

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

SECOND REGULAR SESSION
January 6, 2010 to April 12, 2010

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 12, 2010

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

Augusta, Maine
2010

with regard to a regulatory function identified in section 8001, subsection 38 administered by the office regarding the violation.

See title page for effective date.

CHAPTER 466

H.P. 1087 - L.D. 1543

An Act To Make Maine Laws Consistent with Recent Amendments to the United States Trade Act of 1974

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

Sec. 1. 26 MRSA §1191, sub-§3, as amended by PL 1991, c. 193, §3, is further amended to read:

3. Weekly benefit for partial unemployment. Each eligible individual who is partially unemployed in any week must be paid a partial benefit for that week. The partial benefit is equal to the weekly benefit amount less the individual's weekly earnings in excess of \$25. ~~Any amount received from the Federal Government by members of the National Guard and organized reserve, including base pay and allowances or any amounts received as a volunteer firefighter, as a volunteer emergency medical services person or as elected members of the Legislature, is not considered wages for the purpose of this subsection. The following amounts are not considered wages for purposes of this subsection:~~

- A. Amounts received from the Federal Government by a member of the National Guard and organized reserve, including base pay and allowances;
- B. Amounts received as a volunteer firefighter or as a volunteer emergency medical services person;
- C. Amounts received as an elected member of the Legislature; and
- D. Earnings for the week received as a result of participation in full-time training under the United States Trade Act of 1974 as amended by the United States Trade and Globalization Adjustment Assistance Act of 2009 up to an amount equal to the individual's most recent weekly benefit amount.

Sec. 2. 26 MRSA §1192, sub-§6-A, as enacted by PL 1981, c. 548, §2, is amended to read:

6-A. Prohibition against disqualification of individuals in approved training under the United States Trade Act of 1974. Notwithstanding any other provisions of this chapter, no otherwise eligible individual may be denied benefits for any week because

~~he the individual~~ is in training approved under 19 United States Code, Section 2296(a) or under any amendment or addition to the United States Trade Act of 1974, ~~Section 236 (a) (1)~~, nor may that individual be denied benefits by reason of leaving work to enter that training, provided the work left is not suitable employment, or because of the application to any such week in training of provisions in this chapter, or any applicable federal unemployment compensation law, relating to availability for work, active search for work or refusal to accept work. Benefits paid to any eligible claimant while in such training for which, except for this subsection, the claimant could be disqualified under section 1193, subsection 1 or 3, ~~shall may~~ not be charged against the experience rating record of any employer but ~~shall must~~ be charged to the General Fund.

For purposes of this subsection, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the United States Trade Act of 1974, and wages for such work at not less than 80% of the individual's average weekly wage as determined for the purposes of the United States Trade Act of 1974.

See title page for effective date.

CHAPTER 467

H.P. 1252 - L.D. 1758

An Act To Implement the Recommendations of the Task Force on the Sustainability of the Dairy Industry in Maine

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

Whereas, milk producers are receiving milk payments that are below the cost of production; and

Whereas, all sectors of the dairy industry and rural economies are in jeopardy; and

Whereas, it is in the State's economic interest to maintain a viable dairy industry and in the public interest to have a secure food supply; 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 §2952-A, sub-§3, ¶A, as enacted by PL 2005, c. 382, Pt. F, §4, is amended to read:

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~~ 4 different levels of production; and

Sec. 2. 7 MRSA §3153-B, sub-§1, ¶D, as enacted by PL 2003, c. 648, §2, is amended to read:

D. "Target price" means the short-run break-even point for each of ~~3~~ 4 categories of annual production. Target prices are determined in accordance with subsection 3.

Sec. 3. 7 MRSA §3153-B, sub-§3, as amended by PL 2007, c. 240, Pt. OOO, §1 and c. 262, §1, is further amended to read:

3. Determination of target prices. The Maine Milk Commission shall establish ~~3~~ 4 tiers of production, each representing a range of annual production. The commission shall use the most recent studies conducted in accordance with section 2952-A, subsection 3, paragraph A to estimate the short-run break-even point within each tier.

The Maine Milk Commission may establish and amend ranges of production for each tier and target prices through rulemaking. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 4. 7 MRSA §3153-C, as amended by PL 2005, c. 230, §1, is repealed.

Sec. 5. 7 MRSA §3153-D, as enacted by PL 2005, c. 418, §1, is amended to read:

§3153-D. Transfer of revenues

On or before the ~~15th~~ 18th day of each month, the administrator of the Maine Milk Pool shall certify the amounts to be distributed for the previous month pursuant to ~~sections~~ section 3153-B and ~~3153-C~~ to the State Controller, who shall transfer the certified monthly amount when certified from General Fund undedicated revenue to the Maine Milk Pool Other Special Revenue Funds account.

Sec. 6. PL 2007, c. 240, Pt. OOO, §2 is repealed.

Sec. 7. PL 2007, c. 262, §2 is repealed.

Sec. 8. PL 2009, c. 213, Pt. TTT, §2 is amended to read:

Sec. TTT-2. Cap on transfers for the dairy stabilization program in fiscal years 2009-10

and 2010-11. Notwithstanding the Maine Revised Statutes, Title 7, section 3153-D, in fiscal years 2009-10 and 2010-11, the administrator of the Maine Milk Pool may not certify any amount to be transferred from the General Fund for distributions under Title 7, section 3153-B that would bring the total amount transferred in fiscal years 2009-10 and 2010-11 above ~~\$13,349,600~~ \$17,361,291.

Notwithstanding Title 7, section 3153-B, in fiscal years 2009-10 and 2010-11, the administrator of the Maine Milk Pool may not distribute payments for dairy stabilization support that in the aggregate exceed ~~\$13,349,600~~ \$17,361,291.

Sec. 9. Interim target prices. Beginning July 1, 2010 and until the Maine Milk Commission updates the Maine producer cost-of-production data and adopts new tiers of production and target prices in accordance with the Maine Revised Statutes, Title 7, section 3153-B, subsection 3, the production levels for each tier and the target prices for milk producers in the State are as follows:

1. For the first 16,790 hundredweight produced per year by each producer, the target price is \$20.70 per hundredweight;
2. For production from 16,791 hundredweight to 49,079 hundredweight per year, the target price is \$18.07 per hundredweight;
3. For production from 49,080 hundredweight to 76,803 hundredweight per year, the target price is \$17.29 per hundredweight; and
4. For production in excess of 76,803 hundredweight per year, the target price is \$16.51 per hundredweight.

Sec. 10. Administrator authorized to make monthly adjustments during the period from July 1, 2010 to June 30, 2011. During the period from July 1, 2010 to June 30, 2011, the administrator of the Maine Milk Pool shall monitor milk price projections and each month calculate the amounts to be paid out under the dairy stabilization program for fiscal year 2010-11 based on these projections. The administrator may adjust the amount requested and the amount distributed in any month during this period based on the most recent projections and calculations. The administrator may reduce payments only if projections indicate that the total distributions under the stabilization program will exceed \$17,361,291 in the biennium consisting of fiscal years 2009-10 and 2010-11.

If projections indicate that total distributions will exceed \$17,361,291, the administrator shall adjust payments distributed in October 2010 to June 2011 on milk produced in the months of September 2010 to May 2011 by multiplying the target price for each tier by the same percent. The administrator shall adjust

payments distributed in July, August and September 2010 on milk produced in June, July and August 2010, respectively, in accordance with sections 11 and 12.

Sec. 11. Calculation of payments for milk produced June 1, 2010 to August 31, 2010. Notwithstanding the Maine Revised Statutes, Title 7, section 3153-B, the administrator of the Maine Milk Pool shall calculate and make payments to Maine milk producers in accordance with this section for milk produced from June 1, 2010 to August 31, 2010.

1. No later than June 15, 2010, the administrator of the Maine Milk Pool shall assign each producer to one of 4 tiers based on that producer's total production during the 12-month period beginning June 1, 2009 and ending May 31, 2010.

2. Upon receiving the production data for June 2010, the administrator shall:

A. Calculate the amount of money due each producer in accordance with Title 7, section 3153-B, subsection 4;

B. Reduce each producer's payment by a percentage established in section 12; and

C. Certify to the State Controller the amounts to be transferred and distributed.

3. The administrator shall calculate payments for milk produced in July 2010 and milk produced in August 2010 in the manner prescribed in subsection 2, paragraphs A, B and C.

Sec. 12. Reductions in payments for milk produced in June, July and August 2010. The administrator of the Maine Milk Pool shall determine the percentage reduction in payments required under section 11, subsection 2, paragraph B in a manner that results in:

1. Each producer within a tier receiving the same percentage reduction in payment for a month as other producers in that tier receive for that month; and

2. Percentage reductions between adjacent tiers in a ratio of 1 to 2, progressing from tier 1 to tier 4.

Sec. 13. Calculation and distribution of dairy stabilization payments beginning July 1, 2011. Beginning July 1, 2011 and until further legislative action is taken, the administrator of the Maine Milk Pool shall calculate and distribute payments in accordance with the Maine Revised Statutes, Title 7, section 3153-B using the production levels and target prices established in section 9. The administrator may not use authority under section 10 or 11 to reduce payments after June 30, 2011.

Sec. 14. Improvements to cost-of-production study. The Maine Milk Commission shall develop a method for comprehensive data collection to improve the reliability and verification of the

cost-of-production studies used to determine target prices under the Maine Revised Statutes, Title 7, section 3153-B, subsection 3. With improved information, the commission shall establish tiers that are more representative of Maine dairy farms and target prices that more closely approximate the short-run break-even point for each tier.

Sec. 15. Report to joint standing committee. No later than January 15, 2011, the Maine Milk Commission shall report to the joint standing committee of the Legislature having jurisdiction over agriculture matters on the improved data collection method developed under section 14. The report must contain a timetable for implementing the method and for revising the tiers of production and target prices in accordance with the Maine Revised Statutes, Title 7, section 3153-B, subsection 3.

Sec. 16. Legislation authorized. The joint standing committee of the Legislature having jurisdiction over agriculture matters may submit legislation to the 125th Legislature to revise the tiers and target prices used to calculate dairy stabilization payments to Maine milk producers under the Maine Revised Statutes, Title 7, section 3153-B.

Sec. 17. Appropriations and allocations. The following appropriations and allocations are made.

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Milk Commission 0188

Initiative: Provides allocation to the Maine Milk Pool for fiscal year 2010-11 based on an increase in the cap on the milk subsidy to \$17,361,291 for fiscal year 2010-11.

OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
All Other	\$0	\$4,011,691
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	\$4,011,691

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

Effective February 12, 2010.

CHAPTER 468

H.P. 1247 - L.D. 1753

An Act To Adjust the Milk Handling Fee