

# MAINE STATE LEGISLATURE

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## DIVISION OF ADMINISTRATION

## The Department; Commissioner; Duties

Sec. 1. State department of agriculture; election of commissioner. R. S. c. 39, § 1; c. 125, § 19. 1931, c. 228. 1937, c. 221. 1943, cc. 207, 320. The state department of agriculture, as heretofore established and hereinafter in this chapter called the "department", shall be maintained for the improvement of agri-

culture and the advancement of the interests of husbandry. A commissioner of agriculture, hereinafter in this chapter called the "commissioner", shall be elected by the legislature by joint ballot of the senators and representatives in convention, and shall hold his office for the term of 4 years and until his successor is elected and qualified. He shall receive an annual salary of \$4,500. He shall also receive his actual expenses incurred in the performance of his official duties. He may employ such clerical labor as may be required, subject to the provisions of the personnel law, and he may expend such sums for postage, telephone, telegraph, and other general office expenses as may be necessary, in the performance of his duties, the same to be paid out of any money appropriated by the legislature for such purpose. The commissioner may, with the approval of the governor and council, appoint a deputy commissioner of agriculture, who shall be the chief of one of the department bureaus in the department of agriculture, and shall perform the duties of the commissioner during his absence, in addition to his duties as chief of a department bureau. The deputy commissioner shall hold office during the term of office of the commissioner or until his successor is appointed, and his compensation and expenses shall be paid from any funds appropriated for the use of the department bureau of which he is chief. When the office of commissioner shall become vacant by reason of the death, resignation, removal, or inability to serve of the regularly elected incumbent of the office, the governor shall appoint a commissioner of agriculture to serve until the election of his successor, as provided by law, and his qualification.

See Const. of Me., Art. IX, § 1, re oath.

**Sec. 2. Duties.** R. S. c. 39, § 2; c. 125, § 37. 1931, c. 216, Art. II, § 15. The commissioner is the chief executive charged with the enforcement of the provisions of this chapter, and shall be vigilant in discovering violations thereof and making complaint to the proper authorities. He shall by personal observation, investigation, and correspondence acquaint himself with the methods and wants of practical husbandry, the means of fertilization, and the adaptation of various products to the soils and climate of the state; also, with the progress of scientific and practical agriculture elsewhere, with a view to the more complete development of the natural resources of the state. He shall gather statistics of information concerning agriculture and publish the same annually; he shall assist the farmers of the state, in so far as is practicable, to secure farm help and to promote increased production of farm crops through the selection, the growing, and the dissemination of superior strains of seeds. He shall make and preserve a full record of all rules and regulations promulgated under the provisions of this chapter, and all payments and expenses incurred hereunder, and all other transactions performed by him in the discharge of his duties, as herein provided. He shall collect the legal and usual fees payable to him by virtue of his office and shall pay them over forthwith to the treasurer of state.

See §§ 241-247; c. 22, § 157, re revocation of licenses; c. 30, § 8, re farm land loan act; c. 29, § 11, re soil conservation; c. 34, §§ 84-86, re may prohibit digging of clams, etc.; c. 34, § 87, re enforcement of regulations for shipping clams.

### Provisions for Enforcement

**Sec. 3. Uniform rules, regulations; standards of purity.** R. S. c. 41, § 65. The commissioner shall make uniform rules and regulations for carrying out the provisions of sections 3 to 8, inclusive, 34 to 41, inclusive, 124 to 127, inclusive, 129, 157 to 187, inclusive, 196 to 211, inclusive, and 213 to 224, inclusive. He may also fix standards of purity, quality, or strength when such standards are not specified or fixed by law, and shall publish them together with such other

information concerning articles of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide, and insecticide as he may deem to be of public benefit.

**Sec. 4. Hearing in case of violation.** R. S. c. 41, § 66. When the commissioner becomes cognizant of the violation of any provision of sections 3 to 8, inclusive, 34 to 41, inclusive, 124 to 127, inclusive, 129, 157 to 187, inclusive, 196 to 211, inclusive, and 213 to 224, inclusive, he shall cause notice of such fact, stating the date, hour, and place of hearing, with a copy of the findings, or, in case of a packer of food, a copy of the charge to be preferred, to be given to the person concerned and the person from whom the sample was obtained, and the person whose name appears upon the label, (if a resident of the state), who shall be given an opportunity to be heard under such rules and regulations as may be prescribed by the said commissioner. When the hearing relates to the packing of apples, it shall be held in the county where the inspection was made.

See § 215.

**Sec. 5. Enforcement of laws by commissioner.** R. S. c. 41, § 67. The commissioner shall diligently enforce all provisions of this chapter and shall be entitled to and shall receive the assistance of the attorney-general and of the several county attorneys. He may recover the penalties imposed for violations of the provisions of this chapter in an action of debt brought in his own name, the venue to be as in other civil cases, and if he prevails in any such action, shall recover full costs; or he may prosecute for violations hereof by complaint or indictment, and such prosecution shall be commenced in the county in which the offense was committed.

See c. 124, § 15, re sale of adulterated candy.

**Sec. 6. Appointment of deputies.** R. S. c. 41, § 68. The commissioner may, with the approval of the governor and council, appoint and fix the compensation of a chief deputy and such other deputies as in his judgment are required to assist him, and to enable him to carry out the provisions of all laws, the execution of which is entrusted to him. The chief deputy shall hold office during good behavior and such other deputies during the pleasure of the commissioner; their compensation and expenses shall be paid from any funds appropriated for the use of the commissioner in the execution of said laws.

**Sec. 7. Rules of construction.** R. S. c. 41, § 69. The word "person" as used in this chapter shall be construed to import both the singular and the plural, as the case demands, and shall include corporations, companies, societies, and associations. When construing and enforcing the provisions of this chapter, the act, omission, or failure of any officer, agent, or other person acting for or empowered by any corporation, company, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society, or association as well as that of the person.

**Sec. 8. Jurisdiction; disposal of funds.** R. S. c. 41, § 70. 1933, c. 118, § 1. Trial justices shall have original jurisdiction, concurrent with municipal courts and the superior court, of actions brought for the recovery of penalties imposed by the provisions of this chapter, and of prosecutions for violations hereof. All fines received under the provisions of this chapter shall accrue to the treasurer of state, and the same are appropriated for the purposes of this chapter except as otherwise provided for by law.

See c. 137, § 5, re fines, costs, and forfeitures to be paid to county treasurer.

**Sec. 9. Bureaus to be grouped into divisions.** R. S. c. 39, § 3. 1931, c. 216. The various bureaus and lines of work in the department shall be grouped into divisions, known as divisions of administration, markets, animal industry, plant industry, and inspection.

**Sec. 10. To hold institutes; character of their work.** R. S. c. 39, § 5. The commissioner shall hold or cause to be held 2 farmers' institutes in each county annually and as many more as the appropriation therefor will allow. The work of said institutes shall be devoted to the presentation and discussion of questions bearing upon agriculture and the agricultural interests of the state; and for this purpose said commissioner may employ speakers who are qualified and versed in the subjects assigned them. He may also appoint and employ assistants, experts, lecturers, a stenographer, and other aids needed in conducting such institute work, and shall fix the compensation of such employees. He may hold such institutes independently or in connection with other organizations devoted to agricultural interests and as far as possible and for the best agricultural interests of the state, aid and encourage agricultural societies and associations in the state, and shall collect and preserve in his office for public inspection all valuable data relating to the practical work of such societies and associations.

**Sec. 11. To hold a state dairymen's conference.** R. S. c. 39, § 6. 1937, c. 129. The commissioner shall, in connection with and with the aid of the Maine dairymen's association, annually hold a state dairymen's conference for the exhibit of cattle, dairy products, and appliances, wherein prizes for high merit and quality may be offered, and may employ experts and lecturers to enhance dairy interests, but the expenses of the same shall not exceed the sum of \$700 annually.

**Sec. 12. To assist in promoting horticultural and dairy work.** R. S. c. 39, § 7. The commissioner shall aid and assist societies and associations organized and established for the advancement of pomology, horticulture, and dairy work, also societies devoted to the interests of the pure breeding of stock of all kinds.

**Sec. 13. Biennial report.** R. S. c. 39, § 11. The commissioner shall biennially make a report to the governor and council, on or before the 1st day of July of each even-numbered year, of the work of the department in detail, combining in the same a report of the Maine state pomological society and Maine dairymen's association, and all other matters relating to the promotion of agriculture; and for the purpose of said report, said society and association shall furnish said commissioner with all necessary data therefor on or before the 1st day of June of each year. He shall further report all farmers' institutes held and the work therein done, and all public lectures carried on under his authority, and such part of said reports as is of public interest shall be printed for free distribution; for the purpose of making up his report as herein provided, said commissioner shall attend the various agricultural exhibitions in the state and report upon the quality and character of the work of the same.

**Sec. 14. Annual account of all expenditures.** R. S. c. 39, § 12. He shall render on the 1st day of July of each year a detailed and itemized account of all expenses of his office, of all institutes held, and of all moneys paid out for employees under the provisions hereof, also all sums of money paid for prizes on exhibits and for all other purposes; and for this purpose he shall keep necessary books in which an account of all moneys received and expended shall be entered, which books shall be open to public inspection.

**County and Local Agricultural Societies**

See c. 126, § 26, re beano.

**Sec. 15.** County and local societies, or treasurers, may hold and manage property; bonds of treasurers. R. S. c. 39, § 24. County and local agricultural societies may take and hold property, real and personal, the annual income of which shall not exceed \$3,000, to be applied to the purposes provided in their charters; or their treasurers may receive conveyances or leases of such property for their societies, and hold, sell, mortgage, or pledge it, and shall give bonds to the trustees for the safe-keeping thereof and the faithful discharge of their duties.

**Sec. 16.** State aid to agricultural societies; apportionment; procedure for apportioning stipend; authority to summon officers and examine books and records; to apportion state stipend due societies. R. S. c. 39, §§ 8, 9, 25. 1931, c. 24. 1933, c. 116. 1935, c. 69, § 2. 1937, cc. 14, 225. 1939, c. 106, §§ 1, 2. 1941, c. 267, § 1. There shall be appropriated annually from the state treasury a sum of money not to exceed 2c per inhabitant of the state, which shall be known as the state stipend for aid and encouragement to agricultural societies and hereafter designated as the "stipend". This stipend shall be divided among the legally incorporated agricultural clubs, societies, and fair associations of the state, hereafter in this chapter designated as "societies", according to the following schedule and method. Said stipend shall be divided pro rata among the legally incorporated societies, not heretofore provided for according to the amount of premiums and gratuities actually paid in full and in cash or valuable equivalent by said societies upon horses, cattle, sheep, swine, poultry, and agricultural and domestic products, but no such society whether specifically mentioned in this chapter or otherwise shall be entitled to any share of the stipend unless it shall have complied with the following requirements, which shall be considered by the commissioner as the basis upon which his apportionment of the stipend shall be made as provided in this section. Each society claiming a share of the state stipend under the provisions of this section shall file with the commissioner not later than December 31st of the year for which said stipend is requested, a statement made under oath, by its treasurer, setting forth the financial condition and transactions of the society, the amounts paid in premiums in the several classes or displays herein provided for, and such additional information relative to the character of displays and the conduct of exhibitions as the commissioner may request, and upon blanks to be furnished by him. No premiums or gratuities shall be considered by the said commissioner in apportioning the amount of stipend to which any society is entitled except those offered and paid upon horses, cattle, sheep, swine, poultry, vegetables, grain, fruit, flowers, products derived from horses, cattle, sheep, swine, home canned foods, grange exhibits, farm exhibits, boys' and girls' club exhibits, domestic and fancy articles produced in the farm home, and pulling contests by horses and oxen, and in no case shall the amount allowed on account of premiums paid in said class of domestic and fancy articles exceed the total amount allowed as premiums upon vegetables, grain, fruits, and flowers. No society, the Maine state pomological society excepted, shall receive from the state a sum greater than that actually raised and paid by the society as premiums and gratuities in the classes herein provided, and in no case shall any society be entitled to any share of the stipend unless it shall have raised and paid in premiums in the classes heretofore set forth at least \$200. No society shall receive any portion of the stipend in excess of \$3,000. No society shall receive any portion of such stipend unless it shall have regularly entered and

displayed in an attractive manner upon its exhibition grounds not less than 100 separate and distinct exhibits or entries of vegetables, fruits, or dairy products of a quality acceptable to the commissioner or his regularly authorized agent and of varieties known to be common or standard to the county in which such exhibition is held. The stipend may, however, be paid to such agricultural society or societies as may display a lesser number of exhibits of vegetables, fruits, or dairy products, than as hereinbefore required, provided the commissioner shall certify that in his opinion such society or societies have been unable for good and sufficient reasons to secure such required number of exhibits. No society shall be entitled to any share of the stipend unless it shall require all cattle exhibited or allowed upon its grounds at exhibition time to be tuberculin tested within 3 years previous to the date of its exhibition and declared free from tuberculosis by a veterinarian approved by the commissioner, and in the distribution of such stipend no allowance shall be made or consideration given on account of lump sums, payments, or premiums previously arranged and agreed upon by exhibitors and the officers of any society for the presentation and display of any animals or products without regard to competition which may subsequently appear. The commissioner may summon before him and examine on oath any officer of an incorporated society or other person whose testimony he shall deem necessary in the proper discharge of his duties, and may require such witnesses to bring before him for examination any books or records in their custody or control which he may deem necessary for his information in the performance of his duties. The commissioner shall apportion annually the stipend due from the state to the societies, including the Maine state pomological society. He shall issue blanks to the proper officers of said societies for such returns as may be deemed necessary for a full and complete knowledge of the work of said societies for each year, and shall certify to the governor and council the amount of bounty due such society, and shall designate to the treasurer of state to whom such moneys shall be paid, but said societies shall not be entitled to such bounty unless they shall make such returns. Neglect or failure on the part of any society to observe any of the foregoing requirements shall be deemed sufficient cause for withholding such society's share of the stipend, and the commissioner is required and directed to authorize payment of stipend only to such societies as have observed all of the said requirements.

Provided, however, that the conducting of pari mutuel betting by any such society under license of the state racing commission in accordance with the provisions of sections 1 to 22, inclusive, of chapter 77 shall not be deemed cause for withholding such society's share of the stipend.

See §§ 18, 19; P. L. 1943, c. 87, re stipend to agricultural societies during war emergency.

**Sec. 17. Payments withheld until certain certificates and specifications are filed; investigation of complaints.** R. S. c. 39, § 26. 1941, c. 267, § 2. No payment of any state aid, whether made under the provisions of the preceding section or by special appropriation, shall be made to any society until the treasurer thereof files with the treasurer of state a certificate on oath, stating the amount raised by it and containing the specifications required in section 21; and also a certificate from the commissioner that he has examined into the claim of said society; that in his opinion it has complied with the provisions of sections 19, 21, and 23; that there has been awarded and paid by said society as premiums and gratuities a sum at least equal to the amount apportioned to said society. In case of any complaint in writing, signed by the complainant, of the violation

of any of the provisions of this chapter relating to the payment of state aid in any form to agricultural societies, the commissioner may investigate such alleged violation and employ such agents and counsel as may be necessary to aid him in such investigation, and the expense incurred shall be paid out of the general appropriation for aid of societies; provided that when it is found upon such investigation that the society against which complaint has been made has violated the provisions of this chapter, the expense of such investigation shall be paid from the amount that would otherwise have been paid to said society; provided further, that if the society against which the complaint is made receives its aid by special enactment, then the expense of the investigation shall be paid from the said appropriation for such society.

See P. L. 1943, c. 87, re stipend to agricultural societies during war emergency.

**Sec. 18. Law enforcement at agricultural fairs.** 1941, c. 267, § 3. The chief of the state police shall assign members of the state police to special duty at all agricultural fairs for the purpose of enforcing the laws of the state.

All local and county law enforcement officers are directed to cooperate with the state police.

In case the said chief of police discovers that any agricultural club, society, or fair association permits illegal sale of liquor, gambling, or exhibitions of immoral shows at any such fair, he shall report the fact to the commissioner who may on such report refuse to pay the stipend provided for in this chapter.

**Sec. 19. Society offering premiums on grade males not entitled to state aid.** R. S. c. 39, § 27. No state stipend shall be paid to any society offering or paying premiums on grade males; the commissioner may make this a part of the sworn return to be made by the proper officers of all societies; provided that satisfactory evidence as to eligibility to registration shall be accepted as proof of purity of blood.

**Sec. 20. Expenditure of bounty.** R. S. c. 39, § 28. Every society receiving the bounty of the state shall expend an equal amount each year in premiums and gratuities for the improvement and encouragement of agriculture, horticulture, or the mechanic arts, unless the commissioner directs for what purposes a sum not exceeding  $\frac{1}{2}$  of such bounty shall be expended; and then it shall be expended accordingly.

**Sec. 21. Statements required from competitors.** R. S. c. 39, § 29. Every society applying for the bounty of the state shall require of all competitors for premiums either on animals, crops, dairy products, or improvements of soils or manures, a full and accurate statement of the process or method of rearing, managing, producing, and accomplishing the same, together with its cost and value, with a view of showing the profits or benefits derived or expected therefrom; and the application for bounty shall embrace all the specifications included in the following form, to wit:

"I, A. B., treasurer of the — society, hereby apply for bounty in aid of said society, as granted by law, and being sworn, or affirmed, say that \$— has been raised and paid in good faith into the treasury of said society, and that \$— has been actually paid in full in premiums, in conformity with law."

**Sec. 22. Secretaries to report annually to commissioner.** R. S. c. 39, § 30. The secretaries of the several societies shall prepare an annual report, embracing a concise statement of the financial condition and doings of the society, with

a synopsis of the premiums awarded, to be made by filling blanks furnished by the commissioner. Said report shall also state the leading features of the annual exhibition, the character of the efforts of the society for the advancement of agriculture, the principal crops raised in the county or district, the success attending their culture as compared with former years, and the obstacles met with; and generally the condition, prospects, and wants of agriculture; which report, with a list of the officers of the society and the post-office address of each, renewed at each new election, and all statements made by successful competitors for premiums, and any reports of committees, essays, addresses, or other papers presented to the society containing matters of general interest, shall be returned to the commissioner by the 1st Wednesday of each December. Upon receipt and after examination of said returns, if the commissioner finds them full, faithful, and accurate according to the intent hereof, he shall issue the certificate mentioned in section 17, and not otherwise.

**Sec. 23. Societies may fix bounds for exhibitions; penalty for violation of regulations.** R. S. c. 39, §§ 31, 32. All incorporated societies may, by their officers, define and fix bounds of sufficient extent for the erection of their cattle-pens and yards, and for convenient passageways to and about the same, on the days of their cattle shows and exhibitions, and for their plowing matches and trial of working teams, within which no person shall enter or pass, unless in conformity with the regulations of the officers thereof; and said societies shall furnish suitable space for the exhibition of farm implements and machinery at a reasonable rental; but they shall not so occupy or include the lands of any person without his consent or obstruct the public travel of any highway. Whoever, contrary to such regulations, enters or passes within the bounds so fixed, after notice of such regulations, when such grounds are not fenced, (no notice being necessary when such grounds are fenced) shall be punished by a fine of not more than \$5, or by imprisonment for not more than 10 days.

**Sec. 24. Penalty for defrauding agricultural or horticultural societies.** R. S. c. 39, § 33. Whoever shall gain admission to the grounds or buildings of any agricultural or horticultural society during the holding of an exhibition, otherwise than by the regular entrance provided, for the purpose of defrauding such society out of the regular entrance fee to such grounds or buildings; or who by fraud, misrepresentation, or otherwise unlawfully obtains such admission; and any person obtaining any premium or gratuity offered by such society by fraud or misrepresentation shall be deemed guilty of larceny from such society, and on conviction shall be punished accordingly.

See c. 119, § 1, re punishment for larceny.

**Sec. 25. Persons may be appointed to keep order, with powers of constables.** R. S. c. 39, § 34. The officers of any society described in the preceding section may appoint a sufficient number of suitable persons to act as constables at cattle shows and exhibitions, with all the powers of constables, for the preservation of the public peace and the enforcement of the regulations of said society, within the towns where such shows and exhibitions are held, from noon of the day preceding the commencement of the same until noon of the day succeeding the termination thereof, and no longer.

**Sec. 26. Sale of merchandise and refreshments, and exhibitions, near grounds; restricted.** R. S. c. 39, § 35. Whoever sells any refreshments, or other merchandise, or exhibits any show or play, within a quarter of a mile of the fair

grounds of any society, during the time of any exhibition thereof, unless in his own dwelling-house or usual and ordinary place of business, or lets any land or building adjoining or overlooking the fair grounds of such society to spectators of any exhibition thereof, during the time of such exhibition, without the written consent of its trustees, forfeits to such society not exceeding \$100, to be recovered on complaint of 2 of its trustees.

**Sec. 27. Powers and privileges of Eastern Maine State Fair.** R. S. c. 39, § 36. The corporation known as "Eastern Maine State Fair" shall have all the police powers, together with all other powers and privileges, at all of its exhibitions, of whatever name or nature, which are conferred upon societies by the provisions of sections 23 and 25, and the provisions, restrictions, forfeitures, and penalties provided by section 24 and by the preceding section shall be applicable to all exhibitions of such corporation.

**Sec. 28. Competitors for premiums holden to pay entry fee; lien on animals, to secure payment.** R. S. c. 39, § 37. Whoever makes entries of animals or articles as competitors for premiums or purses offered by any society or by any person or association in the state, shall be holden to pay the entry fee in accordance with the advertised rules and regulations of any such society, person, or association, not in conflict with the laws of the state; and a lien is created upon such animals and articles for such entry fee to secure payment thereof with costs, to be enforced by an action of debt against the person owning such animals or articles, or the person entering the same; or the same may be enforced in the same manner as liens on goods in possession and choses in action, but such lien shall not affect the title of any innocent purchaser of said animals or articles without actual notice of such lien.

See c. 164, §§ 65, 75, 84.

**Sec. 29. Conduct of exhibitions.** R. S. c. 39, § 38. Agricultural societies, persons, and associations holding public exhibitions for competition for premiums or purses are authorized to conduct and manage the same in accordance with the advertised rules and regulations not in conflict with the laws of the state.

See c. 120, § 19, re penalty for false registration of blooded animal.

See c. 120, § 20, re penalty for entering in any race a disguised horse, or entering a horse in wrong class.

**Sec. 30. Duties and functions of Maine state pomological society.** 1935, c. 69, § 1. The Maine state pomological society, a non-profit organization, incorporated in 1873, is authorized to promote the interests of better fruit growing in Maine by holding an annual exhibition wherein premiums on horticultural products and appliances shall be paid. It may also hold such field meetings as may be thought profitable by the executive committee of the society and to pay other incidentals thereof including compensation and travelling expenses of officers; providing an itemized account of all money expended be rendered each year to the commissioner and upon his approval and presentation of proper vouchers said bill shall be paid.

**Sec. 31. Duties and functions of Maine state poultry association and Androscoggin poultry and pet stock association.** 1937, c. 159. The Maine state poultry association and Androscoggin poultry and pet stock association, non-profit organizations, as heretofore established, are authorized to promote the interests of improved poultry production and utility poultry breeding in Maine, by holding annual exhibitions wherein lectures and demonstrations shall be

given and premiums on live poultry and poultry products and appliances shall be paid, and to pay other incidentals thereof, provided an itemized account of all money expended be rendered each year to the commissioner and upon his approval and presentation of proper vouchers said bills shall be paid. The sum, appropriated to carry out the provisions of this section, shall be apportioned between the said societies as the commissioner may direct and in proportion to the amounts paid by each society in premiums in all classes of poultry and poultry products, and the expenses incurred thereby.

See P. & S. L., 1935, c. 86, re Maine Agricultural Industries, Inc.

## DIVISION OF MARKETS

### Marketing and Advertising Farm Products

Sec. 32. Methods and costs of marketing farm products, authorizing study of. R. S. c. 39, § 10. The commissioner is authorized and directed, through such agents as he may appoint for the purpose, and in cooperation with such agricultural corporations or associations as he may deem proper, to investigate the existing methods and costs of marketing farm products and purchasing farm supplies and to secure improvement therein.

Sec. 33. Advertising of Maine farm products. R. S. c. 39, § 2. 1935, c. 104. 1937, c. 221. 1941, c. 83. The commissioner may investigate and furnish statements to shippers and other interested parties as to the quality and condition of fruits, vegetables, dairy, and other perishable farm products when received within the state for intrastate or interstate commerce, under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered. All such fees and all such money thus collected for such services rendered by the commissioner shall be paid by him to the treasurer of state; and the aforesaid funds and money are appropriated for the purposes of this chapter. Any unexpended balance from such funds thus appropriated shall not lapse, but shall be carried forward to the same fund for the next fiscal year. Statements so issued by the authorized agents of the department shall be received in all courts of this state as prima facie evidence of the truth of the statements therein contained. He may enter into agreements or cooperative arrangements with any person, firm, or corporation for the purpose of advertising and increasing the sale and consumption of Maine farm products or disseminating information concerning the same; and he may receive, administer, and disburse any funds or contributions from such persons, firms, or corporations, either independently or in conjunction with state funds allocated to said purpose; provided that funds so contributed shall be used for the purposes herein set forth only. He may employ such agents and assistants, subject to the provisions of the personnel law, and make such purchases as may be necessary in the proper performance of his duties.

### Grades and Standards for Farm Products

Sec. 34. Commissioner may establish grades for farm products; exceptions; hearings to be held. R. S. c. 41, § 49. The commissioner may establish and promulgate official grades and standards for farm products, excepting dairy products and apples, produced within the state for the purposes of sale, and may from time to time amend or modify such grades and standards. Before establishing, amending, or modifying any such grades or standards the said

commissioner shall hold public hearings in such places within the state as shall be most convenient to producers of the commodity under consideration. Notice of such hearings shall be advertised for 3 successive weeks prior thereto, in a newspaper or newspapers of general circulation within the county where the hearing is to be held, and shall specify the date and place of each hearing and that it is to be held for the purpose of obtaining information with a view to establishing grades or standards for farm products.

**Sec. 35. Brands, labels, and trade-marks may be determined by commissioner; permission to use brands may be granted; permission may be revoked. R. S. c. 41, § 50.** The commissioner may determine or design brands, labels, or trade-marks for identifying farm products packed in accordance with such official grades and standards established as provided by law and may furnish information to packers and shippers as to where such labels and trade-marks may be obtained. A written application to the said commissioner requesting permission to use said brands, labels, or trade-marks, and a written acceptance thereto by the said commissioner or duly authorized assistants shall be a condition precedent to the use of such brands, labels, or trade-marks. The said commissioner may revoke or suspend the right to use such brands, labels, or trade-marks whenever it appears on investigation that they have been used to identify farm products not in fact conforming to the grade indicated.

See § 34.

**Sec. 36. Publicity of grades, standards, brands, etc., to be given. R. S. c. 41, § 51.** Upon the establishment of the grades or standards, brands, labels, or trade-marks, the commissioner shall give due publicity through the newspapers of the state, setting forth the grade or grades so established and the date on which such establishment is to become effective, and distribute information explaining the same and their use.

**Sec. 37. After establishment of standards and grades, unlawful to use same without permit; penalty. R. S. c. 41, § 52.** After notice of the establishment of grades or standards and the determination of brands, labels, or trade-marks as herein provided, it shall be unlawful to use a brand, label, or trade-mark to identify farm products as being of a grade established as aforesaid before a permit is granted or after the revocation of the right to use such brand, label, or trade-mark by the commissioner. Violations of the provisions of this section shall be punished for the first offense by a fine of not more than \$50, and for subsequent offenses by a fine of not more than \$200.

See § 34.

**Sec. 38. Inspection of branded products; certificates of inspection. R. S. c. 41, § 53.** The commissioner or his duly authorized agents may inspect farm products, marked, branded, or labeled in accordance with official grades or standards established and promulgated by the said commissioner, as provided in this chapter, for the purpose of determining and certifying the quality and condition thereof and other material facts relative thereto. Certificates issued in pursuance of such inspection and executed by the inspector shall state the date and place of inspection, the grade, condition, and approximate quality of the farm products inspected and such other pertinent facts as the said commissioner may require. Such a certificate relative to the condition or quality of said farm products shall be prima facie evidence in all courts of the state of the facts required as aforesaid to be stated therein.

**Sec. 39. Commissioner may make rules and regulations.** R. S. c. 41, § 54. The commissioner may prescribe rules and regulations for carrying out the purposes of sections 34 to 40, inclusive, including the fixing of fees as provided in section 33.

**Sec. 40. Authority of commissioner in making inspections; penalty for obstructing commissioner.** R. S. c. 41, § 55. The commissioner, in person or by deputy, shall have free access at all reasonable hours to any building or other place wherein it is reasonably believed that farm products are marked, branded, or labeled in accordance with official grades established and promulgated by the said commissioner or are being marketed or held for commercial purposes. He shall also have power in person or by deputy to open any bags, crates, or other containers containing said farm products and examine the contents thereof and may upon tendering the market price, take samples therefrom. Whoever obstructs or hinders the said commissioner or any of his duly qualified assistants in the performance of his duties under the provisions of sections 34 to 40, inclusive, shall be punished by a fine of not less than \$10, nor more than \$100.

**Sec. 41. Marking of pressed hay; person receiving hay not marked may defend action for price.** R. S. c. 41, § 11. All hay pressed and put up in bales, except hay pressed by farmers and retailed from their own barns, shall have the first letter of the christian name and the whole of the surname of the person putting up the same, written, printed, or stamped on bands or boards made fast thereto, with the name of the state and the place where such person lives. Whoever offers for sale or shipment any pressed hay not marked as aforesaid, except hay pressed by farmers and retailed from their own barns, forfeits \$1 for each bale so offered, to be recovered by complaint. No person who has received hay not marked as provided in this section shall defend any action for the price thereof upon that ground, unless he shall prove that, before the delivery of said hay to him, he requested the person from whom he bought the same to comply with the provisions of this section.

### Eggs

**Sec. 42. Labeling fresh eggs for sale.** 1937, c. 100, § 1. No person, firm, partnership, association, or corporation shall sell, or offer, expose, or advertise for sale, or exchange or distribute eggs as "fresh eggs," "strictly fresh eggs," "native eggs," "hennery eggs," "nearby eggs," or "new laid eggs," or under other words or descriptions of similar import, unless they are fresh eggs as defined in section 43.

See § 176.

**Sec. 43. Fresh eggs defined.** 1937, c. 100, § 2. No eggs shall be deemed to be fresh unless they are free from objectionable odor and flavor, and unless they meet the following standards of quality, the final determination of which shall be made by candling; air cell not greater than  $\frac{1}{4}$  inch in depth, localized and regular, yolk fairly well centered, outline only moderately defined,—may be visible, but free from visible germ development; white, firm, and clear.

See §§ 46, 176.

**Sec. 44. Other definitions and terms.** 1937, c. 100, § 3. 1939, c. 80, § 1. Terms used in sections 42 to 49, inclusive, shall be construed as follows unless a different meaning is clearly apparent from the language or context: "whole-sale" means selling to retailers; "retail" means selling direct to consumer;

"candling" means the common practice of examining the interior of an egg by holding and twirling the same before a light passing through an aperture in an opaque shield; "large" eggs shall mean eggs having an average weight of not less than 24 ounces net to the dozen with no egg weighing less than at the rate of 23 ounces to the dozen; "medium" eggs shall mean eggs having an average weight of not less than 21 ounces net to the dozen with no egg below the rate of 20 ounces to the dozen; "pullet" eggs shall mean eggs having an average weight of not less than 19 ounces net to the dozen with no egg below the rate of 18 ounces to the dozen; "peewee" eggs shall mean all eggs which will not qualify as to size under "large," "medium," or "pullet."

See § 46.

**Sec. 45. To provide for proper branding.** 1937, c. 100, § 4. 1939, c. 80, § 2. All eggs sold, offered, exposed, or advertised for sale for human consumption at retail or wholesale, or exchanged or distributed at retail or wholesale in bulk or in open or closed packages or containers within the state as fresh eggs, shall be plainly and conspicuously marked on such package or container with the word "Fresh." The size of all eggs for human consumption which are sold, offered, exposed, or advertised for sale at retail or wholesale, or exchanged or distributed at retail or wholesale within this state in bulk or in open or closed packages or containers shall be plainly and conspicuously marked and identified on such package or container as "large," "medium," "pullet," or "peewee," as the case may be, or by such other terms as the commissioner may from time to time prescribe.

**Sec. 46. Tolerances established.** 1937, c. 100, § 5. 1939, c. 80, § 3. In order to allow for variations incident to proper grading and handling the following tolerances shall be allowed:

I. Ten eggs in each dozen shall meet the minimum requirements for fresh eggs as defined in section 43. Not more than 2 eggs in each dozen may be below said minimum requirements, but not below the following requirements: air cell not greater than  $\frac{3}{8}$  inch in depth; localized, may be slightly tremulous, yolk may be visible, mobile, germ developments slightly visible; white reasonably firm.

II. Not more than 2 eggs in each dozen shall fall below the required average weight of its classification as defined in section 44.

**Sec. 47. Enforcement.** 1937, c. 100, § 6. The commissioner shall have authority to administer the provisions of sections 42 to 49, inclusive, and to make uniform rules and regulations for such administration. The commissioner may recover the penalties imposed for violations of the provisions of sections 42 to 49, inclusive, in an action of debt brought in his own name, the venue to be as in other civil cases, and if he prevails in any such action, shall recover full costs; or he may prosecute for violation of the provisions of said sections by complaint or indictment and such prosecution shall be commenced in the county in which the offense is committed.

**Sec. 48. Penalty for violation.** 1937, c. 100, § 7. Any person, firm, partnership, association, or corporation who shall violate any of the provisions of sections 42 to 49, inclusive, or shall neglect or refuse to comply with the provisions thereof or any rule or regulation promulgated hereunder shall be punished by a fine of not more than \$10 for the 1st offense, and not more than \$50 for the 2nd offense, and not more than \$100 for any subsequent offense.

Sec. 49. Jurisdiction and disposal of funds. 1937, c. 100, § 8. Trial justices shall have original jurisdiction, concurrent with municipal courts and the superior court, of actions brought for the recovery of penalties imposed by the provisions of sections 42 to 49, inclusive, and of prosecutions for violations of the provisions thereof. All fines received under the provisions of sections 42 to 49, inclusive, by county treasurers shall be paid by them to the commissioner; and all money received by the commissioner under the provisions of said sections shall be paid by him to the treasurer of state, and the same is appropriated for the purpose of carrying out the provisions of sections 42 to 49, inclusive.

Sec. 50. Cooperation between state and national departments of agriculture. 1931, c. 102. The commissioner is authorized to enter into agreements with the United States department of agriculture and/or the commissioners of agriculture of the other New England states for cooperative work in the collection and publication of agricultural statistics and in developing grades and standards for farm products and providing inspection thereof; such agreements to be subject to the approval of the governor and council.

## DIVISION OF ANIMAL INDUSTRY

### Animal Husbandry Expert

Sec. 51. Commissioner of agriculture to employ animal husbandry expert. R. S. c. 39, § 4. 1937, c. 221. The commissioner is authorized to employ an animal husbandry expert. He may employ such assistants as he deems necessary, subject to the provisions of the personnel law. Such expenses in connection therewith shall be paid as said commissioner may approve.

See c. 88, § 8, et seq., re registration and licensing of dogs.

### Prevention of Diseases

Sec. 52. Commissioner to investigate as to existence of diseases. R. S. c. 40, § 1. 1935, c. 66, § 1. The commissioner shall cause investigation to be made as to the existence of tuberculosis, pleuro-pneumonia, foot and mouth disease, glanders, hog-cholera, fowl pox, infectious laryngo, tracheitis, (infectious bronchitis) and other infectious and contagious diseases, among cattle, horses, sheep, swine, and poultry; and he, or his duly constituted agent, may enter any premises or places, including stockyards, cars, and vessels, within any county or part of the state, in or at which he has reason to believe there exists any such disease, and make search, investigation, and inquiry in regard to the existence thereof.

See c. 22, § 85, re notice to commissioner of agriculture of case of tuberculosis or glanders in domestic animals; c. 70, § 5, re non-graduate veterinarian, in service of state, to submit to examination as to his fitness to render professional services.

See 1941, c. 254, § 6, re proceeds of bond issue for eradication of Bang's disease and other diseases.

Sec. 53. Notice, by publication, of existence of diseases; quarantine of animals and places; appraisal of animals affected. R. S. c. 40, § 2. Upon the discovery of any disease mentioned in the preceding section, the commissioner or his agent in charge of live stock sanitary work shall give notice of the existence and the locality thereof, by publication in such newspapers as he may select, and shall notify in writing the officials or agents of any railroad, steamboat, or other transportation company, doing business in or through such infected locality, of the existence of such disease; he shall establish and maintain such

quarantine of animals, places, premises, or localities as he may deem necessary to prevent the spread of any such disease; he shall cause the animal or animals affected with the said disease to be appraised in accordance with the rules and regulations made by him, as hereinafter authorized and provided, and shall cause the same to be destroyed, and a proper disposition of the carcass made, according to the rules and regulations aforesaid; he or his approved agent shall appraise each animal at its true market value at the time it is condemned, and shall pay out of any moneys appropriated by the legislature for that purpose, an indemnity, but such indemnity paid by the state shall not exceed \$200 for cattle, with a pedigree recorded, or recordable, in the recognized herd book of the breed in which the cattle destroyed may belong, nor more than \$100 for the cattle which have no recordable pedigree; and all other animals so destroyed shall be paid for at the rate of  $\frac{1}{2}$  their cash value; provided that no appraised value shall exceed \$100 for any horse condemned; provided further, that in no case shall compensation be allowed for any animal destroyed under the provisions of this chapter, which may have contracted or been exposed to such disease in a foreign country or on the high seas, or that may have been brought into this state, within 1 year previous to such animal showing evidence of such disease, except cattle that are accompanied by tuberculin test papers showing that they are from an accredited herd or a herd under supervision of the state or country from which they come, tested within 1 year and no disease found; and the owner or owners thereof shall furnish satisfactory evidence as to the time during which such animal or animals shall have been owned in the state; nor shall compensation be allowed for any cattle condemned that have been illegally brought into any modified accredited area, nor to any owner who in person or by agent knowingly or wilfully conceals animals that should be tested, the existence of such disease, or the fact of exposure thereto in animals of which the person making such concealment, by himself or agent, is in whole or in part owner. In addition to the appraisal value paid to the owner of cattle as above provided, such owner shall also be entitled to the proceeds derived from the sale of any carcass in excess of \$50.

**Sec. 54. Commissioner required to publish rules and regulations; to be approved by the governor.** R. S. c. 40, § 3. The commissioner shall make, record, and publish rules and regulations, providing for and regulating the agencies, methods, and manner of conducting the investigation provided for in section 52, regarding the existence of said contagious diseases; for ascertaining, entering, and searching places where such diseased animals are supposed to exist; for ascertaining what animals are so diseased, or have been exposed to contagious diseases; for making, reporting, and recording descriptions of said animals so diseased, exposed, and destroyed and for appraising the same, and for making payment therefor; and shall make all other needful rules and regulations, which may in his judgment be deemed requisite, to the full and due execution of the provisions of sections 52 to 72, inclusive, and sections 122 and 123. All such rules and regulations before they shall become operative shall be approved by the governor, and thereafter published in such manner as may be provided in such rules and regulations; after such publication, said rules and regulations shall have the force and effect of law, so far as the same are not inconsistent with the laws of this state, or the United States.

**Sec. 55. Penalty for obstructing commissioner in the performance of his duties.** R. S. c. 40, § 4. Any person who knowingly and wilfully refuses permission to the commissioner, or his duly constituted agent, to make, or who

knowingly or wilfully obstructs said commissioner, or his duly constituted agent, in making necessary examination of, and as to animals, supposed by the commissioner or his agent to be diseased as aforesaid, or in destroying the same, or who knowingly attempts to prevent the commissioner, or his duly constituted agent, from entering upon the premises and other places hereinbefore specified, where any of said diseases are by the commissioner supposed to exist, and any person who shall knowingly or wilfully change, remove, conceal, or substitute any tag, brand, label, or mark, fixed, fastened, or set by the chief of the division of animal industry or his agent or by any of the duly authorized inspectors, agents, or representatives of the commissioner of this state or by any duly authorized inspector or official of any other state, upon any animal, place, or premises in this state shall be punished by a fine of not more than \$100, or by imprisonment for not more than 90 days, or by both such fine and imprisonment.

**Sec. 56. Penalty for knowingly concealing the existence of disease. R. S. c. 40, § 5.** Any person who is the owner of, or who is possessed of any interest in any animal affected with any of the diseases named in section 52, or any person who is agent, common carrier, consignee, or is otherwise charged with any duty in regard to any animal so diseased, or exposed to the contagion of such disease, or any officer or agent, charged with any duties under the provisions of sections 52 to 72, inclusive, and sections 122 and 123, who shall knowingly conceal the existence of such contagious disease, or the fact of such exposure to contagion, and who shall knowingly and wilfully fail within a reasonable time to report to the commissioner the knowledge of their information in regard to the existence and location of such disease, or of exposure thereto, shall be punished as provided in section 55.

See c. 124, § 5, re possession of diseased meat or milk for human food.

**Sec. 57. Quarantine declared when owner refuses to accept sum to be paid under appraisal. R. S. c. 40, § 6.** When the owner of animals adjudged under the provisions of sections 52 to 72, inclusive, and sections 122 and 123, by the proper authority, to be diseased, or to have been exposed to contagion, refuses to accept the sum authorized to be paid under the appraisal provided for in sections 52 to 72, inclusive, and sections 122 and 123, the commissioner shall declare and maintain a rigid quarantine for 30 days as to the animals adjudged as aforesaid, to be diseased, or exposed to any contagious or infectious disease, and of the premises or places where said cattle, horses, sheep, or swine may be found, according to the rules and regulations prescribed by said commissioner, approved by the governor, and published as provided in section 54.

**Sec. 58. Penalty for transporting any animal affected, or that has been exposed to contagious diseases. R. S. c. 40, § 7.** No person owning or operating a railroad, nor the owner or owners or masters of any steam, sailing, or other vessel, within the state, shall receive for transportation, or transport from one part of the state to another part of the state, or bring from any other state or foreign country, any animal affected with any of the diseases named in section 52, or that have been exposed to such diseases, especially the disease known as tuberculosis, knowing such animal to be affected or to have been so exposed; nor shall any person or persons, company, or corporation, drive on foot, or transport in private conveyance, from one part of the state to another part of the state, any animal knowing the same to be affected with, or to have been exposed to, any of said diseases; the proper movement of these animals under the direction of the commissioner for purposes of slaughter and disposal, ex-

cepted. Any person or persons violating any provision of this section shall be punished by a fine of not more than \$100, or by imprisonment for not more than 3 months, or by both such fine and imprisonment.

**Sec. 59. Conditions under which owner of condemned cattle may receive compensation therefor; cattle reacting to tuberculin test may be killed.** R. S. c. 40, § 8. When cattle shipped from Maine to the quarantine station at Brighton, Massachusetts, are subjected to the tuberculin test, and respond to such test, and the inspector for the "Cattle Bureau of Massachusetts" shall find upon post-mortem examination that such cattle were diseased with tuberculosis, and shall so state in writing to the commissioner within 30 days from shipment from the state, and shall also give in writing a description of such animal, the name of the owner, the shipper, the date and name of place from which the same was shipped, the name of the party from whom it was bought and the fair cash value of such animal when condemned, and shall also comply with any other rule or regulation that the commissioner may require, the owner shall be entitled to receive a fair market value, not to exceed \$75 for grade, and \$150 for pure bred cattle, with a pedigree recorded or recordable; but in no case shall the owner be paid for any animal condemned under the provisions of this section, until he has filed with the commissioner a claim, stating the name of the owner, the shipper, his post-office address, place and date of shipment, a fair market value for such animal, name of the person from whom said animal was purchased or consigned, and such other information as the commissioner may require; such claim shall be accompanied in every instance with a "sale ticket" for such part of the animal as may have been sold, and the proceeds of such sale in excess of \$50 shall be added to the appraised value to be paid the owner of any condemned animal under the foregoing provisions. Cattle reacting to the tuberculin test may be sent to establishments maintaining a United States government meat inspection service, and be killed under federal government inspection, and be disposed of according to the requirements of the Government Meat Inspection Act.

**Sec. 60. Persons bringing horses into this state must have permit; penalty.** R. S. c. 40, § 9. Any person or persons bringing horses into the state must have a permit and shall notify the commissioner within 48 hours after their arrival; the said commissioner shall at once cause the same to be examined by a physical examination, or to be tested with mallein or cause the blood test to be used at the expense of the owner, or the commissioner may accept a certificate of health showing satisfactory mallein test or physical examination made by an inspector of the bureau of animal industry of the United States or by a veterinarian whose certificate is approved by the state official having authority to approve same under the laws of the state from which the animal is shipped. If an animal is found to be glandered no compensation shall be allowed. No permit or examination will be required for horses used in circuses and to perform on the stage. Whoever violates the provisions of this section shall be punished by a fine as provided in section 66.

**Sec. 61. Dairy, breeding, and show cattle to meet certain requirements.** R. S. c. 40, § 11. 1935, c. 106, § 1. 1943, c. 277. All cattle that are to be shown or exhibited in any agricultural show within the state shall meet the requirements of the rules and regulations of the commissioner.

**Sec. 62. Commissioner to make rules and regulations for investigation of tuberculosis.** R. S. c. 40, § 12. The commissioner shall make all needful rules and regulations as to the manner in which application shall be made to him

for the investigation of tuberculosis in the herds of the state; provided, however, that he employ regular skilled veterinarians and shall regulate the way and manner in which the test shall be applied and the state shall not be made responsible for any private test made.

**Sec. 63. Certificate to be left with owner of condemned cattle.** R. S. c. 40, § 13. There shall be left with the owner of all condemned animals a proper certificate, duly authenticated, showing the number condemned and the value at which they are appraised, which shall be transferable only with the consent and acceptance of the commissioner.

**Sec. 64. Stables where condemned animals are found, to be disinfected.** R. S. c. 40, § 14. The commissioner shall thoroughly disinfect all stables and premises where condemned animals are found, or cause the same to be done by a competent agent in the employ of such commissioner, and the expense incurred on account of such disinfectant shall be paid  $\frac{1}{2}$  from the appropriation allowed for the use of the division of animal industry and  $\frac{1}{2}$  by the owner or person in control of such stable and premises.

**Sec. 65. Assessors' return of pure-blood cattle filed with commissioner.** R. S. c. 40, § 15. All assessors of taxes shall keep a record of all pure-blooded cattle kept for breeding purposes, and shall make a report of the same to the commissioner on or before the 1st day of July of each year, showing the name of the owner, number in the herd, age, and sex. Such reports shall be made upon blanks furnished by the said commissioner.

**Sec. 66. Permit required for cattle entering the state.** R. S. c. 40, § 17. 1935, c. 106, § 2. 1939, c. 77. 1943, c. 294. No cattle shall be allowed to enter this state, from any other state or country, either for dairying purposes, breeding purposes, or for slaughter, except cattle in transit under the control of the federal government, without a permit duly authorized by the chief of the division of animal industry, which permit shall accompany the shipment. All such cattle must meet the requirements of the rules and regulations of the commissioner. Whoever violates any provision of this section shall be punished by a fine of not less than \$25, nor more than \$50, for each offense.

The commissioner is authorized to enter into agreements in the name of the state of Maine with other states for the purpose of controlling the transportation of cattle into, and out of, this state in order to effect the eradication of any infectious or communicable disease. The rules and regulations contained in such agreements are to be promulgated by the commissioner with the approval of the governor.

See 1941, c. 254, re bond issue for Bang's disease.

**Sec. 67. County attorneys to prosecute violations.** R. S. c. 40, § 18. 1933, c. 118, § 1. The several county attorneys shall prosecute all violations of the provisions of sections 52 to 72, inclusive, and sections 122 and 123, which shall be brought to their notice or knowledge by any person making the complaint under oath; trial justices within their counties shall have, upon complaint, original and concurrent jurisdiction with municipal courts and the superior court in all prosecutions arising under the provisions of said sections.

**Sec. 68. Commissioner may employ agents and fix compensation.** R. S. c. 40, § 19. 1937, c. 221. The commissioner may employ skilled veterinarians in all tuberculin tests and such other agents and employees as he may deem neces-

sary to carry into effect the provisions of sections 52 to 72, inclusive, and sections 122 and 123, subject to the provisions of the personnel law.

**Sec. 69. Payment of expenses.** R. S. c. 40, § 20. The actual and necessary traveling expenses of the commissioner and his employees, the expense of disinfecting premises, cars, vessels, and other places, destroying diseased animals and those exposed to disease, and paying for the same, and all other expenses necessary to properly carry out the provisions of sections 52 to 72, inclusive, and sections 122 and 123 shall be paid by the treasurer of state upon vouchers approved by the commissioner or his agent in charge of live stock sanitary work. All money received from the sale of hides and carcasses of condemned animals shall be expended for the purposes of said sections.

### Quarantine Powers

**Sec. 70. Commissioner authorized to enter premises to make tests; to quarantine animals and premises; to require slaughter of animals.** R. S. c. 40, § 21. 1933, c. 88. For the protection of the public health and to prevent the infection of the live stock of the state with contagious disease, the commissioner, the chief of the division of animal industry, or any of their duly authorized agents are empowered to enter upon any premises at any time where live stock is or may be kept and may test for tuberculosis or other contagious disease, by any reputable method, any animal found thereon; and should any such animal be found to be infected with tuberculosis or other contagious disease, the commissioner or his agent shall have power to quarantine such animal and all premises and such other animals as the commissioner or his agent may deem necessary in order to prevent the spread of the disease. The commissioner or his agent is empowered to require the slaughter and disposal of any animals found to be infected with tuberculosis or other contagious disease as provided in section 53.

**Sec. 71. Commissioner authorized to prohibit moving of cattle to and from quarantined areas; animals brought into said area may be quarantined; owner of animals or his agent to secure animals to be tested.** R. S. c. 40, §§ 22, 23. The commissioner or his agent in charge of live stock sanitary work is empowered to prohibit the movement of cattle of every description into or from any area where bovine tuberculosis or other contagious disease is known to exist and where the commissioner or his agent has assumed charge of such disease eradication. If any animals are brought into any such area in violation of this regulation, the commissioner or his agent shall be further empowered to quarantine such animals until they shall be tested by an accredited veterinarian at the expense of the owner. The owner or his agent shall so secure animals to be tested as to make it possible for the inspector of the department, or the agent in charge of live stock sanitary work, to apply in an expeditious manner the test that is deemed necessary.

**Sec. 72. Penalty for violation of provisions of 2 preceding sections.** R. S. c. 40, § 24. Any owner or owners of cattle who shall refuse or neglect to comply with the provisions of the 2 preceding sections or who shall violate any of the provisions of the said sections shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 55.

### Bang's Disease

**Sec. 73. Cattle may be tested for "Bang's disease."** 1933, c. 297, § 1. When any owner of cattle in the state shall signify in writing his willingness to place his herd under the supervision of the department for the eradication of Bang's disease, the commissioner or his agent in charge of live stock sanitary work shall have blood from the animals drawn by a competent veterinarian and tested at the state laboratory by what is known as the blood agglutination test, and all animals showing a positive reaction to this test shall be identified by a "reactor" eartag or brand, or by both eartag and brand, and shall be slaughtered. Animals showing a suspicious reaction to the blood agglutination test may be held for 60 days and retested.

See 1941, c. 254, re issue of bonds for eradication of Bang's Disease, etc.

**Sec. 74. Indemnities.** 1933, c. 297, § 2. 1943, c. 214. Any animal condemned for Bang's disease shall be appraised, slaughtered, and marketed by direction of the commissioner or his duly appointed agent in charge of live stock sanitary work. Such appraisal shall be made in accordance with the market value of the animal by a person designated by the department. The indemnity shall be paid out of any funds designated for that purpose but shall not exceed \$20 for a grade animal or \$50 for a registered pure bred animal. The salvage obtained from the sale of hides and carcasses of these condemned animals shall in all cases revert to the owner. The balance of the appraisal, not exceeding the indemnity limit, shall be paid by the state.

**Sec. 75. Cleaning and disinfecting.** 1933, c. 297, § 3. The owner shall clean and disinfect the premises, where reactors to the agglutination test for Bang's disease have been found and removed, at his own expense in accordance with instructions from the representative of the department who shall inspect the said premises.

**Sec. 76. Quarantine; penalty.** 1933, c. 297, §§ 4, 5. If it is shown beyond a reasonable doubt that Bang's disease exists in a herd of cattle, and the owner refuses to sign an agreement placing his herd under supervision of the department for the eradication of the disease, the commissioner or his agent in charge of live stock sanitary work shall place such premises under quarantine by written notice sent by registered mail, and no cattle shall be allowed to be removed or any additions made to the herd while it is under such quarantine. Any person violating the aforesaid quarantine regulations shall be punished by a fine of not more than \$50.

### Regulation of the Production and Sale of Milk

**Sec. 77. Duty of commissioner to enforce law; to have access to all places of business.** R. S. c. 42, § 1. The commissioner shall inquire into and investigate the production, manufacture, transportation, storage, and sale of milk, cream, butter, and all other dairy products, substitutes therefor, or imitations thereof. The said commissioner shall have access at all reasonable hours to all places of business, factories, or carriages, cans, or other vessels used or which he believes to be used in the production or handling of milk or any other dairy product, substitute therefor, or imitation thereof; and upon tendering the market price of a sample of milk or other dairy product, substitute therefor, or imitation thereof, may take such sample from any person, firm, corporation, association, or society; and shall cause all samples so taken to be analyzed.

The commissioner shall enforce the laws relating to the production, manufacture, transportation, storage, and sale of milk and all other dairy products, substitutes therefor, or imitations thereof, including oleomargarine and renovated butter, and the laws relating to the sealing of cans, bottles, and other vessels used in the purchase and sale of milk and cream, the protection thereof against mutilation, and the cleansing and sterilizing thereof before use or before being forwarded to producers or distributors of milk. The said commissioner may seize without warrant such cans, bottles, or other vessels used in the purchase or sale of milk or cream, as may, in his judgment, be needed as evidence of violation of the laws referred to above.

For the purposes of this chapter in relation to milk, cream, and other dairy products the commissioner may act in person or by his duly authorized agents or assistants; and may employ such agents, assistants, chemists, counsel, and clerks, and may purchase such samples of milk, cream, and other dairy products, substitutes therefor, or imitations thereof, and such stationery, postage, printed matter, and other supplies incidental thereto, as may be necessary.

See c. 22, § 123, re sale of milk; c. 124, §§ 4, 6-9, re unwholesome provisions and drinks.

**Sec. 78. Penalty for obstructing commissioner in performance of duty.** R. S. c. 42, § 2. Whoever hinders, obstructs, or in any way interferes with the commissioner, his agents or assistants, in the performance of his or their duty by refusing entrance to any place where he is authorized to enter, or access to any receptacle to which he is authorized to have access, or by refusing to deliver to him, his agents or assistants, a sample of milk or any other dairy product, substitute therefor, or imitation thereof, sold, offered, or exposed for sale by the person to whom such request is made if the value thereof is tendered, or in any other manner hinders, obstructs, or interferes with said commissioner, his agents or assistants, in the performance of any of their said duties, shall be punished by a fine of \$100 for the first offense, and \$200 for each subsequent offense.

**Sec. 79. Publication of results of analyses.** R. S. c. 42, § 3. The commissioner may, in his discretion, publish the results of all analyses with the names of the persons, firms, corporations, associations, and societies from which the samples analyzed were taken, together with such suggestions as he may deem advisable, in the regular or special bulletins issued by the department. He may also, in his discretion, issue each month a report of the results of all analyses, for distribution to such newspapers in the state as may request a copy.

#### Registration of Milk Dealers

**Sec. 80. Registration of milk dealers; penalty for refusing to register or post certificate.** R. S. c. 42, § 4. Any person, firm, corporation, association, or society, who shall sell or deliver milk or cream as a business to any person from a wagon or other conveyance, depot, or store, or who shall sell or deliver milk to a hotel, restaurant, boarding-house, or any public place, shall be considered a milk dealer within the meaning of this section, and shall on or before the 1st day of January in each year, apply to the commissioner for registration, furnishing such information as may be required, upon blanks issued and furnished by the said commissioner to such persons as may request the same. Every such registration shall expire on the 1st day of January, next after its issue, and shall be granted only to the milk dealer owning or leasing the vehicle or place from which sales or supplies are to be made, and shall not be transferred. Upon

receipt of the application for registration, containing the information required, and upon being satisfied that all milk is being produced and handled in a sanitary way and is from cows free from disease, the said commissioner shall issue to the applicant a certificate of registration, which certificate shall be posted in a conspicuous place in the store or depot from which sale or supply is made, and the number of the certificate of registration for each wagon or other vehicle shall be placed in a conspicuous place on said wagon or other vehicle. The commissioner may cancel the certificate of any dealer, who, after due hearing on complaint by the said commissioner or his authorized agent, is found to be selling milk produced or handled under unsanitary conditions or milk from diseased cows. If any person, firm, corporation, association, or society desires to become a milk dealer, as provided by this section, before the 1st day of January in any year, he or they shall, prior to engaging in the business, register with the commissioner in the manner hereinbefore provided, for each place or vehicle from which sale or supply is to be made. Any dealer who neglects or refuses to register with the commissioner, or to post certificates of registration in the store or depot from which sale or supply is made, or to post the number of the certificate of registration on the wagon or other vehicle from which sale or supply is made, as provided in this section, or to surrender his certificate to the said commissioner when notified in writing that the same has been canceled, and the reason given for cancelation, or who himself or by his servant or agent, sells or delivers, or has in his custody or possession with intent to sell or deliver, any milk after having been refused the aforesaid certificate of registration by the commissioner, forfeits \$50 to be recovered in an action of debt, to be prosecuted in the name of the state by the county attorney for the county in which such violation has occurred; but the provisions of this section shall not apply to milk or cream delivered to a creamery or butter or cheese factory.

See § 81; c. 88, § 122, re municipal officers to prosecute violations.

**Sec. 81. Fees to be paid to commissioner; how fees may be used.** R. S. c. 42, § 5. Each milk dealer when applying for registration as provided for by section 80 shall pay to the commissioner a fee of \$1 for each milk depot, vehicle, and place from which sales are made. All money received by the commissioner under the provisions of this section shall be paid by him to the treasurer of state, and the same is appropriated for the purposes specified in sections 4 to 11, inclusive, of chapter 124.

**Sec. 82. License to sell milk.** 1937, c. 226, § 1. No person, firm, corporation, association, or society, either by themselves or servants or agents, shall produce grade A milk for sale without having first filed with the commissioner, an application for a license to so produce said grade A milk, and no person, firm, corporation, association, or society, either by themselves or servants or agents, shall pasteurize milk for sale without having first filed with the commissioner an application for a license to so pasteurize said milk. Upon receipt of such application, the commissioner shall issue said person, firm, corporation, association, or society, making such application, a license to produce grade A milk and a license to pasteurize the milk as hereinafter provided. Each such license shall cover each group of buildings constituting a dairy farm or dairy plant in one location. Such license shall expire on the 1st day of January next after its issue, and shall be granted only to milk dealers owning or leasing the vehicles or places from which sales or supplies are to be made and shall not be transferred. The commissioner shall have the power to revoke or suspend any license issued under the provisions of sections 83 to 87, inclusive.

**Sec. 83. Inspection of milk.** 1937, c. 226, § 2. 1941, c. 167. The commissioner shall by adequate inspection see that grade A milk and pasteurized milk and grade A pasteurized milk is produced and processed in conformity with the following requirements:

**I. Grade A milk.** Grade A milk shall be milk which at the time of its delivery shall not contain more than 25,000 bacteria per c. c. by the A. P. H. A. official plate count method and which shall contain at least 3.75% butter fat, and shall be procured under the following conditions and handled in the following prescribed manner:

**A. Cows; tuberculosis and other diseases.** A physical examination and tuberculin test of all cows and heifers 6 months old or more shall be made at least once every 12 months by a licensed, accredited veterinarian approved by the department, the expense thereof to be borne alternately by the state and the owner of the cattle. Said tests shall be made and any reactors disposed of, in accordance with the current requirements approved by the United States department of agriculture, bureau of animal industry, for accredited herds.

For diseases other than tuberculosis such tests and examinations as the commissioner may require shall be made at intervals and by methods prescribed by him, and any diseased animals or reactors shall be disposed of as he may require.

**B. Dairy barn; requirements.** A dairy or milking barn shall be required, and such sections thereof where cows are kept or milked shall have at least 3 square feet of window area for each stanchion.

Such sections of all dairy barns where cows are kept shall have at least 300 cubic feet of air space per stanchion, and shall be well ventilated.

The walks and gutters of such parts of all dairy barns in which cows are kept or milked shall be constructed of concrete or other easily cleaned material approved by the commissioner, and shall be graded to drain properly, and shall be kept clean and in good repair. No horses, pigs, fowls, etc., shall be permitted in parts of the barn used for dairy purposes.

The walls and ceilings of all dairy barns shall be whitewashed twice each year or painted once every 2 years, or oftener if necessary, or finished in a manner approved by the commissioner, and shall be kept clean and in good repair. In case there is a second story above that part of the barn in which cows are milked, the ceiling shall be tight.

**C. Cow yard.** All cow yards shall be graded and drained as well as practicable and kept clean.

**D. Manure disposal.** All manure shall be stored or disposed of in such manner as best to prevent the breeding of flies therein, or the access of cows to piles thereof.

**E. Milk house or room; construction, etc.** There shall be provided a separate milk house or milk room for the handling and storage of milk and the washing and sterilization of milk apparatus and utensils, provided with a tight floor. The walls and ceiling of the milk house or room shall be of such construction as to permit easy cleaning, and shall be painted at least once each year, or finished in a manner approved by the commissioner. The milk house or room shall be well lighted and ventilated and all openings effectively screened to prevent the entrance of flies, and shall be so located and conducted as to prevent any contamination to the milk or to cleaned equipment. The milk room shall not open directly into a stable or into any

room used for domestic purposes and must be at least 25 feet away from the privy. Each milk house shall be provided with adequate facilities for the heating of water for the cleaning of utensils. The milk house shall be equipped with stationary wash and rinse vats.

The floors, walls, ceiling, and equipment of the milk house or room shall be kept clean at all times. All means necessary for the elimination of flies shall be used.

**F. Toilet.** Every dairy farm shall be provided with one or more sanitary toilets conveniently located, and constructed, operated, and maintained in accordance with the recommendations of the department of health and welfare, so that the waste is inaccessible to flies and does not pollute the surface soil or contaminate any water supply.

**G. Water supply.** The water supply for the milk room and dairy barn shall be properly located, constructed, and operated, and shall be easily accessible, adequate, and of a safe, sanitary quality.

**H. Utensils; construction, etc.** All containers or utensils used in the handling or storage of milk must be made of non-absorbent material and of such construction as to be easily cleaned, and must be in good repair. Joints and seams shall be soldered flush. All milk pails shall be of a small mouth design approved by the commissioner. All strainers shall be equipped with sterilized single service filter pads.

All containers and other utensils used in the handling, storage, or transportation of milk shall between each usage be treated with steam, or dry heat, or in a manner approved by the commissioner.

All containers and other utensils used in the handling, storage, or transportation of milk shall be stored so as not to become contaminated before again being used.

After sterilization, no container or other milk utensils shall be handled in such manner as to permit any part of the person or clothing to come in contact with any surface with which milk comes in contact.

**I. Milking; udder, teats, and flanks.** The udders and teats of all milking cows shall be clean at the time of milking. The flanks, bellies, and tails of all milking cows shall be free from visible dirt at the time of milking.

**J. Clean clothing.** Milkers and milk handlers shall wear clean outer garments while working.

**K. Milk stools.** Milk stools shall be made of metal or wood and shall be kept clean.

**L. Removal of milk.** Each pail of milk shall be removed immediately to the milk house or straining room. No milk shall be strained or poured in the dairy barn.

**M. Cooling.** Milk must be cooled immediately after milking to 50° F., or less and maintained at or below that temperature until delivered to the consumer.

**N. Bottling and capping.** Milk shall be bottled from a container with a readily cleanable valve, or by means of a bottling machine approved by the commissioner. Milk shall be bottled and capped on the farm where it is produced. Bottles shall be capped by machine. The machine shall be cleaned and sterilized before each usage. Caps shall be purchased in sanitary tubes and kept therein until used.

**O. Personnel; health.** Every person connected with a dairy or milk plant whose work brings him in contact with the production, handling, storage,

or transportation of milk, containers, or equipment, shall pass such medical examinations as may be deemed necessary by the commissioner, and every such person shall submit such specimens of bodily discharges as the commissioner may require. Such examinations may be made by the local health officer or by a licensed physician approved by the health officer.

**II. Pasteurized milk.** (1941, c. 167) Pasteurized milk is milk, every particle of which has been heated in equipment of a type and design approved by the commissioner to a temperature of 142° to 145° F., and held at this temperature for 30 minutes, or to such higher temperature for such time intervals as the commissioner may from time to time determine, after which it shall be immediately cooled to below 50° F., and held at this temperature until delivered to the consumer. The bacterial count shall not exceed 25,000 per c. c.

**III. Grade A pasteurized milk.** Grade A pasteurized milk is defined as milk produced under the above specifications for the production of grade A milk and said milk pasteurized under the specifications as outlined for the processing of pasteurized milk as herein contained.

**A. Floors.** Floors of all rooms in which milk is handled shall be constructed of concrete or other equally impervious and easily cleaned material. They shall be smooth, properly drained, and provided with trapped drains, and kept clean.

**B. Walls and ceilings.** Walls and ceilings of rooms in which milk is handled or stored shall have a smooth and washable light-colored surface and be kept clean.

**C. Doors and windows.** All openings into the outer air shall be effectively screened to prevent the access of flies. Doors shall be self-closing.

**D. Lighting and ventilation.** All rooms shall be well lighted and ventilated.

**E. Protection from contamination.** The various milk plant operations shall be so located and conducted as to prevent any contamination of the milk or to the cleaned equipment. There shall be a separate room for pasteurizing, cooling, and bottling operations and a separate room for washing and sterilizing bottles, cans, and equipment. Raw milk shall not be unloaded directly into the pasteurizing room and the same equipment shall not be used for both raw and pasteurized milk. Rooms in which milk is handled, stored, or processed shall not open directly into any stable, living quarters, or any undesirable or unsanitary place.

**F. Toilet facilities.** Every plant shall be provided with toilet facilities. This room shall be kept in a clean condition, good repair, and well ventilated. All privies or earth closets shall be of a sanitary type and shall be located at least 50 feet from the milk plant.

**G. Water supply.** The water supply shall be easily accessible, adequate, and of a safe, sanitary quality.

**H. Equipment.** All equipment with which milk comes in contact shall be constructed in a manner as to be easily cleaned. Only sanitary milk piping of a type which can be easily cleaned with a brush shall be used. The construction and operation of all pasteurizing vats and other equipment shall meet with the approval of the commissioner.

**I. Bottle caps.** Bottle caps shall be purchased and stored only in sanitary tubes and shall be kept therein until used.

**J. Bottling.** Bottling and capping shall be done at the place of pasteurization in automatic machinery approved by the commissioner, in such manner as to prevent any part of the person or clothing from coming in contact with any surface with which the milk comes in contact. Overflow milk shall not be sold for human consumption.

**K. Repasteurization prohibited.** No milk shall be pasteurized more than once, except as may be especially permitted by the commissioner, or his agents thereto duly authorized.

**Sec. 84. Designation of grades of milk.** 1937, c. 226, § 3. Any person, firm, corporation, association, or society either by themselves or by their servants or agents, who have complied with the specifications set forth in the preceding section shall use in connection with the sale of his or its product, thus produced, according to the specifications herein outlined for the production of grade A milk, and the processing and production of pasteurized milk and the processing and production of pasteurized grade A milk as approved by the commissioner, the words "grade A milk", "pasteurized milk", and "grade A pasteurized milk" in accordance with the quality or grade thus produced, processed, and offered for sale.

**Sec. 85. Restrictions.** 1937, c. 226, § 4. No milk shall be sold or offered for sale in the state as grade A milk or as pasteurized milk or as pasteurized grade A milk unless such milk has been produced according to the specifications outlined herein for the production of such specified type of milk.

**Sec. 86. Penalty.** 1937, c. 226, § 5. Any person, firm, corporation, association, or society who shall produce grade A milk, or pasteurized milk, or pasteurized grade A milk, for sale in the state without the license provided in section 82 or who shall violate any of the provisions of sections 82 to 85, inclusive, providing for the production of grade A milk, or pasteurized milk, or pasteurized grade A milk, or neglects or refuses to comply with any of the provisions of said sections or any of the other provisions or in any way violates any of the foregoing provisions shall be punished by a fine of not more than \$100 for the first offense, and by a fine of not more than \$200 for each subsequent offense.

**Sec. 87. Jurisdiction.** 1937, c. 226, § 6. Trial justices shall have original jurisdiction, concurrent with municipal courts and the superior court of actions brought for the recovery of penalties imposed by the provisions of sections 82 to 86, inclusive, and of prosecutions of violations thereof.

#### Standard Measure of Milk and Containers; Cleansing, Testing, Grading, Etc.

**Sec. 88. Standard measure for milk and cream.** R. S. c. 42, § 15. All milk and cream bought and sold by measure for consumption within this state shall be bought and sold by wine measure, the standard for which shall be 231 cubic inches to the gallon, and for subdivisions of the gallon, in the same proportion.

125 Me. 123.

**Sec. 89. All measures, cans, etc., to be proved and plainly marked; penalty.** R. S. c. 42, § 16. All measures, cans, or other vessels used in the purchase or sale of milk or cream, except glass bottles and jars sealed in accordance with the provisions of sections 94 and 95, shall be tried and proved by the standard mentioned in the preceding section, by the sealer of weights and measures of the city or town in which the person, firm, or corporation purchasing or selling such milk or cream resides or has a place of business. The sealer of weights

and measures shall, agreeably to such a standard, plainly stamp thereon the quantity which such measures, cans, or other vessels hold, together with the year in which such measures, cans, or other vessels are sealed. Whoever, by himself, clerk, servant, or agent, sells by measure any milk or cream by any other than the measure so tried, sealed, and marked shall forfeit for each offense the sum of \$10. Any measure, can, or other vessel used in the purchase or sale of milk or cream, lawfully sealed, as aforesaid, shall be deemed to be lawfully sealed under the provisions of this section.

See c. 88, § 124, re inspectors to prosecute for violations; c. 88, § 197, re penalty for using weights, etc. not sealed; \*125 Me. 123.

**Sec. 90. Milk cans to be cleansed and sterilized; storage room to be kept in sanitary condition; penalty.** R. S. c. 42, § 17. All persons, firms, and corporations who shall purchase milk or cream for the purpose of reselling the same, either at wholesale or retail, shall thoroughly cleanse and sterilize, by the use of boiling water, steam, or sterilizing agent, all cans, vessels, and other utensils prior to their being used in the manufacture, transportation, storage, and sale of said milk or cream. All persons, firms, and corporations engaged in the business of retailing milk or cream, shall thoroughly cleanse and sterilize, by the use of boiling water, steam, or sterilizing agent, all vessels, jars, cans, and other utensils used in the manufacture, storage, and sale of milk or cream before such vessels, jars, or cans are filled for distribution. The place or room in which milk or cream is stored, bottled, or otherwise handled shall be kept in a clean and sanitary condition. Any person, firm, or corporation violating the provisions of this section shall be punished by a fine of not more than \$50.

**Sec. 91. Receptacles used for transportation of milk or cream products to be cleansed and sterilized; penalty.** R. S. c. 42, § 18. All cans or other receptacles used in the transportation of milk or cream shall be cleansed and sterilized before being forwarded to the producer or distributor of milk or cream for use. All cans or other receptacles used in the transportation of ice cream, sherbet, or frozen milk products shall be washed and cleansed with warm or cold water immediately upon the contents thereof being used, and before being returned and forwarded to the producer or distributor of such ice cream, sherbet, or frozen milk products for use. Whoever by himself, clerk, servant, or agent ships or transports or causes to be shipped or transported any cans or other receptacles used in the transportation of milk or cream not cleansed and sterilized, or any cans or other receptacles used in the transportation of ice cream, sherbet, or frozen milk not washed or cleansed as provided in this section shall be punished by a fine of not more than \$50 for each offense.

**Sec. 92. Testing of milk containers.** R. S. c. 42, § 16. 1933, c. 89, §§ 1, 3. All cans or containers sold for use in the purchase or sale of milk or cream at wholesale shall have their capacity plainly, conspicuously, and indelibly marked thereon in terms of liquid quarts. They shall be sealed by the manufacturer thereof, as hereinafter provided, or by a sealer of the town where the user resides or has a usual place of business. The sealer of weights and measures shall, agreeably to such a standard, plainly stamp thereon the quantity which such measures, cans, or other vessels hold, together with the year in which such measures, cans, or other vessels are sealed. The commissioner shall prescribe regulations governing the sealing of such cans or containers by the manufacturer and may authorize such sealing by any manufacturer upon his agreement to conform to said regulations. The commissioner may at any time, for cause, revoke the authority so given by him to any manufacturer. When sealed by the manufacturer, such cans or containers shall be marked with

his name, initials, or trade-mark and with any other designating marks which the commissioner may require. The sealing of such containers by the manufacturer shall not exempt the user from the laws relative to giving a false or insufficient measure, using a false measure, or having the same in possession with intent to use. Sealers of the town where the user resides or has a usual place of business may at least annually inspect all cans or containers marked and sealed in accordance with this section and shall make a record of such inspections. When once sealed as herein required, a can or container need not again be sealed while in the same condition as when first sealed. The words "container" and "containers" as used in this and the following section shall not apply to bottles or jars.

**Sec. 93. Penalty for violation of § 92.** 1933, c. 89, § 2. Whoever, by himself or by his servant or agent, or as the servant or agent of another person, sells any can or container to be used in the purchase or sale of milk or cream at wholesale that is not marked and sealed as required by the preceding section, shall be punished by a fine not exceeding \$10 for each can or container so sold. Whoever, by himself or by his servant or agent, or as the servant or agent of another person, uses any can or container in the purchase or sale of milk or cream at wholesale that is not marked and sealed as required by the preceding section, shall be punished by a fine not exceeding \$10 for each offense. The commissioner, his deputies and sealers shall enforce the provisions of this and the preceding section.

**Sec. 94. Capacity of milk bottles and jars.** R. S. c. 42, § 19. Glass bottles and jars used for the sale of milk or cream shall be of the capacity of 1 quart or 1 pint or  $\frac{3}{8}$  of 1 pint, or  $\frac{1}{2}$  pint and shall be sealed as full measure under the provisions of section 182 of chapter 88 or by the manufacturer, as provided in section 95. The following tolerances will be allowed: 4 drams of excess and 2 drams of deficiency in the quart bottle, 3 drams of excess and  $1\frac{1}{2}$  drams of deficiency in the  $\frac{3}{8}$  of 1 pint, and in the pint, and 2 drams of excess and 1 dram of deficiency in the  $\frac{1}{2}$  pint. The use, for the distribution of milk or cream to the consumer, of glass bottles or jars of any other capacity than as herein provided is prohibited and declared to be illegal. All dealers in milk or cream who use, for the distribution of milk or cream to consumers, glass bottles or jars which have not been sealed by the manufacturer, shall bring such bottles or jars to the office of their city or town sealer to be sealed as aforesaid. If a bottle or jar has once been sealed by a sealer of weights and measures, or by the manufacturer, it shall not in any case be necessary to have it sealed again at any time while it is used for the distribution of milk or cream to consumers. Glass bottles or jars sealed under the provisions of this section shall not be legal measures except for the distribution of milk or cream.

See § 96; \*125 Me. 123.

**Sec. 95. Marking of bottles and jars sealed by manufacturer; bond of manufacturer.** R. S. c. 42, § 20. Such bottles or jars as are sealed by the manufacturer shall be marked with the name, initials, or trade-mark of the manufacturer, and designating number, which designating number shall be different for each manufacturer and may be used in identifying the bottles. The designating number and the words "Maine Seal" shall be marked on the outside of the upper half of each bottle. The designating number shall be furnished by the state sealer of weights and measures upon application by the manufacturer, and upon filing by the manufacturer, with the treasurer of state, of a bond payable to the state in the sum of \$1,000, with sureties to be approved by the

attorney-general, conditioned upon his conforming to the requirements of this section. A record of the bonds furnished, the designating numbers and to whom furnished, shall be kept in the office of the state sealer of weights and measures.

**Sec. 96. Penalty for selling bottles not complying with law; penalty for using such bottles.** R. S. c. 42, § 21. Any manufacturer who sells milk or cream bottles to be used in this state that do not comply as to size and markings with the provisions of the 2 preceding sections, shall forfeit \$500, to be recovered by the attorney-general in an action upon the bond of such manufacturer. Any dealer who uses, for the purpose of selling milk or cream, jars or bottles that do not comply with the requirements of section 94 as to markings and capacity shall be punished by a fine of not more than \$50 for each offense.

See c. 88, § 198, re jurisdiction of courts in offenses pertaining to weights and measures.

**Sec. 97. Milk to be weighed and tested by Babcock test; penalty.** R. S. c. 42, §§ 24, 25. 1941, c. 191. 1943, c. 327, § 2. All milk or cream purchased by any person, firm, or corporation for use in or to be resold by any creamery in this state, at the option of the seller or producer, shall be weighed and shall be tested by the Babcock test to ascertain the amount of butter-fat per pound therein contained; and the value of the cream or milk thus purchased shall be determined by the amount of butter-fat per pound as thus ascertained. Sellers or producers as aforesaid, who are making regular or daily delivery of milk or cream to the same purchaser that desire to sell said products as herein provided, shall give to the purchaser 10 days' written notice of their desire to make future sales in accordance with the provisions hereof. The test herein provided shall be made by the owners or operators of the creamery purchasing as aforesaid or by the commissioner or his deputies; but upon petition in writing, signed by 25% or more of the patrons of any creamery and addressed to the commissioner, or upon petition in writing signed by the owner or operator of any creamery and addressed to said commissioner, one or more tests shall be made by, or under the direction of said commissioner, and the finding of said commissioner shall be conclusive upon all parties therein concerned; provided, however, that when the total number of patrons of any one creamery exceeds 100 then the number of petitioners herein required need not exceed 30. All samples of cream tested by said test shall be weighed and the standard unit for testing shall be 18 grams. Any person, firm, or corporation, or the servant or agent of any person, firm, or corporation, who violates the provisions of this section shall be punished by a fine of not more than \$50, or by imprisonment for not more than 30 days.

**Sec. 98. Bottles and glasses used to measure milk or cream to be tested for accuracy, and marked.** R. S. c. 42, § 26. All bottles, pipettes, or other measuring glasses used by any person, firm, or corporation, or their agents or employees, at any creamery, butter factory, cheese factory, condensed milk factory, or elsewhere in this state, in determining by the Babcock test or any other test the value of milk or cream received from different persons at such creameries or factories, shall be tested before such use, for accuracy of measurement and for accuracy of the per cent scale marked thereon. Such bottles, pipettes, or measuring glasses shall bear in marks or characters ineffaceable the evidence that such test has been made by the authority named in the following section. No inaccurate bottles, pipettes, or other glasses shall bear such marks or characters.

See § 101; c. 88, § 124, re inspectors to prosecute for violations; c. 168, § 2, re use of another's trade-mark prohibited.

Sec. 99. Duty of director of Maine Agricultural Experiment Station, to test and mark all bottles, etc. R. S. c. 42, § 27. The director of the Maine Agricultural Experiment Station, or some competent person designated by him, shall test the accuracy of all bottles, pipettes, or other measuring glasses used by persons, firms, or corporations in the state buying or pooling milk or cream, or apportioning butter or cheese, made from the same, by the contents of butter-fat contained therein. The said director, or the person designated by him, shall mark such bottles, pipettes, or other measuring glasses as are found correct, with marks or characters which cannot be erased, and which marks or characters shall stand as proof that they have been so tested. The said director shall receive for such service no more than the actual cost incurred, which shall be paid by the persons or corporations for whom it is done.

Sec. 100. Persons who manipulate test to be certified by superintendent of dairy school. R. S. c. 42, § 28. Any person, either for himself or in the employ of any other person, firm, or corporation, who manipulates the Babcock test or any other test, whether mechanical or chemical, for the purpose of measuring the contents of butter-fat in milk or cream for a basis of apportioning the value of such milk or cream, or of the butter or cheese made from the same, shall secure a certificate from the superintendent of the dairy school at the University of Maine that he is competent and well qualified to perform such work. The rules and regulations in the application for such certificate and in the granting of the same shall be such as the superintendent of that school may arrange, and the fee for issuing a certificate shall not exceed \$1, and shall be paid by the applicant.

See § 101.

Sec. 101. Penalty for using sulphuric acid of less than required specific gravity; penalty for violations of §§ 98, 100. R. S. c. 42, § 29. Whoever uses, or has in his possession with intent to use, at any creamery, butter factory, cheese factory, or condensed milk factory, any sulphuric acid of less than 1.82 of specific gravity in the process known as the Babcock test or any other test for determining the butter-fat contents of milk or cream, shall be punished by a fine of not more than \$25 for the 1st offense, and for a 2nd offense of not more than \$50. Any person, firm, or corporation, violating the provisions of section 98, shall be punished by a fine of not more than \$50 for the 1st offense, and for a 2nd offense by a fine of not more than \$100; and any person violating the provisions of section 100 shall be punished by a fine of not more than \$10. Every inspector of milk, sheriff, deputy sheriff, and constable shall institute complaint against any person violating said provisions, and  $\frac{1}{2}$  of the fines shall go to the complainant and the balance to the state.

#### Protection of Milk Dealers in the Use of Containers

Sec. 102. Dealers may file description of name and devices, and publish such description. R. S. c. 42, § 30. All persons and corporations engaged in buying, selling, or dealing in milk or cream in cans, jugs, bottles, or jars, with their names or other marks or devices, together with the word "Registered," branded, engraved, blown, or otherwise produced in a permanent manner in or upon such cans, jugs, bottles, or jars, may file in the office of the clerk of the city or town in which their principal place of business is situated, and in the office of the secretary of state, a description of the name or names, mark or marks, device or devices so used by them, and cause such description to be published once each week for 4 weeks successively in a newspaper published in the city or town

in which said description has been filed aforesaid; if there is no newspaper published in such city or town, then such publication may be made in any newspaper published in the county in which such city or town is situated.

See c. 88, § 203, re protection of marks on containers used for soda-water, etc.

**Sec. 103. Penalty for using any milk can, without consent of owner; possession constitutes prima facie evidence.** R. S. c. 42, § 31. Whoever without the consent of the owner takes, detains, or uses in his business, sells, disposes of, buys, conceals, or traffics in any milk can, jug, bottle, or jar, the owner of which has complied with the provisions of the preceding section, shall be punished for the first offense by a fine of not more than \$5, or by imprisonment for not more than 60 days, for each can, jug, bottle, or jar so taken, detained, or used in his business, sold, disposed of, bought, concealed, or trafficked in; and for any subsequent offense by a fine of not more than \$10, or by imprisonment for not more than 6 months, for each can, jug, bottle, or jar so taken, detained, or used in his business, sold, disposed of, bought, concealed, or trafficked in as aforesaid. Possession by any person in the transaction of his business of any such article the owner of which has complied with the provisions of the preceding section shall constitute prima facie evidence of the unlawful taking, use, detention, possession of, or traffic in the same within the meaning of this section.

See § 106.

**Sec. 104. Penalty for defacing or mutilating any can, jug, etc.** R. S. c. 42, § 32. Whoever without the consent of any owner who has complied with the provisions of section 102 wilfully destroys, mutilates, or defaces any can, jug, bottle, or jar bearing such owner's name, mark, or device, or wilfully erases, mars, covers, or changes any word or mark branded, engraved, blown, or otherwise produced, in a permanent manner in or upon any such can, jug, bottle, or jar, shall be punished for the first offense by a fine of not more than \$5, or by imprisonment for not more than 60 days, for each can, jug, bottle, or jar so destroyed, mutilated, or defaced, or for each can, jug, bottle, or jar upon which any word or mark has been erased, marred, covered, or changed as aforesaid; and for any subsequent offense by a fine of not more than \$10, or by imprisonment for not more than 6 months, for each can, jug, bottle, or jar, so destroyed, mutilated, or defaced, or for each can, jug, bottle, or jar upon which any word or mark has been erased, marred, covered, or changed as aforesaid.

See § 106.

**Sec. 105. Penalty for placing any foul substance into any can, jug, etc.** R. S. c. 42, § 33. Whoever by himself, or by his servant, or agent, or as a servant or agent of any other person, firm, or corporation, sends, ships, returns, or delivers, or causes, or permits to be sent, shipped, returned, or delivered to any producer of, or dealer in milk and cream, any can, jar, bottle, measure, or other vessel used as a container for milk and cream, containing any offal, swill, kerosene, vegetable matter, rotten or putrid milk, or any other offensive material, shall be punished for the first offense by a fine of not less than \$1, nor more than \$5, for each can, jug, bottle, or jar so defiled; and for any subsequent offense by a fine of not less than \$2, nor more than \$20, for each can, jug, bottle, or jar so defiled.

See § 106.

**Sec. 106. Search warrant may be issued for vessels held in wrongful possession.** R. S. c. 42, § 34. 1933, c. 118, § 1. Whenever any person or corporation having complied with the provisions of section 102, or the agent of any such

person or corporation, shall make oath before the judge of any municipal court, or before any trial justice, that he has reason to believe and does believe that any person or corporation has wrongfully in possession, or is secreting any of his or its milk cans, jugs, bottles, or jars, marked and described as provided in section 102, said judge or trial justice shall, if satisfied that there is reasonable cause for such belief, issue a search warrant to discover and obtain the same, and may also cause to be brought before him the person or an agent or employee of the corporation in whose possession such cans, jugs, bottles, or jars are found, and shall thereupon inquire into the circumstances of such possession; if said judge or trial justice finds that such person or corporation has been guilty of a wilful violation of the provisions of sections 103, 104, or 105, he shall impose the penalty prescribed in the section or sections so violated, and shall also award to the owner possession of the property taken upon such search warrant.

See c. 133, § 15, re cases in which search warrants may be issued.

**Sec. 107. Sale of condensed or evaporated milk which does not conform to certain standards, prohibited; can must bear name of manufacturer or jobber.** R. S. c. 42, § 35. No person, firm, or corporation shall by himself, his servant, or agent, or as the servant or agent of another manufacture, sell, exchange, distribute, offer, or expose for sale or distribution in the state any condensed or evaporated milk which shall not conform at least to the minimum standards established by regulation by the commissioner or established by statute and which if contained in hermetically sealed cans does not bear stamped or labeled thereon the name and address of the manufacturer or jobber thereof.

See § 110.

**Sec. 108. Sale of milk, cream, condensed milk, etc., to which has been added any fat or oil other than milk fat, prohibited.** R. S. c. 42, § 36. No person, firm, or corporation shall by himself, his servant, or agent or as the servant or agent of another manufacture, sell, distribute, offer or expose for sale or distribution in the state, or have in possession with intent to sell or exchange any milk, cream, skim-milk, buttermilk, condensed or evaporated milk, powdered milk, condensed skim-milk, or any of the fluid derivatives of any of them to which has been added any fat or oil other than milk fat either under the name of said products or articles or the derivatives thereof or under any fictitious or trade name whatsoever.

See § 110.

**Sec. 109. Containers of condensed, evaporated, or powdered skim-milk, how marked and branded; penalty.** R. S. c. 42, §§ 37, 38. No person, firm, or corporation shall by himself, his servant or agent, or as the servant or agent of another, sell or exchange, or expose for sale or exchange, or offer or expose for sale or distribution, or have in possession with intent to sell or exchange any condensed or evaporated or powdered skim-milk in containers holding less than 10 pounds avoirdupois net weight unless said container shall bear the name and address of the manufacturer distinctly branded, labeled, or printed thereon together with the words "Condensed Skim-Milk" or "Powdered Skim-Milk", as the case may be, in Roman letters of a size at least as large as any other words or letters appearing on said brand or label.

Whoever violates any of the provisions of this section shall be punished by a fine of not more than \$100 for the first offense, and by a fine of not more than \$200 for each subsequent offense.

See § 110.

**Sec. 110. Enforcement of §§ 107-109.** R. S. c. 42, § 39. The commissioner shall be charged with the enforcement of the preceding 3 sections.

**Sec. 111. Commissioner may take samples from creameries, cheese or condensed milk factories, for purpose of testing butter-fat contents; owner may require duplicate test.** R. S. c. 42, § 40. The commissioner, or his deputy, may enter upon the premises of any creamery, cheese factory, condensary, or receiving station for milk or cream, and may take possession of any or all samples of milk or cream drawn for the purpose of testing their butter-fat contents, which are on the premises or in the possession of any employee, or may take samples from patrons' deliveries, and then and there test the same. The owner, operator, or manager of any creamery, cheese factory, condensary, or receiving station for milk or cream shall, if requested by said commissioner or his deputy, give him full access to all creamery records appertaining to the tests thereof, and said commissioner or his deputy may make transcripts therefrom. The results of the tests made by said commissioner or his deputy may, at the discretion of said commissioner, be communicated to the owner, operator, or manager or to any of the patrons of the creamery, cheese factory, condensary, or receiving station for milk or cream from which such samples have been taken and tested, or to all of them. The owner, operator, or manager of any creamery, cheese factory, condensary, or receiving station for milk or cream at which tests, under the provisions of this section, are made by said commissioner or his deputy, may require said commissioner or his deputy to take duplicate sealed subsamples of all samples thus tested and to promptly forward the same to the Maine Agricultural Experiment Station for further test, in which case no communication of the results of the tests made by said commissioner or his deputy shall be made to the patrons of the creamery, cheese factory, condensary, or receiving station for milk or cream, unless the same shall substantially agree with the results of the test made by said Maine Agricultural Experiment Station, or unless the commissioner is notified by the Maine Agricultural Experiment Station that the samples were received in a condition unfit to analyze. The owner, operator, or manager of a creamery, cheese factory, condensary, or receiving station for milk or cream, who shall require the taking and forwarding of subsamples shall pay in advance all the carriage charges thereon and said Maine Agricultural Experiment Station for all tests made under the provisions of this section at the rate of 10c for each milk sample and 15c for each cream sample. The money thus received shall be used to defray the expenses incurred by said agricultural experiment station in connection with this section, but any balance that may remain after paying said expenses shall be paid by the director of said Maine Agricultural Experiment Station to the treasurer of state. Said Maine Agricultural Experiment Station shall report in duplicate to the commissioner and to the owner, operator, or manager of any creamery, cheese factory, condensary, or receiving station for milk or cream, the results of all tests made by it. If samples are received in poor condition said Maine Agricultural Experiment Station shall not be required to analyze the same, but in such case the advance payments required by this section shall be returned to the persons making the same.

See § 113.

**Sec. 112. Commissioner may inspect weighing, testing, and sampling apparatus and order same condemned.** R. S. c. 42, § 41. 1943, c. 327, § 1. The commissioner, or his deputy, may enter the premises of any creamery, cheese factory, condensary, or receiving station for milk or cream, and may inspect

all apparatus and materials used for making tests for the purpose of determining the accuracy of the same, and for ascertaining whether the provisions of sections 98, 99, 100, and 101 are being complied with. Said commissioner may order any weighing, testing, and sampling apparatus to be repaired or may condemn the same or any part thereof or any materials used in making tests, and may give such instructions regarding weighing, sampling, and the making of tests as he deems proper.

**Sec. 113. Penalty for false tests or impeding officer.** R. S. c. 42, § 42. Any owner, operator, or manager of a creamery, cheese factory, condensary, or receiving station for milk or cream, wherein milk or cream are bought and paid for on the basis of their butter-fat contents, who credits any patron or patrons delivering milk or cream with a greater or less percentage of fat than is actually contained in the milk or cream so delivered, or who hinders, impedes, or obstructs said commissioner or his deputy, in the discharge of his duty under the preceding 2 sections or who refuses him access to his testing apparatus or his records of tests, or who neglects to follow the instruction given him by said commissioner in accordance with the provisions of said sections shall be punished by a fine of not less than \$25, nor more than \$100, for each offense.

**Sec. 114. County attorneys to give aid.** R. S. c. 42, § 22. The county attorney for the county in which any violation of the provisions of this chapter has occurred, shall, when called upon to do so by the commissioner or either of his duly authorized agents or assistants, give all the aid in his power to secure the enforcement thereof, and shall prosecute cases arising thereunder or under other provisions relating to dairy products, substitutes therefor or imitations thereof.

**Sec. 115. Court jurisdiction.** R. S. c. 42, § 23. 1933, c. 118, § 1. Trial justices shall have original jurisdiction, concurrent with municipal courts and the superior court, of all laws relating to the production, manufacture, transportation, storage, and sale of milk, cream, butter, cheese, and all other dairy products, substitutes therefor or imitations thereof.

See c. 124, § 4, re sale of impure or adulterated milk or cream; c. 124, § 5, re possession of milk for human food; c. 124, §§ 6-11, re unwholesome provisions and drinks.

### Provisions Relating to Poultry

**Sec. 116. Buyers and sellers of poultry to be licensed.** 1933, c. 159. Any person, firm, or corporation engaged in the business of buying or selling live poultry, the meat or product of which is to be sold or used for food, except such person, firm, or corporation that raises the poultry by himself or itself or his or its agents, shall annually apply for a license to the commissioner, or his duly authorized agent, upon a form to be prescribed by the commissioner; and said commissioner, or his duly authorized agent, may make suitable rules and regulations governing such licenses. The fee for such licenses shall be fixed by the commissioner but shall not exceed the sum of \$2, and such licenses shall be issued for the period of 1 year and may be revoked for cause. If, in the judgment of the commissioner, or his duly authorized agent, any provision of this section, or any rule and regulation made thereunder, appears to have been violated by any licensee, the commissioner, or his duly authorized agent, shall send a notice by registered mail to the licensee giving reasonable notice of a hearing to be held at such time and place as the commissioner, or his duly

authorized agent, may determine. If the commissioner, or his duly authorized agent, is satisfied that the licensee has violated any of the provisions of this section, or any of the said rules and regulations, he shall revoke the license.

**Sec. 117. Transportation of poultry.** 1933, c. 159. 1937, c. 105, § 1. No person, firm, or corporation shall transport poultry from place to place within this state upon any way unless possessed of a license duly issued by the commissioner, or his duly authorized agent, nor shall any person, firm, or corporation transport poultry from place to place within this state between the hours of 7 P. M. and 5 A. M. the following morning unless he has obtained a permit therefor from a member of the state police, a sheriff, or a deputy sheriff. No such permit shall be issued until the officer has satisfied himself by an examination of the shipment for which the permit is requested that the applicant has complied with all the provisions of sections 1, 2, 9 to 17, inclusive, 19 to 29, inclusive, 32, 33, 51, 116, 118-120, inclusive, and 232 to 240, inclusive. Such permit shall apply only to one shipment and be valid only for date of issue, provided, however, that this section shall not apply to the transportation of dressed poultry by merchants, the transportation of live or dressed poultry by the actual producer, the transportation of poultry by householders for immediate consumption, the transportation of live poultry for egg production or breeding purposes, or the transportation of poultry by common carriers or contract carriers under the authority of the public utilities commission or interstate carriers operating under authority of the interstate commerce commission.

**Sec. 118. Bill of lading, etc., to accompany poultry transported by common carriers.** 1935, c. 75. All live and dressed poultry, transported by common carriers that are exempt from being licensed under the provisions of section 117, must be accompanied by a bill of lading, signed statement by the consignor, or bill of sale giving the name and address of the consignor and name of consignee and place of delivery. A copy of such bill of lading, statement, or bill of sale must be kept on file by the common carrier for a period of 6 months. The consignor must be known by the agent or representative of the common carrier or be properly identified before the consignment of poultry is received by him.

**Sec. 119. Record.** 1937, c. 105, § 2. No person, firm, or corporation shall purchase any dressed poultry for re-sale without keeping a record, in duplicate on forms furnished by the department, of the transaction, which record shall include the date, description, identifying marks of such poultry if any, and the name and automobile registration number if any of the seller, 1 copy of which said record shall be sent by mail the same day on which the purchase was made to the chief of the state police.

**Sec. 120. Penalties.** 1933, c. 159. 1935, c. 75. 1937, c. 105, § 2. Whoever violates any of the provisions of section 116 shall be punished by a fine of not less than \$50, nor more than \$100, for each offense. Whoever violates any of the provisions of sections 117, 118, 119, shall be punished by a fine of not less than \$50, nor more than \$100, for the 1st offense; and shall, for the 2nd and subsequent offenses, be punished by a fine of not less than \$100, nor more than \$500, or by imprisonment for not less than 30 days, nor more than 6 months, or by both such fine and imprisonment.

**Sec. 121. Poultry included in provisions of this chapter.** 1935, c. 66, § 2. The provisions of this chapter relating to the regulations of cattle for the prevention of disease, including the duties and powers of the commissioner, the

obligations imposed on owners, and the penalties imposed for nonconformity thereto, shall apply in the same manner to poultry.

See c. 88, §§ 8-13, re sheep specialist and his duties.

### Marking Sheep

**Sec. 122. Owner of sheep to have mark to be recorded.** R. S. c. 40, § 25. All owners of sheep shall mark them with some distinctive mark, by a cut in the ears or a brand on some part of the animal, and cause such mark to be recorded by the clerk of their town in a book kept for that purpose.

### Record of Stallions

**Sec. 123. Record of advertised stallions to be filed and recorded in registry.** R. S. c. 40, § 26. The owner or keeper of any stallion for breeding purposes, before advertising by written or printed notices the service thereof, shall file a certificate with the register of deeds in the county where said stallion is owned or kept, stating the name, color, age, and size of the same, together with the pedigree of said stallion as fully as attainable, and the name of the person by whom he was bred; and such register shall record such certificate in a book kept for that purpose. Copies of such certificate, duly certified by such register, may be used in evidence, the same as the original, in any court in the state. Whoever neglects to make and file such certificate shall recover no compensation for said services, and, if he knowingly and wilfully makes and files a false certificate of the statements aforesaid, he forfeits \$100, to be recovered by complaint, indictment, or action of debt, to the county where the offense is committed.

See c. 120, § 19, re penalty for false registration of blooded animal; c. 164, § 63, re lien on colts for service fee of stallion; 87 Me. 150; 89 Me. 264; 97 Me. 38.

## DIVISION OF PLANT INDUSTRY

### Certified Seed

**Sec. 124. Certified seed, defined.** R. S. c. 41, § 4. The term "certified seed" as used in this chapter shall be deemed to mean potatoes or such vegetable seeds as shall have been grown and prepared for sale in accordance with regulations laid down by the commissioner and for which a certificate or tag has been issued as provided in section 127. Authority to make all reasonable rules and regulations hereunder is given the said commissioner.

See § 230.

**Sec. 125. Application for certification; agreement regarding payment of fee for inspection.** R. S. c. 41, § 5. Any grower of potatoes or vegetable seeds may make application to the commissioner for inspection and certification of his crop growing or to be grown in this state, giving description of his land and such information as the said commissioner may require. He shall also enter into an agreement to pay such fee into the state treasury for said inspection and certification as the said commissioner shall deem necessary to cover the cost of inspection and certification. Thereupon his crops shall be listed for inspection and inspected and certified by the said commissioner or his agents under such rules and regulations as the said commissioner may provide.

Authority to make all reasonable rules and regulations hereunder is given the commissioner.

See § 230.

**Sec. 126. Fee for inspection and certification, how determined. R. S. c. 41, § 6.** In determining the amount of the fee to be paid by the growers of potatoes or other vegetable seeds for inspection and certification under the provisions of this chapter, the commissioner may establish an entry charge not to exceed 50c on each acre of potatoes or other vegetable for which such inspection and certification is requested, but in the case of potatoes which shall be found to be unfit for certification, the amount of such entry fee shall not exceed the actual cost of labor performed by the said commissioner or his agents upon such potatoes, nor shall the charge for labor so performed upon such potatoes as shall be found unfit for certification exceed the above named amount of 50c per acre, and in the case of potatoes which shall be accepted and certified, the said commissioner shall establish a fee for field inspection not to exceed \$2.50 per acre inclusive of entry charge and also a supplementary charge of 5c for each barrel of potatoes which shall be finally accepted, certified, and sold as certified seed as defined in this chapter.

See § 230.

**Sec. 127. Commissioner of agriculture to issue certificate; contents of certificate; counterfeit and false tags prohibited; penalty. R. S. c. 41, § 7.** The commissioner may issue a certificate or tag which shall be attached to each container or package in which certified seed shall be offered or exposed for sale. Such tag or certificate shall indicate the name of the grower, the shipping station or depot, the name of the inspector making the final inspection, the variety of the seed, and shall bear the imprint of the seal of the state. Any tag, having the words "inspected" or "certified seed" thereon, attached to the container or package in which certified seed shall be offered or exposed for sale, shall be so attached thereto that the whole of said certificate or tag shall be in full view. Any person who shall knowingly or wilfully misuse any such tag or certificate or who shall attach to any package or container of seed which has not been duly inspected and certified, any such tag or certificate which shall have printed thereon the words "certified seed" or which by reason of color, size, shape, or otherwise may convey the impression that such seed has been certified by the said commissioner or his agents, shall be punished by a fine of \$50 for each offense and shall be thenceforth denied the privileges of sections 124 to 127, inclusive, and section 129.

See § 230.

### Dumping of Waste Potatoes

**Sec. 128. Dumping of waste potatoes, prohibited. 1943, c. 125.** No person, firm, or corporation shall dump waste potatoes in such manner that the same shall sprout and grow, thereby permitting or in any way facilitating the spread of potato diseases to cultivated potato fields.

**Sec. 129. Privileges denied to those in arrears. R. S. c. 41, § 8.** No person who is in arrears as to payment for past services of the department under the provisions of sections 124, 125, 126, and 127, shall be entitled to further services until payment of all such arrears shall have been made.

See § 230.

### Protection of Trees and Shrubs

**Sec. 130. State horticulturist, his appointment; terms defined. R. S. c. 43, § 1. 1939, c. 247.** The commissioner shall appoint a state horticulturist, and the division of the department of agriculture under which such officer performs his duties shall be known as the bureau of horticulture. The term "nursery stock" as used in this chapter shall include all florist stock, trees, shrubs, vines, fruiting plants, cuttings, grafts, scions, and buds, both deciduous and evergreen, grown for sale or propagation, also herbaceous perennials, bedding plants, roots, corms, bulbs, tubers, potted plants, and cut flowers, and all other plant and plant products for, or capable of, propagation, excepting field crops, vegetable plants, and vegetable and flower seeds. The term "vegetation" as used in this chapter means any tree, shrub, vine, vegetable, or other plant, or the product or any other portion of the tree, shrub, vine, vegetable, or other plant.

See c. 32, § 57 et seq., re white pine blister rust.

**Sec. 131. Gipsy and brown-tail moths public nuisances; duty of commissioner; penalty for obstructing commissioner or officer. R. S. c. 43, § 2.** For the purposes of the 9 following sections, the gipsy and brown-tail moths in their different stages are declared public nuisances, and their suppression is authorized and required, but no owner or occupant of real estate infested by such nuisance shall by reason thereof be liable to an action civil or criminal except to the extent and in the manner and form herein set forth. The commissioner shall disseminate information concerning brown-tail and gipsy moths, San Jose scale, and other injurious insects; and the entire work of suppressing the gipsy moth in all its forms shall be done under the direct charge of the said commissioner. Any person who purposely resists or obstructs the said commissioner or any person or persons under his employ, or any officer or agent of a city or town while engaged in the execution of the purposes of this section and the 9 following sections, shall be punished by a fine of not more than \$25 for each offense.

**Sec. 132. Nurseries to be inspected annually. R. S. c. 43, § 3. 1939, c. 247. 1941, c. 166, § 1.** All nurseries or places where nursery stock is grown, stored, or offered for sale shall be inspected at least once a year by the state horticulturist or by some competent person acting under his direction, and all such premises shall be accessible at all reasonable times for inspection, and if no dangerous insects or fungous diseases are found therein a certificate to that effect shall be given. If such pests are found therein, the owner of the stock shall take such measures to destroy the same as the state horticulturist shall prescribe, and no certificate as aforesaid shall be given until the said horticulturist has satisfied himself that all such pests have been suppressed, during which period no stock shall be sold, exchanged, or disposed of except such as is destroyed. Only sound, healthy nursery stock which will maintain its vigor shall be offered for sale. Offering for sale of dead nursery stock or of stock so seriously weakened by drying, excessive heat or cold, or any other condition that makes it unable to grow or keep satisfactorily when given reasonable care is deemed a violation of the provisions of this section and sections 130, 134, 135, 136.

**Sec. 133. State horticulturist may inspect any orchard, field, or garden; diseased trees or shrubs to be destroyed; penalty. R. S. c. 43, § 4.** The state horticulturist, either personally or through competent assistants, may inspect any

orchard, field, garden, or roadside in public or private grounds, which he or they may know or have reason to suspect to be infested with the San Jose scale or any serious pest or infectious disease, when in his or their judgment such pests or infectious diseases are a menace to adjoining owners; and the state horticulturist may in writing order the owner, occupant, or person in charge thereof to properly spray or give other suitable treatment, or to cut and destroy any such diseased trees or shrubs, if in the opinion of the state horticulturist such action is necessary. If the owner of such orchard, field, or garden neglects or refuses to comply with such written order, he shall be punished by a fine of not less than \$10, nor more than \$50, for each offense.

See § 131; c. 33, § 49, re use of poison for rodents; c. 33, § 50, re trapping on agricultural lands; c. 33, § 61-B, re damage to orchards and crops by deer, etc.

**Sec. 134. Nursery stock shipped into state to bear certificate of inspection; further inspection; destruction or return of infested stock.** R. S. c. 43, § 5. 1939, c. 247. All nursery stock shipped into this state from any other state, country, or province shall bear on each box or package a certificate that the contents of said box or package have been investigated by a duly authorized inspecting officer, and that said contents appear to be free from all dangerous insects and diseases. Nurserymen, dealers, or other persons residing or doing business outside of the state, desiring to solicit orders for nursery stock through agents in this state, shall file a certified copy of their original state certificate with the state horticulturist, and shall keep on file with the state horticulturist a list of agents and representatives in the state. The state horticulturist, or his competent assistants, may inspect, at the point of destination, all stock coming into the state, whether under certificate or not, and if such stock is found to be infested with any injurious insects or plant diseases, the state horticulturist shall cause it to be destroyed or returned to the consignor at the consignor's expense, if he shall so elect.

See § 131.

**Sec. 135. Transportation companies not to transport uninspected stock, penalty; notice to commissioner of consignments.** R. S. c. 43, § 6. 1939, c. 247. No transportation company, owner or owners of nursery stock, or person selling nursery stock shall bring into this state, or shall transport or cause to be transported within this state, any nursery stock, excluding therefrom cut flowers, potted plants, and cut greens, unless each box or package of such nursery stock shall have affixed thereto an unexpired official certificate of inspection which shall meet the requirements specified in section 134. Whoever violates this provision shall be punished by a fine of not more than \$100 for each offense. All transportation companies shall immediately, upon receiving consignments of such stock, notify the commissioner of the fact that such consignments are in their possession, or en route to some point within the state, and give the names and addresses of the consignor and consignee, destination of each shipment, the name of the transportation company bringing such stock, and the road or roads over which it is brought; and shall also make such further report relative to such shipments as the commissioner may from time to time require.

**Sec. 136. Agents and dealers in nursery stock to obtain a license; fee; disposition of fees; revocation of license; penalty.** R. S. c. 43, § 7. 1939, c. 247. 1941, c. 166, § 2. No person, firm, or corporation shall engage in, continue in, or carry on the business of selling or dealing in nursery stock, or solicit purchases of nursery stock within this state, either as owner thereof, or as agent of

such owner, without first obtaining a license to carry on and conduct such business in this state. The form of license shall be prescribed by the state horticulturist, and the licenses shall be issued by him upon proper application therefor, and shall expire on December 31 of each year. The license fee shall be \$1 per year, excepting that for growers of strawberry, blackberry, and raspberry plants, gladiolus, dahlias, and herbaceous plants out-of-doors, and whose total area of land devoted to those plants does not exceed  $\frac{1}{4}$  acre, there shall be no license fee. The license shall be issued in the name of the nurseryman, dealer, solicitor, salesman, or agent, as the case may be, and no license shall be assigned or transferred. Licenses of salesmen, dealers, agents, or solicitors shall show the name and location of nursery and place of business of the nurserymen or tree dealers whom they represent or from whom they purchase their stock. Each separate agent and each separate store acting under a general agent or store must have a license as provided in this section. Fees obtained from such licenses shall be paid into the state treasury and added to the appropriation of the bureau of horticulture, to carry out the purposes of sections 130 to 141, inclusive. Such license may be revoked at any time for failure to comply with the aforesaid requirements, or for such other causes as may in the opinion of the commissioner be sufficient. Any violation of the provisions of this section shall be punishable by a fine of not less than \$10, nor more than \$50, for each offense.

110 Me. 264.

**Sec. 137.** Notice to commissioner of presence of insects; his duties; destruction of insects within public ways and parks. R. S. c. 43, § 8. If any person in the state suspects the presence of the brown-tail moth or San Jose scale preying upon trees, shrubs, or vines in his possession or within his knowledge, he shall forthwith notify the commissioner to that effect; and said commissioner shall cause the said trees, shrubs, or vines to be inspected. If sufficient cause is found, the commissioner shall forthwith notify the municipal officers of the city, town, or plantation where such pests have been found. Municipal officers thus notified shall immediately cause to be destroyed such of the above named insects in their different stages as may be found within the limits of the public streets and parks; said limit shall extend to and include all trees whose branches overhang the highway. If the municipal officers neglect or fail to perform the duties herein imposed upon them within a reasonable time, the commissioner shall order such city, town, or plantation to proceed to destroy the above named insects in accordance with methods to be prescribed by him and to spend such an amount in the above named work as he shall deem necessary. If any city, town, or plantation shall fail to comply with the directions of said commissioner in the performance of said work and the expenditure of such money within the time specified by him, the commissioner shall cause the said work to be done and shall charge the actual expense of the same to said city, town, or plantation; such amount shall be collected as a state tax and credited to the appropriation for said purpose.

See § 131.

**Sec. 138.** Notice to owners of real estate to destroy insects; owner neglecting, town to destroy. R. S. c. 43, § 9. Whenever a city, town, or plantation is notified by the commissioner of the presence of the brown-tail moth or San Jose scale, the mayor of each city, the selectmen of each town, and the assessors of each plantation shall notify each owner of real estate located therein, requiring him to destroy the above named insects in his orchard and shade trees with-

in a specified time. If the owner fails to destroy the above named insects before the specified time, the city, town, or plantation, subject to the approval of the commissioner, shall destroy them, and shall assess upon such aforesaid real estate the actual cost of so doing, to an amount, however, not exceeding 1% of the assessed valuation of the above named property. The amount so assessed shall be collected in the form of a tax.

See § 131.

**Sec. 139. Towns may raise money; expenditure.** R. S. c. 43, § 10. Cities and towns may raise the sums necessary to carry out the provisions of the preceding section in the same manner as money is raised for other necessary municipal purposes. Whenever any city or town shall appropriate or raise a sum of money and shall pay the same into the state treasury for the purpose of exterminating the gipsy moth within its borders, the commissioner shall cause such amount to be expended in such city or town as herein provided, together with an equivalent amount from the appropriation made therefor; provided, however, that if the commissioner finds it to be unnecessary or impracticable to expend such entire amount during the year following such payment to the treasurer of state,  $\frac{1}{2}$  the amount so remaining unexpended shall be reimbursed to such city or town.

See § 131; c. 80, § 91, re purposes for which towns may raise money.

**Sec. 140. Duties of municipal officers as to worthless trees along highways; penalty.** R. S. c. 43, § 11. The municipal officers of cities and towns shall, before the 1st day of June of each year, cut, burn, and destroy all dead or worthless apple trees, and all wild cherry trees within the limits of the public ways, streets, and parks of their respective towns and cities. For neglect or failure to perform the aforesaid duties each of such officers shall be punished by a fine of not less than \$50.

**Sec. 141. Jurisdiction; control of prosecutions.** R. S. c. 43, § 12. 1933, c. 118, § 1. Trial justices shall have original jurisdiction, concurrent with municipal courts and the superior court, of prosecutions for violations of the provisions of sections 130 to 140, inclusive. All prosecutions shall be instituted by the commissioner and shall be directed by him; all penalties recovered for any violation of the provisions of said sections shall accrue to the treasurer of state for the use of the said commissioner in the enforcement of said sections in addition to any specific appropriation made therefor, and may be drawn from the treasury in the same manner as such appropriation.

See c. 137, § 5, re fines, costs, and forfeitures to be paid to county treasurer.

### European Corn Borer

**Sec. 142. European corn borer declared a public nuisance; commissioner directed to suppress.** R. S. c. 43, § 14. The insect known as the European corn borer is in all its stages a public nuisance, and the commissioner is authorized and directed to use all lawful methods for its control and suppression. He may act in cooperation with any person or organization, any other state; or the United States, in conducting investigations, gathering and distributing information concerning the said corn borer, and in enforcing the provisions of the following sections.

**Sec. 143. Commissioner may establish districts and quarantine same; notice of establishment to be published.** R. S. c. 43, § 15. The commissioner shall

have authority to establish districts comprising that portion of the state known or suspected of being infested with the European corn borer, and to quarantine such districts against the further spread of the borer. He may alter the boundary lines of such district or establish new districts as conditions may require, and he shall give notice of such establishment by publication in some newspaper published in such district, if any, otherwise in some paper published in Augusta.

**Sec. 144. Persons in quarantined or infested districts to plow in or burn stubble; corn-stalk fodder to be fed or destroyed by April 10th.** R. S. c. 43, § 16. In such district or districts as the commissioner may designate as being known or suspected of being infested with the European corn borer, any person growing corn of any kind, or other vegetation subject to infestation by the European corn borer, shall, not later than November 1st in the year in which said corn or other vegetation is grown, plow the land on which said corn or other vegetation was grown in a manner which shall be satisfactory to the said commissioner or his duly authorized agents, or shall pull up said stubble and destroy it by burning. Any person who uses corn-stalks as fodder and who stores them for that purpose shall feed or destroy all such corn-stalks not later than the 10th day of April in the year following that in which the said corn shall have been grown.

**Sec. 145. Penalty; jurisdiction.** R. S. c. 43, § 17. 1935, c. 45. Whoever violates any quarantine regulations established by the commissioner under the provisions of section 143 and whoever neglects or refuses to comply with the requirements of section 144 shall be punished by a fine of not less than \$10, nor more than \$50. Trial justices shall have original jurisdiction concurrent with municipal courts and the superior court of actions brought for the recovery of penalties imposed by the provisions of sections 130 to 156, inclusive, and of prosecutions for violations thereof.

#### Bee Industry

**Sec. 146. Bee inspectors.** R. S. c. 43, § 18. 1943, c. 200, § 1. The commissioner shall employ one or more persons qualified by experience and knowledge in beekeeping as inspectors of apiaries, who shall serve during the pleasure of the commissioner.

**Sec. 147. Salary.** 1943, c. 200, § 1. Bee inspectors shall be employed on a per diem basis and shall receive not over \$6 per day and necessary traveling expenses while actually engaged in the performance of their duties.

**Sec. 148. Duties.** 1943, c. 200, § 1. Bee inspectors shall make such inspection of the apiaries throughout the state as the commissioner may deem necessary to determine the presence therein of bee diseases of an infectious or contagious nature.

**Sec. 149. Right to enter apiaries.** 1943, c. 200, § 1. Such inspectors shall have the authority to enter at all reasonable times upon the premises of any keeper of bees and make such examination of the bees, equipment, and appliances found thereon as he may deem necessary to determine the presence of contagious or infectious diseases.

**Sec. 150. Certificates.** 1943, c. 200, § 1. Any inspector may within 60 days after examination thereof issue certificates that bees or bee equipment and appliances are apparently free from disease or contamination.

**Sec. 151. Certifying imports.** 1943, c. 200, § 1. No bees or used bee equipment or appliances shall be shipped into the state without a certificate signed by a legally authorized inspector at the point of shipment that they are free from any contagious or infectious disease based on actual inspection made within 60 days of the date of such shipment.

**Sec. 152. Public nuisance.** 1943, c. 200, § 1. All bees infected with the disease known as American Foulbrood, together with the equipment and appliances contaminated thereby, are declared to be a public nuisance, and may be abated as provided in section 13 of chapter 128.

**Sec. 153. Possession or sale of diseased bees or equipment.** 1943, c. 200, § 1. It shall be unlawful for any person to knowingly own or possess bees having any contagious or infectious disease, or bee equipment and appliances contaminated thereby, without a permit from a bee inspector. It shall be unlawful to sell, barter, or give away bees, equipment, or appliances from any apiary which contains bees having an infectious or contagious disease without a permit from a bee inspector when the owner or manager thereof knows, or has reason to suspect, the presence of such disease therein.

**Sec. 154. Penalty.** 1943, c. 200, § 1. Any person violating the provisions of sections 146 to 153, inclusive, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$10 and costs for each offense.

**Sec. 155. Notification to commissioner.** R. S. c. 43, § 19. 1943, c. 200, § 2. All persons owning bees within the state shall notify the commissioner of the keeping of bees and the location thereof. The information shall be made on blanks furnished by the commissioner.

**Sec. 156. No person to disturb bees upon the land of another; penalty.** R. S. c. 43, § 20. No person shall enter upon the land of another for the purpose of capturing, destroying, or interfering with a swarm of bees which is already established, or removing honey from same, except by the consent of the owner of such land. Whoever violates any of the provisions of this section or of section 155 shall be punished by a fine of not less than \$10, nor more than \$50, for each offense.

## DIVISION OF INSPECTION

### Adulterated or Misbranded Goods

**Sec. 157. Sale of certain adulterated articles prohibited.** R. S. c. 41, § 1. No person shall manufacture, sell, distribute, transport, offer, or expose for sale, distribution, or transportation, any article of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide, or insecticide which is adulterated or misbranded within the meaning of this chapter.

116 Me. 33.

**Sec. 158. Definitions.** R. S. c. 41, § 2. The term "agricultural seed" as used in this chapter shall be held to include the seeds of alfalfa, barley, Canadian blue grass, Kentucky blue grass, brome grass, buckwheat, alsike clover, crimson clover, red clover, medium clover, white clover, field corn, Kaffir corn, meadow fescue flax, Hungarian, millet, oats, orchard grass, rape, redtop, rye, sorghum, timothy, and wheat.

The term "commercial feeding stuff" as used herein shall be held to include all articles of food used for feeding live stock and poultry, except hays and straws, the whole seeds, and the unmixed meals made directly from the entire grains of wheat, rye, barley, oats, Indian corn, buckwheat, flaxseed, and broom corn.

The term "commercial fertilizer" as used herein shall be held to include all materials used for fertilizing purposes, the price of which exceeds \$10 a ton.

The term "drug" as used herein shall be held to include all medicines and preparations recognized in the United States pharmacopœia or national formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of man or other animals.

The term "food" as used herein shall be held to include all articles, whether simple, mixed or compound, used for food, drink, confectionery, or condiment by man or animals.

The term "fungicide" as used herein shall be held to include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all fungi that may infest vegetation, or be present in any environment whatsoever.

The term "insecticide" as used herein shall include Paris green, lead arsenate, and any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any insect which may infest vegetation, man, animals, or houses, or be present in any environment whatsoever.

123 Me. 439.

**Sec. 159. Marking of packages of seed.** R. S. c. 41, § 3. Every lot or package of agricultural seed which is sold, distributed, transported, offered or exposed for sale, distribution, or transportation for seed in the state by any dealer in seed, shall have affixed in a conspicuous place on the outside thereof, a plainly written or printed statement clearly and truly giving the name thereof and its minimum percentage of purity and freedom from foreign matter, together with the name and approximate amount of each kind of noxious weed seed contained therein, and also a guarantee of the germinating power of the seed and the date of the test for germination.

**Sec. 160. Marking of packages of commercial feeding stuff.** R. S. c. 41, § 9. Every lot or package of commercial feeding stuff, which is manufactured, sold, distributed, transported, offered or exposed for sale, distribution, or transportation in the state by any person, shall have affixed, in a conspicuous place on the outside thereof, a plainly printed statement, clearly and truly giving the number of net pounds in the package; the name, brand, or trade-mark under which the article is sold; the name and principal address of the manufacturer or shipper; a chemical analysis stating the maximum percentage of crude fibre, the minimum percentage of crude fat, and the minimum percentage of crude protein (allowing 1% of nitrogen to equal 6¼% of protein) which it contains, all 3 constituents to be determined by the methods adopted by the association of official agricultural chemists; if the feeding stuff is a compound feed, the name of each ingredient contained therein; and if artificially colored, the name of the material used for that purpose. If the feeding stuff is sold in bulk or put up in packages belonging to the purchaser, the seller shall upon the request of the purchaser furnish him with a copy of the statements named in this section.

**Sec. 161. Sale and manufacture of commercial feeding stuff, regulated; registration fee.** R. S. c. 41, § 10. Any person who shall manufacture, sell, dis-

tribute, transport, offer or expose for sale, distribution, or transportation, in the state, any commercial feeding stuff shall before so doing file with the commissioner for each and every commercial feeding stuff bearing a distinguishing name or trade-mark, a certified copy of the statements required by section 160. Said certified copy shall be accompanied, when said commissioner shall so request, with a sealed package containing not less than 1 pound of the commercial feeding stuff. The person who shall file said certificate shall pay annually to the commissioner a registration fee of \$10, this fee to be assessed on any brand offered for sale, distribution, or transportation in the state; provided, however, that a brand of commercial feeding stuff may be reregistered for the following year without the payment of the fee upon the establishment by the person who paid said fee that the total sales within the state during the year for which said fee was paid did not exceed 50 tons. Whenever any person shall have filed such certificate and paid such registration fee, no other person shall be required to file such statement or pay such fee.

**Sec. 162. Marking of packages of commercial fertilizer.** R. S. c. 41, § 12. 1939, c. 105, § 1. Every lot or package of commercial fertilizer, which is manufactured, sold, distributed, transported, offered or exposed for sale, distribution, or transportation in the state by any person, shall have affixed in a conspicuous place on the outside thereof a plainly printed statement clearly and truly giving the number of net pounds in the package; the name, brand, or trade-mark under which the fertilizer is sold; the name and principal address of the manufacturer or importer and a chemical analysis stating the minimum percentage of nitrogen, available as plant food, present as nitrates, ammonium salts, or organic nitrogen, of potash soluble in water, of phosphoric acid in available form, soluble and reverted, and of total phosphoric acid, the constituents to be determined by the methods adopted by the association of official agricultural chemists, and the minimum percentage of magnesium soluble in water and/or total magnesium. If the fertilizer is sold in bulk or put up in containers furnished by the purchaser, the seller shall, upon request of the purchaser, furnish the latter with a copy of the statements named in this section.

116 Me. 33; 135 Me. 305.

**Sec. 163. Lime, marl, or wood-ashes classed as a commercial fertilizer; statement of percentages; fee for certificate.** R. S. c. 41, § 13. Lime, marl, or wood-ashes intended for fertilizing purposes, and without regard to the price at which it is sold or offered for sale, shall be classed as a commercial fertilizer within the meaning of this chapter. All the requirements and penalties relative to commercial fertilizers named in this chapter shall apply to any and every lot of lime, marl, or wood-ashes intended for fertilizing purposes. In addition to the requirements of section 162 the label and certificates shall truly state the minimum and maximum percentage of total lime (calcium oxide), the minimum and maximum percentage of total magnesia (magnesium oxide), the minimum and maximum percentage of lime combined as carbonate (calcium carbonate), and magnesium combined as carbonate (magnesium carbonate), and minimum percentage of lime sulphur (calcium sulphate), in gypsum or land plaster. The person filing the certificate shall annually pay to the commissioner a registration fee of \$10 for each brand of lime intended for fertilizing purposes.

**Sec. 164. Sale and manufacture of commercial fertilizer, regulated; registration fee.** R. S. c. 41, § 14. 1933, c. 156. 1939, c. 105, § 2. Any person who shall manufacture, sell, distribute, transport, offer or expose for sale, distribution, or transportation in the state any commercial fertilizer shall before so

doing file with the commissioner for each and every fertilizer bearing a distinguishing name or trade-mark, a certified copy of the statements named in section 162. Said certified copy shall also contain a definite statement relative to the minimum percentage of nitrogen contained in the fertilizer guaranteed and registered. It shall state specifically the percentage of nitrogen present in the form of organic nitrogen, the percentage present in the form of mineral chemicals such as nitrates, and the percentage present as ammonium salts. Said certified copy shall be accompanied when said commissioner shall so request with a sealed package containing not less than 2 pounds of the commercial fertilizer. The person who shall file said certificate shall pay annually to the commissioner a registration fee as follows: \$10 each for the nitrogen and the phosphoric acid and \$5 each for the potash and the magnesium contained or said to be contained in the fertilizer, this fee to be assessed on any brand offered for sale, distribution, or transportation in the state. Whenever any person shall have filed said certificate and paid said registration fee, no other person shall be required to file such statement or pay such fee.

116 Me. 33.

**Sec. 165. Marking of packages of fungicide.** R. S. c. 41, § 15. Every lot or package of a fungicide or an insecticide, which is manufactured, sold, distributed, transported, offered or exposed for sale, distribution, or transportation in the state by any person, shall have affixed in a conspicuous place on the outside thereof a plainly printed statement clearly and truly stating the number of net pounds in the package, the name or trade-mark under which the article is sold, the name and address of the manufacturer or shipper, and a chemical analysis stating the minimum percentage of total arsenic and the maximum percentage of water-soluble arsenic which it contains, the constituents to be determined by the methods adopted by the association of official agricultural chemists.

**Sec. 166. Manufacture and sale of fungicides, etc., regulated; registration fee.** R. S. c. 41, § 16. Any person who shall manufacture, sell, distribute, transport, offer or expose for sale, distribution, or transportation in the state any fungicide or insecticide shall before so doing file with the commissioner for each and every fungicide or insecticide bearing a distinguishing name or trade-mark, a certified copy of the statements made in accordance with the provisions of the preceding section. Said certified copy shall be accompanied when said commissioner shall so request with a sealed package containing not less than 1 pound of the fungicide or insecticide. The person filing such certificate shall pay annually to the commissioner a registration fee of \$10, this fee to be assessed on any brand offered for sale, distribution, or transportation in the state, except that said fee shall not be assessed for the registration of a fungicide or insecticide consisting of organic matter and not containing any added inorganic matter or mineral chemical, provided that a complete chemical analysis of said fungicide or insecticide is given in, and as part of, the certificate required under this section. Whenever any person shall have filed said certificate and paid said registration fee, no other person shall be required to file such statement or pay such fee.

**Sec. 167. Registration may be refused when name or trade-mark is misleading.** R. S. c. 41, § 17. The commissioner may refuse to register any commercial feeding stuff or commercial fertilizer, bearing a name, brand, or trade-mark which is misleading or deceptive or which would tend to mislead or deceive as to materials of which it is composed, and in the case of commercial feeding stuff when the specific names of each and all of the ingredients used in its manufacture are not stated. He may also cancel the registration of any

feeding stuff, commercial fertilizer, fungicide, or insecticide that he deems to be manufactured, sold, distributed, transported, offered or exposed for sale, distribution, or transportation in violation of any of the provisions of this chapter. The registration of each brand of commercial feeding stuff, commercial fertilizer, fungicide, or insecticide shall terminate on the 31st day of December of each year.

Sec. 168. When goods deemed adulterated. R. S. c. 41, § 18. 1933, c. 167. For the purpose of this chapter an article shall be deemed to be adulterated:

I. In case of agricultural seed:

- A. If its purity falls below its accompanying guaranty.
- B. If it contains the seed of any poisonous plant, or any kind or amount of weed seed other than the kinds or amounts represented in the statement required by section 159.
- C. If it, upon test of germination made within 6 months of the date of test in statement under the provisions of section 159, does not show the same germinating power given in said statement prescribed by the provisions of said section 159. Provided that said seed has been constantly kept under conditions not injurious to its germinating qualities, and that a margin of tolerance of 5% shall be allowed. Provided also that in the event of violation of the provisions of this chapter in relation to seeds, the commissioner shall proceed according to the provisions of sections 4 and 5.

II. In case of commercial feeding stuff:

- A. If its weight, composition, quality, strength, or purity do not conform in each particular to the claims made upon the affixed guaranty.
- B. If it be colored, coated, or stained in a manner whereby damage or inferiority is concealed.
- C. If it contains any poisonous or deleterious ingredients which may render such article injurious to the health of live stock or poultry.
- D. If any milling or manufactured offals or any foreign substance whatever have been added to any whole or ground grain or other commercial feeding stuff, unless the true composition, mixture, or adulteration is plainly marked or indicated upon the container thereof.

III. In case of commercial fertilizer:

- A. If its weight, composition, quality, strength, or purity do not conform in each particular to the claims made upon the affixed guaranty.
- B. If it contains any material deleterious to growing plants.
- C. If it is found to contain any pulverized leather, hair, ground hoofs, horns, wool waste, peat, garbage tankage, cyanamid, or any nitrogenous ingredients derived from any inert material whatsoever, unless the same has been so treated as to be available as plant food as determined by the methods adopted by the association of official agricultural chemists, without an explicit printed statement of the fact, conspicuously affixed to the package of such fertilizer and accompanying and going with every lot or package of the same, in which fertilizer the above named materials aid in making up the required or guaranteed analysis.

IV. In case of a drug:

- A. If, when a drug is sold under or by a name recognized in the United States pharmacopœia or national formulary, it differs from the standard of

strength, quality, or purity as laid down in the United States pharmacopœia or national formulary official at the time of investigation, or as fixed by the commissioner: provided that no drug defined in the United States pharmacopœia, the national formulary, or by said commissioner shall be deemed to be adulterated under the provision if the standard of strength, quality, or purity be plainly stated, so as to be understood by the non-professional person, upon the bottle, box, or other container thereof, although the standard may differ from that laid down in the United States pharmacopœia, national formulary, or that fixed by said commissioner.

B. If its strength or purity differs from the professed standard or quality under which it is sold.

V. In case of confectionery:

If it contains terra alba, barytes, talc, chrome yellow, or other mineral substances, or poisonous color or flavor, or other ingredients deleterious or detrimental to health, or any vinous, malt, or spirituous liquor or compound, or narcotic drug.

VI. In case of food:

A. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

B. If any substance has been substituted wholly or in part for the article.

C. If any valuable constituents of the article have been wholly or in part abstracted.

D. If it be mixed, colored, powdered, coated, or stained in a manner whereby damage or inferiority is concealed.

E. If it contains any poisonous or other added deleterious ingredient which may render such article injurious to health.

F. If it consists in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.

G. If in the manufacture, sale, distribution, transportation, or in the offering or exposing for sale, distribution, or transportation, it is not at all times securely protected from filth, flies, dust, or other contamination, or other unclean, unhealthful, or unsanitary conditions.

H. (1933, c. 167) If it does not conform to the standards of strength, quality, and purity now or hereafter to be established by statute or fixed by the commissioner: provided that no food except clams, quahaugs, mussels, oysters, and scallops shall be deemed to be adulterated under this provision if the standard of strength, quality, or purity be plainly stated, so as to be understood by the non-professional person, upon the container thereof, although the standard may differ from that established by statute or fixed by said commissioner.

I. If its strength or quality or purity fall below the professed standard or quality under which it is sold.

VII. In case of fungicide or insecticide; and in case of Paris green:

A. If it does not contain at least 50% of arsenious oxide ( $\text{As}_2\text{O}_3$ ).

B. If it contains arsenic in water-soluble forms equivalent to more than  $3\frac{1}{2}\%$  of arsenious oxide ( $\text{As}_2\text{O}_3$ ).

C. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

**VIII. In case of lead arsenate:**

- A. If it contains more than 50% of water.
- B. If it contains total arsenic equivalent to less than  $12\frac{1}{2}\%$  of arsenic oxide ( $\text{As}_2\text{O}_5$ ).
- C. If it contains arsenic in water-soluble forms equivalent to more than 75/100% of arsenic oxide ( $\text{As}_2\text{O}_5$ ).
- D. If any substances have been mixed and packed with it so as to reduce, lower, or injuriously affect its quality or strength: provided, however, that extra water may be added to lead arsenate if the resulting mixture is labeled lead arsenate and water, the percentage of extra water being plainly and correctly stated on the label.

**IX. In the case of fungicide or insecticide other than Paris green and lead arsenate:**

- A. If its strength or purity falls below the professed standard or quality under which it is sold.
- B. If any substance has been substituted wholly or in part for the article.
- C. If any valuable constituent of the article has been wholly or in part abstracted.
- D. If it is intended for use on vegetation and shall contain any substance or substances injurious to such vegetation.

116 Me. 33; 117 Me. 288; 121 Me. 365; 122 Me. 248; 124 Me. 142, 269; 135 Me. 305.

**Sec. 169. Term "misbranded" defined.** R. S. c. 41, § 19. The term "misbranded" as used herein shall apply to all articles of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide, and insecticide, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, or which is falsely branded in any particular.

For the purpose of this chapter an article shall also be deemed to be misbranded:

**I. In case of agricultural seed:**

- A. If any lot or package fails to bear all the statements required by section 159.

**II. In case of commercial feeding stuff:**

- A. If any package fails to bear all of the statements required by section 160.
- B. If the printed statements required by section 160 to be affixed to the package differ from the statements required by section 161.
- C. If any brand is manufactured, transported, distributed, sold, offered or exposed for sale, distribution, or transportation upon which the registration fee required by section 161 has not been paid.

**III. In case of commercial fertilizer:**

- A. If any package fails to bear all the statements required by section 162.
- B. If the printed statements required by section 162 to be affixed to the package differ from the statement required by section 164.

C. If any brand is manufactured, transported, distributed, sold, offered or exposed for sale, distribution, or transportation upon which the registration fee required by section 164 has not been paid.

**IV. In case of a drug:**

A. If it be an imitation of or offered for sale under the name of another article.

B. If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or except in the case of a physician's prescription compounded by a physician or a registered pharmacist, if the package fails to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivative or any preparation of any such substances contained therein.

**V. In case of food:**

A. If it be an imitation of or offered for sale under the distinctive name of another article.

B. If the contents of the package as originally put up shall have been removed in whole or in part and other contents shall have been placed in such package, or if it fails to bear a statement on the label of the quantity or proportion of each and any added coloring matter, preservative, chemical, or drug contained therein.

C. If the package containing it or its label shall bear any statement, design, or device regarding the ingredients or the substances contained therein, which statement, design, or device shall be false or misleading in any particular.

D. Provided that an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

1. In the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced.

2. In the case of articles labeled, branded, or tagged so as to plainly indicate that they are compounds, imitations, or blends, and the word "compound" or "imitation" or "blend" as the case may be is plainly stated on the package in which it is offered for sale: provided that the term "blend" as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only, and whose presence is declared upon the label; provided further, that nothing in this chapter shall be construed as requiring or compelling proprietors or manufacturers of proprietary goods which contain no unwholesome added ingredient to disclose their trade formulas except in so far as the provisions of this chapter may require to secure freedom from adulteration or misbranding.

**VI. In case of fungicide and insecticide:**

- A. If any lot or package fails to bear all the statements required by section 165.
- B. If the printed statements required by section 165 to be affixed to the lot or package differ from the statements required by section 166.
- C. If any brand is manufactured, transported, distributed, sold, or offered or exposed for sale, distribution, or transportation upon which the registration fee required by section 166 has not been paid.
- D. If it be an imitation of or offered for sale under the name of another article.
- E. If it be labeled or branded so as to deceive or mislead the purchaser, or if the contents of the package as originally put up shall have been removed in whole or in part, and other contents shall have been placed in such packages.
- F. If it consists partially or completely of an inert substance or substances which do not prevent, destroy, repel, or mitigate insects or fungi and does not have the percentage amount of such inert ingredient plainly and correctly stated on the label.

116 Me. 33.

**Sec. 170. Misbranding of food in package form.** R. S. c. 41, § 20. For the purpose of this chapter an article of food in package form, if sold at a greater price than 5c, shall also be deemed to be misbranded if the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count; provided, however, that reasonable variations shall be permitted, and tolerances shall be established by rules and regulations made in accordance with the provisions of section 3.

**Sec. 171. Sale of adulterated or misbranded vinegar prohibited.** R. S. c. 41, § 21. No person shall, within this state, manufacture, sell, distribute, transport, offer or expose for sale, distribution, or transportation any product known as vinegar which is adulterated or misbranded within the meaning of this chapter.

**Sec. 172. Definitions of vinegars.** R. S. c. 41, § 22. The terms "cider vinegar" and "apple vinegar" shall be construed to mean the product made exclusively from the expressed juice of clean whole apples, by alcoholic and subsequent acetous fermentations, the acidity, solids, and ash of which have been derived exclusively from the apples from which it was fermented.

The term "sugar vinegar" shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of solutions of sugar, syrup, molasses, or refiner's syrup.

The term "malt vinegar" shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of an infusion of barley malt.

The terms "wine vinegar" and "grape vinegar" shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of the juice of grapes.

The term "glucose vinegar" shall be construed to mean the product made by the alcoholic and subsequent acetous fermentations of solutions of corn sugar or glucose.

The terms "spirit vinegar," "distilled vinegar," and "grain vinegar" shall be construed to mean the product made by the acetous fermentations of dilute distilled alcohol.

**Sec. 173. Adulterations of vinegars defined.** R. S. c. 41, § 23. For the purpose of this chapter vinegar shall be deemed to be adulterated:

I. If it contains any drugs, acids, coloring matter, or ingredients not derived exclusively from the substances from which they were respectively made.

II. If it contains less than 4 grams of acetic acid in 100 cubic centimeters of the vinegar at 70° Fahrenheit.

III. If manufactured by the destructive distillation of wood, known as pyroligneous acid, or acetic acid derived from other sources than fruit, grain, vegetables, sugar, or syrup.

IV. If it is found to contain any preparation of lead, copper, sulphur dioxide, sulphuric acid, other mineral acids, any substitute for vinegar produced other than by alcoholic and subsequent acetous fermentation, or other ingredients injurious to health.

**Sec. 174. Misbranding of vinegars defined.** R. S. c. 41, § 24. For the purposes of this chapter vinegar shall be deemed to be misbranded:

I. If packages containing vinegar made from wine or fruits which have been reduced with water are not plainly marked or branded "Reduced to 4% Acid Strength" or "Reduced to 40 Grains", indicating the acidity to which it has been so reduced.

II. If a product made from dried apples, or from apple skins, apple cores and chops by the process of grinding and soaking with subsequent alcoholic and acetous fermentations of the solution thus obtained is not plainly marked to show the material from which it is produced.

III. If the package containing said vinegar or its label is not plainly branded with the name of the manufacturer or distributor and his place of business.

IV. If every container or receptacle which contains any vinegar other than pure cider or apple vinegar, except delivered to the purchaser in the unbroken package, does not bear plain or conspicuous marks or brands, showing the kind of vinegar so delivered and the substance or substances from which it was made.

V. If mixtures of two or more of the vinegars above defined are not plainly and conspicuously branded with the word "compound" together with the proportions of the vinegars so mixed.

**Sec. 175. Provisions of §§ 171-175 not applicable to common carriers, unless knowingly violated.** R. S. c. 41, § 25. The provisions of sections 171 to 175, inclusive, shall not apply to railroad companies, steamboat companies, express companies, or other common carriers of property coming under the jurisdiction of the interstate commerce commission or the public utilities commission of this state unless they knowingly violate such provisions.

**Sec. 176. "Storage" and "processed eggs" defined; use of word "fresh" prohibited in connection with such eggs.** R. S. c. 41, § 26. The term "storage eggs" as used in this chapter shall be held to mean any shell eggs that for a period of 30 days or over have been held in storage at a temperature of 45° Fahrenheit, or less.

The term "processed eggs" shall be held to mean any shell eggs which in a way other than storage have been so treated as to keep them from natural deterioration. No person, firm, or corporation, selling or exposing for sale any shell eggs which have been in storage or in any way processed, shall use the

word "fresh" in any combination of words to describe the character or value of such eggs.

See § 43.

**Sec. 177. Receptacles of storage or processed eggs to be so marked; purchaser of such eggs to be informed.** R. S. c. 41, § 27. Any person, firm, or corporation who exposes or offers for sale, either in any public place or elsewhere, any shell eggs which have been in storage or which in any way have been processed, shall conspicuously display upon the receptacle in which such shell eggs are offered for sale, or upon the package in which they are delivered to the purchaser, a notice containing the words "cold storage eggs" or "processed eggs" in accordance with the fact; and in case any shell eggs which have been in storage or which have been processed are exposed for sale or offered for sale, in a manner which does not require a receptacle or package, the purchaser shall be informed definitely that such shell eggs are either cold storage or processed eggs, to the end that the purchaser may have knowledge of the facts with reference to the storage or processing of such eggs.

**Sec. 178. Invoice of storage eggs to state character; containers to be dated with date of receipt and withdrawal from storage.** R. S. c. 41, § 28. Whenever any person, firm, or corporation within this state ships or delivers to a purchaser within this state any shell eggs which have been in storage or processed, such person, firm, or corporation shall deliver to the purchaser an invoice or bill showing thereon the character of such eggs. All containers of shell eggs deposited in cold storage shall be marked plainly with date of receipt and date of withdrawal by the officer, or his agents, in charge of the cold storage plant.

**Sec. 179. Penalty.** R. S. c. 41, § 29. Any person, firm, or corporation who violates any provision of sections 176 to 178, inclusive, shall, upon conviction, be liable to a fine of not more than \$50, or imprisonment for not more than 60 days, or by both such fine and imprisonment, and the commissioner is expressly empowered to enforce the provisions of said sections and to be vigilant in discovering violations thereof, and making complaint to the proper authorities.

See §§ 5, 8.

**Sec. 180. Annual analysis; results of analyses to be published.** R. S. c. 41, § 30. The director of the Maine Agricultural Experiment Station shall annually analyze, or cause to be analyzed, samples of articles of agricultural seed, commercial feeding stuff, commercial fertilizer, drugs, foods, fungicide, and insecticide at such time and to such extent as the commissioner may determine. Said commissioner, in person or by deputy, shall have free access, ingress, and egress at all reasonable hours to any place or any building wherein articles of agricultural seed, commercial feeding stuff, commercial fertilizer, drugs, food, fungicide, or insecticide are manufactured, stored, transported, sold, offered or exposed for sale. He may also, in person or by deputy, open any case, package, or other container, and may, upon tendering the market price, take samples for analysis. The results of all analyses of agricultural seed, commercial feeding stuff, commercial fertilizer, drugs, food, fungicide, and insecticide made by said director shall be published by him in the bulletins or reports of the experiment station, together with the names of the persons from whom the samples were obtained, the names of the manufacturers thereof, and such additional information as to him may seem advisable.

See § 201, re inspection of sardines; 116 Me. 33.

Sec. 181. Samples of commercial fertilizer may be analyzed. R. S. c. 41, § 31. Any person within the state may send to the commissioner samples of commercial fertilizers sold or offered for sale within the state for the purpose of analysis under the following conditions: said samples shall be taken in the presence of a witness, from not less than 5 packages of properly stored commercial fertilizer in accordance with directions to be furnished by said commissioner; a copy of all marks upon or affixed to the package, including the brand or trade-mark, the name of the manufacturer, and the guaranteed chemical analysis shall accompany the sample or be deposited with the secretary of the grange or the selectmen of the town where the sample is taken.

116 Me. 33.

Sec. 182. Analysis and fees. R. S. c. 41, § 32. On receipt of a sample of commercial fertilizer accompanied with:

I. A certified statement signed by the witness that the sample was taken as provided in the preceding section,

II. A copy of the marks on or affixed to the package from which the sample was procured or a signed statement from the secretary of a grange or a selectman that the copy of the marks upon the package has been deposited with him, and

III. An analysis fee of \$10 for each sample, the commissioner shall make or cause to be made an analysis of the fertilizer and shall forthwith report the results of said analysis to the sender.

Sec. 183. When analysis to be deemed of public importance, fees to be returned. R. S. c. 41, § 33. If, on receipt of the copy of the marks upon the package from which the sample of commercial fertilizer was taken, it shall be found that not more than 1 sample of the same brand has been analyzed as aforesaid within the year, or if the actual analysis shall differ materially from the guaranteed analysis, the said actual analysis shall be deemed of public importance, and the analysis fee shall be returned to the person who sent the sample. If the actual analysis agrees reasonably with the guaranteed analysis and more than 1 sample of the brand from which said sample was taken shall have been examined within the year, the commissioner shall pay said analysis fee to the treasurer of state.

116 Me. 33.

Sec. 184. Analysis of commodities. R. S. c. 41, § 34. The commissioner shall have all analyses of commodities, except milk and cream, examined under the inspection laws of which he is the executive, made at the Maine Agricultural Experiment Station. The director of said station shall analyze or cause to be analyzed all samples submitted to him by said commissioner. Said station shall be compensated to cover the expense of said analyses by said commissioner.

Sec. 185. Certificate signed by director, presumptive evidence. R. S. c. 41, § 35. Every certificate duly signed and acknowledged by the director of the Maine Agricultural Experiment Station, relating to the collection and analysis of any sample of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide, or insecticide, shall be presumptive evidence of the facts therein stated.

Sec. 186. Adulteration or misbranding prohibited; penalty. R. S. c. 41, § 36. No person shall adulterate or misbrand, within the meaning of this chapter, any agricultural seed, commercial feeding stuff, commercial fertilizer, drug,

food, fungicide, insecticide, or vinegar, or manufacture, sell, distribute, transport, offer or expose for sale, distribution, or transportation any article of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide, insecticide, or vinegar in violation of any of the provisions of this chapter. Whoever violates said provisions shall be punished by a fine of not more than \$100 for the first offense, and by a fine of not more than \$200 for each subsequent offense.

116 Me. 33.

**Sec. 187. Exemption from prosecution.** R. S. c. 41, § 37. No person shall be prosecuted under the provisions of section 41, sections 124 to 127, inclusive, section 129, and sections 157 to 186, inclusive, when he can establish proof of purchase, and a guaranty signed by the person residing in the United States, from whom the purchase was made, to the effect that the article in question is not adulterated or misbranded within the meaning hereof.

### Slaughterhouses and Meat Processing Plants

**Sec. 188. Licenses for slaughterhouses and meat processing plants.** 1943, c. 351, § 1. No person, firm, partnership, or corporation shall operate a slaughterhouse, abattoir, or other place or establishment where animals are slaughtered or where meat or meat products are prepared or processed for food within the state unless such person, firm, partnership, or corporation be licensed by the commissioner. An application for a license shall be made upon a form prescribed by the commissioner each year for the license commencing upon the 1st day of August. With the application, there shall be paid to the commissioner a license fee of \$5. Each such license shall cover 1 group of buildings constituting a slaughterhouse and/or meat or meat products processing plant in 1 location. Said license shall run for 1 year from the 1st day of August in each year, and unless sooner revoked as herein provided, shall be renewed annually thereafter.

**Sec. 189. Revocation and suspension of license; appeals; hearing.** 1943, c. 351, § 2. The commissioner shall have the power to revoke or suspend any license issued under the provisions of sections 188 to 194, inclusive, whenever it is determined by himself or any of his deputies that any of said provisions have been violated. Any person, firm, partnership, corporation, association, or society whose license has been revoked or suspended shall discontinue slaughtering, butchering, operating, and processing until the provisions of said sections have been complied with and a new license issued or the suspension removed. The commissioner may revoke or suspend such license temporarily until there is a compliance with the provisions of sections 188 to 194, inclusive, as hereinafter provided, or permanently for the unexpired period of such license. Before revoking or suspending any license, the commissioner shall give written notice to the licensee affected stating that he contemplates the revocation or suspension of the same and giving his reasons therefor; such notice shall appoint a time for hearing before said commissioner. On the date of hearing the licensee may present such evidence to the commissioner as he deems fit, and after hearing all the testimony, the said commissioner shall decide as to whether the license shall be revoked or not. Any licensee who is aggrieved by the decision of the commissioner may within 10 days thereafter appeal to any justice of the superior court, by presenting to him a petition therefor, in term time or vacation. Such

justice shall fix a time and place for hearing, which may be in term time or vacation, and cause notice thereof to be given to the said commissioner; and after hearing such justice may affirm or reverse the decision of said commissioner and the decision of such justice shall be final. Pending judgment of such justice, the decision of such commissioner shall remain in full force and effect. The commissioner shall, within 3 days after notice of such appeal, forward to such justice a certified copy of the proceedings.

**Sec. 190. Definition.** 1943, c. 351, § 3. The term "slaughterhouse" shall be held to include any establishment wherein animals or fowl are slaughtered for human consumption; or where meat or meat products for human food are processed or prepared; provided, however, that the provision of sections 188 to 194, inclusive, requiring a license shall not apply to any bona fide farmer who butchers, or has butchered for him, his own domestic animals or fowl on his farm or elsewhere for consumption or sale, as incidental to and in the general conduct of his business of farming; nor shall it apply to persons who raise and kill or have killed for them their own animals and fowl on their own premises or elsewhere for their own consumption or sale.

**Sec. 191. Commissioner to inspect; make rules.** 1943, c. 351, § 4. The commissioner shall by adequate inspection see that animals are slaughtered, and licensed slaughterhouses are constructed, maintained, and operated in a manner satisfactorily sanitary, to protect meat and meat products from contamination and adulteration according to the laws of this state. He shall make uniform rules and regulations for carrying out the provisions of sections 188 to 194, inclusive, and shall fix standards of quality for the meat and meat products prepared in licensed slaughterhouses and meat processing plants, and for the sanitation of said slaughterhouses and meat processing plants.

**Sec. 192. Inspectors and authority.** 1943, c. 351, § 5. The commissioner shall have authority to employ inspectors in sufficient numbers so that adequate inspection can be performed. The compensation of the inspectors shall be fixed by said commissioner, and it shall be the duty of said inspectors to inspect all slaughterhouses and processing plants where meat and meat products are manufactured and prepared for food, and for this purpose the commissioner and all of his inspectors and agents shall have free access, ingress, and egress at all reasonable hours to any slaughterhouse or meat processing plant.

**Sec. 193. Disposition of fees.** 1943, c. 351, § 6. All license fees and all money received under the provisions of sections 188 to 194, inclusive, and all fines which shall be collected in any proceeding or proceedings to enforce the provisions of said sections shall be paid over to the commissioner or his agent, and by him deposited with the treasurer of state; and the same are appropriated for carrying out the provisions of sections 188 to 194, inclusive.

**Sec. 194. Penalty.** 1943, c. 351, § 7. Any person, firm, partnership, corporation, association, or society who shall conduct, operate, or manage a slaughterhouse, or slaughter animals in a slaughterhouse in this state without the license provided for in section 188, or who shall violate any of the provisions of sections 188 to 194, inclusive, or neglect or refuse to comply with any of the provisions thereof, shall be punished by a fine of not more than \$100 for the first offense, and not more than \$200 for each subsequent offense.

Any bona fide farmer or other person not operating a slaughterhouse as defined in section 190, who sells, offers for sale, keeps with intent to sell, transports,

or gives away any carcass or part thereof, or any meat product, for human food that is not sound, healthful, wholesome, and fit for human food according to the standards provided for in sections 188 to 194, inclusive, shall be subject to the same penalties as provided for in the above paragraph.

Whoever hinders, obstructs, or in any way interferes with the commissioner or his agents or assistants in the performance of his or their duty, by refusing entrance to any slaughterhouse or meat processing plant or any place where he is authorized to enter, or access to any place, or by refusing to deliver to him, or his agents or assistants a sample of meat or meat products if the value thereof is tendered, or in any other manner hinders, obstructs, or interferes with said commissioner or his agents or assistants in the performance of any of said duties, shall be punished by a fine of \$100 for the first offense, and \$200 for each subsequent offense.

### Sale of Horse Meat

**Sec. 195. Sale of horse meat regulated; commissioner to enforce; penalty.** 1943, c. 263, §§ 1, 2, 3. No person, firm, corporation or officer, agent, or employee thereof within the state shall transport, receive for transportation, sell, or offer for sale or distribution any equine meat or food products thereof unless said equine meat is plainly and conspicuously labeled, marked, branded, and tagged "horse meat" or "horse-meat products"; or shall serve, expose, or offer for sale or distribution either in any public place or elsewhere, any equine meat or products containing equine meat unless such equine meat is conspicuously branded and labeled and a notice containing the words "horse meat and horse-meat products sold here" is conspicuously displayed in said place of business to the end that the purchaser may have knowledge of the facts of the article purchased.

Whenever any person, firm, or corporation within the state sells, ships, or delivers to a purchaser within the state any equine meat or food products thereof, such person, firm, or corporation shall deliver to the purchaser an invoice or bill showing thereon the character of such meat. The provisions of this paragraph shall not apply to sales made at retail.

The commissioner shall by adequate inspection see that the requirements of this section are carried out.

Any person, firm, or corporation who shall violate any of the provisions of this section shall be punished by a fine of not more than \$100 for the first offense, and by a fine of not more than \$200 for each subsequent offense, and the municipal and superior courts shall have concurrent jurisdiction of the offense.

### Packing of Food

**Sec. 196. Packing of food in tin or glass regulated; permit; fee; packer to pay for inspection of product.** R. S. c. 41, § 38. Any person intending to pack food in tin or glass within this state may annually file with the commissioner an application for a permit. Said application shall state the location of the factory, the kind of food to be packed, the name of the packer and the date on which it is expected that packing will begin. Within 60 days after the filing of such application for permit, the commissioner shall, upon receipt of \$100, issue to such applicant a permit for packing said food in conformity with the requirements of this chapter for the calendar year. Such packer shall also pay monthly,

not later than the 10th day of each month, the cost of maintaining the inspection of the food packed during the previous month. The \$100 paid by a person for a permit, as aforesaid, shall be credited to him, at the close of the calendar year, as a payment toward the cost of inspecting his product. Said commissioner may, however, cancel any permit whenever the provisions of law in this state relating to the packing of food in tin or glass have not been complied with.

**Sec. 197. Commissioner to see that food is packed in conformity with law; penalty for false marking.** R. S. c. 41, § 39. The commissioner shall, by adequate inspection, see that the food packed hereunder is in conformity with the requirements of this chapter; and he shall authorize the persons packing a food in conformity herewith to mark the container of said food with a statement certifying that the food contained therein was packed, inspected, and passed under the Maine pure food and drug law. Whoever shall falsely mark any container as having been packed in conformity with the requirements of this chapter shall be punished by a fine of not more than \$500 for each container thus falsely marked.

#### Packing of Sardines

**Sec. 198. Packers to be licensed by commissioner.** R. S. c. 41, § 73. No person, firm, corporation, association, or society shall pack sardines within the state for sale without having first filed with the commissioner an application for license accompanied with a fee of \$50 upon receipt of which application the commissioner shall issue to the person, firm, corporation, association, or society making such application a license to pack sardines as hereinafter provided. Each such license shall cover one group of buildings constituting a packing plant in one location. Said license shall run from April 15th to December 1st of each year, unless sooner revoked as herein provided and shall be renewed annually thereafter.

See 1943, c. 75, § 2, re license period to Jan. 1, 1946.

**Sec. 199. Repeal or revocation of license; appeal.** R. S. c. 41, § 74. The commissioner shall have the power to revoke or suspend any license issued under the provisions of sections 198 to 205, inclusive, whenever it is determined by himself or any of his deputies that any of the provisions of said sections have been violated. Any person, firm, corporation, association, or society whose license has been so revoked or suspended, shall discontinue the packing of sardines until the provisions of said sections have been complied with and a new license issued, or the suspension removed. The commissioner may revoke or suspend such license temporarily until there is a compliance with the provisions of said sections as hereinafter provided, or permanently for the unexpired period of such license. Before revoking or suspending any license, the commissioner shall give written notice to the licensee affected stating that he contemplates the revocation or suspension of the same and giving his reasons therefor; such notice shall appoint a time of hearing before said commissioner. On the date of hearing the licensee may present such evidence to the said commissioner as he deems fit and after hearing all the testimony, the said commissioner shall decide as to whether the license shall be revoked or not. Any licensee who feels aggrieved or dissatisfied with the decision of the commissioner may appeal from said decision within 10 days to the superior court.

**Sec. 200. Definition.** R. S. c. 41, § 75. For the purposes of sections 198 to

205, inclusive, the term "sardine" shall be held to include any small, canned, clupeoid fish, being the fish commonly called herring, particularly the clupea harengus.

**Sec. 201. Inspection; conformity with the food and drug acts; branding of cans.** R. S. c. 41, § 76. The commissioner shall by adequate inspection see that sardines are packed in conformity with the requirements of the federal food and drug act and the laws of this state, and the provisions of sections 198 to 205, inclusive. He shall make uniform rules and regulations for carrying out the provisions of said sections and shall fix standards of quality when such standards are not fixed by law; and he shall authorize the persons packing sardines in conformity with the requirements of said sections to mark the container of said sardines with a statement certifying that the food contained therein was packed, inspected, and passed under the Maine food and drug act. Any sardines falsely marked shall be deemed to be misbranded, and any person, firm, corporation, association, or society who shall misbrand or falsely mark any container of sardines or sell or offer for sale such misbranded containers shall be punished by a fine of not more than \$500 for each container thus falsely marked. The commissioner shall employ inspectors in numbers so that adequate inspection can be performed; the compensation of the inspectors shall be fixed by the said commissioner and it shall be the duty of said inspectors to inspect all the places, shops, and factories, in this state, wherever sardines are being packed for sale, and for this purpose such inspectors shall have free access, ingress, and egress at all reasonable hours to any sardine packing plant, may open any case or container and may, upon tendering the market price, take samples therefrom.

**Sec. 202. Fees; disposition.** R. S. c. 41, § 77. Each packer shall pay monthly, not later than the 10th day of each month, 1c per case on the amount of sardines packed during the previous month, toward the cost of maintaining the inspection provided for in section 201 and as a part of the fee for obtaining and retaining his license. All license fees and all money received under the provisions of sections 198 to 205, inclusive, by the commissioner shall be paid by him to the treasurer of state and the same are hereby appropriated for carrying out the provisions of sections 198 to 205, inclusive, and for no other purpose.

See 1943, c. 75, § 3, re fee per case to Jan. 1, 1946.

**Sec. 203. Standards of contents of cans; misbranding.** R. S. c. 41, § 78. 1935, c. 60. The minimum count of fish per one-quarter size keyless can shall be 4 fish. The minimum count of fish per one-quarter size key can shall be 5 fish. The minimum quantity of oil shall be not less than 4 pounds per case of 100 one-quarter size cans and the oil shall be a vegetable or cotton seed of a grade not below that of "Prime Winter Yellow Cotton-seed Oil." The minimum count of fish for one-quarter size mustard cans shall be 4 fish and the minimum quantity of mustard sauce shall be not less than 8 pounds per case of 100 one-quarter size cans. The minimum count of fish for three-quarter size mustard cans shall be 4 fish and the minimum quantity of mustard sauce shall be not less than 8 pounds per case of 48 three-quarter size cans. For all one-quarter size tomato cans there shall be not less than 8 pounds tomato sauce of not less than 1.035 specific gravity. Provided, however, that less than the minimum count of fish per can as above specified or less than the minimum quantity of oil or mustard sauce or tomato sauce as above specified, may be packed if the cases in which they are contained and each can in said case are plainly and con-

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spicuously marked with a legend indicating that the contents of the cans are not in accord with the standard of quality established in this section; such cases and cans so marked in accord with the fact shall not be deemed to be misbranded.

**Sec. 204. Cans to be hermetically sealed and enamel lined.** R. S. c. 41, § 79. 1941, c. 67. On all cans used for packing sardines there shall be used a compound lined gasket, or other adequate gasket as will hermetically seal the container. All cans used for packing sardines shall be enamel lined.

**Sec. 205. Penalty.** R. S. c. 41, § 80. Any person, firm, corporation, association, or society who shall pack sardines in the state for sale without the license provided for in section 198, or who shall violate any of the provisions of sections 198 to 205, inclusive, or neglect or refuse to comply with any of the provisions required in said sections or in any way violate any of their provisions shall be punished by a fine of \$500 and imprisonment for not more than 6 months for each and every offense.

### Packing of Apples

**Sec. 206. Standard barrel for apples; standard bushel box.** R. S. c. 41, § 40. The standard barrel for apples shall contain 7,000 cubic inches; provided, however, that a barrel of the following dimensions when measured without distention of parts: length of stave,  $28\frac{1}{2}$  inches; diameter of head,  $17\frac{1}{8}$  inches; distance between heads, 26 inches; circumference of bulge not less than 64 inches outside measurement, shall be a lawful barrel. The standard bushel box for apples shall contain 2,350 cubic inches; provided, however, that a box 18 inches by  $11\frac{1}{2}$  inches by  $10\frac{1}{2}$  inches, inside measurement, without distention of parts, shall be a lawful bushel box.

**Sec. 207. Marks upon barrels and boxes used in shipping apples; penalty.** R. S. c. 41, § 41. Manufacturers of standard barrels and boxes to be used in shipping apples shall mark, in a conspicuous place, on each barrel the words "standard barrel" and on each box the words "standard box". Whoever fails to comply with the provisions of this section shall be punished by a fine of not more than \$100.

**Sec. 208. Standard grades established.** R. S. c. 41, § 42. 1931, c. 169. The standard grade for apples, when packed in closed packages, shall be as follows:

I. Maine Standard Fancy, shall consist of apples of 1 variety which are mature but not overripe, well formed, and free from decay, spray burn, limb rub, sunscald, visible watercore, or injury caused by dirt or other foreign matter, by skin punctures or bruises except those incident to proper packing, or by hail, russetting, disease, insects, or mechanical or other means. Each apple of this grade shall have the amount of color specified hereinafter for the variety.

II. Maine Standard A, shall consist of apples of 1 variety which are mature but not overripe, free from decay and from damage caused by dirt or other foreign matter, by skin punctures or bruises except those incident to proper packing, or by spray burn, russetting, limb rubs, sunscald, visible watercore, hail, disease, insects, or mechanical or other means. Each apple of this grade shall have the amount of color specified hereinafter for the variety.

III. Maine Commercial, shall consist of apples of 1 variety which meet the requirements of Maine Standard A except as to color and provided further, that

early varieties such as Duchess of Oldenburg, Gravenstein, Twenty Ounce, Wealthy, Williams, and other varieties which ripen at the same period need not be mature.

IV. Maine Standard B, shall consist of apples of 1 variety which are mature but not overripe, free from decay and from serious damage caused by dirt or other foreign matter, by bruises except those incident to proper packing, or by spray burn, sunscald, hail, disease, insects, or mechanical or other means.

In order to allow for variations incident to proper grading and handling, not more than 10%, by weight, of the apples in any one lot may be below the requirements of said respective grades but not more than 1/10 of this amount, or 1%, shall be allowed for decay.

All apples in closed packages on which the state or federal brands or marks are not used shall be marked either ORCHARD RUN or UNCLASSIFIED.

See §§ 212, 214.

### Color Requirements

In addition to the foregoing requirements for Maine Standard Fancy and Maine Standard A each apple of these grades must have the percentage of color shown in the table below. "Color" means a good shade of red characteristic of the variety. Faded brown stripes shall not be considered as color.

Variety	Maine Standard Fancy	Maine Standard A
Solid Red:		
Black Ben Davis .....	50 per cent.....	25 per cent
Esopus Spitzenburg .....	50 per cent.....	25 per cent
Gano .....	50 per cent.....	25 per cent
King David .....	50 per cent.....	25 per cent
Opalescent .....	50 per cent.....	25 per cent
Winesap .....	50 per cent.....	25 per cent
Other similar varieties .....	50 per cent.....	25 per cent
Striped or partially red:		
Delicious .....	50 per cent.....	25 per cent
Jonathan .....	50 per cent.....	25 per cent
McIntosh .....	50 per cent.....	25 per cent
Other similar varieties .....	50 per cent.....	25 per cent
Baldwin .....	33 per cent.....	15 per cent
Ben Davis .....	33 per cent.....	15 per cent
Fameuse .....	33 per cent.....	15 per cent
Nero .....	33 per cent.....	15 per cent
Northern Spy .....	33 per cent.....	15 per cent
Paragon .....	33 per cent.....	15 per cent
Rome Beauty .....	33 per cent.....	15 per cent
Stayman Winesap .....	33 per cent.....	15 per cent
Tompkins King .....	33 per cent.....	15 per cent
Wagener .....	33 per cent.....	15 per cent
Wealthy .....	33 per cent.....	15 per cent
Williams .....	33 per cent.....	15 per cent
York Imperial .....	33 per cent.....	15 per cent
Other similar varieties .....	33 per cent.....	15 per cent

Variety	Maine Standard Fancy	Maine Standard A
Duchess of Oldenburg .....	25 per cent.....	10 per cent
Gravenstein .....	25 per cent.....	10 per cent
Hubbardston .....	25 per cent.....	10 per cent
Red Astrachan .....	25 per cent.....	10 per cent
Stark .....	25 per cent.....	10 per cent
Twenty Ounce .....	25 per cent.....	None
Other similar varieties .....	25 per cent.....	None
Red Cheeked or Blushed:		
Maiden Blush .....	Blushed Cheek...	None
Monmouth (Red Cheeked Pippin) .....	Blushed Cheek...	None
Winter Banana .....	Blushed Cheek...	None
Other red cheeked or blushed varieties .....	Blushed Cheek...	None
Yellow or green varieties .....	Characteristic Color	Characteristic Color

### Size Requirements

"Minimum size" as used in this chapter in relation to apples means the transverse diameter of the smallest apples permitted in the container taken at right angles to a line running from the stem to the blossom end. Minimum sizes shall be stated in terms of whole and quarter inches, as  $2\frac{1}{4}$  inches minimum,  $2\frac{1}{2}$  inches minimum, in accordance with the facts.

In order to allow for variations incident to proper sizing not more than 5%, by weight, of the apples in any container may be below the specified minimum size.

### Definition of Terms

The following terms as used in this section mean:

"Well formed" means having the shape characteristic of the variety.

"Free from damage" means that the apples shall not be injured by any defect to any extent either apparent in the process of proper grading or which would cause a loss in the ordinary preparation for use. The following blemishes shall not be considered as damage: (1) Two small healed insect punctures not larger than  $\frac{1}{8}$  inch in diameter in which the injured tissue is dry and corky; (2) russetting and limb rubs which do not materially disfigure the fruit; (3) scab spots affecting an aggregate area of not more than  $\frac{1}{4}$  inch in diameter; (4) hail marks where the injury is superficial and the skin has not been broken or discolored; (5) spray burn or sunscald where the injury is superficial and the normal color of the fruit is not materially changed and where there is no blistering or cracking of the skin.

"Free from serious damage" means that no defect shall be permitted which taken singly or collectively, materially deform or disfigure the fruit. The following defects shall not be considered as serious damages: (1) healed insect punctures which do not materially deform the fruit; (2) small scab and blotch infections not exceeding an aggregate area of  $\frac{1}{2}$  inch in diameter, or cedar rust infection not exceeding an aggregate area of  $\frac{3}{4}$  inch in diameter provided the skin is not cracked; (3) superficial blemishes such as fly speck and sooty blotch affecting not to exceed  $\frac{1}{3}$  of the surface; (4) or fruit spots such as Bitter Pit (Stippen) and Jonathan Spot affecting not to exceed 10% of the surface.

Decay, scald, or other deterioration developing in storage or in transit on apples otherwise up to grade shall be considered as affecting the condition and not the grade.

No shipment, consignment, or lot of apples in closed packages shall be condemned without examination of at least  $\frac{1}{5}$  of the contents of 5% of the packages in such shipment, consignment, or lot. Any shipment, consignment, or lot in which 5% of the packages are found to contain fruit below the grade marked on the container may be condemned by the commissioner or his authorized deputies.

The packer may use any trade-marks, letters, or figures in connection with the standard grade marks as prescribed by statute, provided such trade-marks, letters, or figures do not imitate or duplicate any official federal or state brands and marks.

The foregoing grades and standards and any previous laws relating to their use shall not be construed to prohibit the right to pack and/or ship and/or sell either within or without the state apples packed in accordance with official United States grades as promulgated by the United States Department of Agriculture.

118 Me. 339.

**Sec. 209. Marks required on outside of package.** R. S. c. 41, § 43. Every closed package of apples, which is packed, sold, distributed, transported, offered or exposed for sale, distribution, or transportation in the state by any person shall have affixed in a conspicuous place on the outside thereof a plainly printed statement clearly and truly stating the size of the package in terms of standard bushel box or standard barrel, the name and address of the owner or shipper of the apples at the time of packing, the name of the variety, the class or grade of the apples contained therein, and the minimum size of the fruit in the packages, and if the apples were grown in Maine, that fact shall be plainly designated and the word "apples" must appear in all instances.

**Sec. 210. Misbranded or adulterated apples not to be packed.** R. S. c. 41, § 44. No person shall, within this state, pack, sell, distribute, transport, offer or expose for sale, distribution, or transportation apples which are adulterated or misbranded within the meaning of section 211.

118 Me. 339.

**Sec. 211. Terms "adulterated" and "misbranded" defined.** R. S. c. 41, § 45. For the purpose of sections 206 to 215, inclusive, apples packed in a closed package shall be deemed to be adulterated if their measure, quality, grade, or purity do not conform in each particular to the claims made upon the affixed guaranty, and shall be deemed to be misbranded:

I. If the package fails to bear all statements required by section 209;

II. If the package bears any statement, design, or device regarding such article or its contents which shall be false or misleading in any particular, or is falsely branded in any particular.

**Sec. 212. Sale of unclassified apples, regulated.** 1939, c. 81, § 1. No person, firm, or corporation shall within this state sell, distribute, transport, offer or expose for sale, distribution, or transportation any apples that were grown outside of the state, which do not conform to the apple grades established in section 208; provided, however, nothing in this section shall apply to any person, firm, or corporation supplying apples consigned to a processing plant for use therein. The commissioner shall diligently enforce the provisions of this section, and

in person or by deputy shall have free access, ingress, and egress at all reasonable hours to any place or any building wherein apples are stored, transported, sold, offered or exposed for sale, or for transportation. He may also in person or by deputy upon tendering the market price take samples of apples therefrom.

**Sec. 213. Commissioner to have access to places where apples are packed.** R. S. c. 41, § 46. The commissioner, in person or by deputy, shall have free access, ingress, and egress at all reasonable hours to any place or any building wherein apples are packed, stored, transported, sold, offered or exposed for sale, or for transportation. He may also, in person or by deputy, open any box, barrel, or other container and may, upon tendering the market price, take samples therefrom.

**Sec. 214. Penalty.** R. S. c. 41, § 47. 1939, c. 81, § 2. Whoever adulterates or misbrands apples within the meaning of section 211, or whoever packs, sells, distributes, transports, offers or exposes for sale, distribution, or transportation apples in violation of any provision of sections 206 to 215, inclusive, shall be punished by a fine of not more than \$100 for the first offense, and by a fine of not more than \$200 for each subsequent offense.

**Sec. 215. Guaranty as a bar to prosecution.** R. S. c. 41, § 48. No person shall be prosecuted under the provisions of the 9 preceding sections when he can establish a guaranty signed by the person from whom he received any such article, to the effect that the same is not adulterated or misbranded, within the meaning of section 211. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such article to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach, in due course, to the dealer under the provisions of the 9 preceding sections.

### Beverages

**Sec. 216. Manufacturers and bottlers for sale at wholesale of non-alcoholic beverages to be licensed by commissioner; fee; term of license; manufacturers of sweet cider, excepted.** R. S. c. 41, § 56. No person, firm, or corporation within this state shall manufacture or bottle for sale at wholesale any drink product or other non-alcoholic beverage without having first filed with the commissioner an application for license accompanied with a fee of \$15. No person, firm, or corporation manufacturing drink product or other non-alcoholic beverage outside this state for retail sale within this state shall sell or offer for sale such drink product without having first filed with the commissioner an application for license accompanied with a fee of \$15. Upon receipt of such application the commissioner shall issue to the person, firm, or corporation making such application a license to manufacture and sell soft drinks or other non-alcoholic beverages as hereinafter provided. Said license shall run for the current year until the 30th day of June following the date of the application, on which date it shall terminate unless sooner revoked as herein provided; and it shall be renewed annually thereafter. No person, firm, or corporation within this state shall sell or offer for sale any drink product or non-alcoholic beverage at retail unless this drink product or non-alcoholic beverage has been protected by registration and a license fee paid therefor. Said provision is not to apply to persons engaged in the manufacture of sweet cider.

See § 219; 126 Me. 532.

**Sec. 217. Commissioner has power to revoke or suspend license; may revoke or suspend license temporarily; authority granted to make rules and regulations.** R. S. c. 41, § 57. The commissioner shall have the power to revoke or suspend any license issued under the provisions of sections 216 to 223, inclusive, whenever it is determined by himself or any of his deputies or other properly qualified official that any of the provisions of said sections have been violated. Any person, firm, or corporation whose license has been so revoked or suspended shall discontinue the manufacture and sale within the state of soft drinks and other non-alcoholic beverages until the provisions of said sections have been complied with and a new license issued, or the suspension removed. The commissioner may revoke or suspend such license temporarily until there is a compliance with the provisions of said sections as hereinafter provided or permanently for the unexpired period of such license. The commissioner is given the right to make such rules and regulations as he may deem necessary for the enforcement of the provisions of said sections.

126 Me. 532.

**Sec. 218. Notice to be given to licensee prior to revoking license; procedure; right of appeal.** R. S. c. 41, § 58. Before revoking or suspending any license, the commissioner shall give written notice to the licensee affected stating that he contemplates the revocation or suspension of the same and giving his reasons therefor. Such notice shall appoint a time of hearing before said commissioner and shall be mailed by registered mail to the licensee. On the day of the hearing the licensee may by himself or counsel present such evidence to the said commissioner as he deems fit and after hearing all the testimony the said commissioner shall decide the question in such manner as to him appears just and right. Any licensee who feels aggrieved or dissatisfied with the decision of the said commissioner may appeal from said decision within 10 days to the superior court in the county where the licensee resides, or in the case of a non-resident to the superior court in the county of Kennebec.

**Sec. 219. Term "drink product" defined.** R. S. c. 41, § 59. For the purpose of this chapter the term "drink product" as used herein shall be held to include all non-alcoholic beverages, non-alcoholic cereal beverages, non-alcoholic fruit juices, and carbonated beverages, except sweet cider.

See § 216.

**Sec. 220. Labeling of bottles where artificial coloring is used; kind of coloring matter permitted; prohibited ingredients.** R. S. c. 41, § 60. Whenever artificial colors or flavors are used in the manufacture of drink products or other non-alcoholic beverages, the bottle or other container shall be distinctly labeled or crowned "Artificially colored and flavored". Whenever artificial coal tar colors are used, nothing but the certified colors as approved by the United States bureau of chemistry shall be allowed. All non-alcoholic ciders, non-alcoholic fruitades, non-alcoholic fruit juices, or other similar drinks that are artificially colored or flavored shall be so labeled or crowned. All drink products and other non-alcoholic beverages sold in bulk or from open containers or receptacles that contain artificial coloring or artificial flavors of any character shall be so labeled and said labels shall be prominently displayed on all stands, booths, or other places where said drink product or other non-alcoholic beverages are sold or dispensed. The use of saccharine, salicylic acid, and sulphites in the manufacture of drink products and other non-alcoholic beverages is prohibited.

126 Me. 532.

Sec. 221. Manufacturing plants to be well lighted and ventilated and kept clean; machines and containers to be kept sanitary. R. S. c. 41, § 61. All buildings, stores, factories, or other places where drink products or other non-alcoholic beverages are manufactured or bottled shall be well lighted and ventilated and shall be kept at all times in a clean and sanitary condition. All machines, bottles, jars, jugs, crocks, or other utensils or containers used in the manufacture of drink products or other non-alcoholic beverages shall be kept in a clean and sanitary place, and in a sanitary condition.

Sec. 222. Containers to be cleaned and sterilized before filling; regulations to be followed. R. S. c. 41, § 62. 1931, c. 78. No person, firm, or corporation having custody of any bottle, jar, jug, or other container used for drink product or other non-alcoholic beverages, the owner of which has complied with the provisions of the preceding section, shall place or cause to be placed in any such bottle, jar, or jug, any turpentine, varnish, wood-alcohol, bleaching water, bluing, kerosene, oils, or any unclean or foul substance or other offensive material, or send, ship, return, or deliver, or cause to be sent, shipped, returned, or delivered to any bottler of drink product or non-alcoholic beverages any bottle, jar, jug, or other receptacle used as a container for drink product or other non-alcoholic beverages containing any turpentine, varnish, wood-alcohol, bleaching water, bluing, kerosene, oil, or any unclean or foul substance and other offensive material.

All bottles, jars, jugs, or other containers used by manufacturers and bottlers of drink products and other non-alcoholic beverages before being filled or re-filled shall be thoroughly cleaned and sterilized by then and there being washed in an automatic washing machine in a solution of not less than 3% caustic alkali at a temperature not lower than 110° Fahrenheit to be followed by rinsing in pure water, and all said bottles, jars, jugs, and other containers, while empty and during the process of filling or refilling, shall be carefully protected from flies, dust, and other contamination.

Sec. 223. Penalty. R. S. c. 41, § 63. Any person, firm, or corporation who shall violate any of the provisions of sections 216 to 223, inclusive, or shall neglect or refuse to comply with the provisions thereof shall be punished by a fine of not more than \$100 for the first offense, and by a fine of not more than \$200 for each subsequent offense.

Sec. 224. Disposal of fees and fines. R. S. c. 41, § 64. All fees received by the commissioner under the provisions of sections 216 to 223, inclusive, and all money and fines received by him under the provisions of sections 216 to 223, inclusive, by virtue of sections 5 and 8 shall be paid by him to the treasurer of state; and the same is appropriated for carrying out the provisions of sections 216 to 223, inclusive.

### Branding of Potatoes

Sec. 225. Grades established. 1935, c. 51, § 1. The grades for potatoes recommended by the Bureau of Agricultural Economics of the United States Department of Agriculture and recognized in the central markets of the country as government grades and such other grades as may be promulgated by the commissioner under the provisions of sections 34 to 40, inclusive, are made the official state grades for potatoes of the state presented for intrastate or interstate shipment and all containers as presented for shipment, whether by truck, train, or boat, shall have written, stamped, or attached thereon the name and address

or serial number of the person producing or marketing the product, as well as the name and grade of the product contained therein. No potatoes shall be offered for sale, had in possession for sale, prepared for sale, exposed for sale, sold, shipped, delivered for sale, or consigned unless and until said potatoes shall have been graded or packed in conformity with the provisions of sections 225 to 231, inclusive.

**Sec. 226. Branding made mandatory.** 1935, c. 51, § 2. It shall be unlawful for any person, firm, association, organization, or corporation, or agent, representative, or assistant to any person, firm, association, organization, or corporation to expose for sale, or sell, ship, deliver, or consign, or have in possession potatoes prepared for market unless such container has been legibly and conspicuously tagged, branded, labeled, or stenciled before being removed from the premises where prepared for market with the name and address of the person or persons responsible for the grading and packing, and the name of the grade, together with true net contents. When tags are used, U. S. No. 1 grade shall be declared on a white tag, U. S. commercial on a yellow tag and U. S. No. 2 on a red tag. Bulk shipments shall be accompanied by 2 cards not less than 4 by 6 inches in size, placed on the inside of car near each door. Likewise cards in size as herein described shall be prominently displayed on all bulk shipments made by truck or other conveyance. Upon each card shall appear the name and address of the consignor, the name of the grade, the name of the loading station, the date of loading, and the name and address of the consignee, if known. It shall be conclusive evidence that potatoes are for sale when contained in containers intended for delivery or transit, or when same are exposed for sale, or when the same are in the process of delivery or transit, or are located at a depot, station, boat dock, or any place where potatoes are held in storage, or for immediate or future sale or transit.

**Sec. 227. False or misleading branding prohibited.** 1935, c. 51, § 3. No person shall sell, expose for sale, or ship for sale potatoes in open or closed packages if the packages containing them or the label on them shall bear any statement, design, or device regarding such potatoes which shall be false or misleading in any particular or if such potatoes are packed in such a manner that the face or shown surface shall not be an average of the contents of the package. This provision shall be construed to also prohibit the repeated use of any container or sub-container, bearing any markings required by the provisions of sections 225 to 231, inclusive, or any designation of brands, quality, or grade unless all such markings which do not properly and accurately apply to the potatoes repacked or replaced shall first be completely removed, erased, or obliterated. Nothing in sections 225 to 231, inclusive, shall be construed to conflict with any Maine or federal law or regulations regarding net weight markings on containers or sub-containers.

**Sec. 228. Sale without grading by grower or shipper permitted.** 1935, c. 51, § 4. 1939, c. 58. 1941, c. 176. No provisions of sections 225 to 231, inclusive, shall be construed to prevent a grower or shipper of potatoes from selling or delivering the same within or without the state unpacked or unmarked, or selling his crop in bulk, or any part thereof, to a packer for grading, packing, or storage within or without the state; nor shall any provision of said sections prevent any person from manufacturing the same into any by-product, or from selling the same unpacked or unmarked to any person actually engaged in the operation of a commercial by-products factory for the sole and express purpose of being used within the state in the manufacture of a by-product for resale.

Provided, however, that when a grower or a shipper chooses to tag, brand, or label as to grade potatoes, or is requested by the buyer to furnish potatoes graded and branded, tagged, or labelled as to grade, such potatoes must conform to the requirements of sections 225 to 231, inclusive.

**Sec. 229. Commissioner to enforce law; jurisdiction.** 1935, c. 51, § 5. The commissioner shall diligently enforce all of the provisions of sections 225 to 231, inclusive. He, either in person or by a duly authorized representative, shall have free access, ingress, and egress during business hours to any place or any building wherein potatoes are packed, stored, transported, sold, offered or exposed for sale or for transportation. He may also, in person or by duly authorized representative, open any box, barrel, or other container and may, upon tendering market price, take samples therefrom. He may recover penalties imposed for violation of the provisions of said sections in an action of debt brought in his own name and if he prevails in such action shall recover full costs; or he may prosecute for violations thereof by complaint or indictment.

Trial justices shall have original jurisdiction concurrent with municipal courts and the superior court of actions brought for the recovery of penalties imposed by the provisions of sections 225 to 231, inclusive, and of prosecutions for violations thereof. All fees received under the provisions of sections 225 to 231, inclusive, by the commissioner and all money and fines received by him under the provisions of said sections shall be paid by him to the treasurer of state and the same are appropriated for carrying out the provisions of said sections. The commissioner shall establish such rules and regulations as may be needed for the proper enforcement of the provisions of sections 225 to 231, inclusive.

**Sec. 230. Exemptions.** 1935, c. 51, § 7. Certified seed potatoes as defined by sections 124 to 127, inclusive, and section 129, are exempted from the provisions of sections 225 to 231, inclusive, except as may otherwise be promulgated by the commissioner.

**Sec. 231. Penalty for violation.** 1935, c. 51, § 8. Any person, firm, or corporation who shall violate any of the provisions of sections 225 to 231, inclusive, or neglect or refuse to comply with any of the provisions required therein or in any way violate any of said provisions shall be punished by a fine of not more than \$100 for the first offense, and by a fine of not more than \$200 for each subsequent offense.

#### Agricultural Experiment Station

**Sec. 232. Agricultural Experiment Station.** R. S. c. 39, § 13. The department of the University of Maine known and designated as the Maine Agricultural Experiment Station, heretofore established at said university in connection therewith, and under its direction, for the purpose of carrying into effect the provisions of an act of the Congress of the United States, approved March 2, 1887, to establish agricultural experiment stations in connection with the colleges established in the several states under the provisions of an act approved July 2, 1862, and of the acts supplementary thereto, shall be maintained in accordance with the purposes for which it was originally established.

**Sec. 233. Scientific investigations in orcharding, and crops.** R. S. c. 39, § 14. The Maine Agricultural Experiment Station shall conduct scientific investigations in orcharding, corn and other farm crops, and, to this end, shall maintain the farm heretofore purchased in the name of the state, and stocked and

equipped for the use and benefit of said station. The director of the Maine Agricultural Experiment Station shall have the general supervision, management, and control of said farm and of all investigations thereon.

**Sec. 234. Investigations in animal husbandry.** R. S. c. 39, § 15. The Maine Agricultural Experiment Station shall also conduct scientific investigations in animal husbandry, including experiments and observations on dairy cattle and other domestic animals, and such investigations shall be under the control of the director of said station. The experiments in animal husbandry may be conducted at any of the farms owned by the state.

**Sec. 235. Expenditure of appropriation.** R. S. c. 39, § 16. 1931, c. 216. Such sums as shall be appropriated in favor of the Maine Agricultural Experiment Station shall be expended by the director of said station in executing the provisions of the preceding section.

See §§ 180, 184, 185; c. 62, § 21, re director of experiment station to make analyses of poisonous drugs.

#### Extension Work with U. of M. College of Agriculture

**Sec. 236. Extension work in agriculture provided for in each county.** R. S. c. 39, § 17. In order to aid in diffusing among the people of this state useful and practical information on subjects relating to agriculture, home economics, and rural life and to encourage the application of the same, there may be inaugurated in each of the several counties of the state extension work which shall be carried on in cooperation with the University of Maine, College of Agriculture.

**Sec. 237. Manner in which work may be carried on.** R. S. c. 39, § 18. Co-operative agricultural extension work shall consist of the giving of practical demonstrations in agriculture and home economics, and imparting information on said subjects through field demonstrations, publications, and otherwise; and this work shall be carried on in each county in such manner as may be mutually agreed upon by the executive committee of the farm bureau of such county, provided for in section 238, and the trustees of the University of Maine, College of Agriculture, or their duly appointed representatives.

**Sec. 238. Organizations to be known as "farm bureaus" to be formed.** R. S. c. 39, § 19. For the purpose of carrying out the provisions of sections 236 to 240, inclusive, there may be created in each county or combination of 2 counties within the state an organization to be known as a "farm bureau," in the following manner: whenever a number not less than 200 of bona fide rural residents within any county or combination of 2 counties in the state shall have effected temporary organization for doing extension work in agriculture and home economics, and shall have adopted a constitution and set of by-laws acceptable to the University of Maine, College of Agriculture, they shall be recognized as the official body within said county or counties for carrying on extension work in agriculture and home economics within said county or counties in cooperation with the University of Maine, College of Agriculture. Such organization may make such regulations and by-laws for its government and the carrying on of its work as are not inconsistent with the provisions of said sections; provided that any county farm bureau or other county organization within any of the counties in the state that is now doing extension work in agriculture and home economics in cooperation with the University of Maine, College of Agriculture, upon complying with the provisions of this section, shall be the recog-

nized farm bureau of the county or counties where it is located, and provided further that but one such organization shall be formed in each county.

**Sec. 239. Farm bureau to prepare budget; county commissioners may levy tax.** R. S. c. 39, § 20. 1941, c. 23. The executive committee of each county farm bureau shall annually prepare an annual financial budget for the 12 months beginning January 1st next thereafter, showing in detail its estimate of the amount of money to be expended under the provisions of sections 236 to 240, inclusive, within the county or counties for such 12 months; shall submit the same to a vote of the bureau at the regular annual meeting, and, if the budget is approved by a majority vote of the members of the bureau present at such meeting, the executive committee shall submit the same to the board of county commissioners on a date in December approved by said county commissioners, and the county commissioners shall include the amount of this budget in the appropriations by them annually recommended, and levy a tax therefor; provided further, that the amount thus raised by direct taxation within any county or combination of counties for the purposes of sections 236 to 240, inclusive, shall be not less than \$1,000 and not more than \$2,000 annually. Provided, however, that in those counties having the services of more than 2 extension agents, at the request of the county farm bureau made on the said date in December, the county commissioners of the county may allow an amount in excess of \$2,000, but not exceeding \$4,000, which shall also be included in the budget and for which a tax shall be levied. Whenever the inhabitants of 2 counties shall unite for organization in one farm bureau the amount of the tax assessed upon each county shall be in the proportion which the number of farm bureau members in that county bears to the total number of members in the 2 counties so united.

**Sec. 240. Annual report to be rendered to trustees of University of Maine, College of Agriculture and to county commissioners.** R. S. c. 39, § 21. It shall be the duty of each county farm bureau described in the preceding sections, annually on or before the 10th day of December, to present its plan of extension work for the ensuing year and to render to both the trustees of the University of Maine, College of Agriculture and the county commissioners a full detailed report of its extension activities for the preceding fiscal year, including a detailed report of its receipts and expenditures from all sources; and the financial report of such county farm bureau shall be on such forms as may be prescribed by the trustees of the University of Maine, College of Agriculture.

#### State Sealer of Weights and Measures

**Sec. 241. State sealer of weights and measures; standards.** R. S. c. 53, § 1. The commissioner of agriculture shall be the state sealer of weights and measures.

The standard weights and measures furnished by the government of the United States in accordance with the joint resolution of Congress approved June 14, 1836, and any additions thereto and renewals thereof certified to by the United States bureau of standards, and weights, measures, balances, and apparatus added by the state sealer of weights and measures and verified by the United States bureau of standards, shall be the standards of weights and measures throughout this state.

**Sec. 242. Standards adopted by the state, how kept and certified.** R. S. c. 53, § 2. The standards adopted by the state shall be kept at the state house under the supervision of the state sealer and shall not be removed or used except for

the adjustment of a set of working standards that are copies of the original standards or for scientific purposes or to be verified by the national bureau of standards. The state sealer shall maintain the state standards in good order and shall submit them at least once in 10 years to the national bureau of standards for certification. He shall at least once in 5 years cause the standards of the several cities and towns to be compared and corrected to conform with the state standards.

**Sec. 243. State sealer to establish tolerances; other powers; duties.** R. S. c. 53, § 3. 1933, c. 200, § 1. The state sealer of weights and measures shall after consultation with, and with the advice of, the national bureau of standards, establish tolerances for use in this state and said tolerances shall be the legal tolerances of the state. He shall have general supervision of the weights and measures, and weighing and measuring devices of the cities and towns of the state, and cause the enforcement of all laws pertaining to weights and measures in use in the state and may appoint such agents as he desires to assist in the enforcement. He shall make rules and regulations for the enforcement of the provisions of sections 241 to 247, inclusive, of this chapter, and sections 105 to 110, inclusive, of chapter 79, and sections 176 to 202, inclusive, of chapter 88.

125 Me. 124.

**Sec. 244. State sealer to enforce provisions of law; deputy and inspectors.** R. S. c. 53, § 4. The state sealer shall enforce the provisions of law requiring municipal officers to procure and maintain standards of weights and measures, and the appointing of a sealer of weights and measures. He may appoint a deputy who shall have the authority conferred by the 2 following sections, and may appoint inspectors with authority to perform any part or all of the duties provided in sections 245 and 246.

**Sec. 245. State sealer or deputy to inspect work of local sealers.** R. S. c. 53, § 5. The state sealer or his duly appointed deputy shall visit the various cities and towns in the state in order to inspect the work of the local sealers, and may at all times inspect and test the weights, measures, and balances of any person, firm, association, or corporation used, or to be used, in purchasing from or selling to the public any goods, wares, merchandise, or other commodities; if any such weights, measures, or balances are found to be inaccurate or defective, he shall forthwith cause the same to be corrected or condemned.

**Sec. 246. May test commodities offered for sale; may have access to buildings.** R. S. c. 53, § 6. The state sealer or his duly appointed deputy may, at irregular intervals, examine commodities sold or offered for sale and test them for correct weight, measure, or count, and bring complaint for violations of sections 176 to 197, inclusive, of chapter 88. He or his duly appointed deputy may, for the purpose stated above, and in the general performance of his or their official duties, have access without formal warrant to any stand, place, building, or premises, or may stop any vendor, peddler, junk dealer, coal wagon, ice wagon, or any person for the purpose of making the proper tests.

**Sec. 247. Record and annual report.** R. S. c. 53, § 7. The state sealer shall keep a record in detail of the work of his office and shall annually, on or before the 1st day of July, make a written report of the work of his office to the governor and council.

Sec. 248. Manufacture and sale of oil bottles. 1933, c. 200, § 9. The state sealer of weights and measures shall make rules and regulations governing the manufacture and sale of lubricating oil bottles and may authorize the sealing of such lubricating oil bottles by any manufacturer thereof upon his agreeing to conform to such rules and regulations, and may revoke such authority on the failure of any manufacturer to conform with the said rules and regulations.

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## CHAPTER 28.

### MILK CONTROL.

Sec. 1. Definitions. 1935, c. 13, § 1. 1941, c. 165, § 1. 1943, c. 317, § 1. As used in this chapter, unless the context otherwise requires, "board" means the state agency created by this chapter to be known as the "milk control board".

"Person" means any person, firm, corporation, association, or other business unit.

"Dealer" means any person who purchases or receives milk for sale as the consignee or agent of a producer, or handles for sale, shipment, storage, or processing within the state and shall include a producer-dealer as hereinafter defined, but shall not include a store.

"Producer" means any person who produces milk and sells his said milk only to dealers as above defined.

"Producer-dealer" means a dealer who himself produces a part or all of his milk or a person who produces milk and sells to a grocery store or dairy products store or similar commercial establishment.

"Consumer" means any person other than a milk dealer who purchases milk for fluid consumption.

"Market" means any city, town, or parts thereof, of the state, or two or more of the same, or parts thereof, designated by the board as a natural marketing area.

"Milk" means whole milk and cream, fresh, sour, or storage; skimmed milk and buttermilk; irrespective of whether or not any such milk is flavored.

"Class I milk" means all milk, the utilization of which is not established as Class II milk.

"Class II milk" means all milk, the utilization of which is established:

I. As being sold, distributed, or disposed of other than as or in milk which contains not less than  $\frac{1}{2}$  of 1% butterfat and not more than 16% butterfat and other than as chocolate or flavored whole or skimmed milk and

II. As actual plant shrinkage; provided that the quantity of shrinkage which is classified as Class II does not exceed 2% of the milk purchased in any pay period.

"Store" means a grocery store or dairy products store or any similar commercial establishment, which purchases milk from licensed dealers who have previously processed and bottled or otherwise packaged such milk for sale.

"Retail sale" means a door-step delivery to other than establishments licensed under the provisions of sections 152 to 158, inclusive, of chapter 22, and over-the-counter sales by stores.

"Wholesale sale" means sale to any other person not included in retail.

"Books and records" means books, records, accounts, memoranda, or other data pertaining to the purchase and distribution of milk.