

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

CHAPTER 329

S.P. 413 - L.D. 1282

**An Act To Amend the Laws
Governing Agricultural Marketing
and Bargaining**

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

Sec. 1. 7 MRSA §1091, as amended by PL 1987, c. 384, §1, is repealed.

Sec. 2. 7 MRSA §1091-A is enacted to read:

§1091-A. Dues and fair share fees

1. Definitions. As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Association" has the same meaning as in Title 13, section 1774, subsection 3.

B. "Fair share fee" means a fee deducted by a dealer or processor from a producer who is not an association member.

2. Association dues. When a member of an association makes a written assignment of dues to that association, those dues must be paid out of funds due or to become due to that member for any farm product produced or to be produced by that member or for any services performed or to be performed by that member in the production of farm products. A person who accepts or receives the product or services from the member is bound by that assignment after receiving written notice from the association or from the member, and that person shall withhold the assigned dues from amounts payable by that person to the member thereafter during the period of the assessment.

3. Fair share fees for contracts entered into after the association agreement. A nonmember producer who supplies farm products to a dealer or processor subject to collective bargaining and who enters into a preseason contract with the dealer or processor after the association has signed an agreement with that dealer or processor must be assessed a fair share fee equal to 50% of the amount charged to association members as dues. The dealer or processor shall withhold the fair share from the nonmember in the same manner as member dues are withheld. The nonmember shall make a written assignment directing the dealer or processor to have the fair share fee:

A. Remitted to the association and used to defray the costs incurred by the association as the recognized collective bargaining unit in fulfilling

its duty to represent producers in their relations with the dealer or processor; or

B. Deposited in a fund established by the dealer or processor for awarding educational scholarships to contributing nonmembers and association producers.

4. Fair share fees for contracts entered into before the association agreement. Except as provided in subsection 5, a dealer or processor subject to collective bargaining may not assess or withhold a fair share fee from a nonmember producer who enters into a preseason contract to supply farm products to that dealer or processor before the association has signed an agreement with that dealer or processor unless the nonmember producer directs the processor or dealer to do so in accordance with this subsection.

A nonmember producer may make a written assignment directing the dealer or processor to withhold a fair share fee equal to 50% of the amount charged to association members as dues for deposit in a fund established by the dealer or processor for awarding educational scholarships to contributing nonmembers and association producers.

5. Changes in nonmember contract. The dealer or processor shall withhold a fair share fee from a nonmember in accordance with subsection 3 when:

A. The nonmember entered into a preseason contract to supply farm products to a dealer or processor before the association signed an agreement with that dealer or processor; and

B. The nonmember consents to a change or changes in that nonmember's contract after the association has signed an agreement with that dealer or processor and the change or changes provide an increase in contract value.

Sec. 3. 7 MRSA §1092, as amended by PL 1987, c. 384, §2, is further amended to read:

§1092. Assignment

No provision ~~which~~ that is inserted in any contract or other instrument that is prepared by a dealer or processor ~~which~~ that makes an assignment of the dues or fair share fees described in section ~~4094~~ 1091-A ineffective is valid.

An assignment of dues or fair share fees may not exceed 1% of the total value of the product or services delivered by the member to the dealer or processor.

Sec. 4. 7 MRSA §1093, as repealed and replaced by PL 1987, c. 384, §3, is amended to read:

§1093. Remittance of dues and fair share fees; accounting

1. Sale of farm products. Subject to subsection 3, a dealer or processor shall, on or before the 15th day of each month, pay to an association all dues and fair share fees assigned to the association pursuant to section ~~1091~~ 1091-A with respect to farm products received from members and nonmembers by the dealer or processor during the preceding calendar month. At the time of each monthly payment of dues and fair share fees, the dealer or processor shall provide to the association a summary statement showing, for each member and nonmember, the quantity of farm products received, the payment due to the member and nonmember for those farm products prior to the deduction of dues or fair share fees and the amount of dues or fair share fees deducted therefrom pursuant to the assignment.

2. Performance of farm services. Subject to subsection 3, a dealer or processor shall, on or before the 15th day of each month, pay to an association all dues and fair share fees assigned to the association pursuant to section ~~1091~~ 1091-A with respect to services performed by members and nonmembers in the production of farm products ~~which that~~ were received by the dealer or processor during the preceding calendar month. At the time of each monthly payment of dues and fair share fees, the dealer or processor shall provide to the association a summary statement showing, for each member and nonmember, the quantity of farm products for which services were performed and the amount of dues or fair share fees deducted therefrom pursuant to the assignment.

3. Flat rate dues and fair share fees deductions. In the event that the dues and fair share fees assigned to the association pursuant to section ~~1091~~ 1091-A are not calculated on the quantity of farm products sold or tendered by members and nonmembers to the dealer or processor, the dealer or processor shall pay the dues and fair share fees to the association according to the payment schedule contained in the assignment. No payment schedule may require the payment of assigned dues and fair share fees more frequently than once a month.

Sec. 5. 13 MRSA §1958-B, sub-§2, as enacted by PL 1987, c. 155, §15, is amended to read:

2. Required mediation. Any matters remaining in dispute between the handler and a qualified association 30 days prior to the contract date, as defined in subsection 4, ~~shall must~~ be submitted by the parties to required mediation. No later than 30 days prior to the contract date, the parties ~~shall must~~ have mutually agreed on a mediator and on sharing the costs of mediation or ~~shall must~~ have notified the

board that the services of the State's Panel of Mediators will be needed. If services of the State's Panel of Mediators are used, the parties shall share all costs of mediation equally. Mediation ~~shall may not~~ continue for ~~no~~ more than 3 consecutive business days for annual crops; all other commodities ~~shall may not~~ last ~~no~~ more than 5 days, unless the mediator earlier declares that resolution by mediation is not possible. Mediation may be extended by mutual agreement by the bargaining parties. At the end of the mediation period or upon the mediator's earlier declaration, the mediator shall promptly prepare a report specifying all agreements reached in mediation and recommending that the parties either resume bargaining as to all matters remaining in dispute for a period of time not to exceed 2 days or that the parties submit all matters remaining in dispute to arbitration. The parties shall proceed according to the mediator's recommendation. If the parties are to resume bargaining, that bargaining ~~shall must~~ commence on the day after the day on which the mediator makes ~~his the~~ recommendation. Any matters remaining in dispute at the end of the specified bargaining period ~~shall must~~ be submitted to arbitration.

Sec. 6. 13 MRSA §1958-B, sub-§5, ¶D, as repealed and replaced by PL 1989, c. 703, §2, is amended to read:

D. Upon notification by the parties as provided in this subsection, the commissioner shall submit to the parties a list containing an odd number of names of members of the panel of arbitrators who are available for the specific pending arbitration and have expressed a willingness to serve. The parties shall alternately strike names from the list until a single name is left, who ~~shall be~~ shall serve as the arbitrator. The order of striking names must be determined by chance.

See title page for effective date.

CHAPTER 330

S.P. 265 - L.D. 786

**An Act To Provide "Any-deer"
Permits to Permanently Disabled
Nonambulatory Persons**

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

Sec. 1. 12 MRSA §7076, sub-§17 is enacted to read:

17. Transfer of antlerless deer permits to person with ambulatory disabilities. A person who holds a valid antlerless deer permit may transfer that permit to a person who is suffering from the loss of, or