

CHAPTER 604**MILK TAX****§2991. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1991, c. 376, §28 (NEW).]

- 1. Board.** "Board" means the Maine Dairy Promotion Board.
[PL 1991, c. 376, §28 (NEW).]
- 2. Class I milk.** "Class I milk" means:
 - A. All fluid milk sold, distributed or disposed of as or in milk that contains not more than 11% butterfat and skim milk and cultured buttermilk sold for human consumption; and [PL 1991, c. 376, §28 (NEW).]
 - B. All milk products sold, distributed or disposed of for human consumption as or in flavored milk and flavored skim milk. [PL 1991, c. 376, §28 (NEW).]
[PL 1991, c. 376, §28 (NEW).]
- 3. Consumer.** "Consumer" means any person other than a milk dealer who purchases milk for fluid consumption.
[PL 1991, c. 376, §28 (NEW).]
- 3-A. Council.** "Council" means the Maine Dairy and Nutrition Council.
[PL 1995, c. 693, §6 (NEW); PL 1995, c. 693, §25 (AFF).]
- 4. Dealer.** "Dealer" means any person who purchases or receives milk for sale as the consignee or agent of a producer or handles milk for sale, shipment, storage or processing within the State. "Dealer" includes a producer dealer or a store.
[PL 1991, c. 376, §28 (NEW).]
- 5. Milk.** "Milk" means cows' milk and includes cream. One quart of cream is considered the equivalent of 4 quarts of milk.
[PL 1991, c. 376, §28 (NEW).]
- 6. Producer.** "Producer" means any person who produces milk and sells milk to a dealer.
[PL 1991, c. 376, §28 (NEW).]
- 7. Producer dealer.** "Producer dealer" means any dealer who produces a part or all of that dealer's milk and sells milk to other than a dealer.
[PL 1991, c. 376, §28 (NEW).]
- 8. Records.** "Records" means books, records, accounts, memoranda or other data pertaining to the purchase and distribution of milk.
[PL 1991, c. 376, §28 (NEW).]
- 9. Store.** "Store" means a grocery store, dairy products' store, canteen, milk vending machine operator, milk dispensing operator or any similar commercial establishment or outlet or any other place or method of sale in which milk is sold to consumers for consumption off the premises.
[PL 1991, c. 376, §28 (NEW).]

SECTION HISTORY

PL 1991, c. 376, §28 (NEW). PL 1995, c. 693, §6 (AMD). PL 1995, c. 693, §25 (AFF).

§2992. Maine Dairy Promotion Board

(REPEALED)

SECTION HISTORY

PL 1991, c. 376, §28 (NEW). PL 1993, c. 689, §1 (AMD). PL 1995, c. 693, §7 (RP). PL 1995, c. 693, §25 (AFF).

§2992-A. Maine Dairy Promotion Board

1. Board established as a public instrumentality. The Maine Dairy Promotion Board is established as a public body corporate and politic and a public instrumentality of the State. The exercise of powers conferred by this chapter is held to be the performance of essential government functions.

A. Employees of the board may not be construed to be state employees for any purpose, including the state civil service provisions of Title 5, Part 2 and Title 5, chapter 372. [PL 1995, c. 693, §8 (NEW); PL 1995, c. 693, §25 (AFF).]

B. The board may not be construed to be a state agency for any purposes, including the budget, accounts and control, auditing, purchasing or other provisions of Title 5, Part 4. [PL 1995, c. 693, §8 (NEW); PL 1995, c. 693, §25 (AFF).]

C. Notwithstanding paragraphs A and B:

(1) Employees of the board, including employees hired after July 1, 1996, are state employees for the purposes of the state retirement provisions of Title 5, Part 20 and the state employee health insurance program under Title 5, chapter 13, subchapter 2;

(2) All meetings and records of the board are subject to the provisions of Title 1, chapter 13, subchapter 1, except that, by majority vote of those members present recorded in a public session, records and meetings of the board may be closed to the public when public disclosure of the subject matter of the records or meetings would adversely affect the competitive position of the milk industry of the State. The Commissioner of Agriculture, Conservation and Forestry and those members of the Legislature appointed to serve on the joint standing committee of the Legislature having jurisdiction over agricultural, conservation and forestry matters have access to all material designated confidential by the board;

(3) For the purposes of the Maine Tort Claims Act, the board is a governmental entity and its employees are employees as those terms are defined in Title 14, section 8102;

(4) Funds received by the board pursuant to chapter 611 must be allocated to the board by the Legislature in accordance with Title 5, section 1673; and

(5) Except for representation of specific interests required by subsection 2, members of the board are governed by the conflict of interest provisions set forth in Title 5, section 18. [PL 2019, c. 667, Pt. B, §6 (AMD).]

[PL 2019, c. 667, Pt. B, §6 (AMD).]

2. Board membership. The board consists of the following 5 members:

A. Four members appointed by organizations of producers. Not more than 2 members appointed under this paragraph may be from the same marketing organization. At least one member must be appointed by an independent organization of Maine milk producers; and [PL 2005, c. 382, Pt. E, §1 (AMD).]

B. [PL 2005, c. 382, Pt. E, §2 (RP).]

C. The Commissioner of Agriculture, Conservation and Forestry. [PL 1995, c. 693, §8 (NEW); PL 1995, c. 693, §25 (AFF); PL 2011, c. 657, Pt. W, §6 (REV).]
[PL 2005, c. 382, Pt. E, §1, 2 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

3. Board chair. The board shall annually elect a chair.

[PL 1995, c. 693, §8 (NEW); PL 1995, c. 693, §25 (AFF).]

4. Producer members.

[PL 2005, c. 382, Pt. E, §3 (RP).]

5. Cross membership; prohibition. A board member may not be a member of the Maine Dairy and Nutrition Council, established under section 2998-B.

[PL 1995, c. 693, §8 (NEW); PL 1995, c. 693, §25 (AFF).]

6. Quorum; voting. Fifty-one percent of the members of the board constitutes a quorum and the affirmative vote of at least 51% of members present at a meeting is necessary to transact all business and carry out the duties of the board.

[PL 1995, c. 693, §8 (NEW); PL 1995, c. 693, §25 (AFF).]

7. Terms. Board members are appointed to 4-year terms and may not serve more than 2 consecutive terms. A vacancy caused by death, resignation or otherwise must be promptly filled by the appointing authority for the vacated position. A producer member who changes the market in which the member sells milk is considered to have vacated membership if the change continues in excess of 6 months.

[PL 1995, c. 693, §8 (NEW); PL 1995, c. 693, §25 (AFF).]

8. Compensation. The members of the board are entitled to compensation from funds received pursuant to chapter 611 according to such guidelines as the board may establish.

[PL 1995, c. 693, §8 (NEW); PL 1995, c. 693, §25 (AFF).]

9. Executive director; staff. The board shall appoint an executive director who is the board's chief administrative officer and serves at the pleasure of the board. The executive director shall employ, as the board directs, additional staff who serve at the pleasure of the executive director. The salary paid to the executive director and other staff of the board must be fixed by the board. The board may delegate to its staff the power to execute the board's policies and programs, subject to the board's oversight.

[PL 1995, c. 693, §8 (NEW); PL 1995, c. 693, §25 (AFF).]

10. Sharing of staff. The board and the Maine Dairy and Nutrition Council, established in section 2998-B, may share an executive director and staff. The total salary of a shared employee may be agreed to by the board and council and the percentage of the salary paid by the board must be proportional to the work performed for the board by the shared employee. The board shall utilize accounting procedures adequate to track the proportion of work a shared employee performs for the board.

[PL 1995, c. 693, §8 (NEW); PL 1995, c. 693, §25 (AFF).]

11. Debt. A debt or obligation incurred by the board is not a debt or obligation of the State.

[PL 1995, c. 693, §8 (NEW); PL 1995, c. 693, §25 (AFF).]

SECTION HISTORY

PL 1995, c. 693, §8 (NEW). PL 1995, c. 693, §25 (AFF). RR 1997, c. 2, §30 (COR). PL 2005, c. 382, §§E1-3 (AMD). PL 2007, c. 597, §9 (AMD). PL 2011, c. 657, Pt. W, §6 (REV). PL 2019, c. 667, Pt. B, §6 (AMD).

§2993. Powers and duties

The board is created to promote the prosperity and welfare of this State and of the dairy industry of the State by fostering promotional, educational, advertising and research programs of the dairy industry. The board has the following powers and duties. The board: [PL 1991, c. 376, §28 (NEW).]

1. Contracts and agreements. May make or enter into contracts or agreements with any local, state, federal or private agency, department, firm, corporation or association for the purposes defined in this chapter. The contracts or agreements may include, without limitation, those relating to the lease or purchase of office space, facilities, property, equipment and supplies as the board determines

necessary for its purposes. The board may delegate to its executive director the power to enter into the contracts or agreements, subject to the board's oversight;
[PL 1993, c. 689, §2 (AMD).]

2. Cooperation with other agencies. Shall cooperate with other state or regional agencies with like purposes, including transferring to those agencies any portion of its receipts that it determines appropriate and in the best interests of the dairy industry in the State. In determining those amounts, the board shall consider the relative benefits accruing to all Maine producers from increased fluid milk consumption within the Maine market and the New England market, Federal Milk Marketing Order No. 1; the relative effectiveness of the various programs intended to increase fluid milk consumption for which funding is being considered; appropriate research needs; and other considerations pertinent to the distribution of its funds to other agencies for cooperative efforts;
[PL 1993, c. 689, §2 (AMD).]

3. Books and records. Shall keep books, records and accounts of all its activities, which must be open to inspection and audit by the State at all times. An independent certified public accountant shall conduct an annual audit of the financial records of the board and report the results of the audit to the board, the commissioner, the Treasurer of State and the Legislature;
[RR 1995, c. 2, §17 (COR).]

4. Annual report. Shall prepare an annual report that must include a summary of all receipts and expenditures, including expenditures for specific promotional or research programs; a description of the various promotional or research programs operated, contracted or sponsored by the board; and a directory of current board members, including their affiliation and term of office; and
[PL 1991, c. 376, §28 (NEW).]

5. Funding. May receive and expend funds from any source, public or private, that it determines necessary to carry out its purposes.
[PL 1995, c. 693, §9 (AMD); PL 1995, c. 693, §25 (AFF).]

SECTION HISTORY

PL 1991, c. 376, §28 (NEW). PL 1993, c. 689, §2 (AMD). RR 1995, c. 2, §17 (COR). PL 1995, c. 693, §9 (AMD). PL 1995, c. 693, §25 (AFF).

§2993-A. Collection of fees

A dealer as defined in section 2991 shall withhold from each Maine milk producer a fee of 10¢ per hundredweight on all milk produced and shall forward that payment to the board no later than the last day of the month following the month in which the milk was produced. [PL 1999, c. 161, §2 (NEW).]

All producer dealers shall pay to the board a fee of 10¢ per hundredweight on all milk produced by the producer dealer no later than the last day of the month following the month in which the milk was produced. [PL 1999, c. 161, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 161, §2 (NEW).

§2994. Appropriation of money received

(REPEALED)

SECTION HISTORY

PL 1991, c. 376, §28 (NEW). PL 1995, c. 693, §10 (RP). PL 1995, c. 693, §25 (AFF).

§2994-A. Cooperation with similar boards

The board may cooperate with similar organizations in other states and regions and may pay to the similar organizations that part of its funds as it determines is in the best interest of the dairy industry of the State. [PL 1995, c. 693, §11 (NEW); PL 1995, c. 693, §25 (AFF).]

SECTION HISTORY

PL 1995, c. 693, §11 (NEW). PL 1995, c. 693, §25 (AFF).

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