

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2004 to March 30, 2005**

**FIRST SPECIAL SESSION**  
**April 4, 2005 to June 18, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 29, 2005**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 17, 2005**

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

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**Penmor Lithographers**  
**Lewiston, Maine**  
**2005**

financial Regulation of information necessary for the administration of Title 10, chapter 222; and

**Sec. 3. 36 MRSA §191, sub-§2, ¶DD** is enacted to read:

DD. The disclosure to an authorized representative of a municipality that has adopted a municipal property tax assistance program under chapter 907-A of information related to a claimant's receipt of benefits under chapter 907. This paragraph does not authorize the disclosure of a claimant's income. A municipality receiving information under this paragraph shall keep the information confidential.

**Sec. 4. 36 MRSA c. 907-A** is enacted to read:

#### CHAPTER 907-A

### MUNICIPAL PROPERTY TAX ASSISTANCE

#### §6231. Definitions

For the purposes of this chapter, unless the context otherwise indicates, the terms used in this chapter have the same meaning as in chapter 907.

#### §6232. Municipal authority

The legislative body of a municipality may by ordinance adopt a program to provide benefits to persons with homesteads in the municipality. A municipality may choose to restrict the program to persons who are at least 62 years of age.

**1. Conditions of program.** A program adopted under this section must:

A. Require that the claimant has a homestead in the municipality;

B. Provide benefits for both owners and renters of homesteads; and

C. Calculate benefits in a way that provides greater benefits proportionally to claimants with lower incomes in relation to their property taxes accrued or rent constituting property taxes accrued.

**2. Relationship to state program.** Benefits received under a program adopted by a municipality under this section are in addition to benefits provided under chapter 907. A municipality may, but is not required to, provide that:

A. Benefits under the program are equal to a percentage of the benefits received by the claimant under chapter 907;

B. The amount of benefits received under the program may not exceed 50% of property taxes or rent constituting property taxes paid on a homestead; or

C. The amount of benefits received under the program together with benefits received under chapter 907 may not exceed 60% of property taxes or rent constituting property taxes paid on a homestead.

**3. Repeal of program.** A municipality that has adopted a program under this section may repeal it through the same procedure by which the program was adopted.

See title page for effective date.

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### CHAPTER 396

#### H.P. 996 - L.D. 1432

### An Act To Reestablish the Milk Handling Fee

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

**Whereas,** the milk handling fee provided significant revenue to the State when it was in effect; and

**Whereas,** the State is experiencing economic difficulties and significant fiscal problems; and

**Whereas,** revenues are necessary to the State's ability to address issues vital to the well-being of the State; 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 §2954, sub-§1,** as amended by PL 1999, c. 679, Pt. B, §3 and affected by §14, is further amended to read:

**1. Commission empowered to establish prices; public hearing.** The commission is vested with the power to establish and change, after investigation and public hearing, the minimum wholesale and retail prices to be paid to producers, dealers and stores for milk received, purchased, stored, manufactured, processed, distributed or otherwise handled within the State. The commission shall hold a public hearing

prior to the establishing or changing of such minimum prices. The commission may proceed, however, under the emergency rule-making provisions of Title 5, section 8054 without making findings of emergency when the only changes to be made in the minimum prices are to conform with the orders of any federal or other agency duly authorized by law to establish or negotiate producer prices or, are to respond to other conditions affecting prevailing Class I, Class II and Class III prices in southern New England or are to reflect the milk handling fee levied and imposed by Title 36, chapter 721. Title 5, section 8054, subsection 3, the 2nd sentence, does not apply to minimum prices adopted under the ~~previous sentence~~ this subsection. Due notice of the public hearing must be given by publishing notice as provided in Title 5, chapter 375. The commission shall hold such a public hearing not less frequently than once every 12 months to determine whether the minimum wholesale and retail prices then established should be changed. In addition to the data received through the implementation of the information gathering procedures of its rules as a basis for its determinations, the commission shall solicit and seek to receive oral and written testimony at hearings to determine whether the minimum wholesale and retail prices then established should be changed and whether the proposed minimum wholesale and retail prices are just and reasonable.

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

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~~ fee levied and imposed by Title 36, chapter ~~746~~ 721.

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

**Sec. 4. 7 MRSA §2954, sub-§16** is enacted to read:

**16. Initial notification and subsequent reports to State Tax Assessor.** The Maine Milk Commission shall notify the State Tax Assessor the first time after May 1, 2005 that the basic price of milk as defined in Title 36, section 4901, subsection 1 is below \$18 for 2 consecutive months. After initial notification, the Maine Milk Commission shall report before the first of each month to the State Tax Assessor the basic price of milk established for that month in Title 36, chapter 721.

**Sec. 5. 36 MRSA §191, sub-§2, ¶BB**, as amended by PL 2003, c. 668, §9 and affected by §12 and amended by c. 689, Pt. B, §6, is further amended to read:

BB. The disclosure to an authorized representative of the Department of Health and Human Services, Office of Head Start and Child Care of taxpayer information directly relating to the certification of investments eligible for or the eligibility of a taxpayer for the quality child care investment credit provided by section 5219-Q; ~~and~~

**Sec. 6. 36 MRSA §191, sub-§2, ¶CC**, as enacted by PL 2003, c. 668, §10 and affected by §12, is amended to read:

CC. The disclosure to an authorized representative of the Department of Professional and Financial Regulation of information necessary for the administration of Title 10, chapter 222; ~~and~~

**Sec. 7. 36 MRSA §191, sub-§2, ¶DD** is enacted to read:

DD. The disclosure to an authorized representative of the Maine Milk Commission of information on the quantity of packaged milk handled in the State and subject to the milk handling fee established in section 4902 and other information obtained by the assessor in the administration of chapter 721.

**Sec. 8. 36 MRSA c. 721** is enacted to read:

## CHAPTER 721

### MILK HANDLING FEE

#### §4901. Definitions

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

**1. Basic price.** "Basic price" means the minimum Class I price of milk established pursuant to Title 7, chapter 603 including that part of the Class I price that exceeds the applicable Class I price established pursuant to the northeast marketing area milk marketing order, but does not include that part of the Class I price established by the Maine Milk Commission to reflect the cost factors provided in Title 7, section 2954, subsection 2 or the increased costs of production pursuant to Title 7, section 2954, subsection 2, paragraph A.

**2. Fee period.** "Fee period" means the period beginning on the Sunday closest to the first day of the month and continuing through the Saturday prior to

the Sunday closest to the first day of the subsequent month.

**3. Handler.** "Handler," with respect to a particular container of packaged milk, means the wholesale handler or, if none, the producer-handler or the retail handler.

**4. Milk.** "Milk" has the same meaning as in Title 7, section 2951, subsection 6.

**5. Packaged milk.** "Packaged milk" means milk that has been processed and placed in containers for ultimate sale to consumers.

**6. Person.** "Person" means an individual, partnership, firm, corporation, association or other unit and the State and all political subdivisions or agencies of the State.

**7. Producer-handler.** "Producer-handler" means a person who produces milk and packages that milk or part of that milk for retail sale either by that person or by another retail handler.

**8. Retail handler.** "Retail handler" means a person who handles packaged milk in this State that is next sold in this State subject to the minimum retail prices established pursuant to Title 7, chapter 603.

**9. Wholesale handler.** "Wholesale handler" means a person who handles packaged milk in this State that is next sold in this State subject to the minimum wholesale prices paid to dealers established pursuant to Title 7, chapter 603.

#### **§4902. Milk handling fee**

**1. Fee.** Upon notification by the Maine Milk Commission in accordance with Title 7, section 2954, subsection 16, the assessor shall levy and impose a fee at the rate established in subsection 2 on the handling in this State of packaged milk for sale in this State. With respect to the handling in this State of a particular container of packaged milk for sale in this State, the fee must be paid by the handler. There is no fee on the handling in this State of packaged milk for sale in containers of less than one quart or 20 or more quarts in volume, or packaged milk that is sold to an institution that is owned and operated by the State or the Federal Government.

**2. Rate.** The rate of the fee levied under this chapter is established for each fee period on the basis of the basic price of milk in effect on the Sunday following the first Sunday of the fee period in accordance with the following:

A. If the basic price is \$18.50 per hundredweight and above, the rate of the milk handling fee is 0¢ per gallon;

B. If the basic price is \$18.00 to \$18.49 per hundredweight, the rate of the milk handling fee is 1¢ per gallon;

C. If the basic price is \$17.50 to \$17.99 per hundredweight, the rate of the milk handling fee is 2¢ per gallon;

D. If the basic price is \$17.00 to \$17.49 per hundredweight, the rate of the milk handling fee is 4¢ per gallon;

E. If the basic price is \$16.50 to \$16.99 per hundredweight, the rate of the milk handling fee is 8¢ per gallon;

F. If the basic price is \$16.00 to \$16.49 per hundredweight, the rate of the milk handling fee is 10¢ per gallon; and

G. If the basic price is below \$16.00 per hundredweight, the rate of the milk handling fee is 12¢ per gallon.

For any container other than a gallon, the fee is computed on a gallon-equivalent basis.

**3. Fee calculation.** Handlers shall pay the fee for each fee period on all milk subject to the fee sold during the fee period and are either:

A. Subject to the minimum wholesale prices paid to dealers established by the Maine Milk Commission pursuant to Title 7, chapter 603; or

B. Not subject to minimum wholesale prices paid to dealers but subject to minimum retail prices established by the Maine Milk Commission pursuant to Title 7, chapter 603.

In calculating the amount of packaged milk handled for sale in this State during each fee period, the handler shall deduct from that amount any packaged milk returned to the handler during that fee period.

**4. Fee; additional.** The fee imposed and collected under this chapter is in addition to any taxes imposed or collected under any other law of the State.

**5. Records, reports and administration.** Every handler subject to the fee imposed under subsection 1 shall register with the assessor within 5 business days of becoming subject to the fee on forms provided by the assessor. The list of registered handlers must be available to the public. By the 25th day of each calendar month, every handler subject to the fee imposed under subsection 1 shall report to the assessor the quantity of packaged milk handled in this State for sale in this State during the preceding fee period, the quantity of packaged milk handled that was subject to the milk handling fee and any other information the assessor determines necessary or

useful in the administration of this chapter and enforcement of the milk handling fee. The assessor may share information with the Maine Milk Commission in accordance with section 191, subsection 2, paragraph DD.

**6. Due dates.** Handlers shall pay to the assessor the fee due for the preceding fee period not later than the 25th day of each calendar month and submit the information required by the assessor on the forms provided.

**7. Presumption.** In a proceeding against a retail handler for collection of the fee with respect to a particular container of packaged milk, there is a rebuttable presumption that that retail handler did not purchase that container in a transaction subject to the minimum wholesale prices paid to dealers established pursuant to Title 7, chapter 603. The burden is on the retail handler to show that the retail handler purchased that container of packaged milk in a transaction subject to minimum wholesale prices paid to dealers established pursuant to Title 7, chapter 603.

**8. General Fund.** The assessor shall immediately pay all funds received from the milk handling fee to the Treasurer of State to be deposited in the General Fund. The funds may not be dedicated to a particular purpose and may be used for all purposes of State Government.

**9. Exception.** A producer-handler who sells less than 10,000 hundredweight per year is not subject to the fee imposed under subsection 1.

**Sec. 9. Appropriations and allocations.** The following appropriations and allocations are made.

**ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

**Bureau of Revenue Services**

Initiative: Provides funds to cover the initial costs of the Bureau of Revenue Services to administer the milk handling fee.

<b>GENERAL FUND</b>	<b>2005-06</b>
All Other	\$10,000
<b>GENERAL FUND TOTAL</b>	<b>\$10,000</b>

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

Effective June 17, 2005.

**CHAPTER 397**

**H.P. 1145 - L.D. 1622**

**An Act To Correct Errors and Inconsistencies in the Laws of Maine**

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

**Whereas,** acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

**Whereas,** these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

**Whereas,** it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; 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:**

**PART A**

**Sec. A-1. 2 MRSA §6, sub-§1,** as amended by PL 2003, c. 608, §1 and c. 689, Pt. C, §1, is repealed and the following enacted in its place:

**1. Range 91.** The salaries of the following state officials and employees are within salary range 91:

Commissioner of Transportation;

Commissioner of Conservation;

Commissioner of Administrative and Financial Services;

Commissioner of Education;

Commissioner of Environmental Protection;

Executive Director of Dirigo Health;

Commissioner of Public Safety;

Commissioner of Professional and Financial Regulation;

Commissioner of Labor;