

MAINE STATE LEGISLATURE

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NINETY-SEVENTH LEGISLATURE

Legislative Document

No. 1292

H. P. 1102

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 Marketing of Milk.

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

R. S., c. 32-A, additional. The revised statutes are hereby amended by adding thereto a new chapter to be numbered 32-A, to read as follows:

'CHAPTER 32-A.

MAINE MILK MARKETING.

Sec. 1. Legislative findings, purpose and policy. The production, sale and distribution of milk and certain milk products in this State are attended with serious conditions and practices affecting producers, dealers and consumers of milk; and, after due investigation of such conditions and practices, the following legislative findings of fact with respect thereto are hereby made.

Milk is the most necessary human food, vital for promotion of the public health; the health and growth of children are particularly dependent upon a constant and wholesome supply thereof. Since milk is a most fertile field for the growth of bacteria, its production and distribution have been surrounded by more costly sanitary requirements than those of any other food.

Milk consumers are not assured of a constant and sufficient supply of pure, wholesome milk when the high cost of maintaining sanitary conditions of production and high standards of purity is not returned to the producers of milk; or when a disparity between prices of milk and milk products and other commodities and services compels large numbers of producers to dispose of their herds or impairs the ability of producers to maintain such conditions and

standards. Therefore, public health is menaced when milk dealers do not or cannot pay a price to producers commensurate with the cost of sanitary conditions of production and high standards of purity.

Milk dealers are required constantly to handle surpluses to meet the emergency requirements of unpredictable variations in fluid consumption and to meet seasonal variations in production, which milk in excess of fluid requirements must find an immediate market and tends to cause unfair, unreasonable and demoralizing trade and price practices, detrimental to the public health and interest. This excess milk is normally diverted into other uses at lower prices. Hence, producers who sell to a particular dealer or on a particular market should receive a proportionate share of the proceeds from the sale of milk in fluid form and in the lower price outlets if stable market conditions and equitable treatment of producers are to be assured.

Milk producers are required to make delivery of this highly perishable commodity immediately after it is produced and therefore must often accept any market at any price. Because of facts above stated, the value of milk cannot be determined until the dealer has sold such milk in fluid form or has disposed of it in surplus outlets; furthermore, only the dealers have convenient facilities for accurately weighing and testing milk. Hence, prior and often exclusive knowledge of the value of milk is in the possession of the dealer. The producers' lack of control over their market is aggravated by the trade custom of dealers in paying weeks after delivery, which often keeps producers obligated to continue delivery in order to receive payment for previous sales and permits dealers to operate on the producers' capital without giving security therefor. Hence, milk producers are subject to fraud and imposition, and do not possess the freedom of contract necessary for the procuring of cost of sanitary production. The above and attendant conditions and practices pertain to and exist in a paramount industry upon which the health and welfare of the inhabitants of the State are largely dependent; and the public interest therefore requires efficiency, equitable conditions and the reduction or prevention of unhealthful, uneconomic, deceptive and destructive trade and price practices with respect thereto among producers, dealers and consumers. In exercise of the state police power to protect and promote the public health and welfare and to prevent fraud and imposition upon producers, such conditions and practices require control and regulation of the production, transportation, manufacture, processing, storage, distribution, sale and handling of milk as a business affecting the public health and interest.

Sec. 2. Definitions. The following terms shall be construed in this chapter to have the following meanings, unless the context otherwise requires:

"Commission" shall mean the Maine Milk Commission;

"Consumer" shall mean any person, other than a dealer, who purchases milk for consumption or use;

"Cooperative marketing association" shall mean a producer-owned and producer-controlled association or corporation of producers, organized under the cooperative laws of this State, or of any other state and authorized to do business herein, and conforming to the requirements of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," and such association

shall be governed by the applicable provisions of this chapter as to the prices at which it sells, markets or bargains to sell milk to dealers and others;

“Dealer” shall mean milk dealer, including any person, store, subdealer or producer-dealer, who purchases, receives or handles milk within the State for sale, shipment, storage, processing, manufacture or other disposal within or without the State, but a producer who delivers milk to a dealer alone shall not be deemed a dealer; nor shall a cooperative marketing association as herein defined be deemed a milk dealer but it shall be deemed a producer; provided, if such association sells milk to stores or consumers, it shall be deemed a dealer as to such operations and shall be governed by the provisions of this chapter applicable thereto;

“Licensee” shall mean a licensed dealer;

“Marketing area” shall mean any city, town or plantation, or 2 or more cities, towns or plantations, or parts thereof and territory contiguous thereto, so designated by the Commission and having reasonable uniformity or similarity of marketing conditions among producers or dealers;

“Milk” shall mean fluid milk and cream, fresh, sour or storage, skimmed milk, buttermilk and flavored milk or milk drink; and reference in this chapter to quantity of milk shall be construed to include its whole milk equivalent;

“Person” shall mean any individual, firm, corporation, partnership or association;

“Producer” shall mean a person producing milk;

“Producer-dealer” shall mean a dealer who is also a producer, and to effectuate the policy of this chapter, shall be exempt therefrom in the manner hereinafter specified and a producer-dealer who delivers milk to another dealer shall be deemed a producer with respect to such milk and shall be governed by the provisions of this chapter applicable to milk received or purchased from producers by dealers;

“Store” shall mean a grocery, hotel, restaurant, drug store, dairy products store or any similar mercantile establishment which sells milk; provided any such store which sells milk only for consumption on the premises shall not be deemed a dealer;

“Subdealer” shall mean any dealer handling milk within the State who sells all such milk to consumers or stores in the same containers in which he purchased it from other dealers.

Sec. 3. Maine Milk Commission. The Maine Milk Commission, as heretofore established, shall consist of 2 producers, a dealer, a producer-dealer and a consumer, all of whom shall be residents of the State. They shall be appointed by the Governor with the advice and consent of the Council and shall serve for a term of 4 years and until their successors have been duly appointed and qualified. The Commissioner of Agriculture shall be ex officio a member of said Commission. The members of said Commission shall elect a chairman and may employ a secretary and such clerks and assistants as may be deemed necessary

and may prescribe their duties and fix their compensation, subject to the provisions of the personnel law. Legal services and the services of experts in other lines shall be performed as far as possible by the existing State Departments, including the Department of Agriculture, the Department of Health and Welfare and the Attorney General's Department. Any vacancy in the membership of said Commission shall be filled by appointment by the Governor, with the advice and consent of the Council. Members of the Commission shall be allowed actual traveling and other necessary expenses incurred in the performance of their duties and each member shall receive per diem compensation for the time actually spent in the performance of his duties, such compensation to be determined by the Governor and Council; provided that the cost of administration of said Commission, including expenses and compensation of members, shall not exceed the amount of fees collected under the provisions of this chapter. The Commission shall be furnished a suitable office in the State Capitol together with all necessary equipment and supplies therefor.

Sec. 4. Official seal. The Commission may, for the authentication of their records, process and proceedings, adopt and use a seal, of which judicial notice shall be taken in all courts of the State. All acts, proceedings, orders, rulings, regulations, directions, papers, findings and other records of the Commission and all reports or documents filed with them may be proved in any court of this State by a copy thereof, certified by the Commission, with their seal attached thereto; and certification under seal that an order or regulation has been duly posted, filed and publicized as provided for herein shall constitute evidence of compliance with all formalities in respect thereto.

Sec. 5. General powers and duties of Milk Commission. The Commission shall have the power to investigate and regulate all phases of the milk industry in this State, including the production, handling, transportation, manufacture, storage, distribution, purchase and sale of milk and milk products; provided nothing herein shall affect other statutes pertaining thereto except as herein specified.

Sec. 6. Regulations. The Commission may make, and from time to time revise and amend, such regulations as may be necessary and appropriate to effectuate the policy and provisions of this chapter or any ruling or order issued thereunder. A copy of each such regulation, signed by the Commission, shall be posted for public inspection in the office of the Commission and a copy thereof shall also be filed in the office of the Secretary of State. Such posting and filing, at least 5 days prior to the effective date of such regulation, shall constitute due and sufficient notice to all persons affected thereby. Copies of such regulations shall be mailed to licensees affected thereby in the same manner and with like effect as is herein provided for the mailing of orders. The Commission shall have power to exempt from any regulation issued hereunder all dealers selling not in excess of 300 quarts of milk per month.

Sec. 7. Price orders. The Commission shall have power, after due notice and public hearing, to issue orders prescribing minimum prices to producers, in such manner and with such terms as are hereinafter provided.

Sec. 8. Unfair trade practices. The Commission shall have power, after due notice and hearing and as hereinafter provided, to prohibit unfair methods of

competition and unfair trade practices in the receiving, purchase, transportation, handling, distribution or sale of milk or milk products upon finding that such methods of competition and trade practices are inimical to the welfare of the dairy industry and the public.

Sec. 9. Complaints and investigations. The Commission shall receive and investigate reasonable complaints, and shall have power to initiate investigation of alleged violations and other conduct under this chapter or any order, ruling, regulation or direction issued thereunder. They shall have the powers and duties of inspection, audit and subpoena hereinafter provided. The Commission shall, with a reasonable time after the completion of any investigation or hearing, issue their decision thereon.

Sec. 10. Coordination with other authorities. In order to effectuate the policies and provisions of this chapter and, when deemed necessary, to obtain uniformity in the formulation, administration and enforcement of any order, ruling or regulation issued thereunder or promulgated by the duly constituted authorities of the United States, other states and the State of Maine, pertaining to the regulating or the handling of milk and milk products, the Commission shall have power to confer, cooperate and enter compacts with such authorities; to avail themselves of records and facilities of, and to make available records and facilities to, such authorities; to conduct joint investigations and hold joint hearings; to issue orders, rulings or regulations jointly or concurrently with, or complementary to those issued by, such authorities; to collaborate with such authorities and others in the development and operation of measures for the encouragement of increased milk consumption or equitable disposition of milk surpluses originating within the State and to designate a joint agent or joint agencies when necessary to effectuate or enforce the foregoing.

Sec. 11. Encouragement of cooperative marketing. The Commission shall accord such recognition and encouragement to cooperative marketing associations as will be in harmony with the policy toward such associations set forth in existing acts of this State and as will tend to promote efficient methods of marketing and distribution. The Commission shall seek to achieve the purposes of this chapter as far as possible by promoting and encouraging cooperation among producers, dealers and consumers, for whose benefit the Commission shall prepare and disseminate information and statistics concerning the dairy industry and operation of any provision of this chapter or of any orders and regulations issued by them thereunder.

Sec. 12. 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 one dealer to be appointed by the 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 Governor with the advice and consent of the Council for the unexpired period of the term. The appointed

members shall receive \$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. 13. Orders establishing producers' prices; notice and hearing. The Commission shall have power, after due notice and public hearing, to issue and, from time to time, amend orders applicable to dealers and regulating, in the manner hereinafter provided, the handling of milk. Such hearings may be called upon petition filed with the Commission or upon the Commission's own motion. Notice of such public hearing shall be announced or advertised in one or more newspapers of general circulation throughout the vicinity or marketing area to be affected. Such notice shall specify a time, not less than 7 days thereafter, and the place most suitable in the judgment of the Commission, at which the hearing shall be held and at which persons, including producers, dealers and consumers, shall have opportunity to be heard. The Commission shall conduct such hearing and shall cause a record thereof to be made.

Sec. 14. Issuance of order. After such notice and hearing, the Commission shall issue an order prescribing minimum producers' prices if they shall find and set forth that its terms and conditions are based upon the evidence presented at such hearing, are in conformity with their powers and duties with respect to the issuance thereof and will tend to effectuate the policies of this chapter. A copy of each such order, signed by the Commission, shall be forthwith posted for public inspection in the office of the Commission and a copy thereof shall also be filed in the office of the Secretary of State. The findings accompanying such order shall be filed in the office of the Commission. Such posting and filing at least 6 days prior to the effective date of such order shall constitute sufficient notice to all persons affected thereby. Such order shall forthwith be given such further publicity among producers, consumers and others by announcement or advertisement in one or more newspapers or otherwise as the Commission shall deem suitable. At least 3 days prior to the effective date of such order, copies thereof shall be mailed to all licensees affected thereby; provided such mailing shall not be construed as a condition upon which the validity or effectiveness of any such order depends.

Sec. 15. Terms of orders. Any order issued pursuant to this chapter shall contain one or more of the following terms and conditions:

I. Area. Designating and delimiting the marketing area to which such order is applicable;

II. Prices and classification. Classifying milk in accordance with the form in which or purpose for which it is used; and fixing, specifically, minimum prices for each such use classification which all dealers shall pay for milk received or purchased from producers; such prices shall be uniform as to all dealers, subject only to reasonable adjustments for the butterfat content, quality or grade of milk delivered, for the locations at which delivery of such milk is made to dealers, and for such market and production differentials as

may be necessary to make such prices uniform to dealers under similar circumstances and equitable as among all dealers, and in determining use classification each dealer who is also a producer shall be required ratably to apportion among his total sales or uses of milk in each classification the milk which he has purchased from other producers and the milk which he has produced;

III. Information. Providing for market information to producers and for the verification, in cooperation with the Commissioner of Agriculture, of weights, sampling and testing of milk received or purchased from producers; and for making appropriate deductions therefor from payments to producers;

IV. Time, terms and methods. Providing the time and the terms upon which dealers shall pay producers, and prescribing a method for computing payment and accounting therefor;

V. Expenses. Providing that each dealer subject to an order, including producer-dealer, who during any month receives or purchases milk, shall pay to the Commission an amount for expenses reasonably incurred by the Commission in administering such order, but such amount shall not exceed 2¢ per hundred pounds of milk received or purchased from producers. In such case, the dealer may deduct 50% of such amount from the price otherwise payable by such dealer to his producers. Such moneys shall be transmitted by the Commission to the Treasurer of State in the manner provided by law, and the appropriation made for administration of this chapter shall be thereby increased by the amount so paid to the Commission;

VI. Regulations. Any provision which may be the subject of a regulation under this chapter.

Sec. 16. Cooperatives may blend net proceeds and distribute to producers. Nothing contained in sections 13 to 19, inclusive, is intended or shall be construed to prevent a cooperative marketing association, engaged in making collective sales or marketing of milk or its products for the producers thereof, from blending the net proceeds of all its sales in all markets in all use classifications, and making distribution thereof to its producers in accordance with the contract between such association and its producers; provided it shall not sell milk to any dealer at prices less than the price fixed for such milk pursuant to said sections.

Sec. 17. Standards in establishing producers' prices. In establishing minimum prices to be paid to producers, the Commission shall prescribe prices which are just and reasonable and which will assure an adequate supply of pure and wholesome milk for the marketing area without unduly encouraging uneconomic shifts in production or in sources of supply. To accomplish this end, the Commission shall be guided by available information relative to the cost factors involved in the production of milk, including but not limited to the cost of labor, feeds, transportation to market and compliance with all sanitary requirements provided by law; the availability of supplies of feeding stuffs; the balance between the supply of milk and the consumption thereof in the market affected; the purchasing power of consumers as evidenced by available indices of income and general business activity; and other economic or marketing conditions which reasonably affect the supply of, the demand for and the value of milk and its products.

Sec. 18. Suspension or termination of order. The Commission shall have power, upon finding that any order issued pursuant to this chapter or any provision thereof obstructs or does not tend to effectuate the policy of this chapter, to terminate such order or provision; or to suspend such order or provision until such time as they shall find, after hearing, that reinstatement thereof will effectuate such policy.

Sec. 19. Amendment of orders. All provisions of this chapter applicable to orders shall be applicable to amendments of orders.

Sec. 20. Information and records. Dealers shall furnish to the Commission such information as they may deem necessary, from time to time, to effectuate the policy and provisions of this chapter or any order, ruling, regulation or direction issued thereunder; and such information shall be furnished upon such forms or reports as the Commission may prescribe. Dealers shall keep within the State such books, records and accounts of their operations as the Commission may deem necessary for correctly furnishing information required hereunder; and such data shall be preserved for not less than 2 years unless the Commission shall otherwise provide. Such information, books, records and accounts may pertain to or include:

- I. The quantities, butterfat test and sources of milk or milk products produced, received or purchased and contracts with respect thereto;
- II. The quantities used, sold or otherwise disposed of, stating the butterfat test and outlets in the various classes, grades and products of milk;
- III. The prices paid and charged for such milk and milk products;
- IV. The cost of handling or distributing milk and milk products, including transportation or hauling costs;
- V. All other matters relevant thereto or otherwise necessary to effectuate the policy and provisions of this chapter or any order, ruling, regulation or direction promulgated thereunder.

Sec. 21. Confidential information; public data. All information obtained by the Commission or their employees under this chapter shall be kept confidential; provided nothing herein shall preclude the use of any such information in order to effectuate the policy and provisions of this chapter or any order, ruling, regulation or direction issued thereunder, or otherwise in accordance with law; and provided nothing herein shall preclude the dissemination and publication of information in such form as shall not identify the person from whom it is obtained, and which is necessary or appropriate for statistical or educational purposes.

Sec. 22. Statements of purchases from producers. The Commission shall have power to require periodically from each dealer receiving or purchasing milk from producers a statement of the sums paid and owed each producer, including quantity, butterfat test and utilization of such milk. Each dealer shall furnish to each producer from whom milk is received or purchased a complete statement of his account at least monthly, on or before such day of the following month as may be designated by the Commission. Such statement may specify the sums paid or owed for milk received or purchased, including quantity, butterfat test and utilization; and shall be in such form as the Commission may prescribe.

Sec. 23. Inspection and audit. The Commission shall have power to examine, copy and audit, from time to time, as they shall deem necessary and proper, the books, papers, records and accounts of dealers and others for the purpose of effectuating the policy and provisions of this chapter or any order, ruling, regulation or direction promulgated thereunder. The Commission shall have access to and may enter and inspect at all reasonable hours all places, equipment and vehicles where milk and milk products are being received, purchased, stored, bottled, manufactured, sold or handled and where books, papers, records or accounts relating thereto are kept. The Commission may make known the findings of such examination, inspection or audit to the producer directly interested therein, when, in their judgment, such action will best effectuate the policy and provisions of this chapter or any order, ruling or regulation promulgated thereunder.

Sec. 24. Subpoena; punishment for contempt. The Commission shall have power to subpoena dealers and others, and such books, papers, records, accounts and other data as in their judgment may be necessary to effectuate the policy and provisions of this chapter or any order, ruling, regulation or direction promulgated thereunder. The Commission may issue subpoenas and administer oaths to witnesses. Witnesses so required to attend shall be entitled to the same fees and mileage as are paid to witnesses required to appear in the Superior Court. If any person shall fail to appear in response to such subpoena, to produce matter required thereunder or to answer any question addressed to him by the Commission, the Superior Court of any county or, in case the person is not located in this State, the Superior Court of Kennebec county, or any judge thereof when such court shall not be in session, upon application made to it or to him alleging such failure, may make an order requiring such person to appear before the Commission and answer any material question and produce the matter required; provided, when any testimony shall be refused upon a valid claim of privilege to prevent self-incrimination, such testimony may be required but shall not be used in any criminal proceeding to incriminate the witness claiming such privilege. If any person fails to comply with any requirement of such order, the court or judge shall commit such person to jail until he shall comply therewith, but not for a longer period than 60 days.

Sec. 25. Dealers required to be licensed. No dealer shall receive or purchase milk from producers or others within the State for storage, manufacture, processing, sale, distribution or handling within or without the State, or sell or distribute milk within the State, unless such dealer be duly licensed as provided herein. No dealer shall buy milk from, or sell milk to, a dealer within the State who is unlicensed, or deal in or handle milk which he has reason to believe has previously been dealt in or handled in violation of this chapter or any order, ruling or regulation issued thereunder. The license period shall be from July 1st to June 30th following, inclusive.

Sec. 26. Inspection of dairy farms and milk plants. The Commissioner of Agriculture shall inspect regularly and as frequently as possible the dairy farms and milk plants from which milk regularly is shipped to dealers within the State for sale therein in fluid form. He shall endeavor to maintain a sufficient number of dairy farms and dairy plants subject to regular inspections and approved for shipments of milk to be sold in fluid form in Maine markets so

that consumers of the State may be assured of an adequate supply of fluid milk at all times. The Commissioner shall have the right to inspect the producing dairy farm or the processing dairy plant and to sample the product of such dairy farm or dairy plant at any time or place. The expense incurred for the inspecting of any dairy farm, whether within or without the State, which produces fresh milk for daily use in this State shall be borne by the State. The expense incurred for the inspection of dairy farms and dairy plants which produce or process milk which is to be used for the production of cream for this State shall be borne by the producer or dealer unless such farm or plant has been approved for the shipment of fluid milk.

Sec. 27. License applications. An application for license to do business as a dealer shall be made to the Commission. Any person who shall desire to enter business as a dealer shall file application not less than 15 days prior to the date for which he is applying to engage in such business. Application for renewal of a license shall be made on or before June 1st of each year. In order to be complete, each application shall be accompanied by the license fee hereinafter provided. Such license fee shall be \$2 upon any application filed subsequently to the date herein required. The applicant shall state such information in regard to his business or proposed business as may be required by the Commission, upon such form as they may prescribe. Such information may include:

I. The nature of the business to be conducted;

II. The full name and address of the person applying; if the applicant is a copartnership, the full name of each member shall be stated; if the applicant is an association or corporation, the names and addresses of all officers and directors shall be stated;

III. The location at which the business is to be conducted and the locations or areas in which such business is to be operated;

IV. The financial condition of the applicant;

V. A showing that he has complied and will comply with this chapter and all orders, rulings, regulations or directions issued thereunder;

VI. The quantities, sources and type of outlets of milk handled during the calendar year preceding the period for which the license is desired;

VII. Such other facts with respect to the applicant's business as may be required by the Commission pursuant to this chapter. The Commission shall grant or renew a license to an applicant qualifying under and complying with all provisions of this chapter and orders, rulings, regulations and directions issued thereunder.

Sec. 28. Grounds for refusal, suspension or revocation of license. The Commission may refuse to grant or renew a license, or may suspend, revoke or refuse to transfer a license already granted, after they have determined that the applicant or dealer:

I. Has failed to comply, or has been a responsible member or officer of a partnership or corporation which failed to comply, with any provisions of this chapter or any order, ruling, regulation or direction issued thereunder;

II. Has insufficient financial responsibility, personnel or equipment properly to conduct the milk business;

III. Is a person, partnership, corporation or other business entity, in which any individual holding a material position, interest or power of control has previously been responsible in whole or in part for any act on account of which a license was or may be denied, suspended or revoked under the provisions of this chapter;

IV. Has failed to file a bond required by the Commission under the provisions of this chapter;

V. Is not in compliance with all laws and regulations of the State pertaining to health and sanitation in the production, processing, handling or sale of milk;

VI. Has rejected, without reasonable cause, any milk purchased from a producer, or has refused to accept, without either reasonable cause or reasonable advance notice, milk delivered by or on behalf of a producer in ordinary continuance of a previous course of dealing, except when the contract has been lawfully terminated; provided, in the absence of an express or implied fixing of a period in the contract, "reasonable advance notice" shall be construed to mean not less than 1 week nor more than 2 weeks;

VII. Has continued in a course of dealing of such nature as to show an intent to deceive, defraud or impose upon producers or consumers;

VIII. Has violated any stipulation or written agreement entered into with the Commission in the course of any proceeding under this chapter;

IX. Has made a false material statement in his application.

Sec. 29. Revocation of license; prior violations. The issuance or renewal of a license hereunder shall not preclude the Commission from suspending or revoking such license for a violation committed by the licensee prior thereto, unless the Commission had proceeded against licensee for such violation and any valid ruling thereon has been complied with by the licensee.

Sec. 30. Conditional licenses. A license may be granted, renewed, continued in effect, suspend or revoked subject to any reasonable condition which effectuates the provisions of this chapter; provided such condition pertains to the subject matter of a hearing held under this chapter. In any case in which an appeal has been taken from a ruling of the Commission revoking or refusing to renew or transfer a license, and a stay has been obtained as hereinafter provided for, nothing herein shall preclude the Commission from renewing or transferring the license of such dealer for a subsequent license period, conditioned that if such appeal shall not be sustained the license shall thereby be automatically terminated.

Sec. 31. Hearings; service of rulings. Before refusing to grant or renew, or before suspending, revoking or refusing to transfer, a license, the Commission shall afford the applicant or licensee an opportunity to be heard before them. A citation shall be directed to such applicant or licensee by registered mail to his last known address, giving at least 5 days' notice of such hearing

and a statement of the matters complained of. After such hearing and upon entry of any ruling thereon, the Commission shall forthwith serve a certified copy of such ruling upon the applicant or licensee at his place of business or by registered mail to his last known address; the original, and a statement in writing of the findings of fact in support thereof, shall be filed in the office of the Commission.

Sec. 32. Amount of license fees. The license fee shall be \$2. In the case of an application for transfer of a license, no additional fee for the period covered by the license shall be required from the transferee, except a fee of \$1 for recording such transfer.

Sec. 33. Certificate; license plate; return of fees. Upon granting or renewing a license, the Commission shall issue a suitable certificate which shall be displayed conspicuously in the dealer's place of business. When necessary in their judgment, the Commission shall issue a suitable license plate which shall remain the property of the Commission and which shall be conspicuously displayed on the left side of any vehicle used for delivering or hauling milk. License fees shall be paid by the Commission to the Treasurer of State, and all moneys so paid are appropriated to the Commission for the administration of this chapter. Applicants to whom licenses have been refused shall be entitled to a return of the fees accompanying their application. When renewal shall be refused, the Commission may retain a pro rata amount for such part of the license year as may have expired prior to such refusal.

Sec. 34. Exemptions. The Commission may exempt from any or all of the provisions of sections 25 to 33, inclusive, any dealer whose daily sales of milk do not exceed 10 quarts of milk or its equivalent.

Sec. 35. Permits required for out-of-state plants and producing farms. No person, firm or corporation which receives milk at a milk receiving or processing plant located outside the State of Maine may ship milk to any Maine market unless such plant and all of the producing farms from which milk is delivered to said plant have been approved by and hold permits from the Commissioner of Agriculture. The act of accepting or receiving milk at said plant from any milk-producing farm or other dairy plant which has not been approved by and which does not currently hold a permit issued by the Commissioner for shipment of milk to Maine markets may be considered adequate grounds for termination or suspension of, or refusal to grant, a permit for such plant.

Sec. 36. Commission may require bonds of milk dealers. The Commission shall have power, when they shall find such action necessary for the protection of producers, to require a dealer to provide a bond payable to the State of Maine for the benefit of such producers. Such bond shall be filed with the Commission, upon such form as they may prescribe, with sufficient surety and approved by the Commission, conditioned for full and prompt payment for all milk received or purchased from producers by such dealer during the license year or remainder thereof.

Sec. 37. Amount of bond. Such bond shall be in an amount not exceeding double the value of the total amount of milk so received or purchased by such dealer during any one month of the year preceding the requirement thereof and

shall be filed within 10 days after notice of requirement. In any case in which the dealer did not receive or purchase milk from producers during at least 6 months of the year preceding such requirement, the Commission shall determine the amount of the bond in a reasonable sum which shall not exceed double the value of the total amount of milk which it appears probable that such dealer will receive or purchase from producers during any one month of the year succeeding the requirement of such bond. The amount of the bond so required may be revised within 6 months after the filing thereof.

Sec. 38. Standards for determining bond requirement. In determining whether it is necessary for the protection of producers that a dealer file a bond hereunder, the Commission shall consider the amount of money owed by such dealer to producers and others, the financial condition of such dealer and his record for full and prompt payments to producers.

Sec. 39. Default. Upon default under any condition of such bond, the Commission may give reasonable notice to producers to file verified claims, fixing a reasonable time within which said such claims shall be filed. The Commission shall examine each claim so filed, and shall determine and certify the amount due thereon. They may bring an action upon the bond and, for the purpose of such action, the certificate of the amount due shall be prima facie evidence of the facts therein stated. If the recovery upon the bond shall not be sufficient to pay all claims filed and established, the amount recovered shall be prorated among the claimants.

Sec. 40. Unfair trade practices; disrupting market. It shall be an unfair trade practice for any dealer in a marketing area to sell or otherwise dispose of milk at prices which the Commission shall find, after due notice and opportunity for hearing, before them, create a condition of emergency by disrupting and undermining or tending to disrupt and undermine the prices required hereunder to be paid by such dealer or by other dealers for milk received or purchased from producers, or by imperiling the ability of such dealer or other dealers to make full and prompt payment for such milk.

Sec. 41. Direction to cease and desist. After such hearing and finding, the Commission may issue against such dealer a direction to cease and desist, and prescribe such corrective terms and conditions as they may determine upon the hearing evidence to be in the public interest. Such corrective terms and conditions may include one or more of the following or parts thereof, and other reasonable and similar terms or conditions with like corrective purpose, subject to such regulations as the Commission may prescribe in aid of the effectiveness of such direction:

I. Providing for the public posting of all or certain resale prices and price changes of such dealer in the office of the Commission, once or from time to time over a period not exceeding 90 days, and such posting may include itemization as to names of purchasers and the milk sold;

II. In cases in which prices are favoring, special or discriminatory, directing the revision of prices at which milk is so sold; or directing and specifying restoration of nondiscriminatory prices; or directing that no further sales be

made to favored purchasers for a period not exceeding 90 days. Such provision may prohibit the sale or offer of reasonably similar quantities and qualities of milk under similar conditions to different purchasers at unreasonably different prices; or the sale or offer of milk of special properties or quality, or with an uncustomary amount of service or in an unusual container at prices which do not make due allowance for differences in cost existing between such sales or offers and usual sales;

III. Directing the revision of prices at which milk is sold; or directing and specifying restoration of normally prevailing resale prices for a period not exceeding 90 days considering comparable milk in the same locality at any reasonable preceding period of time in which resale price conditions were sufficiently stable to protect producers' prices, adjusting for any difference in producers' prices at such time and place;

IV. Prohibiting any dealer, directly or indirectly, from furnishing or receiving or offering to furnish or receive in connection with a sale or purchase of milk or offer to sell or purchase milk any rebate, discount, premium, gift or other thing of value, and unreasonable service or extension of credit, or an advertising allowance; from charging a combined price for milk, together with another commodity, or a service which is less, or is represented to be less, than the aggregate of the price of the milk and the price or value of such commodity or service when sold or offered for sale separately; or from otherwise applying or attempting to apply any method or device intended to defeat the policy of this chapter, or to defeat or evade any provision of this chapter or of any order, ruling or regulation issued hereunder. Nothing herein shall be construed to prevent a dealer from participating in any program sponsored or conducted by the Commission or any other governmental authority, designed to make milk available at specially low prices to groups designated by appropriate public authorities for the purpose of increasing consumption. Hearings may be held and directions issued hereunder affecting one or more dealers concurrently or independently; and may be held only on such notice as the emergency reasonably permits. Directions hereunder may be served upon a dealer at his place of business or by registered mail to his last known address.

Sec. 42. Unfair trade practices; regulations. Upon due notice and opportunity for hearing afforded all dealers and other interested persons in the area affected thereby, concurrently with the notice and hearing afforded above or independently thereof, the Commission may issue a regulation prescribing for such area corrective terms and conditions as they may determine, upon the basis of the hearing evidence, to be in the public interest. Such regulation may include the corrective terms and conditions set forth above; provided such terms and conditions shall be applicable to all such dealers.

Sec. 43. Unfair trade practices; penalties; review. Any written or oral contract for the sale of milk under an unfair trade practice shall be unenforceable by any dealer participating therein. Any dealer who shall fail to comply with any direction or regulation of the Commission issued hereunder shall have committed an unfair trade practice with respect to each transaction in violation thereof and each such unfair trade practice shall be a violation of this chapter.

In any action against the license of such dealer, or in any other action to enforce such direction or to attempt to enforce a contract for the sale of milk in violation of such direction, the record of the unfair trade practice hearing or any relevant part thereof, the findings made and direction issued shall be admissible in evidence and thereby incorporated into the record of such action and shall be reviewable only as part thereof. Regulations issued under sections 40 to 42, inclusive, shall be reviewable only in the manner hereinafter provided respecting orders and regulations.

Sec. 44. Petition for reconsideration of order or regulation; appeal. Any person aggrieved by an order or regulation may, within 45 days after the effective date thereof, file a written petition with the Commission stating that any such order or regulation or any provision thereof is not in accordance with law, praying for reconsideration and for revision, modification or revocation thereof. Such petition shall specify the objections to such order or regulation, and shall state facts and reasons in support of such objections; none of which objections, unless so specified and supported, shall be considered by the Commission, or included in any appeal petition subsequently filed or considered by the court upon appeal from such order or regulation. Any such person may, within 10 days after notice of decision by the Commission denying such reconsideration or the relief sought, or within 20 days after the filing of such petition, if the Commission shall fail to grant such reconsideration or the relief sought, appeal from such order or regulation to the Superior Court for Kennebec county. No such appeal shall be permitted to act as a supersedeas except on special order of the court, or if such court be not in session, on special order of any judge thereof, issued upon application and after reasonable notice thereof to the Commission; provided such special order shall require the appellant to file a bond with sufficient sureties in such sum as shall be determined by the court to be necessary for the protection of producers and others during the pendency of the appeal, or to comply with other adequate protective conditions therein provided.

Sec. 45. Appeal from ruling relating to application or license. An applicant or licensee aggrieved by any ruling of the Commission with respect to his application or license hereunder may appeal from such ruling to the Superior Court for the county in which he resides or has his principal place of business, within 15 days after service upon him of such ruling. Each appeal from a ruling revoking, suspending or refusing to renew a license shall be a supersedeas of the ruling appealed from, provided the court to which such appeal is taken, or if such court be not in session, any judge of the Superior Court, may, upon application of the Commission and after reasonable notice thereof to the appellant, order that such appeal shall not so operate. Such court or judge may order that such appeal shall so operate only upon compliance by the appellant with such terms or conditions as such court or judge may determine, including, but not limited to, the filing of a bond by the appellant with sufficient sureties in such sum as such court or judge may find necessary for the protection of producers or others during the pendency of such appeal.

Sec. 46. Appeal petition. Any appeal shall be taken by filing in the appropriate court a written petition praying that such order, regulation or ruling be

modified or set aside; a copy of which petition shall be forthwith served upon the Commission. Such appeal petition shall name the Commission as defendant, shall specify the appellant's objections, and shall state facts and reasons in support of such objections sufficient to constitute a prima facie case. Any objections not so specified and so supported shall not be considered by the court. Such petition shall be supported by oath or affirmation and shall include an averment that it is not filed merely for the purpose of delay.

Sec. 47. Appeal to be privileged case. Appeals filed under sections 44 to 49, inclusive, shall be privileged in respect to the assignment thereof.

Sec. 48. Record; certification. Within a reasonable time the Commission shall certify to the court the record of the proceedings upon the order, regulation or ruling complained of. Such record shall include the citation, the testimony taken, a copy of the findings of fact of the Commission and a copy of all orders, regulations and rulings made by the Commission pertaining to or affecting the proceedings.

Sec. 49. Scope of review. The findings of the Commission as to facts, if supported by substantial evidence, shall be conclusive. The case shall be heard upon the record certified to the court by the Commission; and additional testimony shall not be taken before the court, except as hereinafter provided. The court shall determine whether the order, regulation or ruling appealed from is in accordance with law. If the court shall determine that it is not in accordance with the law, it shall remand the case to the Commission with directions to modify or revoke such order, regulation or ruling, or to take such further proceedings therein as shall be in accordance with law. In a case in which the Commission has revoked, suspended or refused to renew a license, the court or any judge thereof may hear additional testimony if good and sufficient cause for the absence of such testimony from the record is established. In any other case, the court or a judge thereof shall remand the case to the Commission with a direction to hear such newly discovered evidence as said court or such judge shall have determined would justify the granting of a new trial, and to take such further proceedings therein as shall be in accordance with law.

Sec. 50. Enforcement; injunction. Relief to enforce compliance with or to restrain violation of any provision of this chapter or any order, ruling, regulation or direction issued thereunder may be by injunction. The Commission may apply for such relief to the Superior Court of Kennebec county, or of the county wherein the dealer resides or has his principal place of business. In connection with such application the Commission shall not be required to allege or prove that adequate remedy at law does not exist.

Sec. 51. Penalty. Any person who violates any provision of this chapter, or of any order, ruling, regulation or direction issued thereunder and any person who willfully makes any false report to the Milk Commission or makes any false entry upon any book, paper, report or statement required to be made or kept hereunder shall, for each offense, be punished by a fine of not more than \$500, or by imprisonment for not more than 6 months or by both such fine and imprisonment.

Sec. 52. Penalties and remedies to be concurrent. The penalties and remedies prescribed in this chapter shall be deemed concurrent or independent, and the exercise or existence of any one remedy herein shall not preclude the Commission from exercising any other remedy hereunder.

Sec. 53. Bond for prosecution not required of Commission. The Commission shall not be required to give or post a bond in any action to which they are a party, whether upon appeal or otherwise.

Sec. 54. Interstate commerce. No provision of this chapter or of any order, ruling or regulation thereunder shall apply or be construed to apply to interstate or foreign commerce, except so far as such provision may be effective pursuant to the Constitution of the United States and to the laws of the United States enacted thereunder.

Sec. 55. Title. This chapter may be cited as the "Milk Marketing Act."

Sec. 2. R. S., c. 33, repealed. Chapter 33 of the revised statutes, which relates to the Maine Milk Commission, is hereby repealed.