

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
One Hundred and Sixth Legislature
1ST SPECIAL SESSION
JANUARY 2, 1974 TO MARCH 29, 1974
AND BY THE
One Hundred and Seventh Legislature
REGULAR SESSION
JANUARY 1, 1975 TO JULY 2, 1975

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH THE REVISED STATUTES OF 1964, TITLE 3,
SECTION 164, SUBSECTION 6.

THE KNOWLTON AND MCLEARY COMPANY
FARMINGTON, MAINE
1975

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
One Hundred and Seventh Legislature

1975

have been securely attached to each bird a metallic seal. Such seal shall remain attached to said birds until they are finally prepared for consumption. Such seal shall be supplied by the commissioner at a cost of 5¢. Such licensed breeders may, at any time, consume, sell, transport or kill and sell, and any person, firm or corporation, resident of the State, may purchase, have in possession or transport any game birds or migratory game birds raised, by virtue of this section. Such licensed breeders may also sell live or dressed game birds or migratory game birds outside the State, subject to regulations governing the importation of game birds or migratory game birds of the state in which sold.

Sec. 23. 12 MRSA § 2953, first ¶, as amended by PL 1965, c. 374, is further amended by adding a new sentence after the first sentence to read:

Any officer authorized to arrest for violations of this section may arrest, without a warrant, any person involved in a hunting accident, if the officer has probable cause to believe that such person has violated this section.

Sec. 24. P & SL 1963, c. 44 is repealed.

Effective October 1, 1975

CHAPTER 517

AN ACT to Repeal Milk Control Prices at the Retail Level.

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

Sec. 1. 7 MRSA § 2952, as last amended by PL 1973, c. 758, § 2, is repealed and the following enacted in place thereof:

§ 2952. Organization

The Maine Milk Commission, as heretofore established, shall consist of 5 members and at all times shall include within its membership the Commissioner of Agriculture, ex officio. None of the remaining 4 members of the commission shall at the time of appointment or while serving as a member of the commission, and no employee of the commission shall have any official business, other than retail purchases of milk, or professional connection or relation with, or hold any interest or stock or securities in, any producer, dealer, store or other person whose activities are subject to the jurisdiction of the commission; nor shall any member or employee of the commission render any professional or other service against any such producer, dealer, store or other person whose activities are subject to the jurisdiction of the commission or be a member of a firm which shall render any such service.

All members of the commission 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, except that in the first instance, the initial terms shall be for one, 2, 3 and 4 years so that the terms of the members of the commission shall be staggered.

The members of the commission shall elect a chairman. With the approval of the commission, the Commissioner of Agriculture may employ, subject to the Personnel Law, a secretary and such officers, clerks, assistants and other employees as shall be deemed necessary. The commission may employ such expert, professional or other assistance as the commission deems necessary. 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 Department of the Attorney General.

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 a per diem compensation for the time actually spent in the performance of his duties, such compensation to be determined by the Governor and Council. The cost of administration of said commission, including expenses and compensation of members, shall not exceed the amount of fees collected under this chapter. The commission shall be furnished a suitable office in the State Capitol, together with all necessary equipment and supplies therefor.

The commission shall hold regular meetings on the 3rd Thursday of each calendar month. The chairman shall call special meetings of the commission whenever requested in writing by 2 or more members of the commission.

Sec. 2. 7 MRSA § 2953 is repealed and the following enacted in place thereof:

§ 2953. Powers and duties

The commission shall have power to establish and change the minimum wholesale and retail prices for the sale of milk within the State, 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 commission shall 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.

Not less than once every 3 years, the commission shall conduct independent studies of the economics and practices of the milk industry in order to assist the commission in establishing minimum prices.

In administering this chapter, the commission shall have the power to conduct hearings, subpoena and examine under oath, producers, dealers, stores or other persons whose activities are subject to the jurisdiction of the commission and their officers, agents and representatives, together with their records, books and accounts, and any other person from whom the commission requires information in order to carry out the purposes and intent of this chapter. Any member of the commission, and any employee designated by the commission, may sign subpoenas and administer oaths to witnesses.

The commission may adopt, promulgate and enforce all rules, regulations and orders necessary to carry out this chapter.

To enable the commission to perform its duties, the commission shall have the power to inquire into the management of the businesses of the producers, dealers and stores to obtain from them all necessary information. Every producer, dealer and store shall keep and render to the commission, at such times and in such manner and form as shall be prescribed by the rules and regulations of the commission, accounts of all business transacted which is related to the production, purchasing, processing, sale or distribution of milk. Such accounts shall reasonably reflect, in such detail as the commission deems appropriate, income, expense, assets, liabilities and such other accounting entries as the commission deems necessary, to assist the commission in making its determinations:

1. As to minimum prices generally;
2. As to separate minimum price categories to be established to reflect different container costs;
3. As to separate minimum price categories to be established for different quantities of milk packaged and sold in separate containers;
4. As to separate minimum price categories to reflect identifiable distribution costs;
5. As to all other matters pertinent to the proper performance of its duties.

The rules and regulations of the commission shall also establish procedures to enable the commission to inspect the records, books and accounts of dealers, producers and stores at their various offices and places of business at reasonable times.

Sec. 3. 7 MRSA § 2954, as last amended by PL 1973, c. 758, §§ 3, 4, 5, 6 and 7, is repealed and the following enacted in place thereof:

§ 2954. Establishment of minimum prices

1. The commission is vested with the power to establish and change, after investigation and public hearing, the minimum wholesale and retail prices to be paid to producers, dealers and stores for milk received, purchased, stored, manufactured, processed, distributed or otherwise handled within the State. The commission shall hold a public hearing prior to the establishing or changing of such minimum prices. Provided, however, that the commission may waive the requirement of a public hearing when the only changes to be made in the minimum prices are to conform with the orders of any federal or other agency duly authorized by law to establish or negotiate producer prices. Due notice of such public hearing shall be given by publishing such notice at least 7 days prior to the hearing in appropriate newspapers. The commission shall hold such a public hearing not less frequently than once ever 12 months to determine whether the minimum wholesale and retail prices then established should be changed. In addition to the data received through the implementation of the information gathering procedures of its rules and regulations as a basis for its determinations, the commission shall solicit and seek to receive oral and written testimony at such hearings to determine whether the minimum wholesale and retail prices then established should be changed and whether the proposed minimum wholesale and retail prices are just and reasonable.

2. In establishing and changing minimum wholesale and retail prices, the prices so established 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; prevailing prices in neighboring states; seasonal production and other conditions affecting the costs of production, transportation and marketing in the milk industry, including a reasonable return to producer, dealer and store; taking into consideration the public need for the establishment of retail milk prices at the lowest practicable levels.

A. The minimum wholesale prices paid to producers shall be based on the prevailing Class I and Class II prices in southern New England and, after investigation by the Maine Milk Commission, shall reflect as accurately as possible the increased costs of production.

B. The minimum wholesale prices paid to dealers shall be established to reflect the lowest prices at which milk purchased from Maine producers at Maine minimum prices can be received, processed, packaged and distributed within the State of Maine at a just and reasonable return.

C. The minimum retail prices established for payment by consumers shall be based on the minimum wholesale price paid to dealers and a rate of return deemed just and reasonable by the Maine Milk Commission.

3. The minimum price provisions of this chapter shall not apply to sales by producers of raw milk produced and sold to consumers on the premises of the producers.

4. 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 established under this chapter shall apply.

5. Upon establishing said minimum prices in any market which shall apply to the various 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. Such order shall become effective in accordance with Title 5, chapters 301 to 307, 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 prices established for that market.

6. Any dealer may deduct an allowance for transportation from the producer's farm to the dealer's dairy plant pursuant to a reasonable schedule of charges filed with the commission, with a copy to each affected producer, at least 30 days prior to the proposed effective date. Any interested producer or any organization representing producers may petition the commission at any time to review the reasonableness of any such schedule of transportation charges, and the commission is empowered to suspend proposed schedules pending hearing and, after hearing, to disapprove and reject any schedules then pending or theretofore in effect, found to be unreasonable or, after hearing, to approve any such schedules found to be reasonable or to establish any new schedules deemed to be reasonable. It shall be incumbent upon the dealer to substantiate the reasonableness of the schedule of the transportation

charges filed; and in the absence of said evidence, the schedule of charges filed shall be deemed unreasonable.

7. It shall be unlawful for any person to engage in any practice destructive of the scheduled minimum prices for milk established under 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 this chapter may appeal to the Superior Court.

8. Whenever milk produced outside the State becomes a subject of regulation by the State in the exercise of its police powers, this chapter shall apply and the powers of the commission shall attach. After any such milk so produced shall come within the jurisdiction of this State, any sale or purchase by dealers of such milk within this State at a price less than the scheduled minimum price established according to usage in any given market shall be unlawful.

Sec. 4. 7 MRSA § 2955, as last amended by PL 1973, c. 303, § 3, is further amended by inserting at the end of the first paragraph the following new sentence:

No retailer shall sell or offer to sell milk in any market in the State which he has purchased in Maine from an unlicensed dealer.

Sec. 5. 7 MRSA § 2956, as last amended by PL 1971, c. 128, §§ 1 and 2, is repealed and the following enacted in place thereof:

§ 2956. Records and fees

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

1. Names and addresses of producers or milk dealers. 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, or of importer of such milk into the State;

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

3. Other records and information. Such other records and information in such form and at such times as the commission may deem necessary for the proper enforcement of this chapter.

Each dealer shall furnish his producers a statement of the amount of milk purchased, the price per hundredweight or quart, the total amount paid for each pay period, the itemized deductions for transportation and other services, the percentages of milk in each classification and the butterfat test when weight and test method of payment is used, and shall pay his Maine producers the established minimum price for the classification of the milk according to its usage.

Each licensed dealer shall pay to said commission an annual license fee of \$1 and the sum of 5¢ per hundredweight as monthly payments, based on quantity of milk purchased or produced in any market area, or purchased or produced in an uncontrolled area and sold in any market area. Two 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 5¢ per hundredweight.

Dealers shall file reports together with the prescribed hundredweight fees with the commission at its office in Augusta not later than the 20th of the 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 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 provided, ½ pint of cream shall be considered the equivalent of one quart of milk.

Effective October 1, 1975

CHAPTER 518

AN ACT to Repeal the Lobster and Crab Fishing License Freeze.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the lobster and crab fishing license moratorium was enacted because of the uncertainty of what the U. S. District Court's decision on the residency requirement for fishing would be; and

Whereas, the court has rendered its decision declaring the residency requirements of Title 12, section 4404 unconstitutional; and

Whereas, eligible Maine residents are unable to obtain lobster and crab fishing licenses and hardships have developed; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 12 MRSA § 4404, sub-§ 4, first sentence, as amended by PL 1973, c. 397, is repealed and the following enacted in place thereof:

Any person domiciled in the State of Maine may apply to the commissioner for a lobster and crab fishing license.