hundredweight as monthly payments, based on quantity of milk purchased or produced in any market area. One and one-half cents per hundredweight may be deducted by dealers from amounts paid by them to producers of such milk; except that the milk, farm-processed into cream for the manufacture of butter, shall not be subject to such sums of 3c per hundredweight.

Dealers shall file reports together with the prescribed hundredweight fees with the ~~Maine milk commission~~ **Administrator** at ~~its~~ **his** office in Augusta not later than the 20th of 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 chapter. Except that dealers who sell less than 100 quarts of milk per day may file reports and pay the prescribed hundredweight fees every 3 months.

In case the same milk is handled by more than one dealer, the first 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 one quart of milk.'

Sec. 8. R. S., c. 33, § 8, amended. Section 8 of chapter 33 of the revised statutes is hereby amended to read as follows:

'Sec. 8. Maine Dairy Council Committee. The Maine Dairy Council Committee, as heretofore established, shall consist of the following 5 members: The

Commissioner of Agriculture, the **Commissioner of Health and Welfare**, 2 producers and ~~2 dealers~~ **one dealer** to be appointed by the ~~Commissioner of agriculture~~ **Governor with the advice and consent of the Council** on recommendation of the various producer and dealer associations, individuals or unorganized groups of producers and dealers 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~~ **Governor with the advice and consent of the Council** for the unexpired period of the term. The appointed members shall receive ~~the same compensation as the members of the Maine milk commission~~ **\$10 per day** and be reimbursed for expenses incurred in the performance of their duties.

The Committee shall hold regular quarterly meetings in January, April, July and October. They shall elect a chairman and a clerk. Special meetings may be called by the chairman. Upon request of any 3 members, the chairman or, in his absence or inability, the clerk shall call a special meeting of the committee.'

Sec. 9. R. S., c. 33, § 9, amended. Section 9 of chapter 33 of the revised statutes is hereby amended to read as follows:

'Sec. 9. Penalty. Whoever violates any of the provisions of this chapter or of any rule or order of the ~~commission~~ **Administrator** shall be punished by a fine of not more than \$100, or by imprisonment for not more than 11 months, or by both such fine and imprisonment.'