

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

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

Penmor Lithographers
Lewiston, Maine
2004

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

Effective April 14, 2004.

CHAPTER 647

S.P. 643 - L.D. 1711

**An Act Concerning Advertising of
Business Names in Telephone
Directories**

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

Sec. 1. 10 MRSA c. 206-C is enacted to read:

CHAPTER 206-C

MISREPRESENTATION OF BUSINESS NAMES

§1250-L. Locale misrepresentation

1. General prohibition. Except as provided in subsection 2, a business offering consumer goods for sale in this State may not advertise or cause to be listed in a telephone directory a business name that:

A. Is intentionally designed to misrepresent where the business is located or operating; or

B. Falsely identifies the business as being located or operating in the area covered by the telephone directory.

Each day a violation continues constitutes a separate offense until all numbers listed in the directory or advertisement in association with the prohibited business name are disabled so that calls to the numbers do not in any way connect callers to the business.

2. Exceptions. Subsection 1 does not apply to:

A. A telephone service provider or the publisher or distributor of a telephone service directory, unless the conduct proscribed by subsection 1 is on behalf of that telephone service provider, publisher or distributor; or

B. Any foreign corporation, the stock of which is traded on a national stock exchange and that has gross annual revenues in excess of \$100,000,000.

3. Violation. A person who violates this section commits a civil violation for which a fine of not less than \$500 nor more than \$1,000 may be adjudged.

See title page for effective date.

CHAPTER 648

H.P. 1445 - L.D. 1945

**An Act To Encourage the Future of
Maine's Dairy Industry**

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

Whereas, volatility of prices paid to milk producers jeopardizes the viability of the Maine dairy industry; and

Whereas, the Maine dairy industry is essential to the State's rural economy and communities and generates business activity and preserves open space; and

Whereas, the stabilization of the dairy industry during temporary price drops constitutes a public purpose and an appropriate expenditure of state revenues; 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 §2953, 2nd ¶, as repealed and replaced by PL 1975, c. 517, §2, is amended to read:

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. The studies must include the compilation of cost data for farms at 3 different levels of production.

Sec. 2. 7 MRSA §§3153-B and 3153-C are enacted to read:

§3153-B. Dairy stabilization

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

A. "Annual production" means the total quantity of milk produced in a 12-month period beginning June 1st and ending May 31st of the next calendar year. Total quantity is expressed in hundred-weight.

B. "Base price" means the price of milk calculated each month in accordance with subsection 2.

C. "Suffolk County price" means the Suffolk County, Massachusetts statistical uniform price of milk as determined for each month by the Northeast Market Administrator of the United States Department of Agriculture and expressed per hundredweight of milk.

D. "Target price" means the short-run break-even point for each of 3 categories of annual production. Target prices are determined in accordance with subsection 3.

2. Calculation of base price. Base price is calculated each month by adding to the Suffolk County price:

A. The amount per hundredweight paid to milk producers in the State as monthly premiums established by the Maine Milk Commission under section 2954, subsection 1; and

B. The amount per hundredweight received by milk producers as a monthly payment from the Federal Government due to low milk prices.

Cost-of-production adjustments established under section 2954, subsection 2, paragraph A are not considered premiums for the purpose of calculating base price.

3. Determination of target prices. The Maine Milk Commission shall establish 3 tiers of production, each representing a range of annual production. The commission shall use the most recent studies conducted in accordance with section 2953 to estimate the short-run break-even point within each tier.

4. Distribution of dairy stabilization support. Beginning July 1, 2004 for each month that the base price is below the target price, the administrator of the Maine Milk Pool shall distribute to each milk producer in the State an amount of money equal to the previous month's production in hundredweight multiplied by the difference between the applicable target price and the base price in the previous month.

§3153-C. Milk Income Loss Contract

1. Milk Income Loss Contract. For months in which payments are made under the federal Milk Income Loss Contract authorized by Section 1502 of the federal Farm Security and Rural Investment Act of 2002, the administrator of the Maine Milk Pool shall make payments to those milk producers in the State whose annual production exceeds the cap under the federal Milk Income Loss Contract. The administrator shall distribute an amount per hundredweight equal to

the federal Milk Income Loss Contract payment for that month for production in excess of the federal limit until that producer's annual production reaches 5,000,000 pounds. No payment is made under this section for annual production in excess of 5,000,000 pounds. For purposes of this section, "annual production" has the same meaning as in section 3153-B, subsection 1, paragraph A.

Sec. 3. Target prices. Notwithstanding the Maine Revised Statutes, Title 7, section 3153-B, subsection 3, for the fiscal year beginning July 1, 2004 and until the Maine Milk Commission updates the Maine producer cost-of-production data and calculates new target prices, the target prices for Maine milk producers are as follows:

1. For the first 16,790 hundredweight produced per year by each producer, the target price is \$16.18 per hundredweight;

2. For production between 16,790 hundredweight and 26,050 hundredweight per year, the target price is \$15.59 per hundredweight; and

3. For production in excess of 26,050 hundredweight per year, the target price is \$13.12 per hundredweight.

Sec. 4. Ad hoc committee. The Department of Agriculture, Food and Rural Resources shall develop a course of action for implementing the recommendations of the Governor's Task Force on the Sustainability of the Dairy Industry in Maine as presented in the final report and recommendations of that task force dated November 18, 2003. The commissioner shall assemble an ad hoc committee of industry representatives to make specific task assignments, establish benchmarks and issue a progress report to the Governor each year no later than October 15th beginning in 2004, with a final report and analysis due in 2007. The Governor shall consider the findings of the report in making funding recommendations to support the dairy industry.

Sec. 5. Use of previously transferred funds. Notwithstanding any other provision of law, funds allocated to the Maine Milk Commission by Public Law 2003, chapter 120 for distribution to Maine dairy farmers in accordance with the Maine Revised Statutes, Title 7, section 3153-A remain in the Maine Milk Commission's Milk Pool account. The administrator of the Maine Milk Pool may use these and other unexpended funds for distribution to Maine milk producers in accordance with Title 7, sections 3153-B and 3153-C.

Sec. 6. Review by legislative committee; dairy stabilization. The joint standing committee of the Legislature having jurisdiction over agricultural matters shall review the tiered price support estab-

lished under the Maine Revised Statutes, Title 7, section 3153-B and present its recommendations regarding that section to the Legislature no later than March 1, 2007. The joint standing committee of the Legislature having jurisdiction over agricultural matters may report out a bill to the First Regular Session of the 123rd Legislature to implement the committee's recommendations.

Sec. 7. Review by legislative committee; Milk Income Loss Contract. The joint standing committee of the Legislature having jurisdiction over agricultural matters shall review the Maine Revised Statutes, Title 7, section 3153-C and make recommendations regarding that section to the Legislature no later than March 1, 2007. The joint standing committee of the Legislature having jurisdiction over agricultural matters may report out a bill to the First Regular Session of the 123rd Legislature to implement the committee's recommendations.

Sec. 8. Appropriations and allocations. The following appropriations and allocations are made.

**AGRICULTURE, FOOD AND RURAL RESOURCES,
DEPARTMENT OF**

Maine Milk Pool

Initiative: Provides funds to carry out the provisions of the Maine Revised Statutes, Title 7, sections 3153-B and 3153-C.

Other Special Revenue Funds	2003-04	2004-05
All Other	\$0	\$1,000,000
Other Special Revenue		
Funds Total	\$0	\$1,000,000

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

Effective April 16, 2004.

CHAPTER 649

S.P. 79 - L.D. 156

**An Act to Require that Patients in
Private Mental Hospitals Be
Afforded the Same Rights As
Patients in State Mental Institutions**

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

Whereas, a patient receiving inpatient mental health services from a nonstate mental health institution that is not subject to the grievance procedures of the Department of Behavioral and Developmental

Services does not have grievance rights equal to those of a patient in a state mental health institution or a nonstate mental health institution that is subject to the department's grievance procedures; and

Whereas, attaining as soon as possible parity of grievance procedures is fundamental to fairness among patients and is critical in the efforts of the State to achieve compliance with the Bates v. Walsh and Burdick consent decree; 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. 22 MRSA §1719 is enacted to read:

§1719. Patients' rights

This section applies to hospitals licensed pursuant to chapter 405 that are nonstate mental health institutions as defined in Title 34-B, section 3801, subsection 6 and that are not subject to the grievance procedures of the Department of Behavioral and Developmental Services.

1. Adoption of rules. The commissioner shall adopt rules for the enhancement and protection of the rights of adult patients receiving inpatient mental health services from a hospital subject to the requirements of this section. The commissioner shall hold a public hearing before adopting rules under this section and shall give notice of the public hearing pursuant to Title 5, section 8053. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

2. Rights protected. The rules adopted pursuant to subsection 1 must meet the requirements of Title 34-B, section 3003, subsection 2, paragraphs A to K and must provide for the same opportunity for hearing and type of hearing as described in rules of the Department of Behavioral and Developmental Services relating to grievances filed by adult mental health consumers.

3. Delegation. The department shall delegate to the Department of Behavioral and Developmental Services responsibility for hearing and resolving all grievances that are submitted in a timely manner by patients receiving inpatient mental health services in hospitals subject to the requirements of this section.

4. Final agency action. Final resolution of a grievance by the Department of Behavioral and