

MAINE STATE LEGISLATURE

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CHAPTER 61
SARDINE PACKERS

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§ 4151. Definitions

For the purposes of this chapter:

1. Broken fish. "Broken fish" shall be held to include fish that are shattered, belly blown, or blown or broken from any cause. No fish is free from defects, within the meaning of section 4157, which is broken, decomposed, contains foreign material, is unfit for food or is not in good condition from any cause.

2. Cutting. "Cutting" shall be held to mean removing the heads of the fish packed, either before or after flaking and steaming, by some implement or device operated by hand or by a machine or mechanical device operated by power. The operation of "cutting" does not mean the practice of beheading the fish by "snipping" or "pinching" the heads off the fish with the fingers.

3. Sardine. "Sardine" shall be held to include any canned, clupeoid fish, being the fish commonly called herring, particularly the clupea harengus.

R.S.1954, c. 32, §§ 260, 264.

§ 4152. Advisory board

The Commissioner of Agriculture after such consultation with members of the industry as he regards desirable shall appoint 7 practical sardine packers as defined in Title 36, section 4693 to a board to be known as the Sardine Industry Advisory Board. All appointments shall be for 3-year terms except ap-

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pointments to complete unexpired terms. Members shall serve without pay. The board shall meet with the commissioner at regular intervals to be determined by it, and oftener if called by the commissioner, who shall call a meeting of the board on written request of 3 members.

The board shall advise the commissioner and the commissioner shall consult with the board on matters of general interest to the sardine industry within the jurisdiction of the commissioner.

1955, c. 174, § 10.

§ 4153. License required

No person, firm, corporation, association or society shall pack sardines within the State for sale without having first filed with the Commissioner of Agriculture 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. 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 and shall be renewed annually thereafter. Before issuing such license or renewing it, the commissioner may by adequate inspection determine that the laws and regulations relating to the packing of sardines and the operation of sardine plants are being observed.

R.S.1954, c. 32, § 258; 1955, c. 174, § 1; 1961, c. 401, § 1.

§ 4154. Repeal, revocation or refusal; appeals

The Commissioner of Agriculture shall have the power to refuse to issue, to refuse to renew, to revoke or to suspend any license issued under this chapter whenever he determines that any of the provisions of said chapter or rules or regulations promulgated or established thereunder 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 this chapter has 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 this chapter or permanently for the unexpired period of such license. On refusal to issue or to renew and before revoking or suspending any license, the commissioner shall give writ-

ten notice to the applicant or licensee affected stating that he contemplates refusing to issue or renew said license or 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 applicant or licensee may present evidence to the commissioner, and after hearing all the testimony, the said commissioner shall decide whether or not the license shall be issued, renewed, revoked or suspended. 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.

R.S.1954, c. 32, § 259; 1955, c. 174, § 2.

§ 4155. Inspection; conformity with federal acts; branding; embargo and condemnation

The Commissioner of Agriculture shall by adequate inspection, by such methods, including sampling procedures, and at such times including before, during and after packing, as he may from time to time deem appropriate, see that sardines are packed in conformity with the requirements of the Federal Food and Drug Act, the laws of this State, including this chapter, and the rules and regulations promulgated or established thereunder by the commissioner, and shall determine the grade or quality of each lot of sardines for which he shall have established grades under section 4157. He shall make uniform rules and regulations, which shall have the effect of law, for carrying out this chapter and for insuring sardines are packed in a sanitary environment and manner and for the sanitary storage and condition of packing media and may fix standards of quality in addition to standards fixed by law. He shall authorize the persons packing sardines in conformity with the requirements of this chapter to mark the container of said sardines with a statement certifying that the food contained therein was packed, inspected and passed under Title 22, sections 2151 to 2166. 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.

Every holder of a license issued under section 4153 shall, before packing sardines in $\frac{1}{4}$ size cans, or in other containers for which grades shall have been established by the commissioner under section 4157, have on file with the commissioner a code

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plan satisfactory to the commissioner, which plan shall show the plant where packed, lot and the calendar year of packing, and may at the option of the licensee show such other information as is desired. Optional coding information may, but need not be included in the plan filed. Said code plan shall define "lot" as not more than the entire output of one packing plant for one day. Said plan shall remain effective until modified or rescinded by said licensee and another approved code plan is filed. No such licensee shall pack, process, manufacture, sell, ship, deliver, consign or have in his possession sardines for which a code plan is required unless said code appears legibly and permanently upon each container and also upon the shipping case containing said sardines.

The commissioner may issue a certificate for each lot of sardines, as defined in the applicable code plan on file with him, stating the fact of his inspection, the date of inspection, the code, the number of containers in the lot, the number of cans inspected, and the quality or grade of said lot, which said certificate shall be prima facie evidence of the facts therein stated. Certificates shall be issued only to those packers who make written request to the commissioner, which requests must state that the applicant applies for certificates for the entire seasonal output of the year in which the application is made, or for the entire output of the balance of such season if the application is made after the season has begun, and such application shall include all plants operated by the individual, corporation or company making the application.

The commissioner shall select and employ an Assistant Chief of the Division of Inspection for Sardines. He shall employ subordinate inspectors, sufficient in numbers, so that adequate inspection can be performed. It shall be the duty of said inspectors to make adequate and uniform and impartial inspection of all the places, shops and factories in the State, wherever sardines are 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.

The Assistant Chief of the Division of Inspection for Sardines shall vigilantly enforce all the provisions of this chapter, and all provisions of the law and all regulations relating to sardine packing.

During the packing season, he shall not be assigned to perform or perform any inspection work, other than that pertaining to the packing of sardines.

Whenever the commissioner or any duly authorized agent of the commissioner has reasonable cause to believe that sardines

are packed in violation of any of the provisions of this chapter, or regulations promulgated under authority of this chapter, or that the finished product does not meet the standards and requirements of such chapter and regulations, the commissioner or any duly authorized agent of the commissioner may detain or place an embargo upon such sardines by marking or tagging the same, giving notice that such sardines were packed in violation of this chapter and that they have been detained or embargoed, and warning all persons not to remove or dispose of the same by sale or otherwise until permission for removal or disposal is given by the commissioner or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission.

The commissioner or duly authorized agent of the commissioner detaining such sardines shall promptly petition the proper officer of the District Court or the Superior Court within whose jurisdiction the sardines are detained for a libel for condemnation of such sardines, the procedure of which shall conform, as nearly as may be, to the procedure for libelling intoxicating liquors.

If the court finds that the sardines were packed in violation of this chapter, or regulations issued thereunder, it shall enter a decree that they shall be destroyed at the expense of the claimant thereof, under supervision of the commissioner, or any of his duly authorized agents, and all court costs and fees, and storage and other proper expenses shall be taxed against the claimant. When the sardines can be brought into conformity with this chapter by proper labelling or by other process, the court, after such costs, fees and expenses have been paid, and a bond to the commissioner or his successors in office, in such sum as the court may direct, with good and sufficient sureties, conditioned that such sardines shall be so labelled or processed, has been approved by the court, may order that such sardines be delivered to the claimant thereof for such labelling or processing under the supervision of the commissioner or any duly authorized agent of the commissioner. The expense of such supervision shall be paid by the claimant. When the product is not in conflict with the laws of a foreign country to which it is intended for export, and is labelled on the outside of the shipping package to show that it is intended for export, the court, after the costs, fees and expenses have been paid, and a bond to the commissioner or his successors in office in such sum not less than twice the value of such goods as the court may direct with good and sufficient sureties, conditioned that such fish shall be exported to a foreign

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country, to be named therein, with whose laws such fish are not in violation and shall not be reimported into the United States by any person whomsoever, may order such fish to be redelivered to the claimant for export under the supervision of the commissioner or any of his duly authorized agents.

R.S.1954, c. 32, § 261; 1955, c. 174, §§ 3, 4; 1957, c. 92, § 1; 1963, c. 402, § 66.

§ 4156. Fees; disposition

Each packer shall pay monthly, not later than the 10th day of each month, 3¢ per case on the amount of sardines packed during the previous month, toward the cost of maintaining the inspection provided for in section 4155 and as a part of the fee for obtaining and retaining his license. The inspection fee provided for may be increased by the Commissioner of Agriculture after consultation with the Sardine Industry Advisory Board to an amount not to exceed 8¢ per case, in the event the fee of 3¢ per case is not adequate to cover the cost of such inspection, but such increased fee shall be reasonable and shall cover as nearly as may be possible the cost of such inspection. All license fees and all money received under this chapter by the commissioner shall be paid by him to the Treasurer of State and the same are hereby appropriated for carrying out this chapter, and for no other purpose.

R.S.1954, c. 32, § 262; 1957, c. 92, § 2; 1961, c. 34.

§ 4157. Standards; mishandling

The minimum count of fish per $\frac{1}{4}$ size keyless can, whether packed in oil, mustard sauce, tomato sauce or other packing medium, shall be 4 fish, and in all such cans the heads of all fish shall be removed by cutting. No broken fish shall be packed. The oil feeding device or mechanism shall deliver to the $\frac{1}{4}$ size keyless cans oil at a rate of not less than 19.66 cubic centimeters of oil per can. The minimum count of fish for $\frac{3}{4}$ size cans shall be 4 fish. The mustard sauce feeding device or mechanism shall deliver to the $\frac{3}{4}$ size cans mustard sauce at a rate of not less than 2 ounces of mustard sauce per can and the tomato sauce feeding device or mechanism shall deliver tomato sauce to the $\frac{3}{4}$ size cans at a rate of not less than 2 ounces of tomato sauce per can. The mustard sauce feeding device or mechanism shall deliver mustard sauce to all $\frac{1}{4}$ size cans at a rate of not less than one ounce of mustard sauce per can and the tomato sauce feeding

device or mechanism shall deliver tomato sauce to all $\frac{1}{4}$ size cans at a rate of not less than one ounce of tomato sauce per can. After the packing process is completed, the fish sealed in the cans shall be free from defects, no detached heads or tails present. When less than 5 fish are packed in a $\frac{1}{4}$ size keyless can, there shall be plainly and permanently lithographed thereon in letters and numerals not less than $\frac{1}{8}$ inch in height a statement clearly indicating that the contents are 4 fish or 4 sardines and the packer shall so offer such cans for sale. It shall be unlawful to place covers indicating the contents as 4 fish or 4 sardines on cans containing more than 4 fish. The shipping containers used for cans which indicate the contents as 4 fish or 4 sardines shall be plainly and conspicuously marked with letters no less than $\frac{1}{2}$ inch in height with the words 4 FISH CANS. It shall be unlawful to place cans containing more than 4 fish in shipping containers marked with the words 4 FISH CANS.

The minimum count of fish per $\frac{1}{4}$ size key can, whether packed in oil, mustard sauce, tomato sauce or other packing medium, shall be 5 fish. In all key cans the heads of all fish shall be removed by cutting, and in all key cans packed with less than 8 fish the tails shall be removed by cutting or shall be neatly trimmed. No broken fish shall be packed. The oil feeding device or mechanism shall deliver oil to all $\frac{1}{4}$ size key cans at a rate of not less than 24.5 cubic centimeters of oil per can. The minimum count for $\frac{3}{4}$ size cans shall be 4 fish. The mustard sauce feeding device or mechanism shall deliver mustard sauce to all $\frac{1}{4}$ size key cans at a rate of not less than one ounce of mustard sauce per can and shall deliver mustard sauce to all $\frac{3}{4}$ size cans at a rate of not less than 2 ounces of mustard sauce per can. The tomato sauce feeding device or mechanism shall deliver tomato sauce to all $\frac{1}{4}$ size key cans at a rate of not less than one ounce of tomato sauce per can and shall deliver tomato sauce to all $\frac{3}{4}$ size cans at a rate of not less than 2 ounces of tomato sauce per can. After the packing process is completed, the fish sealed in the cans shall be free from defects, no detached heads or tails present.

In packing all sardines, the quality of the vegetable salad oil used shall be a pure, edible vegetable oil, which shall be clear and thoroughly refined. It shall be a deodorized oil free from rancidity, objectionable flavor and shall satisfactorily stand the 5 hour cold test, so called. Its color shall not be darker than 7 Lovibond units. The oil shall have a free fatty acid content of not more than .07% and shall retain a satisfactory flavor after heating to 400° Fahrenheit. In packing all sardines, the olive oil used

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shall possess a typical greenish to light yellow color and shall possess a free fatty acid content, calculated as oleic, of not more than 1.4%. The olive oil shall be free of defects and possess a good typical odor and a good typical flavor. In packing all sardines, the tomato sauce used shall possess a fairly good red tomato color and shall be free of defects and shall possess a fairly good tomato puree (tomato pulp) flavor. It shall have not less than 8.37% salt-free tomato solids and a specific gravity of not less than 1.035.

The minimum count of fish, which may be any size, per #1 oval can, commonly known as a one pound or 15-ounce oval can, whether packed in tomato sauce, mustard sauce or other packing medium, shall be not less than 4 fish. The heads of all fish shall be removed by cutting. No broken fish shall be placed in cans. The device or mechanism feeding oil, mustard sauce, tomato sauce or other packing medium shall deliver the mustard sauce, tomato sauce, oil or other packing medium to all #1 oval cans, commonly known as one pound or 15-ounce oval cans, at a rate of not less than 2 ounces per can.

The minimum count of fish per 8-ounce oval can, whether packed in tomato sauce, mustard sauce or other packing medium, shall be not less than 4 fish. The heads of all fish shall be removed by cutting. No broken fish shall be packed. The device feeding mustard sauce, tomato sauce, oil or other packing medium shall deliver mustard sauce, tomato sauce, oil or other packing medium to all 8-ounce oval cans at a rate of not less than one ounce per can. Sardines thus packed shall be plainly and conspicuously marked "MAINE SARDINES".

Fish packed which do not comply with this chapter and which do not comply with the official standards of grade promulgated by the Commissioner of Agriculture shall not be sold in the United States, its territories or possessions, unless each can in said cases is plainly and conspicuously marked with the word "Herring". Neither the word "sardine" nor the word "sardines" shall appear on the case or on the cans.

Sardines which are officially designated as substandard grade, for which a certificate is issued, shall not be sold in the United States, its territories or possessions, unless each can in the lot has the words "Substandard Grade, Good Food—Not High Quality" so placed as to be easily seen when the name of the product or pictorial representation thereof is viewed, and appear conspicuously enough to be seen under ordinary conditions of purchase. The words "Substandard Grade, Good Food—Not High Quality" shall be printed in 2 lines across the cover of all

cans in letters not less than $\frac{1}{8}$ of an inch in height and be enclosed in lines which are not less than $\frac{1}{32}$ of an inch in width. The above wording shall be printed on all wrappers, labels, cartons or other outer coverings of the cans with a permanent type of indelible ink, or by means of other approved procedure. The words "Substandard Grade" shall appear in letters not less than one inch in height on both ends of the shipping container.

The commissioner, or any duly authorized agent of the commissioner, shall detain or place an embargo upon sardines officially designated as substandard grade, for which a certificate is issued, by marking or tagging the same and warning all persons not to remove or dispose of the same by sale or otherwise until permission for removal or disposal is given by the commissioner. Such sardines shall be detained or placed under embargo until the goods are marked in accordance with this section or the commissioner has received a bond covering the export provisions of this section.

The commissioner may establish official grades for sardines packed within the State and may from time to time modify such grades. Such grades may specify among other things, the number of fish per container, the amount, quality and nature of the packing medium or fill, the quality, appearance, odor, character, taste and texture of the fish packed, the style of pack, their workmanship and their arrangement in the container, the quality of the substances contained in the container, the size and type of the container, and tolerances allowing for reasonable variation from grades. The commissioner may establish and promulgate regulations for the marking, branding or labelling of sardines, and the use of grades established by him. Such grades shall not be lower than the standards set out in this chapter. The commissioner may promulgate regulations providing that products that do not meet such standards may be sold if labelled "herring."

Before establishing, amending or modifying any such grades, the commissioner shall hold public hearings in such places within the State as shall be reasonably convenient for the packers. Notice of such hearing shall be sent by registered mail to holders of licenses issued under section 4153, and 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. In establishing such grades or regulations the commissioner may consider, among other things, packing practices in Maine and in other jurisdictions, consumer expectancy, habits and desires, the types of fish available, con-

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ditions of sanitation, tastes and preferences of varying parts of the consumer public, marketing practices, and market experience. Upon the establishment of such grades or tolerances the commissioner shall notify by registered mail all such licensed holders setting forth clearly the requirements of or the grades so established and the date when they become effective.

Sardines intended for export shall not be deemed to be packed in violation of this section if

1. Specifications. They accord to the specifications of the foreign purchaser;

2. Laws of foreign country. The product is not in conflict with the laws of the foreign country to which it is intended for export;

3. Labelled. Is labelled on the outside of the shipping package to show that it is intended for export; and

4. Bond. The licensee under section 4153 gives a bond with good and sufficient sureties in an amount not less than twice the value of the sardines running to the commissioner and his successors in office conditioned that such fish shall be exported to a foreign country to be named therein with whose laws it is not in conflict, and shall not be reimported into the United States by any person.

R.S.1954, c. 32, § 263; 1955, c. 174, §§ 5-8; c. 208; 1957, c. 92, § 3; 1959, c. 243, § 1; 1961, c. 33.

§ 4158. Cans to be sealed and lined

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.

R.S.1954, c. 32, § 265.

§ 4159. Sale or packing of herring

It shall be unlawful for any person, firm or corporation to sell, offer for sale or transfer in any manner herring taken in the coastal waters of Maine, which are less than 7 inches long measured from one extreme to another, to any person, firm or corporation, other than for human consumption or bait purposes, unless such herring are not desirable for processing for human consumption; provided there is a buyer of herring for processing

for human consumption within a reasonable distance of the place where such herring are caught and available at the time they are offered for sale, ready and willing to purchase at a price acceptable to the seller. No person, firm or corporation shall can, pack or otherwise process such herring except for human consumption. Where herring under the size of 7 inches in length are mixed with larger herring and the herring of prohibited size represent less than 25% by weight of the total catch, sale or purchase, the foregoing provisions shall not be applicable.

R.S.1954, c. 32, § 266.

§ 4160. Penalties

Any person, firm, corporation, association or society who shall pack sardines in the State for sale without the license provided for in section 4153, or who shall violate any of the provisions of this chapter, or neglect or refuse to comply with any of the provisions required in this chapter or in any way violate any of its provisions may be punished by a fine not exceeding \$500 or by imprisonment for not more than 6 months, or by both for each and every offense.

R.S.1954, c. 32, § 267; 1955, c. 174, § 9.