

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
First Special Session
Non-Emergency Laws Is
November 22, 2003

SECOND REGULAR SESSION
January 7, 2004 to January 30, 2004

The General Effective Date For
Second Regular Session
Non-Emergency Laws Is
April 30, 2004

SECOND SPECIAL SESSION
February 3, 2004 to April 30, 2004

The General Effective Date For
Second Special Session
Non-Emergency Laws Is
July 30, 2004

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

Penmor Lithographers
Lewiston, Maine
2004

CHAPTER 522

H.P. 1378 - L.D. 1852

**An Act To Extend the Dairy
Stabilization Subsidy Through
May 31, 2004**

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

Whereas, serious financial harm will occur to dairy farmers due to rapidly declining prices for their milk before the 90 days have passed; and

Whereas, a delay in providing these payments could cause irreparable harm to the dairy industry and result in the loss of additional dairy farms and agriculture-related businesses, which will have significant adverse effects on the economy of rural and inland Maine, jeopardize maintenance of valuable open space and compound existing problems of sprawl; and

Whereas, this legislation will provide temporary financial assistance for dairy farmers while the Legislature deliberates on a proposal to provide a long-term response to inadequate and unpredictable milk prices; 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 §3153-A, as enacted by PL 2003, c. 120, §2, is amended to read:

§3153-A. Dairy stabilization subsidy

If the base price of milk falls below \$16.94 per hundredweight in any month beginning September 1, 2003 and ending ~~December 31, 2003~~ May 31, 2004, the administrator of the Maine Milk Pool shall distribute to Maine milk producers on a per hundredweight basis ~~55%~~ 40% for the months of January to May 2004 of the difference between \$16.94 per hundredweight and the base price of milk per hundredweight. The amount distributed for milk produced during the period between ~~September 1, 2003 and December 31, 2003~~ January 1, 2004 and May 31, 2004 may not exceed ~~\$3,000,000~~ \$2,100,000. The Governor shall provide these funds to the Maine milk pool administrator for distribution to Maine milk producers, as provided for in this section, during the

months of October 2003 to ~~January~~ June 2004. The base price of milk is the Suffolk County, Massachusetts Class I price of milk as determined for each month by the Northeast Market Administrator of the United States Department of Agriculture. ~~The Governor shall seek a General Fund appropriation during the Second Regular Session of the 121st Legislature if needed for the purposes of this section.~~

Sec. 2. PL 2003, c. 513, Pt. C, §1 is repealed.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective February 20, 2004.

CHAPTER 523

H.P. 1283 - L.D. 1761

**An Act To Amend the Laws Relating
to Nonprofit Corporations**

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

Sec. 1. 13 MRSA §903, as corrected by RR 1993, c. 1, §39, is repealed and the following enacted in its place:

§903. Certificate of organization

The incorporators shall prepare, sign, date and deliver for filing with the Secretary of State a certificate of organization setting forth the name, location, officers and directors, trustees or managing board and purposes of the corporation. The certificate must clearly state that the corporation is not organized for profit and that no property or profit of the corporation inures to the benefit of any person, partnership or corporation except in furtherance of the benevolent or nonprofit purposes of the corporation. Once the Secretary of State has filed the certificate of organization, the corporation may carry on activities pursuant to this chapter.

Sec. 2. 13 MRSA §§907 and 908 are enacted to read:

§907. Filing duty of the Secretary of State

If a certificate delivered for filing with the Secretary of State satisfies the requirements of this chapter, the Secretary of State shall file the certificate. The date of filing is the date of receipt by the Secretary of State. After filing any certificate under this chapter, the Secretary of State shall deliver to the corporation or its representative a copy of the

document with an acknowledgement of the date of filing.

§908. Fees for filing certificates

A fee of \$5 must be submitted with any certificate required or permitted to be filed with the Secretary of State under this chapter.

Sec. 3. 13 MRSA §931, as corrected by RR 1991, c. 2, §40, is amended to read:

§931. Powers; change of name; proceedings; fee

The incorporators shall adopt a corporate name, and they, their associates and successors may have continual succession; have a common seal; elect all necessary officers; adopt bylaws not inconsistent with law and enforce the same by suitable penalties; have the same rights and be under the same liabilities as other corporations in prosecuting and defending civil actions; and enjoy all other rights, privileges and immunities of a legal corporation. Any corporation organized under this subchapter may by a majority vote; at a legal meeting of its members at which at least 25% are present; or at a legal meeting of its directors, trustees or managing board, however designated, change its name and adopt a new one; ~~a~~ A notice of the intention to change the name to must be given in the call for the meeting. When the proceedings of such the meeting relating to such the change of name; are certified by the clerk or secretary of the corporation, are returned to the office of the corporation shall deliver for filing with the Secretary of State to be recorded, the a certificate of name is changed change signed and dated by the clerk or secretary of the corporation. A fee of \$5 must accompany the certificate. The corporation, under its new name, has the same rights, powers and privileges, and is subject to the same duties, obligations and liabilities as before, and holds and is entitled to the same property and property rights as it held under its former name, and may sue or be sued by its new name, but no action brought against it by its former name may be defeated on that account. ~~A certificate of the change of the name of such corporation must be filed by the clerk or secretary of the corporation in the registry of deeds in the county in which the corporation has its location within 20 days after the proceedings of the meeting are returned to the office of the Secretary of State. No fee is required by the Secretary of State for the filing, but the registry of deeds must receive for recording such certificate the fee of 50¢. This section does not apply to corporations organized under or governed by Title 13-B.~~

Sec. 4. 13 MRSA §934, as amended by PL 1977, c. 592, §4, is further amended to read:

§934. Amendments

In addition to any other method provided by law, a corporation organized ~~without capital stock under this chapter~~, including specially chartered churches, but not other specially chartered corporations, may change the number of its officers, directors, trustees or members of its managing board, however designated, and change its purposes by altering, abridging or enlarging the same, and make any other changes in its certificate of organization as originally filed or subsequently amended that may be desired, ~~provided~~ if such changes would be proper to insert in an original certificate of organization. Such The change shall must be made by vote of a majority of those members with voting rights present at, or if the corporation shall have no does not have members with voting rights, then by a majority vote of its whole board of directors; or trustees or managing board, however designated, taken at any legal meeting; the The notice of which the meeting shall must give notice of the proposed action. The procedures established in the law relating to corporations organized with capital stock as to the filing or recording of certificates, articles or other documents with the Secretary of State or in any other place in order to make effective changes in their certificates of organization or articles of incorporation shall apply to corporations organized without capital stock, except that such certificates, articles or other documents may be appropriately altered to reflect the fact that the corporate action reflected therein is not taken by stockholders, and may be certified by the Secretary of State and filed with the Secretary of State even though a change of purposes contained therein will result in such corporation becoming charitable in nature and thus exempt from taxation. This section shall not apply to corporations organized under or governed by Title 13-B. If the corporation amends any provision of any certificate filed with the Secretary of State, the corporation must promptly deliver for filing with the Secretary of State a certificate of amendment signed and dated by the clerk or secretary of the corporation.

Sec. 5. 13 MRSA §937, as amended by PL 1977, c. 592, §5, is further amended to read:

§937. Dissolution

Except as provided in section 938, any corporation organized ~~without capital stock under this chapter~~ may be dissolved ~~in the same manner and with the same effect as a corporation organized with capital stock, and by using the procedures governing the dissolution of corporations organized with capital stock shall apply to the dissolution of corporations organized without capital stock set forth in Title 13-B, chapter 11 and deliver for filing with the Secretary of State the required certificates, signed and dated by the clerk or secretary of the corporation.~~ Solely for the purposes of this section and the dissolution of a corporation organized ~~without capital stock under this~~

~~chapter, each member with voting rights of such the corporation, or if such the corporation has no does not have members with voting rights, each director, trustee or member of the managing board, however designated, shall be considered and deemed to be a stockholder holding has one share of voting stock vote for the purposes of calling, noticing, conducting and holding meetings and voting thereat at those meetings, and for the purpose of commencing or otherwise participating as a party in civil actions in respect of dissolution, but for no other purposes. In addition to other parties who may commence or participate in such civil actions as provided in the law relating to corporations organized with capital stock under this chapter, the Attorney General may commence, or otherwise participate in, any civil action relating to the dissolution of any corporation organized without capital stock under this chapter. Any certificate, articles or other documents required or permitted to be filed or recorded with the Secretary of State or in any other place by the laws relating to the dissolution of corporations organized with capital stock may be filed or recorded with the Secretary of State or in such other places by a corporation organized without capital stock or by any appropriate officer thereof, with such changes therein as may be appropriate or needful on account of such corporation not having capital stock or stockholders. A fee of \$5 shall be payable to the Secretary of State on account of the filing of each such certificate, article or other document. This section shall not apply to corporations organized under or governed by Title 13-B.~~

Sec. 6. 13 MRSA §938, as amended by PL 1977, c. 592, §6, is further amended to read:

§938. Distribution of assets

~~In case of the dissolution of a corporation organized without capital stock pursuant to section 937 or any other provision of law, the assets of the corporation remaining after the payment of all of its debts shall must be distributed in the manner and to the persons, firms, associations, corporations, trusts or other legal entities provided in its certificate of organization or any amendment thereto, provided that; however, the assets of a charitable corporation which that is dissolved shall may not be devoted to other than charitable purposes. In the case of the dissolution of a corporation organized without capital stock under this chapter other than a charitable corporation, unless contrary provision is made in its certificate of organization or any amendment thereto, the assets of the corporation remaining after the payment of its debts shall must be distributed equally to its members. No provision of law relating to the distribution of assets of corporations organized with capital stock shall have any application to the distribution of assets of corporations organized without capital stock. This~~

~~section shall not apply to corporations organized under or governed by Title 13-B.~~

Sec. 7. 13 MRSA §961, as amended by PL 1977, c. 592, §8, is repealed and the following enacted in its place:

§961. Procedure

Any 2 or more corporations organized under this chapter may consolidate into a single corporation, which may be either one of the corporations or a new corporation under the laws of this State to be formed by means of the consolidation. The consolidation may be effected by vote of the directors, trustees or managing board, however designated, of each of those corporations at a legal meeting thereof ratifying a proposed agreement of consolidation. The resulting corporation shall deliver for filing with the Secretary of State a certificate of consolidation signed and dated by the clerk or secretary of the corporation. When the certificate of consolidation is filed, the separate existence of all of the constituent corporations, or of all of the constituent corporations except the one into which the constituent corporations have been consolidated, ceases and the constituent corporations, whether consolidated into a new corporation or merged into one of the constituent corporations, as the case may be, become the consolidated corporation by the name provided in the agreement, possessing all the rights, privileges, powers, franchises and immunities of a public and private nature and being subject to all the liabilities, restrictions and duties of each of those corporations so consolidated, and all the rights, privileges, powers, franchises and immunities of each of those constituent corporations, and all real, personal and mixed property of those constituent corporations, all debts due to any of those constituent corporations on whatever account and all other things in action of or belonging to each of those constituent corporations are vested in the consolidated corporation. All property, rights, privileges, powers, franchises, immunities and all other interests are thereafter the property of the consolidated corporation in the same manner as they were of the several and respective constituent corporations, and the title to any real estate, whether by deed or otherwise vested under the laws of this State in any of those constituent corporations, may not revert or in any way be impaired by reason of the consolidation. All rights of creditors and all liens upon the property of any of those constituent corporations are preserved unimpaired, limited to the property affected by such liens at the time of the consolidation, and all debts, liabilities and duties of the respective constituent corporations henceforth attach to the consolidated corporation and may be enforced against it to the same extent as if those debts, liabilities and duties had been incurred or contracted by it.

Sec. 8. 13 MRSA §981-A, as amended by PL 1993, c. 316, §9, is repealed and the following enacted in its place:

§981-A. Acknowledgement of previously unrecognized corporations

An existing nonprofit corporation that is not currently recognized by the Secretary of State may prepare, sign, date and deliver for filing with the Secretary of State a certificate of organization setting forth the original name, the date, place and purpose of the incorporation, any subsequent changes to the corporate name and the current name, location and officers of the corporation. If the Secretary of State by examination of the corporate records or other substantial evidence finds that the corporation was formed, the Secretary of State shall file the certificate of organization.

Sec. 9. 13 MRSA §3025, as amended by PL 1977, c. 696, §158, is repealed and the following enacted in its place:

§3025. Filing of certificate; change of name; filing duty of the Secretary of State

1. Certificate. The clerk, treasurer and a majority of the board of trustees of every independent local church incorporated under sections 3021 to 3024 shall prepare, sign, date and deliver for filing with the Secretary of State a certificate of incorporation, in the format approved by the Secretary of State, setting forth the name of the church, the town or city where the church is located and the number and names of the members of its board of trustees. A filing fee of \$5 must accompany the certificate.

2. Change of certificate. The name of any incorporated church or any other provision in the certificate of incorporation filed under subsection 1 may be changed by vote in a legal meeting duly called for this purpose. The clerk or other duly authorized officer of the corporation shall prepare, sign, date and deliver for filing with the Secretary of State a certificate, in the format approved by the Secretary of State, setting forth the name of the church, the town or city where the church is located, the date and the nature of the change and a statement that a majority of the members or trustees authorized the change. A filing fee of \$5 must accompany the certificate.

3. Filing certificate. If a certificate delivered for filing with the Secretary of State pursuant to this section satisfies the requirements of this chapter, the Secretary of State shall file the certificate. The date of filing is the date of receipt by the Secretary of State. After filing any certificate under this chapter, the Secretary of State shall deliver to the corporation or its

representative a copy of the document with an acknowledgement of the date of filing.

See title page for effective date.

CHAPTER 524

S.P. 376 - L.D. 1152

An Act To Authorize Collaborative Practice for Emergency Contraception

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

Sec. 1. 32 MRSA c. 117, sub-c. 12 is enacted to read:

SUBCHAPTER 12

COLLABORATIVE PRACTICE FOR EMERGENCY CONTRACEPTION

§13821. Short title

This subchapter is known and may be cited as "the Collaborative Practice for Emergency Contraception Act."

§13822. Collaborative practice authorized

Notwithstanding any other provision of law, a licensed pharmacist who has completed the training required in section 13823 may initiate emergency contraception drug therapy in accordance with standardized procedures or protocols developed by the pharmacist and an authorized prescriber who is acting within the prescriber's scope of practice.

§13823. Training required

Prior to performing any procedure authorized under this chapter, a pharmacist must have completed a training program on emergency contraception, delivered by an entity authorized by a national council on pharmaceutical education, or another training program approved by the board. The training program must include, but is not limited to, conduct of sensitive communications, quality assurance, referral to additional services and documentation.

§13824. Provision of standardized fact sheet required

For each emergency contraception drug therapy initiated pursuant to this subchapter, the pharmacist shall provide the recipient of the emergency contraceptive drugs with a standardized fact sheet developed by the board that includes, but is not limited to, the