

MAINE STATE LEGISLATURE

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NINETY - EIGHTH LEGISLATURE

Legislative Document

No. 1214

H. P. 851

House of Representatives, March 12, 1957

Referred to the Committee on Agriculture, sent up for concurrence and 1,000 copies ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Bean of Winterport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-SEVEN

AN ACT Revising the Maine Milk Commission Law.

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

Sec. 1. R. S., c. 33, § 1, amended. The 3rd and 4th paragraphs of section 1 of chapter 33 of the Revised Statutes, which relates to the definition of "Class I milk" and the definition of "Class II milk," are hereby repealed, as follows:

~~"Class I milk" means all milk, the utilization of which is not established as Class II milk.~~

~~"Class II milk" means all milk, the utilization of which is established:~~

~~I. As being sold, distributed or disposed of other than as or in milk which contains not less than $\frac{1}{2}$ of 1% butterfat and not more than 16% butterfat and other than as chocolate or flavored whole or skimmed milk and~~

~~II. As actual plant shrinkage; provided that the quantity of shrinkage which is classified as Class II does not exceed 2% of the milk purchased in any pay period.'~~

Sec. 2. R. S., c. 33, § 1, amended. The 7th paragraph of section 1 of chapter 33 of the Revised Statutes, which relates to the definition of "Dealer" is hereby amended to read as follows:

"Dealer" means any person who purchases or receives milk for sale as the consignee or agent of a producer, or handles for sale, shipment, storage or processing within the State and shall include a producer-dealer ~~as hereinafter defined~~ and a sub-dealer, but shall not include a store.'

Sec. 3. R. S., c. 33, § 1, amended. The 10th paragraph of section 1 of chapter 33 of the Revised Statutes, which relates to the definition of "Person," is hereby amended to read as follows:

' "Person" means any ~~person~~ **individual, partnership, firm, corporation, association or other unit, and the State and all political subdivisions or agencies thereof.**'

Sec. 4. R. S., c. 33, § 1, amended. The 13th paragraph of section 1 of chapter 33 of the Revised Statutes, which relates to the definition of "Retail sale," is hereby amended to read as follows:

' "Retail sale" means a doorstep delivery ~~to other than establishments licensed under the provisions of sections 160 to 166, inclusive, of chapter 25 and over-the-counter sales by stores.~~'

Sec. 5. R. S., c. 33, § 1, amended. The 14th paragraph of section 1 of chapter 33 of the Revised Statutes, which relates to the definition of "Store" is hereby amended to read as follows:

' "Store" means a grocery store ~~or~~, dairy products store, **canteen, milk vending machine operator, milk dispenser operator,** or any similar commercial establishment ~~or outlet~~ which purchases milk from licensed dealers who have previously processed and bottled or otherwise packaged such milk for sale ~~or which purchases milk from sub-dealers.~~'

Sec. 6. R. S., c. 33, § 1, amended. Section 1 of chapter 33 of the Revised Statutes is hereby amended by inserting before the last paragraph thereof, a new paragraph, as follows:

' "**Sub-dealer**" means any person who does not process milk and who purchases milk from a dealer and sells such milk in the same containers in which he purchased it, but shall not include a store.'

Sec. 7. R. S., c. 33, § 2, amended. The 1st sentence of section 2 of chapter 33 of the Revised Statutes is hereby amended to read as follows:

'The Maine Milk Commission, as heretofore established, shall consist of 2 producers, a dealer, a producer-dealer and ~~a consumer~~ **2 consumers**, all of whom shall be residents of the State.'

Sec. 8. R. S., c. 33, § 4, amended. Section 4 of chapter 33 of the Revised Statutes, as amended by chapter 341 of the public laws of 1955, is hereby further amended by inserting after the 2nd paragraph thereof, a new paragraph, as follows:

'**The Commission is vested with power to establish and change, after investigation and public hearing, classifications of milk according to its various usages, and shall specify to what classification the prices fixed and established under the provisions of this chapter shall apply.**'

Sec. 9. R. S., c. 33, § 4, amended. The 3rd paragraph of section 4 of chapter 33 of the Revised Statutes is hereby amended to read as follows:

'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. All such~~

sales between dealers shall be considered ~~Class 1~~ milk of such classification as the Commission by appropriate rules may provide.'

Sec. 10. R. S., c. 33, § 4, amended. The 5th paragraph of section 4 of chapter 33 of the Revised Statutes is hereby amended to read as follows:

'Prices so fixed shall be just and reasonable taking into due consideration **the public health and welfare and the insuring of an adequate supply of pure and wholesome milk to the inhabitants of this State under varying conditions in various marketing areas, seasonal production and other conditions affecting the costs of production, transportation and marketing** in the milk industry, including a reasonable return to the producer and dealer.'

Sec. 11. R. S., c. 33, § 4, amended. The 6th paragraph of section 4 of chapter 33 of the Revised Statutes is hereby amended to read as follows:

'Upon fixing said minimum prices in any market which shall apply to the various ~~grades and classes~~ **classifications** of milk and which may vary in the several market areas of the State, the Commission 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~~. **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~~ **prices established for that market.**'

Sec. 12. R. S., c. 33, § 4, amended. The 8th paragraph of section 4 of chapter 33 of the Revised Statutes is hereby repealed and the following paragraph enacted in place thereof:

'It shall be unlawful for any person to engage in any practice destructive of the scheduled minimum prices for milk established under the provisions of this chapter for any market, including but not limited to any discount, rebate, gratuity, advertising allowance or combination price for milk with any other commodity. In addition to any penalty otherwise provided by law, the Commission after notice and hearing may prohibit any such practice, and any person feeling himself aggrieved by any order of the Commission issued under the provisions of this chapter may appeal to the Superior Court as provided in section 5.'

Sec. 13. R. S., c. 33, § 4, amended. Section 4 of chapter 33 of the Revised Statutes, as amended by chapter 341 of the public laws of 1955, is hereby further amended by adding at the end thereof a new paragraph, as follows:

'The failure or refusal of a dealer to pay to a producer all or any part of the scheduled minimum prices established under the provisions of this chapter when the same shall be due and payable is a practice destructive of the purposes of this chapter and shall be cause for revocation or suspension of the license of such dealer. Whenever a sale is made by a producer to a dealer and the established minimum price has become due and payable and remains unpaid for 15 days after written demand for payment, the producer may file a complaint with the Commission, which may, after notice and hearing, revoke or suspend the license of such dealer. Any dealer aggrieved by the order of the Commission upon such complaint may appeal to the Superior Court as provided in section 5.'

Sec. 14. R. S., c. 33, § 5, amended. Section 5 of chapter 33 of the Revised Statutes is hereby amended by adding a new paragraph at the end thereof to read as follows:

'Upon revocation or suspension of a license it shall not be reissued until the Commission shall determine upon application and hearing that the cause for such revocation or suspension no longer exists, and that the applicant is otherwise qualified.'

Sec. 15. R. S., c. 33, § 6, amended. The 1st paragraph of section 6 of chapter 33 of the Revised Statutes is hereby amended to read as follows:

'All dealers in any market designated by the Commission shall keep the following records:

I. 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;

II. A record of the quantity of all milk sold, detailed as to use, location and market outlet;

III. Such other records and information **in such form and at such times** as the Commission may deem necessary for the proper enforcement of the provisions of this chapter.'

Sec. 16. R. S., c. 33, § 6, amended. The 2nd paragraph of section 6 of chapter 33 of the Revised Statutes is hereby amended to read as follows:

'Each dealer shall furnish ~~their~~ his producers a record statement of the amount of milk purchased, the price per ~~pound~~ hundredweight or quart, and the total amount paid for each pay period, also the 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 in each classification and the butterfat test when weight and test method of payment is used.'

Sec. 17. R. S., c. 33, § 10, additional. Chapter 33 of the Revised Statutes is hereby amended by adding thereto a new section to be numbered 10, to read as follows:

'Sec. 10. Constitutionality. If any section or other part of this chapter is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter.'