

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

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

Penmor Lithographers
Lewiston, Maine
2005

Task Force on Homelessness and Housing Opportunities Statewide Homeless Council, established pursuant to Title 30-A, section ~~5041~~ 5046.

See title page for effective date.

CHAPTER 381

H.P. 342 - L.D. 467

An Act To Implement the Recommendations of the Committee To Study Compliance with Maine's Freedom of Access Laws Concerning Personal Contact Information

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

Sec. 1. 1 MRSA §402, sub-§3, ¶M, as amended by PL 2003, c. 614, §2, is further amended to read:

M. Records or information describing the architecture, design, access authentication, encryption or security of information technology infrastructure and systems. Records or information covered by this paragraph may be disclosed to the Legislature or, in the case of a political or administrative subdivision, to municipal officials or board members under conditions that protect the information from further disclosure; ~~and~~

Sec. 2. 1 MRSA §402, sub-§3, ¶N, as enacted by PL 2003, c. 614, §3, is amended to read:

N. Social security numbers in the possession of the Department of Inland Fisheries and Wildlife; ~~and~~

Sec. 3. 1 MRSA §402, sub-§3, ¶O is enacted to read:

O. Personal contact information concerning public employees, except when that information is public pursuant to other law. For the purposes of this paragraph:

(1) "Personal contact information" means home address, home telephone number, home facsimile number, home e-mail address and personal cellular telephone number and personal pager number; and

(2) "Public employee" means an employee of a governmental entity, as defined in Title 14, section 8102, subsection 2, except that

"public employee" does not include elected officials.

See title page for effective date.

CHAPTER 382

H.P. 167 - L.D. 216

An Act To Make Revisions to the Laws Governing Agriculture

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

PART A

Sec. A-1. 7 MRSA §301, as enacted by PL 1983, c. 532, §2, is repealed.

Sec. A-2. 7 MRSA §331, as enacted by PL 1987, c. 435, §3, is repealed.

Sec. A-3. 7 MRSA §431, as enacted by PL 1983, c. 563, §2, is repealed.

Sec. A-4. 7 MRSA §603, as enacted by PL 1975, c. 382, §3, is repealed.

Sec. A-5. 7 MRSA §971, as enacted by PL 1981, c. 513, §7, is repealed.

Sec. A-6. 7 MRSA §1031, as amended by PL 1987, c. 99, §1, is repealed.

PART B

Sec. B-1. 7 MRSA §17, first ¶, as enacted by PL 1973, c. 541, is amended to read:

In addition to duties expressly authorized in this Title, the commissioner may, upon complaint or for other reasonable cause, investigate any farm operation, method or practice with respect to animal waste ~~within the watersheds of bodies of water as designated in the Department of Environmental Protection's report known as the "State Continuing Planning Process" pursuant to Title III, section 303(e) or the Federal Water Pollution Control Act, Amendments of 1972~~ in order to determine whether such operation, method or practice may have an adverse effect upon waters of the State as defined in Title 38, section 361-A, subsection 7.

Sec. B-2. 7 MRSA §4204, sub-§1-A, ¶D, as enacted by PL 2003, c. 452, Pt. B, §25 and affected by Pt. X, §2, is repealed.

PART C

Sec. C-1. 7 MRSA §213, sub-§§1 and 2, as enacted by PL 1983, c. 608, §2, are repealed.

Sec. C-2. 7 MRSA §214, as amended by PL 1991, c. 780, Pt. DDD, §21 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

§214. Coordination of purchases of foodstuffs from Maine concerns

1. Food purchasing coordinator. ~~There is established in the Bureau of Purchases the position of coordinator who shall be responsible~~ The commissioner shall designate an employee of the department to serve as a food purchasing coordinator to assist in the development of connections between state and school purchasers, Maine food producers and brokers and wholesalers of food.

2. Annual meeting. ~~The State Purchasing Agent or his designee~~ food purchasing coordinator shall cause to be held an annual meeting which that brings together producers, wholesalers, buyers and food service professionals to enhance opportunities for cooperation and expand the purchase of local foodstuffs by state institutions and public schools.

3. Advisory committee. ~~The State Purchasing Agent or a designee~~ commissioner shall establish an advisory committee to discuss possibilities and review proposals for expanding purchases of local foodstuffs. At least one representative from the following state agencies shall be invited to serve on this advisory committee: the Department of Agriculture, Food and Rural Resources; the Department of Corrections; the Department of Education; the Department of Health and Human Services; the Department of Marine Resources; and the Bureau of Child and Family Services. Representation from other state agencies, local institutions or from the private sector shall be chosen by the State Purchasing Agent who shall serve as chairman of the advisory committee. The commissioner shall invite one or more representatives from each of the following agencies to serve on the advisory committee: the Department of Education; the Department of Marine Resources; the Department of Corrections; the Department of Administrative and Financial Services, Bureau of Purchases; the Executive Department, State Planning Office; the Department of Health and Human Services; the University of Maine System; and the Maine Community College System.

Sec. C-3. 7 MRSA §302, as amended by PL 1991, c. 780, Pt. DDD, §21, is repealed.

Sec. C-4. 7 MRSA §471, as enacted by PL 1993, c. 58, §1 and amended by PL 2003, c. 689, Pt. B, §7, is further amended to read:

§471. Farmers' Market Program

~~The department, in cooperation~~ shall cooperate with the Commissioner of Health and Human Services or the commissioner's designee, shall adopt rules to institute and administer a program to promote the purchase of state-grown and processed food products at local farmers' markets and farmstands by nutritionally at-risk groups through programs administered by the Department of Health and Human Services under Title 22, chapter 851.

Sec. C-5. Commissioner of Agriculture, Food and Rural Resources to convene food policy working group.

The Commissioner of Agriculture, Food and Rural Resources shall convene a working group to review statutory provisions and examine emerging issues relating to food policy and to assist the commissioner in developing and articulating a food policy for the State. In addition to state agencies represented on the advisory committee established under the Maine Revised Statutes, Title 7, section 214, the commissioner shall invite participation by the University of Maine Cooperative Extension, the Maine Farm Bureau, the Maine Organic Farmers and Gardeners Association, the Agriculture Council of Maine, a regional or statewide coalition organized to promote the consumption of locally grown foods and farmers. The commissioner may invite persons from the private sector to participate in the working group, including representatives of grocers associations and food distributors. The commissioner shall send notices and agenda for meetings of the working group to members of the Joint Standing Committee on Agriculture, Conservation and Forestry.

Sec. C-6. Report; legislation authorized.

No later than January 2, 2006, the Commissioner of Agriculture, Food and Rural Resources shall submit a report to the Joint Standing Committee on Agriculture, Conservation and Forestry summarizing the discussions of the commissioner's working group on food policy convened under section 5 and presenting the commissioner's recommendations relating to food policy along with implementing legislation. The Joint Standing Committee on Agriculture, Conservation and Forestry may submit legislation to the Second Regular Session of the 122nd Legislature pertaining to food policy and the promotion of locally produced food.

PART D

Sec. D-1. 7 MRSA §1333, sub-§1, ¶A, as enacted by PL 2003, c. 386, §6, is amended to read:

A. "Cervid" means a member of the cervidae family and hybrids, including deer, elk, caribou, reindeer and related species, specified by the commissioner by rule with the written concur-

rence of the Commissioner of Inland Fisheries and Wildlife.

Sec. D-2. 7 MRSA §1341, sub-§4-A, as enacted by PL 2003, c. 386, §8, is amended to read:

4-A. Domesticated cervid. "Domesticated cervid" means a member of the cervidae family and hybrids, including deer, elk, caribou, reindeer and related species has the same meaning as "cervid" in section 1333, subsection 1, paragraph A.

Sec. D-3. 7 MRSA §1351 is amended to read:

§1351. Breeding and raising mink

Mink that have been propagated in captivity for 2 or more generations ~~shall be~~ are considered domesticated animals subject to ~~all the laws of the State with reference to possession, ownership and taxation as are at any time applicable to domesticated animals this Title.~~ Such domesticated mink, or the pelts or products thereof shall be deemed are considered agricultural products and the breeding, raising, producing in captivity and marketing ~~thereof shall be deemed~~ of mink is an agricultural pursuit. Any person, firm or corporation engaged in breeding and raising mink ~~shall be licensed~~ comply with the permitting requirements for importation and possession of wildlife under Title 12, section 2406 chapter 915, subchapter 15.

Sec. D-4. 8 MRSA §281-A, as enacted by PL 2003, c. 31, §1, is amended to read:

§281-A. Standardbred horses eligible for registration

Notwithstanding section 281, a foal resulting from insemination ~~during the 2003, 2004 or 2005 breeding season~~ may be registered as a Maine Standardbred if it is the offspring of a stallion registered with the department to stand at stud in the State for the breeding season during which the insemination took place and all other registration requirements are met.

PART E

Sec. E-1. 7 MRSA §2992-A, sub-§2, ¶A, as enacted by PL 1995, c. 693, §8 and affected by §25, is amended to read:

A. ~~Two~~ Four members appointed by organizations of producers ~~who sell milk on the Maine market.~~ The Not more than 2 members appointed under this paragraph may ~~not~~ be from the same marketing organization. At least one member must be appointed by an independent organization of Maine milk producers; and

Sec. E-2. 7 MRSA §2992-A, sub-§2, ¶B, as enacted by PL 1995, c. 693, §8 and affected by §25, is repealed.

Sec. E-3. 7 MRSA §2992-A, sub-§4, as enacted by PL 1995, c. 693, §8 and affected by §25, is repealed.

Sec. E-4. 7 MRSA §2998-B, sub-§2, ¶A, as enacted by PL 1995, c. 693, §15 and affected by §25, is amended to read:

A. ~~Two~~ Four members appointed by organizations of Maine milk producers ~~who sell milk on the Maine market.~~ The Not more than 2 members appointed under this paragraph may ~~not~~ be from the same marketing organization. At least one member must be appointed by an independent organization of Maine milk producers; and

Sec. E-5. 7 MRSA §2998-B, sub-§2, ¶B, as enacted by PL 1995, c. 693, §15 and affected by §25, is repealed.

Sec. E-6. 7 MRSA §2998-B, sub-§4, as enacted by PL 1995, c. 693, §15 and affected by §25, is repealed.

PART F

Sec. F-1. 7 MRSA §2901-B, first ¶, as enacted by PL 1993, c. 663, §1, is amended to read:

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~~ must include a requirement 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.

Sec. F-2. 7 MRSA §2951, sub-§6 is amended to read:

6. Milk. "Milk" means ~~whole milk and cream, fresh, sour or storage; skimmed milk and buttermilk; irrespective of whether or not any such milk is flavored.~~ any of the following, regardless of the presence of any flavoring:

A. Whole milk or cream, whether fresh, sour or storage;

B. Skimmed milk; or

C. Buttermilk.

Sec. F-3. 7 MRSA §2952, as amended by PL 1999, c. 679, Pt. B, §1 and affected by §14 and amended by PL 2003, c. 689, Pt. B, §6, is repealed and the following enacted in its place:

§2952. Organization

1. Members. The Maine Milk Commission, as established by Title 5, section 12004-E, subsection 2, consists of the following 5 members:

A. The commissioner or the commissioner's designee, ex officio; and

B. Four members, who must be residents of the State, appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over agriculture matters and subject to confirmation by the Legislature.

2. Conflict of interest. In addition to the limitations imposed under Title 5, section 18, the following conflict of interest restrictions apply.

A. A member of the commission appointed under subsection 1, paragraph B may not, at the time of appointment or while serving as a member of the commission, have a business or professional relationship or connection with or a financial interest in any producer, dealer, store or other person whose activities are subject to the jurisdiction of the commission. The retail purchase of milk for consumption is not a violation of this paragraph.

B. An employee of the commission may not have a business or professional relationship or connection with or a financial interest in any producer, dealer, store or other person whose activities are subject to the jurisdiction of the commission. The retail purchase of milk for consumption is not a violation of this paragraph.

C. A member or employee of the commission may not render, or be a member of a firm that renders, any professional or other service for or against a producer, dealer, store or other person whose activities are subject to the jurisdiction of the commission.

3. Terms; vacancies. Members of the commission appointed under subsection 1, paragraph B serve for a term of 4 years or until their successors are duly appointed and qualified, except that the initial terms of these members are for one, 2, 3 and 4 years so that the terms of the members of the commission are staggered.

A vacancy in the membership of the commission must be filled by appointment by the Governor.

4. Chair; employees and resources. The members of the commission shall elect a chair. With the approval of the commission, the commissioner may employ, subject to the Civil Service Law, a secretary and such officers, clerks, assistants and other employees as the commission determines necessary. To the extent possible, the commission shall make use of professional, expert or other resources available within the various departments of State Government, including, but not limited to, the department, the Department of Health and Human Services and the Department of the Attorney General, and such departments shall, as resources allow, provide necessary and appropriate services at the request of the commission. To the extent these services are not available or otherwise adequate, the commission may employ appropriate experts, professionals or others to assist it in carrying out its duties.

5. Compensation; office; supplies. Members of the commission are compensated as provided in Title 5, chapter 379, as determined by the Governor. The administrative costs of the commission, including expenses and compensation of members, may not exceed the amount of fees collected under this chapter. The commission must be furnished a suitable office at the seat of government, together with all necessary equipment and supplies.

6. Special meetings. The chair shall call special meetings of the commission whenever requested in writing by 2 or more members of the commission.

Sec. F-4. 7 MRSA §2952-A is enacted to read:

§2952-A. Powers and duties

1. Powers; general. The commission may:

A. Establish and change the minimum wholesale and retail prices for the sale of milk within the State;

B. Adopt and enforce all rules and orders necessary to carry out this chapter; and

C. In administering this chapter:

(1) Conduct hearings;

(2) Subpoena and examine under oath persons whose activities are subject to the jurisdiction of the commission, including producers, dealers and stores and their officers, agents and representatives; and

(3) Subpoena and examine the business records, books and accounts of persons whose activities are subject to the jurisdiction of the commission, including producers, deal-

ers and stores and their officers, agents and representatives.

Any member of the commission and any employee designated by the commission may sign subpoenas and administer oaths to witnesses.

2. Limitations. The commission may not modify, add to or annul any sanitary regulations imposed by any state or municipal authority or compel pasteurization in any market area.

3. Duties. The commission shall:

A. Not less than once every 3 years, 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; and

B. Ensure that distributors give 30 days' notice before terminating delivery to any customer in their delivery area or in the traditional delivery area of a distributor they have purchased. The 30-day notice does not apply to cancellations resulting from a failure to pay bills.

4. Authority; accounts and records. To enable the commission to perform its duties, the commission may inquire into the management of the businesses of the producers, dealers and stores to obtain from them all necessary information. Every producer, dealer and store shall keep and render to the commission, at such times and in such manner and form as may be prescribed by the rules of the commission, accounts of all business transacted that is related to the production, purchasing, processing, sale or distribution of milk. Such accounts must reasonably reflect, in such detail as the commission considers appropriate, income, expense, assets, liabilities and such other accounting entries as the commission considers necessary, to assist the commission in making its determinations as to:

A. Minimum prices generally;

B. Separate minimum price categories to be established to reflect different container costs;

C. Separate minimum price categories to be established for different quantities of milk packaged and sold in separate containers;

D. Separate minimum price categories to reflect identifiable distribution costs; and

E. All matters pertinent to the proper performance of its duties.

The commission shall adopt routine technical rules that establish procedures to enable the commission to

inspect the records, books and accounts of dealers, producers and stores at their various offices and places of business at reasonable times. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. F-5. 7 MRSA §2953, as amended by PL 2003, c. 648, §1, is repealed.

Sec. F-6. 7 MRSA §2953-A, sub-§4-A, ¶A, as amended by PL 1993, c. 274, §1, is further amended to read:

A. Maine's representatives to the Northeast Interstate Dairy Compact are as follows:

- (1) The commissioner or designee;
- (2) The chair of the Maine Milk Commission or designee; and
- (4) A dairy farmer who is engaged in the production of milk at the time of appointment or reappointment, to be appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over agricultural matters and confirmation by the Legislature.

~~Delegation members may not serve more than 3 consecutive terms with no single term of more than 4 years.~~

Sec. F-7. 7 MRSA §2953-A, sub-§4-A, ¶B, as enacted by PL 1989, c. 437, is repealed.

Sec. F-8. 7 MRSA §2954, sub-§2, as amended by PL 1995, c. 2, §2, is further amended to read:

2. Considerations in establishing prices. ~~In establishing and changing the minimum wholesale and retail prices, the prices so established shall by the commission must be just and reasonable taking into due consideration the public health and welfare and the insuring of an adequate supply of pure and wholesome milk to the inhabitants of this State under varying conditions in various marketing areas; prevailing prices in neighboring states; seasonal production and other conditions affecting the costs of production, transportation and marketing in the milk industry, including a reasonable return to producer, dealer and store; taking into consideration and the public need for the establishment of retail milk prices at the lowest practicable levels.~~

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. ~~After except that, after investigation, the Maine Milk Commission may set different minimum~~

wholesale prices paid to producers to reflect the costs of producing milk in this State.

B. The minimum wholesale prices paid to dealers must be established to reflect the lowest prices at which milk purchased from producers in this State at minimum prices in the State can be received, processed, packaged and distributed within the State at a just and reasonable return, and in addition must include the amount of any tax determined by Title 36, chapter 716.

C. The minimum retail prices established for payment by consumers ~~shall~~ must be based on the minimum wholesale price paid to dealers and a rate of return ~~deemed determined to be~~ just and reasonable by the Maine Milk Commission.

D. In establishing and changing minimum wholesale and retail prices, the commission shall consider the effect of possible pricing decisions on the ability of the Maine dairy industry to compete in supplying milk to Maine consumers and, in such a consideration, shall include the following factors:

(1) The strength and viability of the Maine dairy industry as a whole;

(2) The extent of any social or economic benefits of maintaining dairy processing plants in different geographic regions or natural marketing areas of the State; and

(3) The encouragement of consumption by Maine consumers of milk produced and processed within the State, consistent with the Constitution of Maine and the United States Constitution.

E. The commission may not set different minimum wholesale prices for different retail delivery volumes of milk.

Sec. F-9. 7 MRSA §2954, sub-§4, as repealed and replaced by PL 1975, c. 517, §3, is amended to read:

4. Commission empowered to establish classifications of milk. The commission is ~~vested with power to~~ may establish and change, after investigation and public hearing, classifications of milk according to its various usages and shall specify to what classification the prices established under this chapter ~~shall~~ apply.

Sec. F-10. 7 MRSA §2954, sub-§5, as amended by PL 1987, c. 402, Pt. A, §80, is further amended to read:

5. Minimum price schedule. ~~Upon establishing said minimum Minimum prices in any market which shall apply to the various classifications of milk and which set by the commission may vary in the several market areas of the State, the~~ The commission shall furnish all dealers registered in ~~said~~ each market with a schedule of ~~such~~ applicable prices and shall publish ~~a the schedule thereof~~ in appropriate newspapers in ~~said that~~ market. ~~Such order shall become effective in accordance with Title 5, chapter 375, and thereafter~~ Once minimum prices for a market take effect, no dealer, store or other person handling milk in such that market shall may buy or offer to buy, sell or offer to sell milk for prices less than the scheduled minimum prices established for that market.

Sec. F-11. 7 MRSA §2954, sub-§6, as repealed and replaced by PL 1983, c. 573, §1, is amended to read:

6. Schedule of maximum transportation allowances; adjustments. The commission may annually establish a schedule of maximum transportation allowances ~~which that~~ that may be charged by any Maine dealer for hauling milk from a producer's farm to the dealer's dairy plant. The commission shall base its schedule on the recommendations of the commissioner pursuant to section ~~3157~~ 3156 and shall conduct hearings prior to establishing that schedule. Any dealer may petition the commission at any time to approve a proposed adjustment in that schedule of transportation charges for that dealer. The burden ~~shall~~ be is on the dealer to substantiate the need and reasonableness of such a proposed adjustment, and in the absence of evidence, the proposed adjustments ~~shall~~ must be denied.

Sec. F-12. 7 MRSA §2954, sub-§§7 and 8, as repealed and replaced by PL 1975, c. 517, §3, are amended to read:

7. Prohibition. ~~It shall be unlawful for any A person to~~ may not engage in any practice destructive of the scheduled minimum prices for milk established under this chapter for any market, including but not limited to offering any discount, rebate, gratuity, advertising allowance or combination price for milk with any other commodity. ~~In addition to any penalty otherwise provided by law, the commission after notice and hearing may prohibit any such practice, and any person feeling himself aggrieved by any order of the commission issued under this chapter may appeal to the Superior Court. A purchaser of milk at retail~~ may tender a coupon or any item of value if the coupon or item of value is not brand specific and is redeemable for cash by the retailer and if the total value tendered by the purchaser is not less than the minimum retail price established by the commission.

8. Milk produced outside the State. Whenever milk produced outside the State becomes a subject of regulation by the State in the exercise of its police powers, this chapter ~~shall apply~~ applies and the powers of the commission ~~shall~~ attach. After any such milk so produced ~~shall come~~ comes within the jurisdiction of this State, ~~any no~~ sale or purchase by dealers of such milk within this State may occur at a price less than the scheduled minimum price established according to usage in any given market ~~shall be unlawful~~.

Sec. F-13. 7 MRSA §2954, sub-§10, as enacted by PL 1985, c. 42, §1, is repealed.

Sec. F-14. 7 MRSA §2954, sub-§13, as amended by PL 1995, c. 2, §3, is repealed.

Sec. F-15. 7 MRSA §2954, sub-§15, as corrected by RR 1991, c. 1, §17, is repealed.

Sec. F-16. 7 MRSA §2954-A, as amended by PL 1999, c. 679, Pt. B, §4 and affected by §14, is further amended to read:

§2954-A. Payment by dealers to producers

Payment by dealers to producers is governed by this section. For purposes of this section, the term "delivery month" means the calendar month in which milk is delivered to a dealer from the producer.

1. First 15 days. On or before the 5th day after the end of ~~the calendar~~ a delivery month in which delivery was made, each a dealer shall pay each of ~~that dealer's producers~~ the producer for milk received from ~~the~~ that producer during the first 15 days of ~~that~~ the delivery month at a rate that is not less than the most recently published northeast marketing area milk marketing order statistical uniform price for Penobscot County.

2. Balance due. Each A dealer shall ~~make payment to his producers~~ pay the producer for the balance due for milk received during that delivery month as follows.

A. On or before the 20th day after the end of ~~that~~ the delivery month, each ~~the~~ the dealer shall pay ~~his producers~~ the amount calculated as the initial payment according to the Maine Milk Pool statute, section 3153, subsection 2, paragraph A, and Milk Pool rules, minus the amount of the payment made to the producer under subsection 1. the producer for milk received from that producer during the delivery month an initial payment calculated using the minimum prices set by the commission pursuant to section 2954, subsection 2, paragraph A minus:

(1) Any portion of that amount deposited in the Maine Milk Pool or deducted pursuant to section 3153, subsection 2; and

(2) The amount of the payment made to the producer under subsection 1.

B. On or before the 5th day after the end of the month in which the payments required by ~~section~~ subsection 1 and paragraph A are made, each dealer shall pay each of ~~his~~ the dealer's producers any sums received on behalf of ~~his~~ the producers pursuant to ~~the Maine Milk Pool statute, section 3153, subsection 4 and~~ Maine Milk Pool rules.

~~This subsection does not apply to any over order premium established by the commission as part of the minimum wholesale prices to producers for any month in which section 3153, subsection 2, paragraph C and section 3153, subsection 5, paragraphs A and B are operational.~~

3. Penalties. The license of any dealer who violates this section may be suspended or revoked in accordance with Title 5, chapter 375.

Sec. F-17. 7 MRSA §2956, sub-§2, as repealed and replaced by PL 1975, c. 517, §5, is amended to read:

2. Use, location and market outlet. A record of the quantity of all milk sold, detailed as to use, location and market outlet; and

Sec. F-18. 7 MRSA §2956, 2nd ¶, as amended by PL 1999, c. 679, Pt. B, §5 and affected by §14, is further amended to read:

Each dealer shall furnish to that dealer's producers a statement of the amount of milk purchased, the price per hundredweight or pound, the total amount paid for each pay period, the itemized deductions for transportation and other services, the percentages of milk in each classification and the butterfat test, protein test and other solids test when weight and test method of payment is used, and shall pay Maine producers ~~the established minimum price for the components of the milk adjusted for butterfat, protein and other solids and shall pay the northeast marketing area milk marketing order producer price differential announced for Suffolk County, Massachusetts in accordance with section 2954-A.~~

Sec. F-19. 7 MRSA §2959, sub-§1, as enacted by PL 1985, c. 717, §4, is amended to read:

1. Injunction. In addition to any other remedy set forth in this chapter for the enforcement of this chapter or any rule, order or decision of the commission, the Superior Court ~~shall have~~ has jurisdiction upon complaint filed by the commission, or any

person duly authorized to act for the commission, including, but not limited to, its executive secretary, to restrain or enjoin any person from committing any act prohibited by this chapter or prohibited by any rule, order or decision of the commission. If it is established upon hearing that the person charged has been or is committing any unlawful act declared to be unlawful by under this chapter or is in violation of any rule, order or decision of the commission, the court shall enter a decree ~~perpetually~~ enjoining that person from ~~committing further commission of that act or actions such violations~~. In case of violation of any injunction issued under this section, the court shall summarily try and punish the person for contempt of court. The existence of other civil or criminal remedies ~~shall be~~ is no defense to this proceeding. The commission or its authorized agent ~~shall~~ may not be required to give or post a bond when making an application for an injunction under this section.

Sec. F-20. 7 MRSA §2961, as corrected by RR 1997, c. 2, §29, is repealed.

Sec. F-21. 7 MRSA §2962, first ¶, as enacted by PL 1985, c. 717, §6, is amended to read:

When the commission, after such investigation as it ~~deems~~ considers appropriate, believes that a violation of this chapter or of any rule, order or decision of the commission has occurred, it may order any person to cease that violation. Before issuing such an order, the commission shall afford any person who would be aggrieved by the order an opportunity for a hearing. In any such investigation or hearing, the commission may exercise all of the powers given to it by section ~~2953~~ 2952-A. Any person aggrieved by a final order issued under this section may obtain judicial review of the order in Superior Court by filing a petition in accordance with Title 5, section 11001; and the Maine Rules of Civil Procedure, Rule 80C. In responding to such a petition, the commission may seek enforcement of its order, including civil penalties for any violation found, and the court, if it upholds the order, may order its enforcement, including civil penalties.

Sec. F-22. 7 MRSA §2984, sub-§1, as enacted by PL 1983, c. 484, §2, is amended to read:

1. Cost accounting data. Through reliance upon cost accounting data, relating to the dealer, gathered or received by the commission pursuant to section ~~2953~~ 2952-A or 2986 for any 3-month period within one year preceding and one year following the date of an alleged violation, unless the dealer proves that changed circumstances render any cost accounting data relied upon by the commission incapable of proving that the violation occurred; or

Sec. F-23. 7 MRSA §2985, sub-§1, as enacted by PL 1983, c. 484, §2, is amended to read:

1. Cost accounting data. Through reliance upon cost accounting data, relating to the retailer, gathered or received by the commission pursuant to section ~~2953~~ 2952-A or 2986 for any 3-month period within one year preceding and one year following the date of an alleged violation, unless the retail store proves that changed circumstances render the cost accounting data relied upon by the commission incapable of proving that the violation occurred;

Sec. F-24. 7 MRSA §2986, as enacted by PL 1983, c. 484, §2, is repealed and the following enacted in its place:

§2986. Investigations; hearings; inspections

1. Investigatory powers. To aid the commission in determining if a dealer or retail store is selling fluid milk below cost, the commission may:

A. Conduct investigations and hearings;

B. Subpoena and examine under oath persons possessing relevant information, including, but not limited to, dealers and retail stores and their officers, agents and representatives;

C. Subpoena and examine the business records, books and accounts of dealers, retail stores or other persons who possess relevant business records, books or accounts; and

D. Inspect at reasonable times the business records, books and accounts of a dealer or retail store at the dealer's or store's office or place of business.

2. Oaths and subpoenas. Any member of the commission or any employee designated by the commission may sign subpoenas and administer oaths to witnesses.

Sec. F-25. 7 MRSA §3152, sub-§1-A, as amended by PL 1999, c. 679, Pt. B, §7 and affected by §14, is further amended to read:

1-A. Base minimum price. "Base minimum price" means ~~that part of the minimum Class I, Class II and Class III prices established by the Maine Milk Commission pursuant to chapter 603 that corresponds to Class I, Class II and Class III prices established pursuant to the northeast marketing area milk marketing order, excluding any amounts established by the Maine Milk Commission to reflect the increased costs of production pursuant to section 2954, subsection 2, paragraph A.~~

Sec. F-26. 7 MRSA §3152, sub-§1-B, as amended by PL 1999, c. 679, Pt. B, §8 and affected by §14, is further amended to read:

1-B. Adjusted base minimum price. "Adjusted base minimum price" means ~~that part of the minimum Class I, Class II and Class III prices established by the Maine Milk Commission pursuant to chapter 603 that corresponds to Class I, Class II and Class III prices established pursuant to the northeast marketing area milk marketing order; the base minimum price plus any amounts established by the Maine Milk Commission to reflect the increased costs of production pursuant to section 2954, subsection 2, paragraph A.~~

Sec. F-27. 7 MRSA §3152, sub-§4-A, as repealed and replaced by PL 2001, c. 471, Pt. A, §10 and affected by §11, is amended to read:

4-A. Eligible marketing cooperative. "Eligible marketing cooperative" means an association of milk producers organized to negotiate producer prices higher than the minimum producer prices established pursuant to the northeast marketing area milk marketing order and ~~which that~~ the commissioner has determined will not, through its operation, evade, impair or undermine the purposes of this chapter. ~~Notwithstanding Title 4, section 152, subsection 9 and Title 5, section 10051, subsection 1, the commissioner may revoke the eligible status of a marketing cooperative upon a determination that it has through its operation evaded, impaired or undermined the purposes of this chapter.~~

Sec. F-28. 7 MRSA §3152, sub-§8, as enacted by PL 1983, c. 573, §4, is amended to read:

8. Northern Maine market producer. "Northern Maine market producer" means any Maine milk producer located in Aroostook County ~~and or~~ Washington County, ~~and or~~ that portion of Penobscot County north of and including the minor civil divisions of Medway, T.A.R. 7 and Long A T.W.P. ~~selling who sells to a dealer determined by the commissioner to be~~ marketing milk on the Maine market; or any agricultural cooperative that buys milk or handles milk for such a producer and sells it to such a dealer.

Sec. F-29. 7 MRSA §3152-A, sub-§1, as enacted by PL 1985, c. 646, §3, is amended to read:

1. Exemption; pool payments. An agricultural cooperative ~~which that~~ is a producer-dealer under section 3152, subsection 10, ~~shall be~~ is exempt from payment into and redistributions out of the Maine Milk Pool to the extent that the milk sold or otherwise distributed by the agricultural cooperative ~~which is a producer-dealer~~ does not exceed 5,000,000 pounds a month. Nothing in this subsection exempts an

agricultural cooperative that is a producer-dealer from any other requirements of this chapter. In any month in which the milk sold or otherwise distributed by the agricultural cooperative ~~which that~~ is a producer-dealer exceeds 5,000,000 pounds, the agricultural cooperative ~~which is a producer-dealer~~ shall be considered the dealer for purposes of this chapter for the amount of make payment into and redistributions out of the Maine Milk Pool in accordance with this chapter with respect to that milk which that is in excess of 5,000,000 pounds.

Sec. F-30. 7 MRSA §3153, sub-§2, as amended by PL 2001, c. 433, §1, is further amended to read:

2. Collections from dealers. Collections from dealers ~~shall~~ must be made as follows.

A. Effective January 1, 2000, each Maine market dealer shall, on a monthly basis, calculate for its Maine market producers the amount of payment at the adjusted base minimum price that would be payable to its Maine market producers according to the price calculated using that dealer's utilization rate, referred to in this subsection as "the Maine sample payment amount," and the amount of payment that would be due its Maine market producers according to the price calculated using the applicable component prices and producer price differential for Suffolk County, Massachusetts for the northeast marketing area milk marketing order; referred to in this subsection as "the comparable Boston payment amount." ~~Each Maine market dealer shall make an initial payment using established minimum component prices and the producer price differential for the northeast marketing area milk marketing order for Suffolk County, Massachusetts in accordance with chapter 603. Any additional payment at the adjusted base minimum price that would be due its Maine market producers pursuant to that dealer's applicable utilization rate must be made to the Maine Milk Pool. Except as otherwise provided in this paragraph, in any month in which the Maine sample payment amount is more than the comparable Boston payment amount, the Maine market dealer shall pay to the Maine Milk Pool the amount of the difference.~~ Based on the fact that northern Maine market producers presently operate at significantly higher costs because of their remoteness from markets and supplies, that they face greater risks because they operate on a closer margin and because their markets are less secure, payments to the Maine Milk Pool at the adjusted base minimum price attributable to northern Maine market producers must be reduced by 1/2 and those producers' initial payments under this section must be increased by the corresponding amounts. ~~The~~

~~commissioner shall adopt by rule such procedures as are necessary to implement this section.~~

(1) For any month in which there is only one Maine market dealer subject to this paragraph and the milk sold or otherwise distributed by that dealer during that month does not exceed 1,000,000 pounds, the additional payment due to the Maine Milk Pool must instead be made by that dealer to its Maine market producers.

B. ~~For any month in which the amount of money payable to producers at the adjusted base minimum price at a dealer's utilization rate would be less than the amount of money payable to that dealer's producers at the base minimum price based upon the Maine sample payment amount is less than the comparable Boston payment amount, the Maine market utilization rate, the dealer may deduct the difference from the next month's initial payment to producers at the base minimum price under section 2954-A, subsection 2, paragraph A. Upon the termination of their business relationship, producers shall be~~ are ~~liable to dealers for all sums advanced under this paragraph which that have not been recouped by way of deduction.~~

C. For any month in which the Maine Milk Commission has established minimum prices payable to producers that include an over-order premium ~~which that~~ the commission has determined is attributable to the activity of an eligible marketing cooperative, this paragraph ~~shall apply~~ applies. Each Maine market dealer shall, on a monthly basis, calculate for its Maine market producers the amount of payment from the over-order premium that would be payable to its Maine market producers according to the blend price calculated using that dealer's utilization rate. With respect to those producers who have designated an eligible marketing cooperative to receive the over-order premium, the dealer shall make the payment to the eligible marketing cooperative. With respect to those producers who have not designated an eligible marketing cooperative to receive the over-order premium, the dealer shall make the payment into the Maine Milk Pool. ~~In making the payments required by this paragraph, Maine market dealers shall comply in all other respects with chapter 603.~~

D. For any month in which the Maine Milk Commission has established minimum prices payable to producers that include an over-order premium ~~which that~~ the commission has determined is not attributable to the activity of an eligible marketing cooperative, the over-order premium ~~shall~~ is not be pooled.

F. For any month in which the Maine Milk Commission has included in Class I, Class II or Class III prices any amounts to reflect the increased costs of production pursuant to section 2954, subsection 2, paragraph A, those amounts must be paid into the Maine Milk Pool for redistribution ~~to eligible Maine and Boston market producers on an equal basis~~ in accordance with subsection 4.

~~G. For any month in which there is only one Maine market dealer subject to collection under subsection 2, paragraph A and the milk sold or otherwise distributed by that dealer during that month does not exceed 1,000,000 pounds, the additional payment at the adjusted base minimum price under subsection 2, paragraph A due to the Maine Milk Pool instead must be made by that dealer to its Maine market producers.~~

Sec. F-31. 7 MRSA §3153, sub-§4, as amended by PL 1999, c. 679, Pt. B, §13 and affected by §14, is further amended to read:

4. Redistribution of pool; base minimum price. The commissioner shall, by rule, adopt ~~such~~ such ~~procedures as are necessary~~ to redistribute payments into the Maine Milk Pool ~~at the base minimum price under subsection 2, paragraphs A and F on an equal basis to eligible Maine market producers and eligible Boston market producers, except that:~~

A. If any Boston market producer whose farm is located within 140 miles of Boston receives a plant price, excluding deductions or additions imposed by the northeast marketing area milk marketing order ~~or imposed by any other seasonal balancing plan subsequently adopted by the northeast marketing area milk marketing order, that is an amount that is~~ greater than the amount initially payable of the initial payment to Maine market producers under section 2954-A, subsection 2, paragraph A, the commissioner shall credit that additional amount against the redistribution from the Maine Milk Pool to which that producer would otherwise be entitled in order to avoid potential inequities arising from equal redistribution;

B. If the credit ~~for any producer calculated under paragraph A against redistribution~~ exceeds the pool payment due ~~that the~~ the producer, that producer shall pay ~~an amount equal to the difference~~ into the Maine Milk Pool ~~not an amount equal to exceed~~ the excess or that producer's share of the cost of promotion, whichever is less. The commissioner may provide by rule that these amounts ~~shall~~ must be deducted from future ~~base minimum price~~ pool payments made under this subsection to that producer or from ~~over-order~~

~~premium pool payments due to that producer, or that these amounts shall be deducted by that producer's dealer under subsection 5, or from future payments for that producer's due to that producer for milk and paid over to the Maine Milk Pool by the dealer; and~~

C. If the commissioner determines that payments from the pool will be made to dairies, cooperatives or some other entity as a representative of producers, then the dairy, cooperative or other representative shall pay to the producer the amount owed to that producer within such time period as ~~shall be~~ is determined by the procedures established by rule under this subsection.

Sec. F-32. 7 MRSA §3153, sub-§5, as amended by PL 1987, c. 874, §§3 and 4, is further amended to read:

5. Redistribution of pool; over-order premium. Redistribution of payments into the pool and the following over-order premiums apply under subsection 2, paragraph C is governed by this subsection.

A. ~~Subject to paragraph C, for~~ For any month in which subsection 2, paragraph C is in effect, the commissioner shall pay those Maine market producers whose over-order premium was paid into the Maine Milk Pool ~~a~~ an initial redistribution on their milk under this paragraph. In calculating the rate of this redistribution and the timing of its payment, the commissioner shall attempt to achieve, insofar as practicable, an initial redistribution ~~of the over-order premium which~~ that ensures that Maine producers who are not members of eligible marketing cooperatives receive an initial redistribution equivalent to that received by Maine producers who are members of eligible marketing cooperatives. The commissioner shall consider the following factors:

- (1) The gross rate of redistribution used by eligible marketing cooperatives to calculate payment to their members;
- (2) Reasonable administrative and other charges deducted by eligible marketing cooperatives from the redistributions made to their members;
- (3) The timing of the redistributions made by an eligible marketing cooperative to its members; and
- (4) Such other factors as may be relevant to the goal of achieving, insofar as practicable, price equity among producers.

B. The commissioner shall redistribute the remainder of the ~~over-order premium amount~~ paid into the Maine Milk Pool under subsection 2, paragraph C on an equal basis to eligible Maine market producers and eligible Boston market producers; except that if any Maine market producer or Boston market producer receives an additional premium other than one attributable to the activity of an eligible marketing cooperative, the commissioner shall credit that additional premium against the redistribution to which that producer would otherwise be entitled under this paragraph in order to avoid potential inequities arising from equal redistribution.

C. If the commissioner determines that the basis for redistribution adopted by an eligible marketing cooperative is disadvantageous to Maine producers belonging to that cooperative, that the cooperative has not made redistributions to its Maine members in a timely manner or that the administrative or other fees deducted by the cooperative from redistributions to its ~~member members~~ members are excessive, unjust or unreasonable, ~~he~~ the commissioner may commence proceedings to revoke the eligible status of the cooperative pursuant to section ~~3152, subsection 6~~ 3155-B.

D. The commissioner shall, by rule, adopt such procedures as are necessary to implement this subsection. If the commissioner determines that payments from the pool will be made to dairies, cooperatives or some other entity as a representative of producers, then the dairy, cooperative or other representative shall pay to the producer the amount owed to that producer within such time period as is determined by the procedures established by rule under this subsection.

Sec. F-33. 7 MRSA §3153, sub-§6 is enacted to read:

6. Rules. The commissioner shall adopt by routine technical rule such procedures as are necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. F-34. 7 MRSA §3153-B, sub-§3, as enacted by PL 2003, c. 648, §2, is amended to read:

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~~ 2952-A, subsection 3, paragraph A to estimate the short-run break-even point within each tier.

Sec. F-35. 7 MRSA §3154, first ¶, as enacted by PL 1983, c. 573, §4, is amended to read:

In the event that information ~~requestered~~ requested is not adequately provided by any dealer, the commissioner may require producers who may be eligible for participation in the ~~milk pool~~ Maine Milk Pool to furnish such reports and other information as may be necessary to determine their eligibility and the extent of their participation.

Sec. F-36. 7 MRSA §3154, 4th ¶, as enacted by PL 1987, c. 447, §10, is amended to read:

An eligible marketing cooperative, or an organization applying for recognition as an eligible marketing cooperative, shall furnish the commissioner all information, records and reports necessary for the commissioner to determine and monitor the cooperative's initial eligibility and its ongoing compliance with this chapter. In addition to any other available remedies, the commissioner may commence proceedings pursuant to section ~~3152, subsection 6~~ 3155-B, to revoke the eligible status of a cooperative ~~which that~~ willfully fails to provide information, records or reports requested by the commissioner.

Sec. F-37. 7 MRSA §3155-B is enacted to read:

§3155-B. Eligible marketing cooperative; revocation of status

Notwithstanding section 3155-A, Title 4, section 152, subsection 9 and Title 5, section 10051, subsection 1, the commissioner may revoke the eligible status of a marketing cooperative upon a determination that it has through its operation evaded, impaired or undermined the purposes of this chapter.

PART G

Sec. G-1. Department recommendations for revisions. The Department of Agriculture, Food and Rural Resources shall develop recommendations to address legal ambiguities and other issues in the Maine Revised Statutes, Title 7 identified as in need of revision by the department and the Office of Policy and Legal Analysis. The department shall submit legislation to implement its recommendations to the Second Regular Session of the 122nd Legislature no later than December 15, 2005. The department shall seek drafting assistance from the Office of Policy and Legal Analysis.

See title page for effective date.

CHAPTER 383

S.P. 494 - L.D. 1405

An Act To Prepare Maine for Public Health Emergencies

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

Sec. 1. 22 MRSA c. 250, as amended, is further amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 250

CONTROL OF NOTIFIABLE DISEASES AND CONDITIONS

Sec. 2. 22 MRSA §801, sub-§§4-B to 4-E are enacted to read:

4-B. Environmental disease. "Environmental disease" means any abnormal condition or disorder aggravated or caused by exposure to an environmental hazard.

4-C. Environmental hazard. "Environmental hazard" means chemicals, physical agents, biomechanical stressors and biological toxins that are present in the environment and that have an adverse effect on human health.

4-D. Environmentally related health effects. "Environmentally related health effects" means chronic diseases, birth defects, developmental disabilities and other noninfectious health effects that may be related to exposure to environmental hazards.

4-E. Exposure. "Exposure" means direct contact or interaction with an environmental hazard or toxic agent affecting or being taken into the body.

Sec. 3. 22 MRSA §801, sub-§7, as enacted by PL 1989, c. 487, §11, is amended to read:

7. Notifiable disease or condition. "Notifiable disease or condition" means any communicable disease ~~or~~ occupational disease or environmental disease, the occurrence or suspected occurrence of which is required to be reported to the department pursuant to sections 821 to 825 or section 1493.

Sec. 4. 22 MRSA §801, sub-§10, as enacted by PL 1989, c. 487, §11, is amended to read:

10. Public health threat. "Public health threat" means any condition or behavior ~~which that~~ can reasonably be expected to place others at significant risk of exposure to a toxic agent or environmental