

MAINE STATE LEGISLATURE

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CHAPTER 603
MILK COMMISSION

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§ 2951. Definitions

As used in this chapter, unless the context otherwise requires, the following words shall have the following meaning:

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

2. Commission. "Commission" means the Maine Milk Commission.

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

4. Dealer. "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 and a sub-dealer, but shall not include a store.

5. Market. "Market" means any city, town or parts thereof of the State, or 2 or more of the same or parts thereof designated by the commission as a natural marketing area.

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

7. Person. "Person" means any individual, partnership, firm, corporation, association or other unit, and the State and all political subdivisions or agencies thereof, except state owned and operated institutions.

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

9. Producer-dealer. "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.

10. Retail sale. "Retail sale" means a doorstep delivery and over-the-counter sales by stores.

11. Store. "Store" means a grocery store, dairy product store, canteen, milk vending machine operator, milk dispensing operator or any similar commercial establishment or outlet or any other sale where milk is sold to consumers for consumption off the premises where sold.

12. Sub-dealer. "Sub-dealer" means any person who does not process milk and who purchases milk from a dealer and sells such milk in the same containers in which he purchased it, but shall not include a store.

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

R.S.1954, c. 33, § 1; 1957, c. 384, §§ 1-6; 1961, c. 410, § 1.

§ 2952. Organization

The Maine Milk Commission, as heretofore established, shall consist of 2 producers, a dealer, a producer-dealer and 2 consumers, all of whom shall be residents of the State. They shall be appointed by the Governor with the advice and consent of the Council and shall serve for a term of 4 years and until their successors have been duly appointed and qualified. The Commissioner of Agriculture shall be ex officio a member of said commission. The members of said commission shall elect a chairman and may employ a secretary and such clerks and assistants as may be deemed necessary and may prescribe their duties and fix their compensation, subject to the Personnel Law. Legal services and the services of experts in other lines shall be performed as far as possible by the existing state departments, including the Department of Agriculture, the Department of Health and Welfare and the Department of the Attorney General. Any vacancy in the membership of said commission shall be filled by appointment by the Governor, with the advice and consent of the Council. Members of the commission shall be allowed actual traveling and other necessary expenses incurred in the performance of their duties

and each member shall receive a per diem compensation for the time actually spent in the performance of his duties, such compensation to be determined by the Governor and Council. The cost of administration of said commission, including expenses and compensation of members, shall not exceed the amount of fees collected under this chapter. The commission shall be furnished a suitable office in the State Capitol together with all necessary equipment and supplies therefor.

R.S.1954, c. 33, § 2; 1957, c. 384, § 7.

§ 2953. Powers and duties

The commission shall have power to supervise, regulate and control the purchasing, distribution and sale of milk within the State, in such a manner as to supplement such supervision and regulations as are now imposed by existing statutes or by lawful ordinances or rules and regulations of the several cities and towns of the State. The commission shall have no power to modify, add to or annul any sanitary regulations imposed by any state or municipal authority, or to compel pasteurization in any market area. The commission in administering this chapter shall adopt such policies as are consistent with the promotion of marketing programs which progressively eliminate those conditions in the milk industry necessitating the present law. The commission shall cooperate with the Commissioner of Agriculture and with representatives of the industry in devising marketing programs to implement such policies. In administering this chapter, it shall have power to conduct hearings, subpoena and examine under oath dealers with their records, books and accounts and any other person from whom information may be desired to carry out the purposes and intent of this chapter and any member of the commission may sign subpoenas and administer oaths to witnesses. Any member of the commission or its representatives may enter at all reasonable hours all places where milk is being received, processed, stored or otherwise handled and shall have access to all books and records relating to milk for the purpose of ascertaining facts to enable the commission to administer this chapter. The commission may adopt, promulgate and enforce all rules and orders necessary to carry out this chapter.

The commission may act as mediator or arbitrator to settle any controversy or issue among or between producers, dealers and consumers, any of whom may petition the commission in writing to change prices or conditions in any market area.

R.S.1954, c. 33, § 3; 1957, c. 407.

§ 2954. Price fixing

The commission shall hold meetings on the 3rd Thursday of each calendar month, and shall appoint a time at each meeting when any producer, dealer or consumer may present complaints or suggestions for the betterment of the conditions of trade and shall endeavor to effect amicable reconciliations of differences which exist between the various milk interests, and such other meetings as are necessary to properly supervise and control the industry. The chairman shall call a meeting of the commission whenever requested in writing by any 2 members of the commission. The commission is vested with power to establish and change, after investigation and public hearing, minimum prices to be paid to producers by dealers for milk received, purchased, stored, manufactured, processed, sold, distributed or otherwise handled within the State. The commission shall fix and establish, after investigation and public hearing, of which due notice has been given by publishing at least 3 days prior to said hearing in appropriate newspapers, the wholesale and retail prices to be charged for milk distributed for sale within the State, wherever produced, including the following sales:

1. **Dealers to dealers.** By dealers to dealers;
2. **Dealers to consumers.** By dealers to consumers;
3. **Stores to consumers.** By stores to consumers, except for consumption on the premises where sold;
4. **Dealer to stores.** By dealer to stores either for consumption on the premises or resale to consumers;
5. **Person to person.** By any person not included in the foregoing classifications to another person;
6. **Producers to dealers.** By producers to dealers.

Sales by producers of raw milk produced and sold to consumers on the premises of the producer are excluded from this chapter in respect to such sales.

The commission in its discretion may waive public hearing when the sole change to be made in minimum prices is to conform with orders of any federal agency, duly authorized by law to determine prices.

The commission is vested with power to establish and change, after investigation and public hearing, classifications of milk according to its various usages, and shall specify to what classifica-

tion the prices fixed and established under this chapter shall apply.

The dealer to dealer prices for all sales shall be established only in such market areas as are necessary for the stabilizing of market conditions. All sales between dealers shall be considered milk of such classification as the commission by appropriate rules may provide.

No price shall be established for any one or more of said sales unless at the same time a price shall be established for all of said sales in any market.

Prices so fixed shall be just and reasonable taking into due consideration the public health and welfare and the insuring of an adequate supply of pure and wholesome milk to the inhabitants of this State under varying conditions in various marketing areas, seasonal production and other conditions affecting the costs of production, transportation and marketing in the milk industry, including a reasonable return to the producer and dealer.

Upon fixing said minimum prices in any market which shall apply to the various classifications of milk and which may vary in the several market areas of the State, the commission shall furnish all dealers registered in said market with a schedule of such prices, and shall publish a schedule thereof in appropriate newspapers in said market. Such order shall become effective in accordance with Title 5, chapters 301 to 307 and thereafter no dealer, store or other person handling milk in such market shall buy or offer to buy, sell or offer to sell milk for prices less than the scheduled minimum prices established for that market.

Any dealer who purchases or receives milk for sale as consignee or agent of a producer may deduct an allowance for transportation not in excess of the amount specified in a written agreement between the dealer and producer, a copy of which, signed by both parties, shall have been filed with the commission prior to the beginning of the delivery period.

It shall be unlawful for any person to engage in any practice destructive of the scheduled minimum prices for milk established under this chapter for any market, including but not limited to any discount, rebate, gratuity, advertising allowance or combination price for milk with any other commodity. In addition to any penalty otherwise provided by law, the commission after notice and hearing may prohibit any such practice, and any person feeling himself aggrieved by any order of the commission issued under this chapter may appeal to the Superior Court as provided in section 2955.

The minimum prices established for sales of milk by producers to dealers may, if such sales are made by bulk tank, be increased by such amounts per hundredweight as may be determined by the commission. Violation of this paragraph shall be sufficient cause for the Maine Milk Commission to revoke or withhold a dealer's license.

Whenever milk produced outside the State becomes a subject of regulation by the State in the exercise of its police powers, this chapter shall apply and the powers of the commission shall attach. After any such milk so produced shall come within the jurisdiction of this State, any sale of such milk within this State at a price less than the scheduled minimum price established in any given market shall be unlawful.

R.S.1954, c. 33, § 4; 1955, c. 341; 1957, c. 312; c. 384, §§ 8-12; 1961, c. 219; c. 410, § 2; c. 417, § 102.

§ 2955. Licenses

No dealer shall buy milk from producers or others for sale or shall process, distribute, sell or offer to sell milk in any market in the State designated by the commission unless duly licensed by the commission. No license shall be required of any person who produces or sells milk for consumption only on the premises of the producer or seller. Each person, before engaging in the business of a dealer in any market designated by the commission, shall make application to the commission for a license, which the commission is authorized to grant.

The license year shall commence on January 1st and end December 31st following. Application for a license shall be made on a form prescribed by the commission.

Licenses required by this chapter shall be in addition to any other license required by law.

The Administrative Hearing Commissioner as designated in Title 5, chapters 301 to 307 may, upon proper evidence, decline to grant a license or may suspend or revoke a license already granted upon due notice and after hearing. Violation of this chapter or of any order, rule or regulation made, or conviction of violating any other law or regulation of the State relating to the production, distribution and sale of milk, shall be sufficient cause to suspend, revoke or withhold such license.

Upon revocation or suspension of a license it shall not be reissued until the commission shall determine upon application and hearing that the cause for such revocation or suspension no longer exists, and that the applicant is otherwise qualified.

R.S.1954, c. 33, § 5; 1957, c. 384, § 13; 1961, c. 394, § 19; 1963, c. 412, § 23.

§ 2956. Records and fees

All dealers in any market designated by the commission shall keep the following records:

1. Names and addresses of producers or milk dealers. A record of the quantity of all milk received or produced, detailed as to location and as to names and addresses of producers or milk dealers from whom received;

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

3. Other records and information. Such other records and information in such form and at such times as the commission may deem necessary for the proper enforcement of this chapter.

1957, c. 384, § 14.

Each dealer shall furnish his producers a statement of the amount of milk purchased, the price per hundredweight or quart, the total amount paid for each pay period, the itemized deductions for transportation and other services, the percentages of milk in each classification and the butterfat test when weight and test method of payment is used.

Each licensed dealer shall pay to said commission an annual license fee of \$1 and the sums of $3\frac{1}{2}\phi$ per hundredweight as monthly payments, based on quantity of milk purchased or produced in any market area, or purchased or produced in an uncontrolled area and sold in any market area. One and three-quarter cents per hundredweight may be deducted by dealers from amounts paid by them to producers of such milk, except that the milk, farm-processed into cream for the manufacture of butter shall not be subject to such sums of $3\frac{1}{2}\phi$ per hundredweight.

Dealers shall file reports together with the prescribed hundredweight fees with the commission at its office in Augusta not later than the 20th of the following month, on forms provided for this purpose, of all matters on account of which a record is required to be kept and such other information or facts as may be pertinent and material within the scope of the purposes of this chapter. Except that dealers who sell less than 100 quarts of milk per day may file reports and pay the prescribed hundredweight fees every 3 months.

In case the same milk is handled by more than one dealer, the first dealer within the State dealing in or handling said milk

shall be deemed to be the milk dealer within the meaning of this section. For the purpose of computing fees as provided, $\frac{1}{2}$ pint of cream shall be considered the equivalent of one quart of milk.

R.S.1954, c. 33, § 6; 1957, c. 384, §§ 14, 15; 1959, c. 236; 1963, c. 421, § 1.

§ 2957. Expenditure of funds

Moneys received through this chapter shall be paid forthwith to the Treasurer of State and shall be appropriated and used for the following purposes:

1. Collection. For the collection of all fees and assessments provided for by this chapter;

2. Administration. For the cost of administering this chapter.

Out of the sums raised by assessments in section 2956, 2¢ per hundredweight shall be expended for the promotional, educational, experimental plans and the research and advertising purposes as determined by the Maine Dairy Council Committee and for the compensation of and the expenses incurred by the Maine Dairy Council Committee.

Moneys received through this chapter shall remain a continuing carrying account and shall not lapse.

R.S.1954, c. 33, § 7; 1955, c. 471, § 6; 1963, c. 421, §§ 2, 3.

§ 2958. Dairy Council Committee

The Maine Dairy Council Committee, as heretofore established, shall consist of the following 5 members: The Commissioner of Agriculture, 2 producers and 2 dealers to be appointed by the Commissioner of Agriculture on recommendation of the various producer and dealer associations, individuals or unorganized groups of producers and dealers in the State. Each appointed member shall serve for 2 years, or until his successor is duly appointed and qualified. In case of a vacancy caused by death, resignation or otherwise, the vacancy shall be filled by the commissioner for the unexpired period of the term. The appointed members shall receive the same compensation as the members of the Maine Milk Commission and be reimbursed for expenses incurred in the performance of their duties.

R.S.1954, c. 33, § 8.

§ 2959. Injunctions

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

1961, c. 410, § 3.

§ 2960. Penalties

Whoever violates any of the provisions of this chapter or of any rule or order of the commission shall be punished by a fine of not more than \$100 or by imprisonment for not more than 11 months, or by both.

R.S.1954, c. 33, § 9.