

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1993

disadvantage of other existing businesses in this State.

4. Contract terms. Upon the selection of candidate proposals, eligible electric utilities shall negotiate the sale of electricity from the surplus energy pool established under section 4403. The terms of these contracts must be based on the proposals submitted pursuant to this section and the criteria established under subsection 3 and must be for a period not to extend beyond the period during which the commission, pursuant to section 4403, determines that surplus will be available. Contracts entered into under this chapter must include provisions making the contract interruptible and terminable to ensure that only surplus energy or capacity is sold under the contract.

§4403. Surplus energy pool established

The commission shall, within 90 days of the effective date of this section, estimate the total amount of surplus electricity that is likely to be available to each eligible electric utility and the period during which that surplus will be available. The commission shall calculate the total surplus as the amount of electricity not required to meet the utility's projected load at any time during the period of surplus and not needed to satisfy the requirements of the utility's participation in the New England power pool as defined in section 4103. The energy pool available to be auctioned under this chapter may be no more than 80% of the total surplus electricity estimated by the commission. The commission may further restrict the size of the pool to the extent the commission determines necessary to protect the interests of ratepayers. This subsection does not preclude an eligible electric utility from marketing surplus energy under any other applicable tariff or special contract filed with the commission.

§4404. Report to Legislature

The commission shall report annually to the Governor and the Legislature on the status of the Maine Surplus Energy Auction Program.

See title page for effective date.

CHAPTER 663

H.P. 1384 - L.D. 1883

An Act to Promote the Quality of Maine Dairy Products

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

Whereas, this legislation provides information for consumers about the manner by which milk is produced in the State, including use of recombinant bovine somatotropin, or rbST; and

Whereas, with the expiration of the state ban on the use of rbST and the approval of the Federal Government for use of rbST, this information is needed immediately; 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. 7 MRSA §2901-B is enacted to read:

§2901-B. Trademark for milk and milk products

The department shall adopt rules permitting the use of the certification trademark provided for in section 443-B on milk or milk products. The initial rules must include limitations relating to the use of milk from cows that have been treated with recombinant bovine somatotropin, referred to in this section as "rbST." The rules may require that the department receive written consent from producers to draw blood from their milking herd, examine historical milk production records, inspect medicine storage places, and to perform other inspections reasonably necessary to verify compliance with the trademark criteria.

1. Notice by producer. If the criteria for use of the certification trademark include absence of the use of rbST, a milk producer in this State who sells milk to a dealer who uses the trademark must notify that milk dealer before using rbST within the milking herd of the producer's dairy farm. Notification to the dealer must be made at least 45 days before using rbST. Notification must be made by certified mail and sent to the dealer's employee responsible for milk procurement at the plant location where the milk is processed. For purposes of this section, "possession of rbST" means use.

2. Failure to provide notice. If a Maine producer fails to give the dealer the notice required in subsection 1, the dealer is not required to comply with the notice requirements of section 2903-A before refusing to continue to purchase milk under any contract with that producer.

Sec. 2. 7 MRSA §2909 is enacted to read:

§2909. Inspection

The commissioner, or a duly authorized agent of the commissioner, may perform inspections as authorized by written consents obtained pursuant to section 2901-B.

Sec. 3. 7 MRSA §2954, sub-§2, ¶A, as amended by PL 1991, c. 266, §2, is further amended to read:

A. The minimum wholesale prices paid to producers are based on the prevailing Class I, Class II and Class III prices in southern New England ~~and, after. After~~ investigation ~~by, the~~ Maine Milk Commission, ~~must reflect as accurately as possible the increased costs of production may set minimum wholesale prices paid to producers~~ to reflect the costs of producing milk in this State.

Sec. 4. 36 MRSA §4543, sub-§2, as amended by PL 1993, c. 274, §4, is further amended to read:

2. Rate. The rate of the tax levied under this chapter is established for each tax period on the basis of the basic price of milk in effect on the Sunday following the first Sunday of the tax period in accordance with the following chart:

Basic Price	Rate of Maine Dairy Farm Stabilization Tax
\$16.00 <u>\$16.50</u> per hundredweight and above	0¢ per quart
<u>\$16.00 to \$16.49 per hundredweight</u>	<u>1¢ per quart</u>
\$15.50 to \$15.99 per hundredweight	1¢ <u>2¢</u> per quart
\$15.00 to \$15.49 per hundredweight	2¢ <u>3¢</u> per quart
\$14.50 to \$14.99 per hundredweight	3¢ <u>4¢</u> per quart
\$14.00 to \$14.49 per hundredweight	4¢ <u>5¢</u> per quart
below \$14.00 per hundredweight	5¢ <u>6¢</u> per quart

For any container other than a quart, the tax is computed on a quart equivalent basis.

Sec. 5. 36 MRSA §4544, sub-§2, as amended by PL 1993, c. 274, §5 and affected by §6, is further amended to read:

2. Distribution. All funds collected under this chapter and all other funds appropriated by the Legislature for the purposes of this chapter and interest earnings on these funds must be distributed by the Treasurer of State on a monthly basis as follows.

A. Ninety-four and one-half percent of the funds collected under this chapter and all other funds appropriated by the Legislature for the purposes of this chapter and any earnings on these funds must be paid each month to the Commissioner of Agriculture, Food and Rural Resources for distribution to Maine market producers and Boston market producers equally per hundredweight on the basis of their production during the prior month. Such payments to producers must be made by the 20th day of the month following the month that payment of the tax is due. A payment may not be allocated to that portion of a producer's milk production that is in excess of 800,000 pounds per month. Notwithstanding any other provisions of law, the funds distributed to producers under this paragraph are allotted for the purposes of this paragraph and the Commissioner of Agriculture, Food and Rural Resources or the Maine Milk Pool administrator pursuant to Title 7, section 3154, as the commissioner's designee, is authorized to prepare and sign warrants for the payment of the amounts due to producers from the Maine Dairy Farm Stabilization Fund under this chapter.

B. Four percent of the funds collected each month must be paid into a separate, nonlapsing account to be allocated by the Legislature on an annual basis to supplement the Women, Infants and Children Special Supplemental Food Program of the United States Child Nutrition Act of 1966 administered by the Department of Human Services. The Department of Human Services shall utilize an amount attributable to 1¢ per hundredweight in a manner that gives priority to goods produced in Maine, to the extent permitted by federal law.

C. ~~Two~~ One and one-half percent of the fund must be paid into a separate, nonlapsing account to be allocated by the Legislature on an annual basis to cover the actual costs of the administration and enforcement of this chapter by the Treasurer of State, the State Tax Assessor, the Attorney General and the Commissioner of Agriculture, Food and Rural Resources and to enforce or verify compliance with standards and criteria established for the use of a certification trademark authorized by the Commissioner of Agriculture, Food and Rural Resources pursuant to Title 7, section 2901-B. Any remaining

~~balance of this account after these allocations must be redeposited in the Maine Dairy Farm Stabilization Fund for distribution to producers.~~

Sec. 6. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

	1993-94	1994-95
AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF		
Agricultural Production		
All Other		\$45,228
Provides funds for administration of the Maine dairy farm stabilization program and for general operating costs incurred to enforce and verify standards for the certification trademark for milk and milk products.		
Public Services - Agriculture		
All Other	\$25,000	\$25,000
Provides funds for general operating costs of the milk inspection program.		
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES		
TOTAL	<u>\$25,000</u>	<u>\$70,228</u>

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved, except that the provisions that amend the Maine Revised Statutes, Title 36, sections 4543 and 4544 and the allocation section take effect on May 1, 1994.

Effective April 12, 1994, unless otherwise indicated.

CHAPTER 664

S.P. 730 - L.D. 1951

An Act to Consolidate and Streamline the Functions of Maine Government in Conformity with the Provisions of the Texas Low-Level Radioactive Waste Disposal Compact

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

Whereas, this legislation streamlines the regulatory functions of the State and alters the regulation of radioactive waste in the State; and

Whereas, the changes would be beneficial to the State if made immediately; 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. 5 MRSA §12004-F, sub-§13, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. 2. 5 MRSA §12004-I, sub-§24-D, as renumbered by RR 1991, c. 2, §15, is repealed.

Sec. 3. 5 MRSA §12004-J, sub-§2, as corrected by RR 1993, c. 1, §14, is repealed.

Sec. 4. 5 MRSA §12004-J, sub-§2-A is enacted to read:

<u>2-A.</u>	<u>Advisory</u>	<u>Legislative</u>	<u>38</u>
<u>Environment</u>	<u>Commission</u>	<u>Per Diem</u>	<u>MRSA</u>
	<u>on Radioac-</u>		<u>§1453-A</u>
	<u>tive Waste</u>		

Sec. 5. 22 MRSA §565-A is enacted to read:

§565-A. Coordination with State Radiation Control Agency

The Health and Environmental Testing Laboratory shall provide laboratory services for environmental testing and analysis as necessary to implement the radiation protection services of the department conducted pursuant to section 680, subsection 2, paragraph D. Each nuclear power plant shall pay a fee to the Health and Environmental Testing Laboratory to the special revenue account established in section 568 to carry out the purposes of this section. The fee is \$90,000 annually.

Sec. 6. 22 MRSA §664, sub-§5, as amended by PL 1987, c. 882, §2, is further amended to read:

5. Fees. Each nuclear power plant licensee whose operations are monitored under this chapter shall pay a fee to the State Nuclear Safety Inspector to the permanent fund established in section 680, subsection 7. The fee ~~shall~~ must take the form of a yearly