

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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
1999

J. The date of notification.

~~When a landowner has a designated agent, the designated agent must submit with the notification form a notarized statement of agreement signed by the landowner and the designated agent or a durable power of attorney.~~

Sec. 6. 12 MRSA §8883, sub-§3, as amended by PL 1997, c. 648, §6, is further amended to read:

3. Notification form on file; posted. The landowner or designated agent shall retain a copy of the notification form and produce it upon request of agents as specified in section 8888. The landowner or designated agent shall post a copy of the notification form number at the harvest site in a clearly visible location.

Sec. 7. 12 MRSA §8883, sub-§5, as enacted by PL 1989, c. 555, §12 and affected by c. 600, Pt. B, §11, is amended to read:

5. Notification exemption. The following activities are exempt from the notification requirement under this section:

A. Activities where forest products are harvested for an owner's own use and are not sold or offered for sale or used in the owner's primary wood-using plants; ~~and~~

B. Precommercial silvicultural forestry activities; ~~and~~

C. Harvesting within a 12-month period when the total area harvested on land owned by that landowner does not exceed:

(1) Two acres if the residual basal area of acceptable growing stock over 4 1/2 inches in diameter measured at 4 1/2 feet above the ground is less than 30 square feet basal area per acre; or

(2) Five acres if the residual basal area of acceptable growing stock over 4 1/2 inches in diameter measured at 4 1/2 feet above the ground is more than 30 square feet basal area per acre.

See title page for effective date.

CHAPTER 362

S.P. 667 - L.D. 1889

An Act to Amend the Maine Milk Laws

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

Sec. 1. 7 MRSA c. 601 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 601

MILK AND MILK PRODUCTS

Sec. 2. 7 MRSA §2901, first ¶, as amended by PL 1979, c. 541, Pt. A, §72, is further amended to read:

As used in this section; ~~and~~ sections 2901-A to 2904 ~~and 3101 to 3103~~, unless the context otherwise indicates, the following terms ~~shall~~ have the following meanings.

Sec. 3. 7 MRSA §2901, sub-§1-A, as enacted by PL 1971, c. 164, §1, is amended to read:

1-A. Adulterated and misbranded milk and milk products. "Adulterated milk and milk products" means milk or milk products ~~which that~~ upon analysis are found to contain added water or ~~which contain~~ any unwholesome substance; or milk or milk products ~~which that~~ contain any antibiotics, pesticide or chemical residues; or ~~which that~~ if defined in ~~sections 2901 to 2904 and 3101 to 3103~~ this section or defined in the ~~regulations promulgated~~ rules adopted by the commissioner do not conform to the definition thereof; ~~shall be deemed to be adulterated.~~ Milk or milk products ~~shall be deemed~~ are considered to be misbranded if the labeling is false, improper or misleading in any particular; or the labeling does not comply with the ~~requirements promulgated~~ rules adopted by the commissioner.

Sec. 4. 7 MRSA §2901, sub-§17 is repealed and the following enacted in its place:

17. Milk. "Milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, goats or sheep.

Sec. 5. 7 MRSA §2901, sub-§22, as amended by PL 1981, c. 315, §5, is repealed and the following enacted in its place:

22. Milk products. "Milk products" includes cream, light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, sour cream, acidified sour cream, cultured sour cream, milk, butter, evaporated milk, sweetened condensed milk, nonfat dry milk solids, half and half, sour half and half, acidified sour half and half, cultured sour half and half, concentrated milk and milk products, skim milk, reconstituted or

recombined milk and milk products, low-fat milk, light milk, reduced fat milk, homogenized milk, frozen milk concentrate, eggnog, cultured milk, cultured reduced-fat milk, cultured light milk, cultured low-fat milk, cultured skim milk, buttermilk, yogurt, reduced fat yogurt, light yogurt, low-fat yogurt, nonfat yogurt, cottage cheese, creamed cottage cheese, acidified milk, acidified reduced-fat milk, acidified light milk, acidified low-fat milk, acidified skim milk, low-sodium milk, low-sodium reduced-fat milk, low-sodium light milk, low-sodium low-fat milk, low-sodium skim milk, lactose-reduced milk, lactose-reduced reduced-fat milk, lactose-reduced light milk, lactose-reduced low-fat milk, lactose-reduced skim milk, aseptically processed and packaged milk and milk products, milk, reduced-fat milk, light milk, low-fat milk and skim milk with added safe and suitable microbial organisms and any other milk product, frozen dessert or frozen dessert mix, cheese or any other product designated as a milk product by the commissioner made by the addition or subtraction of milk fat or the addition of safe and suitable optional ingredients for protein, vitamin or mineral fortification.

Sec. 6. 7 MRSA §2901, sub-§23-A is enacted to read:

23-A. Not pasteurized. "Not pasteurized" means any milk or milk product that has not been subjected to the temperature and time requirements of pasteurization using equipment designed for pasteurization or has not been aseptically processed and packaged. For the purposes of this subsection, "aseptically processed and packaged" means hermetically sealed in a container and thermally processed to render the product free of microorganisms capable of reproducing in the product under normal nonrefrigeration conditions of storage and distribution.

Sec. 7. 7 MRSA §2901-A, as enacted by PL 1973, c. 67, is amended to read:

§2901-A. Standards and labeling

Notwithstanding any other requirements of this chapter, milk and milk products, defined in accordance with standards then in effect which that have been adopted by the United States Government and labeled in conformity with labeling requirements then in effect which that have been adopted by the United States Government, ~~shall be deemed~~ are considered to conform with the definitions and labeling requirements set forth in this chapter; except that containers of milk and cream ~~shall packaged in Maine~~ must also bear the name and address of the Maine licensed milk dealer and sufficient information to identify the milk plant where packaged as required by section 2903.

Sec. 8. 7 MRSA §2902, as amended by PL 1989, c. 888, §§3 and 4, is repealed and the following enacted in its place:

§2902. Licensing fees

A person may not sell milk or milk products prior to obtaining a license pursuant to rules adopted under section 2910 or pursuant to former section 2902.

1. Milk distributor license fee. A milk distributor license fee is based on the annual volume of milk sold or distributed in the State. The annual fee may not be lower than \$25 or exceed \$300.

2. General Fund. All money received from milk distributor license fees by the commissioner must be deposited in the General Fund.

Sec. 9. 7 MRSA §2903, as amended by PL 1985, c. 32, is repealed.

Sec. 10. 7 MRSA §2904, as amended by PL 1977, c. 694, §139, is repealed.

Sec. 11. 7 MRSA §2905 is repealed.

Sec. 12. 7 MRSA §2906, as repealed and replaced by PL 1977, c. 696, §98, is amended to read:

§2906. Civil suits

The district attorney for the county in which any violation of sections ~~2901 to 2904 and 3101 to 3103~~ 2901-A to 2902-A has occurred shall, if requested, assist the commissioner in suits arising ~~thereunder~~ under those sections.

Sec. 13. 7 MRSA §2907 is amended to read:

§2907. Jurisdiction

The District Court and the Superior Court ~~shall~~ have concurrent jurisdiction in cases arising under sections ~~2901 to 2904 and 3101 to 3103~~ 2901-A to 2902-A.

Sec. 14. 7 MRSA §2908, first ¶, as amended by PL 1991, c. 725, §1, is further amended to read:

Any firm, person, corporation or society who sells milk or cream in the State without the license or licenses provided in section 2902; or who violates any of the provisions of sections ~~2901 to 2904, 3101 to 3103 and 3105, 2901-A to 2902-A~~ or neglects, fails or refuses to comply with any of the provisions of those sections and the rules, regulations and standards of identity and quality issued thereunder commits a civil violation for which the following forfeiture may be adjudged:

Sec. 15. 7 MRSA §2910 is enacted to read:

§2910. Standards for milk and milk products

The commissioner, in a manner consistent with the Maine Administrative Procedure Act, shall establish standards by rule for the inspection and examination, licensing, permitting, testing, labeling and sanitation of milk and milk product production and distribution.

The standards must be consistent with the requirements of the official standards, known as the Pasteurized Milk Ordinance, as issued by the Secretary of the United States Department of Health and Human Services, Food and Drug Administration, except that the standards may not prohibit the sale of unpasteurized milk and milk products in the State.

Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 16. 7 MRSA cc. 607 and 609, as amended, are repealed.

Sec. 17. 10 MRSA c. 503, as amended, is repealed.

Sec. 18. Report; legislation authorized. The Department of Agriculture, Food and Rural Resources shall submit rules provisionally adopted in accordance with the Maine Revised Statutes, Title 7, section 2910 to the Legislature for review as major substantive rules no later than January 3, 2000. The Joint Standing Committee on Agriculture, Conservation and Forestry is authorized to report out legislation relating to the Maine milk laws during the Second Regular Session of the 119th Legislature.

See title page for effective date.

CHAPTER 363

H.P. 527 - L.D. 734

**An Act to Strengthen the Child Care
Licensing Laws**

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

Sec. 1. 22 MRSA §3296, as enacted by PL 1989, c. 502, Pt. A, §73, is amended to read:

§3296. Penalty for violations

Any person who violates this chapter ~~shall be~~ is subject to the applicable penalty as provided in chapters 958-A and 1071 ~~and section 7702.~~

Sec. 2. 22 MRSA §7702, as amended by PL 1997, c. 494, §6 and affected by §15, is repealed.

Sec. 3. 22 MRSA §7702-A is enacted to read:

§7702-A. Violations; penalties

1. Criminal penalties. Except as otherwise provided by law, a person who violates any provision of this subtitle commits a Class E crime.

2. Civil penalties. A person who violates section 7703 or 8603 or rules adopted pursuant to those sections commits a civil violation for which a forfeiture not to exceed \$500 may be adjudged. A person who violates rules governing child-to-staff ratios adopted under section 8302-A, subsection 1, paragraph A or subsection 2, paragraph G commits a civil violation for which a forfeiture not to exceed \$500 per incident or \$500 per number of children above the limitation set by rule, or both, may be adjudged.

3. Licensure provisions. A person who violates the following sections or rules adopted pursuant to those sections is subject to the sanctions provided for under the rules of licensure applicable to the facility, day care center or home day care provider:

A. Section 7801, subsection 1, paragraph A;

B. Section 8301-A; or

C. Section 8302-A, subsection 1, paragraphs B to I and subsection 2, paragraphs A to F and H to J.

4. Dedicated funds. Fines and forfeitures adjudged under this section are payable to the Purchased Social Services Other Special Revenue account.

Sec. 4. 22 MRSA §8301-A, sub-§1, ¶A, as enacted by PL 1997, c. 494, §8 and affected by §15, is repealed and the following enacted in its place:

A. "Day care center" means:

(1) A house or other place in which a person maintains or otherwise carries out a regular program, for consideration, for any part of a day providing care and protection for 13 or more children under 13 years of age;

(2) A facility that is not part of a person's own home where there are between 3 and 12 children being cared for; or

(3) Any location or locations that are operated as a single day care program or by a single person or persons when there are more than 12 children being cared for.

"Day care center" does not include a facility operated as a nursery school, a facility operated by