

# MAINE STATE LEGISLATURE

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# ACTS AND RESOLVES

AS PASSED BY THE

One Hundredth Legislature

OF THE

STATE OF MAINE

Published by the Director of Legislative Research in accordance with  
the Revised Statutes of 1954, Chapter 10, Section 27, Subsection VI.

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KENNEBEC JOURNAL

AUGUSTA, MAINE

1961

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

As Passed by the One Hundredth Legislature

**1961**

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## Chapter 163

### AN ACT Revising the Maine Milk Law.

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

Sec. 1. R. S., c. 32, §§ 87-A - 87-J, additional. Chapter 32 of the Revised Statutes is amended by adding 10 new sections to be numbered 87-A to 87-J, to read as follows:

#### 'Maine Milk Law.

Sec. 87-A. Inspection; analysis. The commissioner shall inspect the production, manufacture, transportation, storage and sale of milk, cream, butter and all other dairy products, substitutes therefor, or imitations thereof.

The commissioner shall have free access at all reasonable hours to any dairy farm, milk plant, vehicle, establishment, premises or place where milk or milk products, substitutes therefor, or imitations thereof, are or may be produced, collected, handled, processed, pasteurized, bottled, packaged, stored, sold or otherwise prepared for distribution for the purpose of inspecting such dairy farm, milk plant, vehicle, establishment, premises or place to determine if any of the provisions of sections 87-A to 87-G are being violated; and to secure samples or specimens of any milk, cream, milk products, substitutes, or imitations thereof, after paying or offering to pay the market value for such samples. The commissioner shall make or cause to be made examination of samples secured under this section to determine whether or not any provisions of sections 87-A to 87-G are being violated.

The commissioner may seize without warrant such cans, bottles, containers and equipment used in the production, handling, processing, pasteurizing, bottling, or used in the purchase or sale of milk or cream as may be needed as evidence of violation of any provisions of sections 87-A to 87-G.

The commissioner may, in his discretion, publish the results of all analyses with the names of the persons, firms, corporations, associations and societies from which the samples analyzed were taken or the name of the milk dealer. He may, in his discretion, issue a report of the results of all analyses, for distribution to such newspapers in the State as may request a copy.

Sec. 87-B. Definitions. As used in sections 87-A to 87-G the following words and phrases shall have the following meanings:

I. Adulterated and misbranded milk and milk products. Adulterated and misbranded milk and milk products means milk or milk products which upon analysis are found to contain added water or which contain any unwholesome substance, or milk or milk products which contain any antibiotics, pesticide or chemical residues; or which if defined in sections 87-A to 87-G or defined in the regulations promulgated by the commissioner do not conform to the definition thereof, shall be deemed to be adulterated. Milk or milk products shall be deemed to be misbranded if the labeling is false, improper or misleading in any particular, or the labeling does not comply with the requirements promulgated by the commissioner.

II. Commissioner. Commissioner means the Commissioner of Agriculture or his duly authorized agents.

III. Concentrated milk. Concentrated milk means the fluid product, unsterilized and unsweetened, resulting from the removal of a considerable portion of the water from milk. When recombined with water in accordance with instructions printed on the container, the resulting product conforms with the standards for milkfat and solids not fat of milk as defined.

IV. Cottage cheese. Cottage cheese means the soft, uncured cheese prepared from the curd obtained by adding harmless, lactic acid producing bacteria, with or without rennet, to pasteurized skim milk, concentrated skim milk or nonfat dry milk solids. It shall contain not more than 80% moisture.

V. Cream. Cream means the portion of milk which contains not less than 18% milkfat.

VI. Creamed cottage cheese. Creamed cottage cheese means the soft, uncured cheese prepared by mixing cottage cheese with pasteurized cream, or a pasteurized mixture of cream with milk or skim milk, or both. It shall contain not less than 4% milk fat by weight and not more than 80% moisture.

VII. Cultured buttermilk. Cultured buttermilk means the fluid product, resulting from the souring or treatment by a lactic acid or other culture, of pasteurized milk, pasteurized skim milk or a mixture of both. It shall contain not less than 8.5% milk solids not fat.

VIII. Dairy or dairy farm. Dairy or dairy farm means any place or premises where one or more cows are kept, a part or all of the milk or cream from which is offered for sale.

IX. Flavored dairy drink. Flavored dairy drink means a dairy drink consisting of milk or skim milk to which has been added a syrup or flavor made from wholesome ingredients. The standard plate count of flavored dairy drink shall not be more than 50,000 colonies of bacteria per ml.

X. Flavored milk. Flavored milk means a beverage consisting of milk to which has been added a syrup or flavor made from wholesome ingredients. Flavored milk shall not contain less than 3.25% milkfat. The standard plate count of flavored milk shall not be more than 50,000 colonies of bacteria per ml.

XI. Goat milk. Goat milk means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy goats.

XII. Half and half. Half and half means the fresh, pure, pasteurized dairy product resulting from the combining of milk and cream in such proportions as to result in a mixture containing not less than 11% milkfat. It may contain added nonfat milk solids. It may be homogenized. It shall contain no preservative, neutralizer or other foreign substance.

XIII. Heavy cream. Heavy cream means cream which contains not less than 38% milkfat.

XIV. Homogenized milk. Homogenized milk means milk which has been treated in such a manner as to insure break up of the fat globules to such an

extent that, after 48 hours of quiescent storage, no visible cream separation occurs on the milk and the fat percentage of the top 100 milliliters of milk in a quart bottle, or of proportionate volume in containers of other sizes, does not differ by more than 10% of itself from the fat percentage of the remaining milk as determined after thorough mixing.

XV. Light cream. Light cream means cream which contains not less than 18% milkfat.

XVI. Medium cream. Medium cream means cream which contains not less than 30% milkfat.

XVII. Milk. Milk means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. It shall contain not less than 8.5% milk solids, and not less than 3.25% milkfat. The word "milk" shall be interpreted to include goat milk.

XVIII. Milk dealer. Milk dealer means any person who owns or operates a milk plant or any person who owns or operates a dairy farm where sales of milk or cream are made as a business other than to a licensed dealer or a sub-dealer.

XIX. Milkfat. Milkfat or butterfat means the fat of milk.

XX. Milk plant. Milk plant means any place, premises or establishment where milk or milk products are collected, handled, processed, pasteurized, bottled or otherwise prepared for distribution.

XXI. Milk producer. Milk producer means any person who owns or controls one or more cows, a part or all of the milk or cream from which is sold or offered for sale.

XXII. Milk products. Milk products means cream, sour cream, half and half, reconstituted half and half, concentrated milk, skim milk, nonfat or fat-free milk, flavored milk, flavored dairy drink, cultured buttermilk, cottage cheese, creamed cottage cheese, and any other product designated as a milk product by the commissioner.

XXIII. Nonfat or fat-free milk. Nonfat or fat-free means skim milk which contains not more than 0.1% milkfat. The standard plate count of nonfat or fat-free milk shall not be more than 50,000 colonies of bacteria per ml.

XXIV. Pasteurization or pasteurized. Pasteurization or pasteurized means the process of heating every particle of milk, cream or milk products to at least 145° F., and holding it at such temperature continuously for at least 30 minutes, or to at least 161° F., and holding it at such temperature continuously for at least 15 seconds, in approved and properly operated equipment or to such higher temperatures for such time intervals as the commissioner may from time to time determine, specifically for milk, or skim milk, or cream or a milk product.

XXV. Person. The word "person" means any person, firm, corporation, association or society.

XXVI. Producer dealer. Producer dealer means a milk producer who is a milk dealer.

XXVII. Reconstituted half and half. Reconstituted half and half means the product resulting from the combination of reconstituted milk or reconstituted skim milk with cream or reconstituted cream resulting in a mixture containing not less than 11% milkfat. It may be homogenized. It shall contain no preservative, neutralizer or other foreign substance.

XXVIII. Skim milk. Skim milk means milk which contains less than 3.25% milkfat. The standard plate count of skim milk shall not be more than 50,000 colonies of bacteria per ml.

XXIX. Sub-dealer. Sub-dealer means any person who obtains for distribution all milk and cream in the final container from a licensed milk dealer.

XXX. Sour cream or cultured cream. Sour cream or cultured cream means cream, the acidity of which is more than 0.20%, expressed as lactic acid.

Sec. 87-C. Licensing; application; fee; revocation. No milk dealer shall sell milk or cream without first obtaining a license from the commissioner. No person shall produce grade A milk for sale without first obtaining a license from the commissioner to produce grade A milk, and no person shall pasteurize grade A milk for sale without first obtaining a license from the commissioner to pasteurize grade A milk.

Every milk dealer shall, on or before the first day of January in each year, apply to the commissioner for a license to sell milk, furnishing such information as may be required upon a form prescribed by the commissioner. Each vehicle from which sales or distribution of milk or cream are made, shall be covered by a license. Each group of buildings, constituting a dairy farm or milk plant in one location from which sales or distribution of milk or cream are made shall be covered by a license.

The commissioner, if satisfied after inspection or investigation, that the applicant has complied with sections 87-A to 87-G and the rules and regulations issued thereunder, shall issue a license. The fee for each license to sell or distribute milk or cream from a vehicle, milk plant or dairy farm shall be \$1. All money received by the commissioner shall be paid by him to the Treasurer of State.

The commissioner shall have the power, after due hearing, to revoke or suspend any license issued under sections 87-A to 87-G, when it appears that any statement upon which it was issued, was false or misleading, or that any of the provisions of sections 87-A to 87-G and the rules and regulations issued thereunder have been violated.

Any person wishing to produce grade A milk or to pasteurize grade A milk, as the case may be, shall apply to the commissioner for a license, furnishing such information as may be required upon a form prescribed by the commissioner. The commissioner, if satisfied, after inspection or investigation, that the applicant has complied with the rules and regulations and standards of definition and quality pertaining to grade A milk and pasteurized grade A milk, shall issue a license.

The commissioner shall, after investigation and public hearing, adopt and promulgate rules and regulations, and standards of definition and quality for the production, pasteurization and distribution of grade A milk.

Sec. 87-D. Prohibition of sale. No person shall sell, offer for sale, or advertise for sale, any milk or milk product, if the label upon it or the advertising accompanying it, shall give a false indication of the origin, character, composition, or place of manufacture or production, or shall be otherwise false or misleading in any particular.

It shall be unlawful for any milk dealer to have in his possession any milk or milk products, the sources of which have not been approved by the commissioner.

It shall be unlawful for any milk dealer to sell any milk, or milk products as defined in sections 87-A to 87-G, the container of which is not plainly marked or labelled with the name of the contents, the word "pasteurized" or the word "raw" in accordance with the quality therein contained and the name or trade name of the dealer.

It shall be unlawful for any milk dealer to sell any cream which is not conspicuously marked with the words "light," "medium" or "heavy" as defined.

It shall be unlawful for any person to sell, offer or expose for sale, any milk or milk product which is adulterated or misbranded.

It shall be unlawful for any licensed milk dealer to transfer from one container to another or otherwise handle milk or milk products except in a dairy or milk plant operated by a licensed dealer. The sale of dipped milk is prohibited.

It shall be unlawful to sell or serve any milk, skim milk, nonfat or fat-free milk, flavored milk or flavored dairy drink in a hotel, soda fountain, restaurant, grocery store or similar establishment except in the individual, original container in which it was received from the milk dealer or from a bulk container equipped with an approved dispensing device. This requirement shall not apply to cream, half and half or whipped cream which is consumed on the premises.

It shall be unlawful to sell or serve any milk, skim milk, nonfat or fat-free milk, flavored milk or flavored dairy drink in a hotel, soda fountain, restaurant, grocery store, hospital or similar establishment which has not been maintained while in its possession, at a temperature of 50° F., or less, in dry storage. Wet storage is specifically prohibited.

It shall be unlawful for any milk dealer to neglect, refuse or fail to furnish the commissioner, upon request, a true statement of the actual quantities of milk and milk products produced, purchased and sold together with a list of all sources of milk and milk products.

It shall be unlawful for any milk dealer to neglect, refuse or fail to maintain true recording thermometer chart records, washing and sanitizing chart records, and such other records and tests as are required to comply with the rules and regulations promulgated by the commissioner. Such chart records shall be held for a period of at least 90 days, or until released by the commissioner.

It shall be unlawful for any milk dealer to neglect, fail or refuse to thoroughly clean and subject effectively to bactericidal treatment, in compliance with the rules and regulations promulgated by the commissioner, any cans, bottles, utensils or equipment prior to each use in the production, handling, storage, transportation and sale of milk or milk products.



It shall be unlawful for any milk dealer or person to neglect, fail or refuse to keep any room or place where milk or milk products are stored, bottled or handled, otherwise than in a clean and sanitary condition and in compliance with the rules and regulations promulgated by the commissioner.

It shall be unlawful for any person to hinder, obstruct or interfere in any way with the commissioner in the performance of his duty by refusing entrance or access to any place or equipment which he is authorized to enter or have access to; or by refusing to deliver to him a sample or samples of milk and milk products, substitutes therefor or imitation thereof sold, offered or exposed for sale by the person to whom such request is made.

Sec. 87-E. Examination of milk or milk products. The examination of milk and milk products shall conform to the procedures in the current edition of "Standard Methods for the Examination of Dairy Products" recommended by the American Public Health Association, or shall conform to the official methods of "Association of Official Agricultural Chemists."

Sec. 87-F. Inspection of milk and cream.

I. Raw milk or cream. Raw milk or raw cream means raw milk or raw cream which is to be consumed raw, produced upon dairy farms complying with the provisions of sections 87-A to 87-G and the rules and regulations issued thereunder.

The standard plate count of raw milk shall not be more than 50,000 colonies of bacteria per milliliter. The standard plate count of raw cream shall not be more than 50,000 colonies of bacteria per gram.

II. Standard plate count. The standard plate count of pasteurized milk shall not be more than 20,000 colonies of bacteria per milliliter.

III. Phosphatase test. All pasteurized milk, pasteurized cream, pasteurized flavored milk product and pasteurized flavored dairy drinks, skim milk and fat-free milk as defined by sections 87-A to 87-G shall show efficient pasteurization as evidenced by a satisfactory phosphatase test.

IV. Pasteurized cream. Pasteurized cream means cream produced from raw milk or from raw cream which has been pasteurized. The standard plate count of pasteurized cream shall not be more than 50,000 colonies of bacteria per gram.

V. Pasteurized milk. Pasteurized milk means milk which has been pasteurized, cooled and placed in the final container in a milk plant operated by a licensed dealer. Milk shall be pasteurized under the following provisions and specifications and in compliance with the rules and regulations promulgated by the commissioner.

A. Floors. Floors of all rooms in which milk is handled shall be constructed of concrete or other equally impervious and easily cleaned material. They shall be smooth, properly drained and provided with trapped drains and kept clean.

B. Walls and ceilings. Walls and ceilings of rooms in which milk is handled or stored shall have a smooth and washable light-colored surface and be kept clean.

C. Doors and windows. All openings into the outer air shall be effectively screened to prevent the access of flies. Doors shall be self-closing.

D. Lighting and ventilation. All rooms shall be well lighted and ventilated.

E. Protection from contamination. The various milk plant operations shall be so located and conducted as to prevent any contamination of the milk or to the cleaned equipment. There shall be a separate room for pasteurizing, cooling and bottling operations and a separate room for washing and sterilizing bottles, cans and equipment. Cans of raw milk shall not be unloaded directly into the pasteurizing room and the same equipment shall not be used for both raw and pasteurized milk. Rooms in which milk is handled, stored or processed shall not open directly into any stable, living quarters or any undesirable or unsanitary place.

F. Toilet facilities. Every plant shall be provided with toilet facilities. Toilet rooms shall be kept in a clean condition, good repair and well ventilated. All privies or earth closets shall be of a sanitary type and shall be located at least 50 feet from the milk plant. Toilet rooms shall not open directly into any room in which milk, milk products, equipment or containers are handled or stored.

G. Water supply. The water supply shall be easily accessible, adequate and of a safe, sanitary quality.

H. Equipment. All equipment with which milk comes in contact shall be of smooth, impervious, noncorrodible, nontoxic material; shall be so constructed and so located as to be easily cleaned; and shall be kept in good repair. Only sanitary milk piping of a type which can be easily cleaned shall be used. All single service containers, closures, gaskets and other articles used shall have been manufactured, packaged, transported and handled in a sanitary manner. The construction and operation of all pasteurizing vats and other equipment shall meet with the approval of the commissioner and shall be in compliance with rules and regulations promulgated by him.

I. Disposal of wastes. All wastes shall be properly disposed of.

J. Containers and equipment. All milk and milk product containers and equipment, except single service containers, shall be thoroughly cleaned after each usage, and subjected effectively to bactericidal treatment before each usage in compliance with the rules and regulations promulgated by the commissioner. Milk dealers shall thoroughly clean and effectively sanitize all empty containers before returning them or causing them to be forwarded to a producer or to another dealer.

K. Storage and handling of containers and equipment. After bactericidal treatment, all bottles, cans and other milk and milk product containers and equipment shall be transported and stored in such a manner as to be protected from contamination. Between bactericidal treatment and usage, and during usage, containers and equipment shall not be handled or operated in such a manner as to permit contamination of the milk.

L. Storage of caps, parchment paper, single service containers and gaskets. Milk bottle caps, cap or container stock, parchment paper for milk cans,

single service containers and gaskets shall be purchased and stored only in sanitary tubes, wrappings or cartons; shall be kept therein in a clean, dry place until used, and shall be handled in a sanitary manner.

M. Cooling. Pasteurized milk and milk products shall be cooled immediately in approved equipment to a temperature of 50° F., or less, and held at this temperature until delivered to the consumer. This provision shall not be deemed to include milk products to be used for culturing.

N. Bottling and packaging. Bottling and packaging of pasteurized milk, pasteurized skim milk, pasteurized nonfat or fat-free milk, pasteurized flavored milk and pasteurized flavored dairy drink shall be done at the place of pasteurization in approved mechanical equipment in such manner as to prevent any part of the person or clothing from coming in contact with any surface with which milk or milk products come in contact. Overflow milk shall not be sold for human consumption.

O. Capping. Capping of milk, cream, skim milk, nonfat or fat-free milk, flavored milk or flavored dairy drink shall be done in a sanitary manner by approved mechanical equipment. Hand capping is prohibited. The cap or cover shall protect the pouring lip to at least its largest diameter.

P. Personnel cleanliness. All persons who come in contact with milk, milk products, containers and equipment shall wear clean outer garments and shall keep their hands clean at all times while engaged in such work.

Q. Vehicles. All vehicles used for the transportation of milk, cream, skim milk, nonfat or fat-free milk, flavored milk or flavored dairy drink shall be constructed and operated so as to protect their contents from the sun, from freezing and from contamination. All vehicles used for the distribution of milk or cream shall have the name of the distributor prominently displayed thereon. Milk tank trucks shall be constructed, maintained, operated, washed and sanitized in accordance with the requirements of sections 87-A to 87-G pertaining to all other milk handling equipment.

Sec. 87-G. Rules and regulations. The commissioner shall, after investigation and public hearing, adopt and promulgate rules and regulations to supplement and give full effect to sections 87-A to 87-G. Such rules and regulations shall establish sanitary regulations pertaining to the production, processing, handling and distribution of milk, cream and other dairy products, including the construction, sanitary condition of buildings, grounds and equipment where milk or milk products are produced, processed, handled and distributed. Such rules and regulations shall be filed and open for public inspection at the office of the commissioner and shall have the force of law.

Sec. 87-H. Penalties. Any firm, person, corporation or society who shall produce grade A milk, or pasteurized grade A milk for sale in the State or who shall sell milk or cream in the State without the license or licenses provided in section 87-C, or who shall violate any of the provisions of sections 87-A to 87-G, or neglects, fails or refuses to comply with any of the provisions of said sections and the rules and regulations issued thereunder, shall be punished by a fine of not more than \$100, for the first offense, and by a fine of not more than \$200 for each subsequent offense.

Sec. 87-I. County attorney to assist. The county attorney for the county in which any violation of sections 87-A to 87-G has occurred shall, if requested, assist the commissioner in the prosecution of cases arising thereunder.

Sec. 87-J. Jurisdiction. Trial justices shall have original jurisdiction concurrent with municipal courts and the Superior Court in cases arising under sections 87-A to 87-G.'

Sec. 2. R. S., c. 32, §§ 88-99, repealed. Sections 88 to 99 of chapter 32 of the Revised Statutes, as amended, are repealed.

Sec. 3. R. S., c. 100, §§ 153-156, repealed. Sections 153 to 156 of chapter 100 of the Revised Statutes are repealed.

Effective September 16, 1961

## Chapter 164

AN ACT Relating to Public Ways and Parking Areas at State Institutions.

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

R. S., c. 27, §§ 7-A - 7-F, additional. Chapter 27 of the Revised Statutes is amended by adding 6 new sections, to be numbered 7-A to 7-F, to read as follows:

### 'Public Ways and Parking Areas at State Institutions.

Sec. 7-A. Definitions. The words "public way" or "public ways," when used in sections 7-B to 7-F, shall be held to mean all roads and driveways on lands maintained by the State at the state institutions under the jurisdiction of the Department of Mental Health and Corrections.

The words "parking area" or "parking areas," when used in sections 7-B to 7-F, shall be held to mean all lands maintained by the State at the state institutions under the jurisdiction of the Department of Mental Health and Corrections which may be designated as parking areas by the superintendents of the state institutions.

Sec. 7-B. Rules and regulations. The superintendents of the state institutions are authorized and empowered to make and enforce rules and regulations, subject to the approval of the commissioner, governing the use of public ways and parking areas maintained by the State at the state institutions. Said rules and regulations shall become effective upon deposit of a copy thereof with the Secretary of State, who shall forward a copy thereof attested under the great seal of the State to a municipal court or a trial justice court in the area of jurisdiction.

Sec. 7-C. Special police officers; powers and duties; duties of other officers to cooperate. The superintendents of the state institutions are authorized and empowered to appoint and employ, subject to the Personnel Law, special police officers for the purpose of enforcing rules and regulations made pursuant to section 7-B.