# TITLE 7

# AGRICULTURE AND ANIMALS

# PART 1

# ADMINISTRATION

# CHAPTER 1

# DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

## §1. Department of Agriculture, Conservation and Forestry

The Department of Agriculture, Conservation and Forestry, is established and is maintained for the improvement of agriculture and the advancement of the interests of husbandry. The Department of Agriculture, Conservation and Forestry is referred to in this Title as the "department" and consists of the Commissioner of Agriculture, Conservation and Forestry, in this Title called the "commissioner," and the following: the Board of Pesticide Control, the Maine Milk Commission, the Maine Potato Board, the Seed Potato Board, the Harness Racing Commission and the Board of Veterinary Medicine. The commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over agriculture matters and to confirmation by the Legislature, and holds office during the pleasure of the Governor. The commissioner is entitled to receive actual expenses incurred in the performance of the commissioner's official duties. The commissioner may employ such clerical labor as may be required, subject to the Civil Service Law, and may expend such sums for postage, telephone, telegraph and other general office expenses as may be necessary in the performance of the commissioner's duties, the same to be paid out of any money appropriated by the Legislature for such purpose. [PL 2009, c. 369, Pt. A, §20 (AMD); PL 2011, c. 657, Pt. W, §§5, 6 (REV).]

SECTION HISTORY

PL 1965, c. 253, §§1-3 (AMD). PL 1965, c. 421, §§3,4 (AMD). PL 1967, c. 476, §13 (AMD). PL 1969, c. 504, §15 (AMD). PL 1971, c. 490, §§1,3 (AMD). PL 1971, c. 594, §1 (AMD). PL 1973, c. 95, §1 (AMD). PL 1973, c. 537, §5 (AMD). PL 1973, c. 788, §29 (AMD). PL 1975, c. 444, §1 (AMD). PL 1975, c. 477, §1 (AMD). PL 1975, c. 771, §96 (RPR). PL 1979, c. 731, §§2,3 (AMD). PL 1983, c. 308, §§1,14 (AMD). PL 1985, c. 785, §B42 (AMD). PL 1987, c. 435, §2 (AMD). PL 1991, c. 837, §A12 (AMD). PL 1995, c. 502, §C3 (AMD). PL 1995, c. 693, §3 (AMD). PL 2009, c. 369, Pt. A, §20 (AMD). PL 2011, c. 657, Pt. W, §§5, 6 (REV).

## §1-A. Legislative intent

The Legislature finds agriculture to be a major industry in the State, contributing substantially to the state's overall economy, essential to the maintenance and strengthening of rural life and values and necessary to the preservation of the health, safety and welfare of all of the people of this State. [PL 1979, c. 731, §4 (NEW).]

The survival of the family farm is of special concern to the people of the State, and the ability of the family farm to prosper, while producing an abundance of high quality food and fiber, deserves a place of high priority in the determination of public policy. For this purpose there is established the Department of Agriculture, Conservation and Forestry. [PL 1979, c. 731, §4 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

PL 1979, c. 731, §4 (NEW). PL 2011, c. 657, Pt. W, §5 (REV).

**§1-B. Preservation of rural life and values; joint responsibility**

The Legislature finds there has been a dramatic increase of interest in rural living and small and part-time farming; that a high proportion of the population in rural areas is poor, elderly and underemployed; agriculture is significant to the State's economy and that a prospering, stable rural community contributes to the rural quality of life, the preservation of productive farm, farmlands and open space. [RR 1991, c. 2, §21 (COR).]

The Legislature finds that programs that improve the employment opportunity, rural skills, food supply, health and nutrition of the rural people of Maine will improve the economy of Maine and improve the rural quality of life and the health of people and are therefore in the public interest. [RR 1991, c. 2, §21 (COR).]

The Legislature further finds the preservation of rural life and values in the State to be the joint responsibility of all public agencies, local, state and federal, whose policies and programs substantially impact the economy and general welfare of people who reside in rural Maine, such as the development and implementation of programs that assist in the maintenance of family farms, provide specialized opportunities for education and technical training and improve health and nutrition. The state agencies in addition to the department include, but are not limited to, the Department of Education, Department of Health and Human Services, Department of Labor and the Department of Agriculture, Conservation and Forestry. [RR 1991, c. 2, §21 (COR); PL 2003, c. 689, Pt. B, §6 (REV); PL 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

PL 1983, c. 532, §1 (NEW). PL 1989, c. 700, §A29 (AMD). RR 1991, c. 2, §21 (COR). PL 2003, c. 689, §B6 (REV). PL 2011, c. 657, Pt. W, §5 (REV).

**§1-C. Rules and regulatory and enforcement authority regarding the Marijuana Legalization Act**

**(REPEALED)**

SECTION HISTORY

PL 2017, c. 278, §1 (NEW). PL 2017, c. 409, Pt. A, §2 (RP).

**§2. -- duties**

The commissioner is the chief executive charged with the enforcement of all statutes delegating responsibility to the commissioner or the department and shall be vigilant in discovering violations thereof and making complaint to the proper authorities. The commissioner shall by personal observation, investigation and correspondence become acquainted 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 and with the progress of scientific and practical agriculture elsewhere, with a view to the more complete development of the natural resources of the State. The commissioner shall gather statistics of information concerning agriculture and publish the same annually. The commissioner 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. The commissioner shall make and preserve a full record of all rules and regulations promulgated under this Title, and all payments and expenses incurred hereunder, and all other transactions performed by the commissioner in the discharge of the commissioner's duties. The commissioner shall collect the legal and usual fees payable to the commissioner by virtue of the office and shall pay them over forthwith to the Treasurer of State. [RR 2021, c. 1, Pt. B, §49 (COR).]

The commissioner is the chief administrative officer of the department. The commissioner has the following duties in addition to those specified in this section: [RR 2021, c. 1, Pt. B, §50 (COR).]

**1. Budget.** Prepare a budget for the department.
[PL 1971, c. 594, §2 (NEW).]

**2. Personnel.** Transfer personnel within the department to insure the efficient utilization of department personnel.
[PL 1971, c. 594, §2 (NEW).]

**3. Purchases.** Coordinate the purchase and use of all department equipment.
[PL 1971, c. 594, §2 (NEW).]

**4. Review.** Review the function and operation of the divisions to insure that overlapping functions and operations are eliminated.
[PL 1971, c. 594, §2 (NEW).]

**5. Report.** Report and make recommendations to the Governor and Legislature with respect to methods of stimulating and encouraging the growth and modernization of agricultural enterprises in this State. The report must be submitted to the Governor and the joint standing committee of the Legislature having jurisdiction over agriculture matters no later than December 1st of each even numbered year. For purposes of obtaining information, the Department of Agriculture, Conservation and Forestry may hold public hearings throughout the State, after giving public notice of the public hearings.
[PL 1991, c. 837, Pt. A, §13 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

**6. Strategic plan to end hunger.** Act as the lead among departments and agencies of State Government to implement a strategic plan to end hunger in the State by 2030. The Office of Policy Innovation and the Future, established in Title 5, section 3102, shall provide staffing services to the commissioner as necessary for purposes of this subsection. Strategies must include:

A. Building infrastructure and capacity necessary within and outside State Government to coordinate implementation of the plan to end hunger in the State; [PL 2021, c. 677, §1 (NEW).]

B. Ensuring consistent, easy and equitable access to healthy and culturally appropriate food; [PL 2021, c. 677, §1 (NEW).]

C. Promoting, supporting and enabling economic security and opportunity for all households in the State; [PL 2021, c. 677, §1 (NEW).]

D. Focusing on collective responsibility to amplify the voices of persons experiencing food insecurity; [PL 2025, c. 309, §2 (AMD).]

E. Closing the equity gap in household food insecurity by addressing underlying structural inequities; and [PL 2025, c. 309, §3 (AMD).]

F. Protecting the right to food as declared in the Constitution of Maine, Article I, Section 25. [PL 2025, c. 309, §4 (NEW).]

The commissioner shall establish an advisory committee to guide the implementation of the strategic plan under this subsection to end hunger in the State. The advisory committee must be composed of members with expertise relevant to the strategic plan to end hunger in the State, including, but not limited to, expertise related to economic development, employment, housing, children's issues, health care, education, transportation, emergency food and the social safety net as well as expertise that derives from lived experience of poverty and food insecurity. At least 1/3 of the members, or 3 members, whichever is greater, of the advisory committee must be persons with lived experience of food insecurity or generational poverty. The advisory committee shall submit a report to the joint standing committees of the Legislature having jurisdiction over agricultural matters, health and human services matters, labor and housing matters, transportation matters and economic and community development

matters no later than January 1st of each year until 2030 regarding activities and progress made toward ending hunger in the State by 2030. The joint standing committees may each submit a bill to the Legislature each year relating to the subject matter of the report.
[PL 2025, c. 309, §§2-4 (AMD).]

The commissioner does not have authority to exercise or interfere with the exercise of any discretionary statutory authority granted to the following, which authority is exclusively within the specific board, bureau, agency, commission, committee or other governmental unit: the Maine Milk Commission, the Seed Potato Board, the Harness Racing Commission, the Maine Potato Board, the Board of Veterinary Medicine and the Board of Pesticide Control. [PL 1995, c. 693, §4 (AMD).]

In addition, the commissioner shall be concerned with the quality of life of Maine farmers and rural communities. The commissioner shall promote: farm financing and rural development proposals; conservation and preservation of agricultural lands; increased and improved production of beef, poultry, sheep, dairy beef and other livestock; expanded and improved production of potatoes, fruits and other vegetables and horticultural ventures; coordinated foreign and domestic marketing of Maine agricultural products; in conjunction with the University of Maine, crop development and integrated pest management; and conservation of nonrenewable energy resources and utilization of renewable energy resources in conjunction with the Department of Energy Resources. To accomplish these objectives, the commissioner is authorized for, or on behalf of, Maine's farmers and rural community: to engage in research and educational programs; to participate directly or indirectly in programs to encourage and enable individuals to enter agricultural or other rural enterprises; to institute litigation or upon request to represent farmers or other members of the rural community in litigation when the commissioner determines that such litigation may be beneficial to agricultural industry as a whole; and to exercise all other powers of an agency of State Government. The commissioner may study such issues and, consistent with statute, take such actions either individually, for, or on behalf of, the State's farmers or rural residents, or jointly with such other persons, agencies or organizations as the commissioner determines may benefit the State's farmers and rural communities. To further accomplish these objectives, the commissioner is authorized beginning July 1, 1991, on behalf of the State's rural community, to administer food assistance programs including the receipt, distribution and administration of federal and state funds, including block grants, for food assistance. [PL 2025, c. 597, Pt. A, §6 (AMD).]

The commissioner may prepare and distribute printed and audio-visual materials on matters within the commissioner's statutory jurisdiction. There is established within the department a revolving fund to cover the printing and distribution costs of these materials. The commissioner shall fix the prices at which publications of the department may be sold or delivered. The department shall retain, without charge, an appropriate number of each publication for complimentary distribution. Income from the sale of publications that were charged to the revolving fund and any other money the commissioner may receive, from whatever source, consistent with the purposes of this section, must be credited to the revolving fund to be used as a continuing carrying account to carry out the purposes of the revolving funds. [RR 2021, c. 1, Pt. B, §51 (COR).]

The commissioner shall review proposed laws and rules that affect agricultural activity for their impact on soil tillage and animal grazing practices and their impact on the storage and use of animal manures and chemical fertilizers. The commissioner shall analyze the qualitative and quantitative impacts of proposed laws and rules that affect agricultural activity and present the analysis in public testimony to the Legislature on the proposed laws and rules. [PL 1989, c. 836, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 594, §2 (AMD). PL 1973, c. 95, §2 (AMD). PL 1973, c. 598, §1 (AMD). PL 1975, c. 444, §2 (AMD). PL 1975, c. 477, §2 (AMD). PL 1975, c. 584 (AMD). PL 1979, c. 731, §§5-7,19 (AMD). PL 1981, c. 372 (AMD). PL 1983, c. 10, §1 (AMD). PL 1983, c. 308, §§2,14

(AMD). PL 1989, c. 501, §DD18 (AMD). PL 1989, c. 701, §§1,6 (AMD). PL 1989, c. 836, §1 (AMD). PL 1989, c. 878, §B7 (AMD). PL 1991, c. 9, §I6 (AMD). PL 1991, c. 837, §A13 (AMD). PL 1995, c. 693, §4 (AMD). PL 2011, c. 655, Pt. MM, §5 (AMD). PL 2011, c. 655, Pt. MM, §26 (AFF). PL 2011, c. 657, Pt. W, §5 (REV). PL 2017, c. 94, §1 (AMD). PL 2019, c. 310, §1 (AMD). RR 2021, c. 1, Pt. B, §§49-51 (COR). PL 2021, c. 677, §1 (AMD). PL 2025, c. 309, §§2-4 (AMD). PL 2025, c. 597, Pt. A, §6 (AMD).

**§2-A. Hunters for the Hungry Program; acceptance of donations**

**(REPEALED)**

SECTION HISTORY

PL 1995, c. 667, §C1 (NEW). PL 2003, c. 414, §B11 (AMD). PL 2003, c. 414, §D7 (AFF). PL 2003, c. 614, §9 (AFF). PL 2005, c. 614, §2 (RP).

**§2-B. Rural Rehabilitation Operating Fund**

The Rural Rehabilitation Operating Fund is established as a nonlapsing fund in the Department of Agriculture, Conservation and Forestry to be used for the administrative expenditures incurred in the operation of the Rural Rehabilitation Trust Fund and the issuance of scholarships and loans from that trust fund. The Rural Rehabilitation Operating Fund must receive all interest earned on the trust fund balance and any interest collected on outstanding loans receivable. Unexpended balances in the Rural Rehabilitation Operating Fund at the end of a fiscal year may not lapse, but are carried forward to the next fiscal year to be used for the same purpose. [PL 1999, c. 401, Pt. H, §1 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

PL 1999, c. 401, §H1 (NEW). PL 2011, c. 657, Pt. W, §5 (REV).

**§3. Bureaus and divisions**

The commissioner may establish and organize such bureaus and divisions in the department as the commissioner considers necessary and may incorporate the commissions, boards and committees of the department within these bureaus and divisions. The commissioner may issue such administrative orders as the commissioner considers necessary to carry out the functions of the department. [RR 2021, c. 1, Pt. B, §52 (COR).]

Directors are unclassified employees and are appointed by the commissioner. [PL 2005, c. 337, §3 (NEW); PL 2005, c. 337, §4 (AFF).]

SECTION HISTORY

PL 1967, c. 300, §1 (AMD). PL 1971, c. 594, §3 (RPR). PL 1973, c. 598, §2 (RPR). PL 1979, c. 731, §8 (RPR). PL 2005, c. 337, §3 (AMD). PL 2005, c. 337, §4 (AFF). RR 2021, c. 1, Pt. B, §52 (COR).

**§4. Rules of construction**

The word "person" as used in this Title must be construed to import both the singular and the plural, as the case demands, and includes corporations, companies, societies and associations. When construing and enforcing this Title, 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 the officer's, agent's or other person's employment or office, must in every case be deemed to be the act, omission or failure of such corporation, company, society or association as well as that of the person. [RR 2021, c. 1, Pt. B, §53 (COR).]

SECTION HISTORY

RR 2021, c. 1, Pt. B, §53 (COR).

**§5. Deputies**

The commissioner may appoint and fix the compensation of those deputies that in the commissioner's judgment are required to assist and enable the commissioner to carry out all laws, the execution of which is entrusted to the commissioner. These deputies hold office during the pleasure of the commissioner. [PL 1997, c. 643, Pt. NN, §3 (AMD).]

SECTION HISTORY

PL 1975, c. 771, §97 (AMD). PL 1979, c. 731, §9 (AMD). PL 1995, c. 502, §C4 (AMD). PL 1997, c. 643, §NN3 (AMD).

**§6. Farmers' institutes**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 594, §4 (RP).

**§7. Dairymen's conference**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 594, §4 (RP).

**§8. Horticultural and dairy work**

The commissioner shall aid and assist societies and associations organized and established for the advancement of pomology, horticulture and dairy work, and societies devoted to the interests of the pure breeding of stock of all kinds.

**§9. Cooperative agreements**

The commissioner may enter into agreements or cooperative arrangements with a state or federal agency or with any person, firm or corporation for the purpose of controlling diseases of plants and domestic animals, advertising and increasing the sale and consumption of Maine food products or disseminating information concerning the grade, quality or condition of same, and supplying inspection and grading services with respect to such food products. The commissioner may receive, administer and disburse any funds or contributions from such state or federal agency, person, firm or corporation, either independently or in conjunction with state funds allocated to said purpose. Funds so contributed do not lapse at the end of any fiscal year but are carried forward to be used for the purpose originally intended. [RR 2021, c. 1, Pt. B, §54 (COR).]

SECTION HISTORY

PL 1973, c. 44 (AMD). RR 2021, c. 1, Pt. B, §54 (COR).

**§10. Biennial report**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 771, §98 (AMD). PL 1991, c. 837, §A14 (RP).

**§11. Annual account of expenditures**

The commissioner shall render on the first day of July of each year a detailed and itemized account of all expenses of the commissioner's office, of all institutes held and of all money paid out for employees under the provisions hereof, all sums of money paid for prizes on exhibits and for all other purposes. For this purpose the commissioner shall keep necessary books in which an account of all

money received and expended is entered, which books must be open to public inspection. [RR 2021, c. 1, Pt. B, §55 (COR).]

SECTION HISTORY

RR 2021, c. 1, Pt. B, §55 (COR).

**§12. Rules and standards**

The commissioner shall adopt, consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, rules for carrying out this Title and all other statutes delegating responsibility to the commissioner or the department. The commissioner may 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 commercial feeding stuff, commercial fertilizer, drug or food as the commissioner may consider to be of public benefit. [RR 2021, c. 1, Pt. B, §56 (COR).]

SECTION HISTORY

PL 1973, c. 598, §3 (AMD). PL 1977, c. 694, §41 (AMD). PL 1983, c. 308, §§3,14 (AMD). RR 2021, c. 1, Pt. B, §56 (COR).

**§12-A. Emergency rules**

Notwithstanding Title 5, section 8054, subsection 3, an emergency rule adopted under any of the provisions of chapter 201, 301, 303, 305, 401, 403, 405-A, 409, 411 or 525 may be renewed when the commissioner determines that the circumstances creating the emergency continue to exist. Emergency rules may be renewed for successive 90-day periods under this section until the department has a reasonable opportunity to conduct rulemaking pursuant to Title 5, chapter 375. [PL 1991, c. 785, §1 (NEW).]

SECTION HISTORY

PL 1991, c. 785, §1 (NEW).

**§13. Enforcement**

The commissioner shall diligently enforce all provisions of this Title and all other statutes delegating responsibility to the commissioner or the department and is entitled to and must receive the assistance of the Attorney General and of the several county attorneys. The commissioner may recover the penalties imposed for violations of this Title and Title 32, chapter 27 in a civil action brought in the commissioner's own name, the venue to be as in other civil actions, and if the commissioner prevails in any such action, recovers full costs, or the commissioner may prosecute for violations hereof by complaint or indictment, and such prosecution must be commenced in the county in which the offense was committed. [RR 2021, c. 1, Pt. B, §57 (COR).]

For the purposes of chapter 103, subchapter 10, notwithstanding the provisions of the District Court Civil Rules, Rule 80E, paragraph (b), the commissioner may obtain an administrative inspection warrant upon demonstrating the statutory or other authority pursuant to which the commissioner is authorized to conduct inspections, the premises to be inspected, the purpose of the inspection and that the inspection sought is reasonable and represents a minimal intrusion in furtherance of a legitimate governmental obligation of the department. This demonstration is deemed to be a demonstration of probable cause. [RR 2021, c. 1, Pt. B, §57 (COR).]

SECTION HISTORY

PL 1973, c. 598, §4 (AMD). PL 1981, c. 513, §1 (AMD). PL 1983, c. 308, §§4,14 (AMD). RR 2021, c. 1, Pt. B, §57 (COR).

**§14. Hearings on violations**

**(REPEALED)**

SECTION HISTORY

PL 1967, c. 494, §5 (AMD). PL 1973, c. 598, §5 (AMD). PL 1977, c. 694, §42 (AMD). PL 1983, c. 308, §§5,14 (AMD). PL 2005, c. 512, §1 (RP).

**§15. Jurisdiction; disposal of fines**

The District Court and the Superior Court shall have concurrent jurisdiction of actions brought for the recovery of penalties imposed by this Title, Title 17, chapter 43 and Title 32, chapter 27, and of prosecutions for violations hereof. All fines received under this Title and Title 32, chapter 27 shall accrue to the Treasurer of State for deposit in the General Fund. [PL 1973, c. 598, §61 (AMD).]

SECTION HISTORY

PL 1973, c. 598, §6 (AMD).

**§16. Penalties**

Unless a specific penalty has otherwise been provided, a person, firm, partnership or corporation that violates a provision of this Title or a rule adopted pursuant to this Title commits a civil violation for which a forfeiture of not less than $100 nor more than $500 may be adjudged. [PL 2001, c. 421, Pt. B, §2 (RPR); PL 2001, c. 421, Pt. C, §1 (AFF).]

SECTION HISTORY

PL 1977, c. 696, §54 (RPR). PL 2001, c. 421, §B2 (RPR). PL 2001, c. 421, §C1 (AFF).

**§17. Investigation authorized**

In addition to duties expressly authorized in this Title, the commissioner may, upon complaint or for other reasonable cause, investigate any farm operation, method or practice with respect to animal waste in order to determine whether such operation, method or practice may have an adverse effect upon waters of the State as defined in Title 38, section 361-A, subsection 7. [PL 2005, c. 382, Pt. B, §1 (AMD).]

When in the opinion of the commissioner such adverse effects are evident, the commissioner shall bring such fact to the attention of the appropriate individuals and agencies empowered to restrain such practices and equipped to provide assistance that may bring about necessary improvements in the operation, method or practice cited. The cost of such investigation must be borne by the State. [RR 2021, c. 1, Pt. B, §58 (COR).]

SECTION HISTORY

PL 1973, c. 541 (NEW). PL 2005, c. 382, §B1 (AMD). RR 2021, c. 1, Pt. B, §58 (COR).

**§18. Connectors**

**(REPEALED)**

SECTION HISTORY

PL 1989, c. 869, §C1 (NEW). PL 1989, c. 876, §B2 (NEW). PL 1991, c. 415, §1 (RPR). PL 1991, c. 833, §§1,2 (AMD). PL 1993, c. 341, §§1,2 (AMD). PL 1993, c. 341, §8 (AFF). PL 1993, c. 743, §§1,2 (AMD). PL 1995, c. 480, §1 (RP).

**§18-A. Connectors**

**(REPEALED)**

SECTION HISTORY

PL 1993, c. 341, §3 (NEW). PL 1993, c. 743, §3 (AMD). PL 1995, c. 480, §2 (RP).

**§18-B. Ring holding devices**

A person may not sell or offer for sale products in containers connected by a separate holding device constructed of plastic rings with at least one hole larger than 1 3/4 inches in diameter, unless the device decomposes by photodegradation, chemical degradation or biodegradation within a reasonable period of time upon exposure to the elements, in accordance with regulations adopted by the United States Environmental Protection Agency, effective September 1, 1994 and codified at 40 Code of Federal Regulations, Part 238. [PL 1995, c. 480, §3 (NEW).]

SECTION HISTORY

PL 1995, c. 480, §3 (NEW).

**§19. Holding of real estate**

The commissioner may accept, hold, administer, retain and dispose of interests in real estate in order to further the purposes of this Title. [PL 2001, c. 548, §3 (AMD).]

SECTION HISTORY

PL 1991, c. 415, §2 (NEW). PL 2001, c. 548, §3 (AMD).

**§20. Confidential information**

**1. Types of information.** Information provided to the department voluntarily or to fulfill reporting requirements is designated as confidential for the purposes of Title 1, section 402, subsection 3, paragraph A if:

A. The person to whom the information belongs or pertains has requested that it be designated as confidential; and [PL 1999, c. 140, §1 (NEW).]

B. The department has determined that failure to designate the information as confidential would provide competitors an opportunity to obtain business or competitive advantage over the person to whom the information belongs or pertains or would result in loss or other significant detriment to that person. [PL 1999, c. 140, §1 (NEW).]

Summary reports of information designated as confidential may be published using aggregate data that does not reveal the activities of an individual person or firm.
[PL 1999, c. 140, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 140, §1 (NEW).

## CHAPTER 2

## INTEREST IN AGRICULTURAL LAND

**§31. Title**

This chapter shall be known and may be cited as the "Agricultural Land Interest Act." [PL 1983, c. 396, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 396, §1 (NEW).

**§32. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1983, c. 396, §1 (NEW).]

**1. AFIDA.** "AFIDA" means the Agricultural Foreign Investment Disclosure Act of 1978, United States Code, Title 7, Section 3501, et seq.

[PL 1983, c. 396, §1 (NEW).]

**2. Agricultural land.** "Agricultural land" means any land in Maine which is used or capable of use without substantial modification for production of agriculturally related products including, but not limited to, crops, livestock, poultry, dairy products and sod.
[PL 1983, c. 396, §1 (NEW).]

**3. Commissioner.** "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry or the commissioner's authorized agents.
[RR 2021, c. 1, Pt. B, §59 (COR).]

**4. Family farm corporation.** "Family farm corporation" means a corporation founded for the purpose of farming and the ownership of agricultural land; the majority of the voting stock must be held by, and a majority of the shareholders must be, persons or the spouses of persons related to each other within the 3rd degree of kindred and at least one of the related persons must reside on or actively operate the farm; and none of the shareholders may be a corporation. A family corporation does not cease to qualify as such by reason of any bequest of voting stock.
[PL 1983, c. 396, §1 (NEW).]

**5. Farm partnership.** "Farm partnership" means an association of 2 or more individuals formed for the purpose of farming.
[PL 1983, c. 396, §1 (NEW).]

**6. Interest in land.** "Interest in land" means all forms of direct or indirect ownership of land, except:

A. Contingent future interests; [PL 1983, c. 396, §1 (NEW).]

B. Noncontingent future interests which do not become possessory upon the termination of the present possessory estate; and [PL 1983, c. 396, §1 (NEW).]

C. Surface or subsurface easements and rights-of-way used for a purpose unrelated to agricultural production. [PL 1983, c. 396, §1 (NEW).]

[PL 1983, c. 396, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 396, §1 (NEW). PL 2011, c. 657, Pt. W, §6 (REV). RR 2021, c. 1, Pt. B, §59 (COR).

**§33. Report required**

**1. Conditions requiring report.** Any corporation or partnership which, on its own behalf or acting as a fiduciary or trustee on behalf of another, holds, acquires or transfers any interest in agricultural land shall submit an annual report to the commissioner not later than 90 days after January 1st or the date of that acquisition or transfer, whichever is earlier.
[PL 1983, c. 396, §1 (NEW).]

**2. Contents of report.** The report shall be in such form as the commissioner may require and shall contain:

A. The legal name and address of the corporation or partnership filing and type of legal entity; [PL 1983, c. 396, §1 (NEW).]

B. The nature of the interest in agricultural land which that corporation or partnership has acquired or transferred and the date of that activity; [PL 1983, c. 396, §1 (NEW).]

C. The legal description and acreage of the agricultural land; [PL 1983, c. 396, §1 (NEW).]

D. The use of the agricultural land at the date of acquisition or transfer and the use to which the land shall be put by the person acquiring it; [PL 1983, c. 396, §1 (NEW).]

E. The appraised value of the agricultural land and the consideration given; [PL 1983, c. 396, §1 (NEW).]

F. The name, address and type of legal entity of the person from whom acquired or to whom transferred; and [PL 1983, c. 396, §1 (NEW).]

G. Such other information as the commissioner may require by regulation adopted in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375. [PL 1983, c. 396, §1 (NEW).]

[PL 1983, c. 396, §1 (NEW).]

**3. AFIDA report.** A corporation or partnership may fulfill the reporting requirement of this section by submitting a copy of its federal AFIDA report.

[PL 1983, c. 396, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 396, §1 (NEW).

**§34. Exemptions**

**1. Family farm corporation or partnership.** A family farm corporation or farm partnership as defined in section 32 shall not be required to comply with the reporting requirements in section 33.

[PL 1983, c. 396, §1 (NEW).]

**2. Ten-acre exemption.** A corporation or partnership owning less than 10 acres of land, which is the subject of a single acquisition or transfer, is not required to comply with the reporting requirements in section 33.

[PL 1983, c. 396, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 396, §1 (NEW).

**§35. Regulations**

The commissioner may prescribe regulations in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, for carrying out the purposes of this chapter. [PL 1983, c. 396, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 396, §1 (NEW).

**§36. Penalties**

**1. Violation.** Any corporation or partnership subject to this chapter which violates this law or the regulations adopted thereunder or which submits a report which contains information that is false or misleading shall be subject to a civil penalty, payable to the State, of not more than $50 for each day of the violation.

[PL 1983, c. 396, §1 (NEW).]

**2. Warning.** A corporation or partnership subject to this chapter which does not comply with the law in a timely fashion shall first receive a written warning from the Department of Agriculture, Conservation and Forestry which will require presentation of the information within 30 days. After the 30-day notice period is expired, penalties described in subsection 1 shall be imposed.

[PL 1983, c. 396, §1 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

PL 1983, c. 396, §1 (NEW). PL 2011, c. 657, Pt. W, §5 (REV).

## CHAPTER 2-A

## AGRICULTURAL LAND AND ADJACENT DEVELOPMENT

## (REPEALED)

**§41. Purpose**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 650 (NEW). PL 1989, c. 478, §4 (RP).

**§42. Definitions**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 650 (NEW). PL 1989, c. 478, §4 (RP).

**§43. Registration**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 650 (NEW). PL 1989, c. 478, §4 (RP).

**§44. Proceedings**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 650 (NEW). PL 1987, c. 861, §§9,10 (AMD). PL 1989, c. 478, §4 (RP).

**§45. Disclosure required**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 650 (NEW). PL 1989, c. 478, §4 (RP).

**§46. Prohibited acts**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 650 (NEW). PL 1989, c. 478, §4 (RP).

**§47. Variance**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 650 (NEW). PL 1989, c. 478, §4 (RP).

**§48. Enforcement and penalties**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 650 (NEW). PL 1989, c. 478, §4 (RP).

**§49. Other laws not affected**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 650 (NEW). PL 1989, c. 478, §4 (RP).

## CHAPTER 2-B

## REGISTRATION OF FARMLAND

**§51. Purpose**

The Legislature finds that the public health, safety and welfare is threatened when land immediately adjacent to farmland is developed for human habitation. This development and the uses incident to it are inconsistent with various activities commonly engaged in on farmland, such as the application of agricultural chemicals. The Legislature declares that the purposes of this chapter are: [PL 1989, c. 478, §1 (NEW).]

**1. Health impacts.** To minimize any health or other adverse impacts which common agricultural activities may have on the occupants of land adjacent to farmland;
[PL 1989, c. 478, §1 (NEW).]

**2. Agricultural activities.** To protect the ability of farmers to engage in common agricultural activities with minimal potential for causing harm to their neighbors;
[PL 1989, c. 478, §1 (NEW).]

**3. Full land use.** To permit the owners of both farmland and adjacent land to maintain to the highest degree possible the full use and enjoyment of their land, but to recognize the importance of agriculture to the economic and social welfare of the State;
[PL 1989, c. 478, §1 (NEW).]

**4. Production capacity.** To conserve agricultural production capacity for present needs and for the future;
[PL 1989, c. 478, §1 (NEW).]

**5. Harmony.** To promote harmony between agriculture and adjacent nonfarm development;
[PL 1989, c. 478, §1 (NEW).]

**6. Responsibility.** To recognize the mutual responsibility of agricultural operators and persons siting nonfarm development adjacent to farmland to take steps to accommodate each other's concerns and the public interest;
[PL 1989, c. 478, §1 (NEW).]

**7. Public records.** For purposes of administering this regulatory program, to create in each municipality and each county registry of deeds a register of farmland which will provide a public record and enable disclosure to potential buyers of real estate and the public regarding the existence of active farming operations in the community that may be incompatible with residential development on lands in the immediate vicinity; and
[PL 1989, c. 478, §1 (NEW).]

**8. Distance.** When farmland is registered for the application of agricultural chemicals, to provide some accommodation for that activity and for adjacent nonfarm developments by distancing them from each other and by providing a reasonable setback for new residential and other particularly sensitive types of development from actively used agricultural land.
[PL 1989, c. 478, §1 (NEW).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW).

**§52. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 478, §1 (NEW).]

**1. Abutting land.** "Abutting land" means real estate that shares a common boundary, or portion of a boundary, with land that is held in common ownership with land registered or being considered for registration under this chapter when the abutting real estate is within 50 feet of the land registered or being considered for registration. Abutting land includes, but is not limited to, land separated by a road and within 50 feet of land that is held in common ownership with land registered or being considered for registration under this chapter.
[PL 2011, c. 608, §1 (AMD).]

**2. Agricultural chemicals.** "Agricultural chemicals" means fungicides, insecticides, herbicides, and other pesticides.
[PL 1989, c. 478, §1 (NEW).]

**3. Commercial farming.** "Commercial farming" means the production of any farm product with the intent that that farm product be sold or otherwise disposed of to generate income.
[PL 2007, c. 649, §1 (AMD).]

**3-A. Farm product.** "Farm product" means those plants and animals useful to humans and includes, but is not limited to, forages and sod crops, grains and food crops, dairy products, poultry and poultry products, bees, livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses, Christmas trees and other similar products.
[PL 2019, c. 310, §2 (AMD).]

**4. Farmland.** "Farmland" means any tract or tracts of land used for commercial farming:

A. That consists of 5 or more contiguous acres; [PL 1989, c. 478, §1 (NEW).]

B. That has produced a gross annual farming income of at least $2,000 per year from the sales value of farm products in one of the 2, or 3 of the 5, calendar years preceding the date of application for registration under this chapter; and [PL 2011, c. 608, §3 (AMD).]

C. [PL 2011, c. 608, §3 (RP).]

D. That is land on which a farm product is produced. [PL 2011, c. 608, §3 (AMD).]

"Farmland" does not include land used for woodlots, homes, farm buildings, roads, lawns or any area covered with noncrop vegetation that borders abutting land.
[PL 2011, c. 608, §3 (AMD).]

**5. Inconsistent development or use.** "Inconsistent development or use":

A. Means development or use of land which:

(1) Is initiated after the registration of the abutting farmland under this chapter;

(2) Takes place upon abutting land within 100 feet of registered farmland; and

(3) Is of any of the following kinds or is used for any of the following purposes:

(a) Residential buildings;

(b) Public and private wells, drinking water springs and water supply intake points;

(c) School buildings and any playgrounds, athletic fields or other school facilities designed for use by children in the vicinity of school buildings;

(d) Commercial establishments dispensing or selling food; and

(e) Public and commercial campgrounds and picnic areas; and [PL 1989, c. 478, §1 (NEW).]

B. Does not include any:

(1) Expansion of an existing use, provided that, when the existing use includes a building, the expansion does not increase the total floor area of the building by more than 100% and the expansion is no closer to the registered farmland than is the existing building; or

(2) Replacement or reconstruction of an existing building or structure which is damaged or destroyed by fire or other casualty and which is replaced or reconstructed within 2 years of such damage or destruction. [PL 1989, c. 478, §1 (NEW).]

[PL 1989, c. 478, §1 (NEW).]

**6. Incompatible use.** "Incompatible use" means the development or use of abutting land for a well, drinking water spring or water supply intake point when that use is initiated on abutting land that is within 50 feet of farmland after that farmland has been registered under this chapter.
[PL 2011, c. 608, §4 (NEW).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2007, c. 649, §§1, 2 (AMD). PL 2011, c. 608, §§1-4 (AMD). PL 2017, c. 94, §2 (AMD). PL 2019, c. 310, §2 (AMD).

**§53-A. Eligibility**

Any owner who intends to register land as farmland pursuant to section 53-B shall: [PL 1989, c. 478, §1 (NEW).]

**1. Application.** Submit an application for review by the soil and water conservation district in which the land is located in accordance with the provisions of Title 12, section 6-A. The owner shall use an application provided by the department; and
[PL 2011, c. 608, §5 (AMD).]

**2. Notice of intent.** Give notice of intent to register to all abutting landowners, as indicated on municipal or state tax records, a minimum of 15 days prior to submitting registration materials under section 53-B or 53-I. Abutters must be notified on a form provided by the department.
[PL 2011, c. 608, §5 (AMD).]

**3. Farm and Open Space Tax Law.**
[PL 2011, c. 608, §5 (RP).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §5 (AMD).

**§53-B. Registration in 1990 and 1991**

An owner of land may register any designated portion of that land that qualifies as farmland under this chapter as follows. [PL 2011, c. 608, §6 (AMD).]

**1. Registration dates.** Registration must occur between June 1st and June 15th of 1990 or 1991.
[PL 2011, c. 608, §6 (AMD).]

**2. Place of registration.** Registration must occur in the office of the municipality in which the land is located. In the event there is no official municipal office, the registration must take place with the town assessor. In the event the farmland is located in the unorganized territory, the registration must take place in the office of the county in which the land is located.
[PL 2011, c. 608, §6 (AMD).]

**3. Effective date.** A registration takes effect 15 days after receipt of notice by the municipality and abutting owners. If review proceedings are initiated under section 54, the registration is effective when upheld by the municipality.
[PL 2011, c. 608, §6 (AMD).]

**4. Duration.** A registration made under this chapter within the time frame provided under subsection 1 that has not been withdrawn in accordance with section 53-E remains in effect until April 1, 2013. To maintain registration under this chapter after April 1, 2013, a landowner must initially renew registration of the farmland in accordance with subsection 6 and every 5 years thereafter in accordance with section 53-I, subsection 4.
[PL 2011, c. 608, §6 (AMD).]

**5. Registry of deeds.** A copy of the municipal or county registration and any withdrawal bearing the certification of a notary public that the copy is a true and accurate copy must be recorded in the registry of deeds of the county in which the registered farmland or any abutting property is located, and must be indexed in the Grantor index under the entry "Farmland" and filed under "F."
[PL 2011, c. 608, §6 (AMD).]

**6. Renewal.** To renew a registration of farmland that was registered within the time frame provided under subsection 1, the landowner must submit to the department a copy of the notarized registration recorded with the registry of deeds under subsection 5 and comply with the renewal requirements under section 53-I, subsection 4.

A landowner who is unable to demonstrate compliance with all registration requirements under this section may apply for registration under section 53-I but after April 1, 2013 is no longer protected from inconsistent development under section 56, subsection 1.
[PL 2011, c. 608, §6 (NEW).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §6 (AMD).

**§53-C. Registration contents and purpose**

The purpose of a registration is to provide a public record of the existence of actively used farmland in order to assist public disclosure and the setback of inconsistent development under section 56. A registration must include: [PL 2011, c. 608, §7 (AMD).]

**1. Landowner.** The name and address of the landowner;
[PL 1989, c. 478, §1 (NEW).]

**2. Certification.** Certification by the applicable soil and water conservation district that the land is farmland in accordance with the provisions of Title 12, section 6-A;
[PL 1989, c. 478, §1 (NEW).]

**3. Farm and open space classification.**
[PL 2011, c. 608, §7 (RP).]

**4. Crops.** The types of farm products that are grown on the farmland to be registered;
[PL 2011, c. 608, §7 (AMD).]

**5. Acreage.** The acreage of farmland to be registered;
[PL 1989, c. 478, §1 (NEW).]

**6. Income.**
[PL 2011, c. 608, §7 (RP).]

**7. Maps.** A copy of the municipal tax map, when available, and a statement of the tax parcel number or numbers that include the land at issue and any other maps needed to clearly show the location of the land, including a depiction of the distance between areas producing farm products and any

property boundary within 100 feet for farmland registered within the time frame provided under section 53-B, subsection 1 and 50 feet for farmland registered pursuant to section 53-I;
[PL 2011, c. 608, §7 (AMD).]

**8. Deed.** A copy of the registrant's deed; and
[PL 1989, c. 478, §1 (NEW).]

**9. Abutter.** The names and addresses of each abutting landowner to whom notice is being sent pursuant to section 53-D.
[PL 1989, c. 478, §1 (NEW).]

Records of registered farmland must be maintained by each municipality and county registry of deeds in accordance with the provisions of this chapter. Registration must be on forms provided by the department. [PL 2011, c. 608, §7 (AMD).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §7 (AMD).

**§53-D. Notice of registration**

An owner registering land as farmland shall notify all abutting landowners, as indicated on municipal or state tax records, by sending to the abutting landowners a statement of registration provided by the department. The owner shall send notification by certified mail, return receipt requested, within 2 days of submitting the registration in accordance with section 53-B, subsection 2. [PL 1989, c. 478, §1 (NEW).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW).

**§53-E. Withdrawal**

An owner of farmland shall withdraw from registration any farmland that no longer qualifies for registration under this chapter. An owner of registered farmland may withdraw farmland from registration at any time by filing a written notice of withdrawal in the office in which the farmland was registered and filing a notarized copy of the withdrawal notice for recording with the registry of deeds in the county or counties where the registration was recorded. Portions of a registered tract of farmland may be withdrawn. Withdrawal from registration under this chapter does not constitute withdrawal from classification under the Farm and Open Space Tax Law, Title 36, chapter 105, subchapter 10. Any abutter must be notified in the manner provided in section 53-D using a form provided by the department. [PL 2011, c. 608, §8 (AMD).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §8 (AMD).

**§53-F. Municipal registry**

**(REPEALED)**

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §9 (RP).

**§53-G. Fees**

**(REPEALED)**

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §10 (RP).

**§53-H. Forms**

Forms provided by the department shall contain information to clarify the provisions of this chapter as follows. [PL 1989, c. 478, §1 (NEW).]

**1. Application.** The application shall include an outline of the registration process and indicate the information necessary for certification under section 53-A.
[PL 1989, c. 478, §1 (NEW).]

**2. Registration.** The registration form shall include an outline of the registration process, adequate space for the applicant to enter the components required by section 53-C and a separate sheet of information useful in filling out the form.
[PL 1989, c. 478, §1 (NEW).]

**3. Notice of intent.** A notice of intent shall include a list of permitted uses, a list of precluded uses, the name of a contact person who can provide more information and an outline of the registration process and the remedies available to the abutter.
[PL 1989, c. 478, §1 (NEW).]

**4. Notice to abutter.** A notice to abutters shall include a list of permitted uses, a list of precluded uses, an outline of the remedies available to the abutter and a copy of the registration form.
[PL 1989, c. 478, §1 (NEW).]

**5. Notice of withdrawal.** A notice of withdrawal shall include a map of the area withdrawn, a map of any area remaining under registration and an indication of any impact the withdrawal has on the abutter.
[PL 1989, c. 478, §1 (NEW).]

**6. Renewal.** The department shall provide forms for renewal of farmland registered within the time frame provided under section 53-B, subsection 1 and forms for renewal of farmland registered pursuant to section 53-I.
[PL 2011, c. 608, §11 (NEW).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §11 (AMD).

**§53-I. Registration and renewal on or after July 1, 2012**

Beginning on July 1, 2012, an owner of land may register any designated portion of that land that qualifies as farmland under this chapter by filing the information required under section 53-C with the department and the appropriate registry of deeds in accordance with this section. [PL 2011, c. 608, §12 (NEW).]

**1. Registry of deeds.** Beginning on July 1, 2012, a landowner registering farmland under this chapter shall file a notarized copy of the completed registration form accompanied by the information required under section 53-C with the registry of deeds of the county or counties in which the registered farmland and any abutting property is located.
[PL 2011, c. 608, §12 (NEW).]

**2. Effective date.** A registration is effective upon filing with the registry of deeds under subsection 1.
[PL 2011, c. 608, §12 (NEW).]

**3. Duration.** A registration made under this chapter remains effective for 5 years from the effective date unless withdrawn earlier in accordance with section 53-E.
[PL 2011, c. 608, §12 (NEW).]

**4. Renewal.** A landowner may renew a registration under this chapter for successive 5-year periods. To renew a registration, a landowner must notify abutters as provided under section 53-A, subsection 2 and submit a completed renewal application for certification by the soil and water

conservation district under Title 12, section 6-A. Upon receiving certification from the soil and water conservation district, the landowner must file a notarized copy of the renewed registration with the registry of deeds under subsection 1 and submit a copy to the department. When a landowner submits an application for renewal and a review under Title 12, section 6-A prior to a registration lapsing, the registration on that farmland remains in effect until the application for renewal is approved or denied.
[PL 2011, c. 608, §12 (NEW).]

SECTION HISTORY

PL 2011, c. 608, §12 (NEW).

**§54. Proceedings**

Notwithstanding Title 30-A, sections 2691 and 4353, an abutting landowner or the municipality may initiate any of the following proceedings with the municipal board of appeals, or, if none, with the municipal officers. The department shall be notified of any action initiated under this section or section 57 in accordance with Title 30-A, section 4353, subsection 3. [PL 1989, c. 478, §1 (NEW).]

**1. Proceedings to determine eligibility of farmland for registration.** If the eligibility of any land for registration is questioned, the owner of the farmland shall have the burden of proving to the municipal body that the farmland meets the requirements for registration under this chapter. A proceeding under this subsection must commence within 15 days of the day notice of registration is received by the party initiating the proceeding.
[PL 1989, c. 478, §1 (NEW).]

**2. Proceedings to determine continued eligibility of registered farmland.** Once in any 2-year period, a proceeding may be initiated to determine if the registered farmland continues to meet the requirements for registration under this chapter. The owner of registered farmland shall bear the burden of proof.
[PL 1989, c. 478, §1 (NEW).]

**3. Appeals.** A decision made by a municipal body under this section may be appealed by any aggrieved party as allowed by law for appeals of decisions made by a municipal board of appeals.
[PL 1989, c. 478, §1 (NEW).]

**4. Assistance from department.** The department shall provide technical assistance and issue written advisory opinions in connection with the determinations a municipal body must make under this section.
[PL 1989, c. 478, §1 (NEW).]

**5. Order to withdraw.** If the department or a municipality finds that farmland registered under this chapter is not eligible for registration, the department or municipality shall order the landowner to file for withdrawal under section 53-E.
[PL 2011, c. 608, §13 (NEW).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §13 (AMD).

**§55. Disclosure required**

**(REPEALED)**

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §14 (RP).

**§56. Prohibited acts**

**1. Inconsistent development.** An owner of abutting land may not undertake or allow any inconsistent development upon or use of land within 100 feet of registered farmland that was properly

registered within the time frame provided under section 53-B, subsection 1 and has been continuously and properly registered since the initial registration.
[PL 2011, c. 608, §15 (AMD).]

**1-A. Incompatible use.** Except as provided in section 57, an owner of abutting land may not undertake or allow an incompatible use within 50 feet of farmland properly registered under section 53-I.
[PL 2011, c. 608, §15 (NEW).]

**2. Building permit.** Except as provided in section 57, a municipality may not issue a building or use permit allowing any development or use that is prohibited under subsection 1 or 1-A.
[PL 2011, c. 608, §15 (AMD).]

**3. Exemption.** This section does not apply to:

A. For land adjacent to farmland registered within the time frame provided under section 53-B, subsection 1, a lot or parcel of land that, together with any adjoining lot or parcel in the same ownership, was one acre or less in area as of January 1, 1988; [PL 2011, c. 608, §15 (AMD).]

A-1. For land adjacent to farmland registered pursuant to section 53-I, a lot or parcel of land that, together with any adjoining lot or parcel in the same ownership, was one acre or less in area as of January 1, 2012; [PL 2011, c. 608, §15 (NEW).]

B. Those subdivisions for which a completed application as described in former Title 30, section 4956, subsection 2, paragraph C-1, or Title 30-A, section 4403, subsection 3, has been filed or approved in the 2 years preceding the registration; or [PL 1989, c. 478, §1 (NEW).]

C. A lot on which inconsistent development or incompatible use has been allowed by permit granted by a state or local government in the 2 years preceding the registration. [PL 2011, c. 608, §15 (AMD).]
[PL 2011, c. 608, §15 (AMD).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §15 (AMD).

**§57. Variance**

An owner of real estate may apply to the municipal zoning board of appeals or other municipal body hearing zoning appeals, or, in the case of areas within its jurisdiction, the Maine Land Use Planning Commission, for a variance permitting an inconsistent development upon or incompatible use of land that is otherwise prohibited under section 56. Notwithstanding Title 30-A, section 4353, subsection 4, a variance may be issued if adherence to section 56 renders a parcel of land subdivided prior to registration of the farmland unusable for residential purposes. Any variance granted for such a purpose must be conditioned to provide the maximum feasible setback from the abutting registered farmland. [PL 2011, c. 608, §16 (AMD); PL 2011, c. 682, §38 (REV).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §16 (AMD). PL 2011, c. 682, §38 (REV).

**§58. Enforcement and penalties**

**1. Enforcement.** Proceedings to enforce any provision of this chapter may be brought by a municipality, county or any aggrieved person. Such proceedings may be initiated in accordance with the provisions of the Maine Rules of Civil Procedure, Rule 80B, as applicable.
[PL 1989, c. 478, §1 (NEW).]

**2. Penalties.** Any violation of this chapter shall be punishable as follows.

A. [PL 2011, c. 608, §17 (RP).]

B. Any inconsistent development upon or use of land in violation of this chapter may be removed or discontinued by order of the court in a proceeding to enforce this chapter, and the court may fashion any other appropriate equitable remedy consistent with the purposes of this chapter. [PL 1989, c. 478, §1 (NEW).]

C. Any person who violates any provisions of this chapter shall, in addition to the other provisions of this section, be subject to the civil penalties and enforcement procedures for land use laws and ordinances in Title 30-A, section 4452. [PL 1989, c. 478, §1 (NEW).]

[PL 2011, c. 608, §17 (AMD).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §17 (AMD).

**§59. Other laws not affected**

Nothing in this chapter may affect the legal rights, remedies or liabilities of persons arising out of negligence or other wrongful acts or omissions involving the use of pesticides or other agricultural chemicals. [PL 1989, c. 478, §1 (NEW).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW).

## CHAPTER 2-C

## VOLUNTARY MUNICIPAL FARM SUPPORT PROGRAM

**§60. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2007, c. 301, §1 (NEW).]

**1. Farm support arrangement.** "Farm support arrangement" means an arrangement that meets requirements established by the department by rule under which:

A. The owner of qualified farmland grants to a municipality a qualified easement; and [PL 2007, c. 301, §1 (NEW).]

B. The municipality obligates itself to make farm support payments. [PL 2007, c. 301, §1 (NEW).]

[PL 2007, c. 301, §1 (NEW).]

**2. Farm support payments.** "Farm support payments" means annual payments by a municipality during the term of a qualified easement:

A. In an amount up to 100% of the annual property taxes assessed by that municipality against land and buildings subject to a qualified easement up to the fair market value of the easement; and [PL 2007, c. 693, §1 (AMD).]

B. To the person against whom the property taxes are assessed. [PL 2007, c. 301, §1 (NEW).]

[PL 2007, c. 693, §1 (AMD).]

**3. Qualified easement.** "Qualified easement" means an agricultural conservation easement held by a municipality on qualified farmland in that municipality that:

A. Meets standards adopted by rule by the department designed to ensure that no development other than development related to agricultural use occurs on the qualified farmland; and [PL 2007, c. 301, §1 (NEW).]

B. Is limited to a term of not less than 10 years. [PL 2025, c. 216, §1 (AMD).]
[PL 2025, c. 216, §1 (AMD).]

**4. Qualified farmland.** "Qualified farmland" means farmland that meets eligibility requirements established by the department by rule.
[PL 2007, c. 301, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 301, §1 (NEW). PL 2007, c. 693, §1 (AMD). PL 2025, c. 216, §1 (AMD).

**§60-A. Program established**

**1. Program.** The Voluntary Municipal Farm Support Program is established in order to protect and support local farms, preserve farmland and reduce the fiscal burden for participating municipalities that results from new development in rural areas. Under this program, a municipality may enter into farm support arrangements with the owners of qualified farmland.

A. A farm support arrangement must be approved by majority vote of the municipality's legislative body or municipal officers or by a municipal employee appointed by the municipal officers and designated to review and approve farm support arrangements. [PL 2025, c. 216, §2 (AMD).]

B. Unless approved by a 2/3 vote of the municipality's legislative body, the municipality may not enter into farm support arrangements:

(1) Affecting more than 3% of the total annual valuation of taxable land in the municipality; or

(2) In any calendar year, affecting more than 1% of the total annual valuation of taxable land in the municipality. [PL 2025, c. 216, §2 (AMD).]
[PL 2025, c. 216, §2 (AMD).]

**2. Effects of arrangement.** A farm support arrangement may not diminish the eligibility of qualified farmland for participation in tax benefits under Title 36, chapter 105, subchapter 2-A or 10 or for consideration under Title 5, part 15-A by the Land for Maine's Future Board.
[PL 2007, c. 301, §1 (NEW).]

**3. Nullification.** A farm support arrangement, once finally executed, is binding on the municipality. A municipality may not cease to make payments under the arrangement unless the land subject to the qualified easement is taken by eminent domain or state law otherwise authorizes the payments to cease. In the event that a municipality's obligation to make farm support payments ceases, the farm support arrangement and the related qualified easement are void and may not be given effect and the municipality shall provide notice of this fact to the owner of the qualified farmland and record that notice with the appropriate registry of deeds.
[PL 2007, c. 301, §1 (NEW).]

**4. Rules.** The department shall adopt rules governing farm support arrangements. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2025, c. 216, §3 (AMD).]

SECTION HISTORY

PL 2007, c. 301, §1 (NEW). PL 2007, c. 693, §2 (AMD). PL 2025, c. 216, §§2, 3 (AMD).

## CHAPTER 3

## COUNTY AND LOCAL SOCIETIES

## (REPEALED)

**§61. Property management**

**(REPEALED)**

SECTION HISTORY

PL 2005, c. 563, §2 (RP).

**§62. Stipend for clubs and societies**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 233, §§1,2 (AMD). PL 1965, c. 436, §§1,2 (AMD). PL 1967, c. 31 (AMD). PL 1969, c. 148, §1 (AMD). PL 1971, c. 45 (AMD). PL 1971, c. 91, §1 (AMD). PL 1975, c. 465, §§1-3 (AMD). PL 1975, c. 771, §99 (AMD). PL 1977, c. 96, §1 (AMD). PL 1979, c. 124, §1 (AMD). PL 1979, c. 541, §B5 (AMD). PL 1979, c. 672, §§12-14 (AMD). PL 1983, c. 180, §§1,2 (AMD). PL 1987, c. 395, §A31 (AMD). PL 1987, c. 759, §1 (AMD). PL 1993, c. 388, §2 (AMD). RR 1997, c. 2, §25 (COR). PL 1997, c. 528, §2 (AMD). PL 2005, c. 563, §2 (RP).

**§63. Certification for payment**

**(REPEALED)**

SECTION HISTORY

PL 2005, c. 563, §2 (RP).

**§64. Fairs and exhibits**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 124, §2 (AMD). PL 2005, c. 563, §2 (RP).

**§65. Licensing of exhibitions**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 465, §4 (RPR). PL 1975, c. 770, §§43,44 (AMD). PL 1977, c. 694, §43 (AMD). PL 1983, c. 180, §3 (AMD). PL 2001, c. 175, §1 (AMD). PL 2001, c. 175, §2 (AFF). PL 2005, c. 563, §2 (RP).

**§65-A. Requests for changes in dates**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 180, §4 (NEW). PL 2005, c. 563, §2 (RP).

**§66. Sale of goods and refreshments**

**(REPEALED)**

SECTION HISTORY

PL 2005, c. 563, §2 (RP).

**§67. Entry fees; lien on animals**

**(REPEALED)**

SECTION HISTORY

PL 2005, c. 563, §2 (RP).

**§68. Premiums on unregistered males prohibited**

**(REPEALED)**

SECTION HISTORY

PL 2005, c. 563, §2 (RP).

**§69. Admission by fraud**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 696, §55 (AMD). PL 2005, c. 563, §2 (RP).

**§70. Annual reports**

**(REPEALED)**

SECTION HISTORY

PL 2005, c. 563, §2 (RP).

**§71. Constables**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 127, §43 (AMD). PL 2005, c. 563, §2 (RP).

**§72. Pomological society**

**(REPEALED)**

SECTION HISTORY

PL 2005, c. 563, §2 (RP).

**§73. Poultry associations**

**(REPEALED)**

SECTION HISTORY

PL 2005, c. 563, §2 (RP).

**§74. Certain substances prohibited**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 87 (NEW). PL 1971, c. 585, §1 (RPR). PL 1977, c. 694, §44 (AMD). PL 1977, c. 696, §§55-A (AMD). PL 1979, c. 541, §A44 (AMD). PL 1987, c. 111 (RPR). PL 1995, c. 602, §1 (RP).

**§74-A. Certain drugging of animals prohibited**

**(REPEALED)**

SECTION HISTORY

PL 1995, c. 602, §2 (NEW). PL 1997, c. 121, §§1-4 (AMD). PL 2005, c. 563, §2 (RP).

**§75. Pulling events between animals**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 585, §2 (NEW). PL 1977, c. 696, §56 (AMD). PL 1979, c. 541, §A45 (AMD). PL 1987, c. 849, §2 (RPR). PL 1989, c. 153 (AMD). PL 1991, c. 837, §A15 (AMD). PL 1993, c. 549, §1 (AMD). PL 1995, c. 602, §3 (AMD). PL 1999, c. 73, §§1-4 (AMD). PL 2001, c. 421, §B3 (RP). PL 2001, c. 421, §C1 (AFF).

**§75-A. Pulling events between animals; application**

**(REPEALED)**

SECTION HISTORY

PL 2001, c. 421, §B4 (NEW). PL 2001, c. 421, §C1 (AFF). PL 2001, c. 668, §§1-4 (AMD). PL 2003, c. 578, §§2-4 (AMD). PL 2005, c. 563, §2 (RP).

**§76. Agricultural Fair Support Fund**

**(REPEALED)**

SECTION HISTORY

IB 2003, c. 1, §1 (NEW). PL 2003, c. 687, §B1 (RP). PL 2003, c. 687, §B11 (AFF).

**§77. Agricultural Fair Support Fund**

**(REPEALED)**

SECTION HISTORY

PL 2003, c. 687, §A2 (NEW). PL 2003, c. 687, §B11 (AFF). PL 2005, c. 563, §2 (RP).

## CHAPTER 4

## AGRICULTURAL FAIRS AND PULLING EVENTS

**§81. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2005, c. 563, §3 (NEW).]

**1. Agricultural fair.** "Agricultural fair" or "fair" means an exhibition that is designed to promote education and encourage improvement in agriculture and that includes, but is not limited to, the following:

A. The awarding of premiums for livestock competitions; [PL 2005, c. 563, §3 (NEW).]

B. The display of and awarding of premiums for horticultural products; and [PL 2005, c. 563, §3 (NEW).]

C. The display and presentation of agricultural activities and projects undertaken by youth organizations. [PL 2005, c. 563, §3 (NEW).]

[PL 2005, c. 563, §3 (NEW).]

**2. Agricultural society.** "Agricultural society" means a nonprofit organization or association incorporated in the State to promote education and encourage improvement in agriculture.
[PL 2005, c. 563, §3 (NEW).]

**3. Animal.** "Animal" means an animal entered in an event.
[PL 2005, c. 563, §3 (NEW).]

**3-A. Driver.** "Driver" means a person who drives or controls the animal that is pulling in a pulling event.

[PL 2017, c. 207, §1 (NEW).]

**4. Event.** "Event" means a pulling competition or livestock exhibition.
[PL 2005, c. 563, §3 (NEW).]

**5. Fair Fund.** "Fair Fund" means the fund established in section 85.
[PL 2005, c. 563, §3 (NEW).]

**6. Fair licensee.** "Fair licensee" or "licensee" means a person, agricultural society or other entity licensed to conduct an agricultural fair in accordance with section 83.
[PL 2005, c. 563, §3 (NEW).]

**7. Licensed veterinarian.** "Licensed veterinarian" means a person licensed as a veterinarian by the State who is operating under the direction or authority of the department.
[PL 2005, c. 563, §3 (NEW).]

**8. Livestock.** "Livestock" means cattle, equines, goats, members of the genus Lama, rabbits, sheep and swine.
[PL 2005, c. 563, §3 (NEW).]

**9. Poultry.** "Poultry" means domesticated fowl and domesticated waterfowl.
[PL 2005, c. 563, §3 (NEW).]

**10. Premium.** "Premium" means a ribbon, trophy or monetary amount or a service or object with monetary value awarded as a prize in a competition or event.
[PL 2025, c. 161, §1 (AMD).]

**11. Prohibited substance.** "Prohibited substance" means:

A. A stimulant, depressant, tranquilizer or local anesthetic that could affect the conduct, actions, endurance, strength, speed, performance, appearance or disposition of an animal; [PL 2005, c. 563, §3 (NEW).]

B. Any substance that the commissioner through rulemaking in accordance with section 96, subsection 6 determines could affect the conduct, actions, endurance, strength, speed, performance, appearance or disposition of an animal; [PL 2005, c. 563, §3 (NEW).]

C. A drug, regardless of how harmless or innocuous, that interferes with the detection of any other prohibited substance; or [PL 2005, c. 563, §3 (NEW).]

D. A metabolite or derivative of a prohibited substance. [PL 2005, c. 563, §3 (NEW).]
[PL 2005, c. 563, §3 (NEW).]

**12. Stipend.** "Stipend" means an amount distributed from the Stipend Fund or the Fair Fund to a qualifying fair licensee.
[PL 2005, c. 563, §3 (NEW).]

**13. Stipend Fund.** "Stipend Fund" means the fund receiving money in accordance with Title 8, sections 286 and 287 to provide aid and encouragement to fair licensees.
[PL 2005, c. 563, §3 (NEW).]

**14. Trainer.**
[PL 2017, c. 207, §2 (RP).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW). PL 2017, c. 207, §§1, 2 (AMD). PL 2025, c. 161, §1 (AMD).

**§82. Commissioner's duties and powers**

**1. Licensing and apportionment.** The commissioner shall issue fair licenses in accordance with section 83. The commissioner shall apportion annually the stipend due from the Stipend Fund and the Fair Fund to qualified fair licensees.
[PL 2005, c. 563, §3 (NEW).]

**2. Administration of Stipend Fund and Fair Fund.** In administering the provisions of this chapter pertaining to the Stipend Fund and the Fair Fund, the commissioner shall:

A. Issue blanks for a licensee or the appropriate officer of a licensee to submit information necessary for the commissioner to obtain full knowledge of the licensee's work for each year; [PL 2005, c. 563, §3 (NEW).]

B. Certify to the Governor the amount of stipend due a licensee; and [PL 2005, c. 563, §3 (NEW).]

C. Make distributions from the Stipend Fund and the Fair Fund in accordance with this chapter. [PL 2005, c. 563, §3 (NEW).]
[PL 2005, c. 563, §3 (NEW).]

**3. Authority to summons.** The commissioner may summon and examine on oath an officer or director of any entity holding a fair license or any person whose testimony the commissioner considers necessary in the proper discharge of the commissioner's duties under this chapter. The commissioner may require witnesses to offer for examination books or records in their custody or control that the commissioner considers necessary for the performance of the commissioner's duties.
[PL 2005, c. 563, §3 (NEW).]

**4. Authorization for payment.** The commissioner may authorize payment of a stipend only to a fair licensee that has adhered to the requirements of this chapter. A fair licensee is not entitled to a stipend unless the licensee completes and returns blanks issued in accordance with subsection 2. Neglect or failure on the part of a licensee to adhere to the requirements of this chapter is sufficient cause for withholding that licensee's stipend.
[PL 2005, c. 563, §3 (NEW).]

**5. Rulemaking.** The commissioner shall adopt rules to establish procedures for licensing and awarding dates for agricultural fairs and performance standards for evaluating agricultural fairs. The commissioner, in consultation with the executive director of the State Harness Racing Commission, shall adopt rules that require agricultural fairs that receive a distribution of slot machine revenue in accordance with Title 8, section 1036, subsection 2 to submit information regarding the use of that revenue sufficient for the executive director to submit the report required by Title 8, section 1037. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2011, c. 358, §1 (AMD).]

**6. Report on revenues from the operation of slot machines.** The commissioner shall coordinate with the executive director of the State Harness Racing Commission to submit a report regarding the distribution of slot machine revenues as required by Title 8, section 1037.
[PL 2011, c. 358, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW). PL 2011, c. 358, §§1, 2 (AMD).

**§83. Licensing of agricultural fairs**

A person or entity is not eligible to receive a stipend unless that person or entity has been issued a license by the department to hold an agricultural fair. [PL 2005, c. 563, §3 (NEW).]

**1. Application; fee.** A person or entity applying for a license under this section must submit a completed application form and a $10 license fee to the commissioner no later than March 31st in the

calendar year preceding the first year of the license. The application for the license must contain the information prescribed by the commissioner and must be signed and sworn to by the applicant. When the applicant is an agricultural society, an executive officer of the society must sign and swear to the information on the application.
[PL 2005, c. 563, §3 (NEW).]

**2. Issuance of license.** If satisfied that an applicant will comply or, if an applicant has previously held a license, that the applicant has complied and will continue to comply with the requirements of this chapter and rules adopted pursuant to this chapter, the commissioner may issue a license to the applicant for an agricultural fair. A license is issued for 4 consecutive years and only for the dates assigned by the commissioner in accordance with section 84.
[PL 2025, c. 51, §1 (AMD).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW). PL 2025, c. 51, §1 (AMD).

**§84. Fair dates**

**1. Assigned fair dates.** The commissioner shall set the dates for which an agricultural fair license is effective in accordance with rules adopted pursuant to section 82, subsection 5. No later than May 15th of the calendar year preceding the first year of each 4-year license period, the commissioner shall announce the assignment of fair dates and issuance of licenses.
[PL 2025, c. 51, §2 (AMD).]

**2. Requests for changes in dates.** A licensee may petition the commissioner for a change in the fair dates assigned under this section. The petition must be received a minimum of 90 days prior to the licensee's first assigned fair date for that year. Upon receipt of the petition, the commissioner shall reconsider the dates assigned, following the same procedure by which the dates were originally assigned, and shall make a determination within 30 calendar days.
[PL 2005, c. 563, §3 (NEW).]

**3. Cancellation or reduction in fair days.** A licensee shall notify the commissioner of a cancellation or any proposed decrease in the number of days of a fair. This notification must be made a minimum of 60 days prior to the first fair day assigned to the licensee for a given year.
[PL 2005, c. 563, §3 (NEW).]

**4. Prohibition.** Except as provided under subsection 5, a licensee may not:

A. Operate an agricultural fair outside of the fair dates assigned by the commissioner under this section; or [PL 2025, c. 582, §1 (NEW).]

B. Advertise or market an agricultural fair as taking place outside of the fair dates assigned by the commissioner under this section. [PL 2025, c. 582, §1 (NEW).]

For purposes of this subsection, a licensee holding an event within one week of a fair's assigned fair dates is considered to be operating a fair outside of the fair dates assigned by the commissioner.
[PL 2025, c. 582, §1 (NEW).]

**5. Exception.** A licensee may host an exhibition up to 48 hours prior to the assigned fair dates for the purposes of displaying and awarding premiums as provided under section 86, subsection 5.
[PL 2025, c. 582, §2 (NEW).]

**6. License suspension.** The commissioner may suspend the license of a licensee that violates this section.
[PL 2025, c. 582, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW). PL 2025, c. 51, §2 (AMD). PL 2025, c. 582, §§1-3 (AMD).

**§85. Fair Fund**

The Treasurer of State shall establish the Fair Fund and shall annually credit a sum of money equal to 5% of the total amount designated as state share in accordance with Title 8, section 286 to the Fair Fund. The commissioner shall make distributions from the Fair Fund only to licensees eligible for a stipend under section 86, subsections 5 and 6. Distributions are prorated according to the amount of premiums actually paid by those licensees in full and in cash or valuable equivalent. Restrictions on premiums used to determine apportionment of a stipend under section 86, subsection 5 apply to distribution from the Fair Fund. [PL 2025, c. 161, §2 (AMD).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW). PL 2025, c. 161, §2 (AMD).

**§86. Stipend Fund**

**1. Annual distribution.** The commissioner shall annually distribute all money contributed to the Stipend Fund under Title 8, sections 286 and 287 to qualified licensees in accordance with this section. [PL 2005, c. 563, §3 (NEW).]

**2. Distribution of funds to fair licensees that conduct pari-mutuel racing.** Forty-four percent of the amounts contributed to the Stipend Fund under Title 8, sections 286 and 287 must be divided into equal amounts for reimbursement to each licensee that:

A. Conducts pari-mutuel racing in conjunction with its annual fair; [PL 2005, c. 563, §3 (NEW).]

B. Has improved its racing facilities; and [PL 2005, c. 563, §3 (NEW).]

C. Has met the standards for facility improvements set by the commissioner for that licensee. [PL 2005, c. 563, §3 (NEW).]

A licensee that has not complied with the improvement standards set by the commissioner for a given year is not eligible for a reimbursement under this subsection for that year.
[PL 2005, c. 563, §3 (NEW).]

**3. Distribution of funds to fair licensees who do not conduct pari-mutuel racing.** Eight percent of the amount contributed to the Stipend Fund under Title 8, sections 286 and 287 for a calendar year must be divided into amounts in proportion to the sums expended for premiums by the licensee in that year for reimbursement to each licensee that:

A. Does not conduct pari-mutuel racing; and [PL 2005, c. 563, §3 (NEW).]

B. Has met the standards for facility improvements set by the commissioner for that licensee. [PL 2005, c. 563, §3 (NEW).]

A licensee that has not complied with the improvement standards set by the commissioner for a given year is not eligible for a reimbursement under this subsection for that year.
[PL 2005, c. 563, §3 (NEW).]

**4. Expenditures for administration and inspection services.** The commissioner may expend annually up to 13% of the Stipend Fund for administrative and inspection services provided under this chapter.
[PL 2005, c. 563, §3 (NEW).]

**5. Distribution to all eligible licensees.** The amount remaining in the Stipend Fund after distributions in accordance with subsections 2, 3 and 4 must be divided among fair licensees meeting the eligibility criteria in subsection 6, prorated according to the amount of premiums actually paid by those licensees in full and in cash or valuable equivalent.

In determining distribution under this subsection, an allowance may be made on premiums offered and paid by a licensee at any competition or event held during the period in which its annual fair is held and

at any competition or event judged up to 48 hours prior to the licensed fair dates, except that an allowance may not be made on premiums offered and paid by a licensee at any competition or event under paragraphs A, F-1, I, J and K judged up to 48 hours prior to the licensed fair dates. Allowance may not be made or consideration given for lump sums, payments or premiums previously arranged and agreed upon for the presentation and display of any animals or products without regard to competition or event. The department may provide an allowance to licensees for payments made for educational agricultural talks, workshops and demonstrations pursuant to paragraph K without regard to premiums paid for competitions or events in this category.

Premiums and payments used to determine apportionment under this subsection are limited to those paid for:

A. Livestock and poultry; [PL 2005, c. 563, §3 (NEW).]

B. Vegetables, grains, fruits and flowers; [PL 2005, c. 563, §3 (NEW).]

C. Products derived from livestock and dairy products; [PL 2025, c. 161, §3 (AMD).]

D. Home-canned, home-cooked and home-baked goods; [PL 2005, c. 563, §3 (NEW).]

E. Grange and farm exhibits; [PL 2005, c. 563, §3 (NEW).]

F. [PL 2025, c. 161, §3 (RP).]

F-1. Youth agriculture events; [PL 2025, c. 161, §3 (NEW).]

G. Mechanical arts exhibits; [PL 2005, c. 563, §3 (NEW).]

H. Arts and crafts produced in the home; [PL 2025, c. 161, §3 (AMD).]

I. Pulling contests for equines and oxen; [PL 2025, c. 161, §3 (AMD).]

J. Pulling contests for farm tractors and pickup trucks; [PL 2025, c. 161, §3 (AMD).]

K. Educational agricultural talks, workshops and demonstrations; and [PL 2025, c. 161, §3 (NEW).]

L. Any other agricultural event approved by the commissioner. [PL 2025, c. 161, §3 (NEW).] [PL 2025, c. 582, §§4, 5 (AMD).]

**6. Eligibility for stipend.** A licensee is not entitled to a stipend under this chapter unless:

A. The licensee holds a license that is valid for the year for which the stipend is calculated; [PL 2005, c. 563, §3 (NEW).]

B. Exhibits of vegetables, fruits, grains or dairy products are regularly displayed in an attractive manner upon the fairgrounds during the fair, the products exhibited are representative of those produced in the county in which the fair is held and the quality of the products is acceptable to the commissioner; [RR 2005, c. 2, §5 (COR).]

C. The health status of domestic animals shown or exhibited at the fair satisfies the health requirements established by the commissioner in accordance with section 1811 and rules adopted pursuant to section 1752; [PL 2005, c. 563, §3 (NEW).]

D. The fair is conducted in accordance with performance standards established in rules adopted pursuant to section 82, subsection 5; and [PL 2005, c. 563, §3 (NEW).]

E. The minimum premiums established in subsection 7 are paid. [PL 2005, c. 563, §3 (NEW).] [RR 2005, c. 2, §5 (COR).]

**7. Minimum premiums required.** To be eligible to receive a stipend, a licensee must:

A. Upon receiving an initial license, spend a minimum of $750 per year on premiums for 4 years for displays of agricultural products, excluding premiums for equine and ox pulling contests and farm tractor and pickup truck pulling contests; and [PL 2025, c. 51, §3 (AMD).]

B. Upon fulfilling the requirement under paragraph A, continue to spend a minimum of $1,200 on premiums yearly for displays of agricultural products, excluding premiums for equine and ox pulling contests and farm tractor and pickup truck pulling contests. [PL 2005, c. 563, §3 (NEW).]
[PL 2025, c. 51, §3 (AMD).]

**8. Maximum allowed distribution from Stipend Fund.** A licensee may not receive a stipend from the Stipend Fund greater than the amount actually raised and spent by the licensee on premiums in the classes provided in subsection 5. A licensee may not receive a stipend from the Stipend Fund in excess of $10,000, except that this limitation does not apply to any additional stipend provided for by Title 8, section 287 or to funds distributed from the Fair Fund in accordance with section 85, the Agricultural Fair Support Fund in accordance with section 91 or the Agricultural Fair Promotion Fund in accordance with section 103.
[PL 2025, c. 161, §4 (AMD).]

SECTION HISTORY

RR 2005, c. 2, §5 (COR). PL 2005, c. 563, §3 (NEW). PL 2021, c. 681, Pt. J, §1 (AMD). PL 2025, c. 51, §3 (AMD). PL 2025, c. 161, §§3, 4 (AMD). PL 2025, c. 582, §§4, 5 (AMD).

**§87. Licensees ineligible for stipend**

**1. Distribution of profits as primary purpose.** A licensee is not eligible for a stipend if the licensee is an entity with stockholders or members and the commissioner determines that the primary purpose of the licensed entity is the distribution of profits to its members or stockholders.
[PL 2005, c. 563, §3 (NEW).]

**2. Premiums on unregistered males prohibited.** A stipend may not be paid to any licensee offering or paying premiums on unneutered male animals over 6 months of age that are not recorded in the books of record for their respective breeds as recognized by the commissioner. The commissioner may make verification of breed records a part of the sworn certificate required under section 88, subsection 1, paragraph A.
[PL 2005, c. 563, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW).

**§88. Filing and certification; investigation of complaints**

**1. Filing requirement.** A licensee may not receive payment of a stipend or state aid by special appropriation until:

A. The licensee files a sworn certificate with the commissioner stating the amount of money raised by the licensee in connection with the fair and the amount actually awarded and paid in premiums; and [PL 2005, c. 563, §3 (NEW).]

B. The commissioner submits a certificate to the executive director of the State Harness Racing Commission stating that the commissioner has examined the claim of the licensee and determined that the licensee has complied with sections 86 and 87 and has awarded and paid as premiums a sum equal to or greater than the stipend received by the licensee. [PL 2025, c. 161, §5 (AMD).]
[PL 2025, c. 161, §5 (AMD).]

**2. Investigation of complaints.** Upon receiving a written and signed complaint alleging a violation of this chapter relating to the payment of state aid in any form to a licensee, the commissioner may investigate the alleged violation and employ such agents as necessary to aid in the investigation.

Expenses incurred for an investigation under this subsection are paid out of the general appropriation for state aid to licensees. When an investigation determines that a licensee has violated this chapter, the expense of the investigation is paid from the amount that would otherwise have been paid to that licensee. If a licensee against which the complaint is made receives its aid by special enactment, then the expense of the investigation is paid from the appropriation for that licensee.
[PL 2005, c. 563, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW). PL 2025, c. 161, §5 (AMD).

**§89. Licensees holding pari-mutuel racing meets**

In addition to other requirements provided in this chapter, a licensee that holds pari-mutuel racing meets must put on an agricultural fair during one racing meet each year to be eligible to receive a stipend. Exhibits must be kept in an attractive display for a minimum of 3 consecutive days during the meet. The total premium payments for these exhibits must be an amount equal to or greater than the premiums paid for pulling contests at the fair and race meet, and not less than 25% of the premiums paid for harness horse races conducted during the annual fair. [PL 2005, c. 563, §3 (NEW).]

The conducting of pari-mutuel betting by an entity licensed by the State Harness Racing Commission in accordance with Title 8, chapter 11 is not cause for withholding that entity's stipend.
[PL 2005, c. 563, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW).

**§90. Annual reports**

**1. Annual reports.** No later than December 31st of the year for which a stipend is requested, a licensee claiming a stipend shall file with the commissioner a statement setting forth:

A. The financial condition and transactions of the licensee; [PL 2005, c. 563, §3 (NEW).]

B. The amounts paid in premiums in each of the classes or displays used to determine apportionment under section 85, subsection 5; and [PL 2005, c. 563, §3 (NEW).]

C. Additional information requested by the commissioner relative to the character of displays and the conduct of exhibitions. [PL 2005, c. 563, §3 (NEW).]

The licensee shall submit the required information on blanks furnished by the commissioner. Upon receipt and after examination of these statements, and if the commissioner finds the submission to be accurate, complete and in accordance with sections 85 and 86, the commissioner shall issue the certificate required under section 88.
[PL 2005, c. 563, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW).

**§91. Agricultural Fair Support Fund**

**1. Fund created.** The Treasurer of State shall establish an account to be known as "the Agricultural Fair Support Fund" and shall credit to it all money received under Title 8, section 1036, subsection 2, paragraph D. The fund is a dedicated, nonlapsing fund. All revenues deposited in the fund must be disbursed in accordance with this section, except that assessments and advances may be withdrawn in accordance with Title 8, section 267-A.
[PL 2007, c. 539, Pt. G, §1 (AMD); PL 2007, c. 539, Pt. G, §15 (AFF).]

**2. Disbursement.** No later than January 31st of each year, all funds held as of the end of the previous calendar year in the Agricultural Fair Support Fund must be distributed by the Treasurer of State as follows:

A. Thirty-four percent of these funds must be distributed to all commercial tracks as defined in Title 8, section 275-A and to all fair licensees that during the previous year were licensed to and did accept pari-mutuel wagers on harness horse races. These funds must be distributed in the manner prescribed in Title 8, section 298; and [PL 2005, c. 563, §3 (NEW).]

B. Sixty-six percent of these funds must be divided in the following manner. The commissioner may expend annually up to 13% of the funds available under this paragraph for administrative and inspection services provided under this chapter and the remaining funds must be distributed among all fair licensees that were licensed during the previous year. These funds must be distributed to licensees according to the proportions established by section 86, subsection 5 and may be used at the licensee's discretion. To receive distribution under this paragraph, a licensee holding pari-mutuel racing in the previous year must have been in compliance with section 89. [PL 2013, c. 368, Pt. RR, §1 (AMD).]

[PL 2013, c. 368, Pt. RR, §1 (AMD).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW). PL 2007, c. 539, Pt. G, §1 (AMD). PL 2007, c. 539, Pt. G, §15 (AFF). PL 2013, c. 368, Pt. RR, §1 (AMD).

**§92. Constables**

The officers of an agricultural society may appoint persons to act as constables at a licensed fair sponsored by that society for the preservation of the public peace and the enforcement of the regulations of the society. An appointment made under this section is valid only within the town where the fair is held and only for the period from noon of the day preceding the commencement of the fair until noon of the day after the termination of the fair. A constable appointed under this section has the powers and duties of a constable under Title 30-A, section 2673. [PL 2005, c. 563, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW).

**§93. Property management**

An agricultural society may acquire and hold property, real and personal. The annual income from this property must be used for the purposes stated in the society's charter. The treasurer for a society may receive conveyances or leases of property for the society, and hold, sell, mortgage or pledge the property. A treasurer using this authority to manage property shall give bonds to the trustees of the society for safekeeping and the faithful discharge of the treasurer's duties. [PL 2005, c. 563, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW).

**§94. Entry fees; lien on animals or articles**

**1. Payment of entry fee.** A person who enters an animal or article in a competition for premiums offered by a licensee must pay the entry fee in accordance with the advertised rules and regulations of the licensee, as long as the rules and regulations are not in conflict with the laws of the State or rules adopted in accordance with the laws of the State.
[PL 2005, c. 563, §3 (NEW).]

**2. Lien for failure to pay.** When an entry fee is not paid as required under subsection 1, a lien is created upon an animal or article to secure payment with costs. The lien may be enforced by a civil

action against the person owning the animal or article, or the person entering the animal or article in the competition. Alternatively, the lien may be enforced in the same manner as liens on goods in possession.
[PL 2005, c. 563, §3 (NEW).]

**3. Exception to lien.** A lien under subsection 2 does not affect the ownership of an animal or article when a person who was not responsible for the entry fee and had no notice of the lien purchases the animal or article.
[PL 2005, c. 563, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW).

**§95. Restriction on sale of goods and refreshments; lease of land**

**1. Sale of goods and exhibitions restricted.** A person who sells refreshments or other merchandise, or exhibits a show or play, unless in that person's own dwelling or usual place of business, within a quarter of a mile of the fairgrounds during the time a licensed fair is conducted is subject to a forfeit of not more than $100 to the licensee.
[PL 2005, c. 563, §3 (NEW).]

**2. Lease restricted.** A person who leases any land or building adjoining or overlooking the fairgrounds to spectators of an exhibition on the fairgrounds during the time of the exhibition, without the written consent of the licensee, is subject to a forfeit of not more than $100 to the licensee.
[PL 2005, c. 563, §3 (NEW).]

**3. Recovery on complaint.** A forfeiture under this section may be recovered on complaint of the licensee.
[PL 2005, c. 563, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW).

**§96. Use of prohibited substance; animals entered in events**

**1. Prohibition on administration of prohibited substance.** A person may not feed, inject, insert or otherwise administer or attempt to administer or instruct, aid or conspire with another person to administer or employ anyone who administers or attempts to administer a prohibited substance to an animal.
[PL 2005, c. 563, §3 (NEW).]

**2. Prohibited use or exhibition of drugged animal.** A person may not enter or use in an event an animal that has been administered a prohibited substance. The commissioner may require that an animal be tested for the presence of a prohibited substance before, during or after an event.
[PL 2005, c. 563, §3 (NEW).]

**3. Animals subject to examination; scope; request for test.** An animal entered in an event is subject to examination under the direction of a licensed veterinarian or an agent of the licensed veterinarian. The licensed veterinarian, with the approval of the commissioner, may appoint technicians and agents to perform duties under this section that are not prohibited by other provisions of law. The examination may include physical, saliva, urine or blood tests or other tests or procedures that the licensed veterinarian considers necessary to carry out the purposes of this section. The licensed veterinarian may examine an animal entered in an event if that animal is on the grounds of the event. The licensed veterinarian also may examine an animal withdrawn by the owner of the animal within 24 hours prior to an event for which the animal had been entered. The pull superintendent appointed under section 99, subsection 1 may undertake a visual examination of any animal entered in an event and may

request a licensed veterinarian or an agent of the licensed veterinarian to undertake an examination under this subsection.
[PL 2017, c. 207, §3 (AMD).]

**4. Refusal to submit animal for examination.** The owner or driver may not refuse to secure or restrain an animal for examination under this section by a licensed veterinarian or a technician or agent of the licensed veterinarian and may not interfere with the restraining or securing of an animal for that examination.
[PL 2017, c. 207, §3 (AMD).]

**5. Presence of prohibited substance; prima facie evidence.** If the chemical analysis of a test performed under subsection 3 indicates the presence of a prohibited substance, it is prima facie evidence that the substance has been administered to the animal. For purposes of this section, each administration of a prohibited substance to an animal and each occasion on which a prohibited substance was administered in violation of subsection 1 constitutes a separate violation.
[PL 2005, c. 563, §3 (NEW).]

**6. Authority of commissioner to make rules.** The commissioner may adopt rules relating to the administration of tests, the care and custody of test samples and all other matters necessary to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2005, c. 563, §3 (NEW).]

**7. Responsibility of owner and driver for condition of animal.** In the absence of substantial evidence to the contrary, the owner and driver of an animal are responsible for the condition of the animal, including the presence of a prohibited substance, and are charged with knowledge of all the provisions contained in this section and the rules adopted pursuant to this section. If the owner is prevented from performing the owner's duties for an animal under this subsection, by illness or other cause, or is absent from the event where an animal under the owner's care is entered and stabled, the owner shall immediately notify the secretary or general manager of the event.
[PL 2017, c. 207, §3 (AMD).]

**8. Administrative hearing; suspension.** In lieu of a civil action under subsection 9, the commissioner may institute an administrative proceeding on any alleged violation of this section. If the commissioner institutes an administrative proceeding, the commissioner shall give notice and an opportunity for hearing under Title 5, chapter 375, subchapter 4. Upon giving notice to a person who is alleged to be in violation of this section, the commissioner shall immediately prohibit that person from competing in an event within the State. This prohibition remains in effect for 30 days or until the commissioner's decision following the hearing is received, whichever occurs first, except that the prohibition period is extended by any delays of the hearing requested by the person against whom the violation is alleged.

If the person against whom the violation is alleged does not request a hearing or if, after a hearing, the commissioner finds the person has committed the violation, the commissioner shall prohibit that person from competing in any event within the State for a period of 2 years for the first offense, 3 years for the 2nd offense and 5 years for the 3rd and subsequent offenses and shall also exclude the animal from competing in any event within the State for a period of one year. The commissioner may also, in an adjudicatory proceeding, in lieu of a civil action under subsection 9, impose an administrative penalty not to exceed $1,000 for a violation of this section.

The commissioner may establish, by rule, a schedule of administrative penalties for violations of this section that includes fines and prohibitions on competing. The schedule must be based on the severity of the violation. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2017, c. 207, §4 (AMD).]

**9. Civil violations.** A person who violates subsection 1, 2 or 4 commits a civil violation for which the following may be adjudged:

A. For the first violation, a fine of not less than $100 nor more than $500; or [PL 2005, c. 563, §3 (NEW).]

B. For a 2nd or subsequent violation, a fine of not less than $500 nor more than $1,000. [PL 2005, c. 563, §3 (NEW).]

Fines adjudged under this subsection must be deposited in the General Fund.
[PL 2005, c. 563, §3 (NEW).]

**10. Suspension.** When a violation is adjudicated under subsection 9, the commissioner shall immediately suspend the person adjudicated to have committed the violation from participating in events for a period of 2 years for the first offense, 3 years for the 2nd offense and 5 years for the 3rd and subsequent offenses and shall also exclude the animal involved from competing in any event for a period of one year. An action by the commissioner based upon an adjudication under this section is automatic, and there is no right to a hearing before the commissioner on the suspension. A person who participated in an event during any period of suspension or prohibition ordered by the commissioner under this subsection or subsection 8 and the owner of any animal that competes during a period of suspension or prohibition commit an additional violation of this section.
[PL 2017, c. 207, §5 (AMD).]

**11. Forfeiture.** The owner of an animal found to have been administered a prohibited substance in violation of this section forfeits all prize money and any trophies, ribbons and points won at an event by the affected animal. The prize money and trophies, ribbons and points must be redistributed by the secretary or general manager of the event in accordance with its rules or bylaws.
[PL 2005, c. 563, §3 (NEW).]

**12. Exception; therapeutic use of drugs.** This section does not prohibit the administration to an animal of a drug the use of which is required for treatment of an illness or condition unrelated to the performance of the animal in an event. An animal in an event that receives a medication that contains a prohibited substance is not eligible for the event, unless the following requirements have been met and the information requested is submitted as a statement in writing to the secretary or general manager of the event.

A. The medication must be therapeutic and necessary for treatment of an illness or injury. [PL 2005, c. 563, §3 (NEW).]

B. The animal must be withdrawn from the event for a period of at least 24 hours after medication has been administered. [PL 2005, c. 563, §3 (NEW).]

C. Only a licensed veterinarian or an owner acting under the direction of a licensed veterinarian may administer medication. The owner may administer medication under the direction of a licensed veterinarian if the licensed veterinarian has assumed responsibility for making medical judgments regarding the health of the animal, has sufficient knowledge of the animal to make a general or preliminary diagnosis of the animal and is readily available to care for the animal in the event of an adverse reaction to medication or the failure of the owner to adhere to a therapy regimen. [PL 2017, c. 207, §6 (AMD).]

D. The amount, strength and mode of administration of medication must be identified. [PL 2005, c. 563, §3 (NEW).]

E. The statement must include the date and time of the administration of medication. [PL 2005, c. 563, §3 (NEW).]

F. The animal must be identified by name, age, sex, color and entry number. [PL 2005, c. 563, §3 (NEW).]

G. The statement must contain the diagnosis and reason for administering the medication. [PL 2005, c. 563, §3 (NEW).]

H. The statement must be signed by the person administering the medication. [PL 2005, c. 563, §3 (NEW).]

I. The statement must be filed with the secretary or general manager of the event within one hour after the administration of medication or one hour after the secretary or general manager of the event returns to duty, if the administration is at a time other than during event hours. [PL 2005, c. 563, §3 (NEW).]

J. The statement must be signed by the secretary or general manager of the event and the time of receipt of the statement must be recorded on the statement by the secretary or general manager. [PL 2005, c. 563, §3 (NEW).]

If the chemical analysis of a sample taken pursuant to subsection 3 from the animal treated under this subsection indicates the presence of a prohibited substance and all the requirements of this subsection have been met, the information contained in the statement and any other relevant evidence must be considered at a hearing provided under subsection 8 in determining whether there has been a violation of any provision of this section.
[PL 2017, c. 207, §6 (AMD).]

**13. Inapplicability to horse racing.** This section does not affect laws governing horse racing or affect horse sales or horse auction sales when those sales are solely for the sale of racehorses or breeding stock that are used in the production of racehorses and when those sales are held or conducted on the premises of a racing association under the jurisdiction of, and with the authorization and approval of, the State Harness Racing Commission.

As used in this subsection, "racehorse" means a live horse, including a stallion, mare, gelding, ridgeling, colt or filly, that is eligible to participate in a horse racing contest in this State where pari-mutuel racing is permitted under the rules adopted by the State Harness Racing Commission. This subsection does not exempt racehorses participating in an event covered by this chapter.
[PL 2005, c. 563, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW). PL 2011, c. 73, §1 (AMD). PL 2017, c. 207, §§3-6 (AMD).

**§97. Pulling events between animals**

**1. Permit required.** A person or entity may not sponsor a public or private pulling event between animals or pairs of animals within the State without a permit from the commissioner issued in accordance with this section and rules adopted pursuant to this section.
[PL 2005, c. 563, §3 (NEW).]

**2. Application.** A person or entity shall make an application for a permit in writing to the commissioner at least 10 days prior to the date on which a pulling event is intended to take place. The applicant shall provide the name of the person or entity conducting the event, the date and place the event is to be held and the names of the pull superintendent and superintendent assistants appointed to officiate at the event. One application and one permit may include one or more separate events when specified. Permits granted under this section are not transferable.
[PL 2005, c. 563, §3 (NEW).]

**3. Fees.** The commissioner shall charge a permit fee of $40 per pull day for an event sponsored by a person or entity receiving a stipend under section 86. The commissioner shall charge a seasonal permit fee of $75 to a person or entity that does not receive a stipend under section 86. The seasonal permit covers all pulls conducted by that entity for the year in which the permit is issued. All revenue derived from the permit fees must be deposited in a nonlapsing dedicated account.

[PL 2005, c. 563, §3 (NEW).]

**4. Statutory rules.** A permit may not be issued under this section unless the person or entity conducting the event has adopted the following rules governing the conduct of each pulling event.

A. All drivers who are to compete in contests must have their teams ready at the published starting time. All classes must be closed after the positions are drawn. Classes must start as nearly as possible to the published time. [PL 2017, c. 207, §7 (AMD).]

B. Check weighing must be allowed prior to the official weigh-in. All weighing must be done in the forenoon if possible. Teams must have on halters. Horses and ponies must have on shoes. [PL 2005, c. 563, §3 (NEW).]

C. Measuring must be in a straight line to the nearest point on the drag. Line-to-line measuring is allowed. The front of the drag must touch the line before turning. To get the full-line measure, the drag must be turned more than 1/2 way or the back of the drag must be over the line. [PL 2005, c. 563, §3 (NEW).]

D. Teams must stay hooked to the drag at all times. Unhitching and rehitching are not allowed. [PL 2005, c. 563, §3 (NEW).]

E. An actual separation, breaking or bending of equipment constitutes a breakdown. A team breaking down may take the distance pulled or return to the last position and pull over. Only one breakdown is allowed. [PL 2005, c. 563, §3 (NEW).]

F. Time limits are a maximum of 5 minutes. Time starts when the drag is moved. The time limit to hook on in distance pulls is 3 minutes. [PL 2005, c. 563, §3 (NEW).]

G. On horses, the very light use of the reins on the hindquarters only is allowed and over and under is not allowed. Whips, brads or goads are not allowed. Reins may not be doubled up. Electrical or electronic devices are not allowed. Open bridles are not allowed. Ponies may not be struck except in a sweepstakes, when they may be struck with a cap or bare open hand. [PL 2005, c. 563, §3 (NEW).]

H. On oxen, the use of the goad must be very light. The goad may not have a brad in it, only a plain yoke and chain or pole that may be pulled, except that a rope may be allowed in children's classes as provided in rules adopted pursuant to subsection 5. All chains must be covered to the hook. Plastic goads are not allowed. The goad stick may not be over 4 feet long unless approved by the pull superintendent and may not exceed 1/2 inch in diameter on the small end. The goad stick may be taped but not weighted. The stick may be used lightly on the face to control the oxen but not around the eyes. [PL 2005, c. 563, §3 (NEW).]

I. Any number of helpers is allowed to help hitch. After hitch-on, there may be no more than 2 helpers. The helpers shall stay behind the drag unless needed to help the driver. The helpers may not have a stick. This paragraph applies to distance pulls only. [PL 2017, c. 207, §8 (AMD).]

J. All participants must be properly dressed. Proper language must be used at all times. Any participant under the influence of alcohol or other intoxicating substances must be disqualified from the contest. Tests may be made to determine intoxication. The drinking of intoxicating beverages by participants in and around the ring is prohibited. [PL 2005, c. 563, §3 (NEW).]

K. The person or entity sponsoring the event decides the splitting of teams. [PL 2005, c. 563, §3 (NEW).]

L. Heading of horses or oxen is not allowed. One inch pulled constitutes a hitch. Stepping over the rail counts as a hitch and 5 minutes are allowed for hitching. Three attempts may be made within that period. Time taken out to position the drag for the next pull may not be counted. Drivers may not be changed after the first load is pulled. A team deliberately driven over the rail is disqualified from the contest. In case of a tie on the longest distance, the 2nd-longest distances

already pulled will take first place. Persons acting as eveners shall remain quiet after hitching on. This paragraph does not apply to distance pulls. [PL 2017, c. 207, §8 (AMD).]

M. There may not be heading of horses after a pull starts unless there is a mix-up, snarl or breakdown. [PL 2005, c. 563, §3 (NEW).]

N. A substantial barrier must be maintained at the end of the ring toward which the pull is proceeding to prevent or substantially impede runaways. A driver losing control of the team is disqualified immediately. [PL 2017, c. 207, §8 (AMD).]

O. There is 100 pounds' tolerance on draft steers and oxen on and after Labor Day weekend. [PL 2005, c. 563, §3 (NEW).]

P. An animal that is thin or dehydrated, shows open sores or is lame is disqualified. [PL 2005, c. 563, §3 (NEW).]

Q. Before a team is allowed to pull, the owner shall provide a certificate of liability insurance in the amount of $300,000. [PL 2005, c. 563, §3 (NEW).]

R. An animal must have an ear tag or microchip implant for identification purposes. The pull superintendent or the assistant pull superintendent shall verify the animal's identification at the time of weigh-in and at the time of entry. [PL 2017, c. 207, §9 (NEW).]

[PL 2017, c. 207, §§7-9 (AMD).]

**5. Rules.** The commissioner may, with the advice of the Pull Events Commission, adopt rules necessary to carry out the purposes of this section and sections 98 and 99. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2005, c. 563, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW). PL 2017, c. 207, §§7-9 (AMD).

**§98. Pull Events Commission**

The Pull Events Commission, as authorized by Title 5, section 12004-G, subsection 3-A, is established in accordance with this section. [PL 2005, c. 563, §3 (NEW).]

**1. Membership.** The Pull Events Commission consists of 10 members:

A. Two members appointed by a statewide association representing owners of draft horses and oxen who participate in pulling events; [PL 2005, c. 563, §3 (NEW).]

B. One member appointed by a statewide association representing owners of oxen who participate in pulling events; [PL 2011, c. 487, §1 (AMD).]

C. One member appointed by a statewide farmers association representing owners of draft horses who participate in pulling events; [PL 2011, c. 487, §1 (AMD).]

C-1. One member appointed by a statewide farmers association representing owners of draft oxen who participate in pulling events; [PL 2011, c. 487, §1 (NEW).]

D. One fair superintendent appointed by the commissioner; [PL 2011, c. 487, §1 (AMD).]

D-1. One member appointed by a state association of agricultural fairs; [PL 2011, c. 487, §1 (NEW).]

E. One representative appointed by state humane organizations; [PL 2005, c. 563, §3 (NEW).]

F. One member, appointed by the commissioner, representing the general public; and [PL 2011, c. 487, §1 (AMD).]

G. [PL 2011, c. 487, §1 (RP).]

H. One member appointed by the Animal Welfare Advisory Council. [PL 2005, c. 563, §3 (NEW).]

[PL 2011, c. 487, §1 (AMD).]

**2. Chair; meetings; secretary; quorum.** The Pull Events Commission shall elect one of its members as chair. The chair serves a 2-year term and may not serve as chair for consecutive terms. The commission shall meet a minimum of twice annually. The commissioner shall designate a person to serve as secretary to the Pull Events Commission. A quorum of the commission for the transaction of business is 6 members. An action may not be taken by the commission without approval of a majority of the members present.

[PL 2011, c. 487, §2 (AMD).]

**3. Terms; vacancies.** Appointments to the Pull Events Commission must be for terms of 3 years. The appointing authority fills a vacancy for a full 3-year term. The appointing authority may remove a commission member for cause, which includes poor attendance. The chair shall make recommendations to the appointing authority concerning a removal.

[PL 2011, c. 487, §3 (AMD).]

**4. Rulemaking.** The Pull Events Commission shall adopt rules establishing the qualifications and procedure for the certification of pull superintendents and assistant pull superintendents and guidelines for dealing with violations of section 95 and the rules adopted under this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2005, c. 563, §3 (NEW).]

**5. Other duties.** The Pull Events Commission shall:

A. Periodically review the statutory rules for pulls as contained in section 97, subsection 4 and recommend to the Legislature changes as necessary; [PL 2005, c. 563, §3 (NEW).]

B. Give advice and recommendations to the commissioner on request or as the commission considers necessary; and [PL 2005, c. 563, §3 (NEW).]

C. Coordinate, develop and conduct pull superintendent training seminars. [PL 2005, c. 563, §3 (NEW).]

[PL 2005, c. 563, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW). PL 2011, c. 73, §2 (AMD). PL 2011, c. 487, §§1-3 (AMD).

**§99. Pull superintendent**

**1. Appointment.** Each person or entity conducting a pulling event shall appoint a pull superintendent who is certified by the commissioner as qualified in accordance with rules adopted under section 98. The name of the pull superintendent must be submitted in conjunction with the application for a permit to conduct each event. Only a person listed on the application as a pull superintendent or assistant pull superintendent may officiate.

[PL 2005, c. 563, §3 (NEW).]

**2. Restrictions on officiating.** A pull superintendent may not officiate as pull superintendent for a class in a pulling event in which that pull superintendent is participating as a competitor. An assistant pull superintendent may not officiate as pull superintendent for a class in a pulling event in which that assistant pull superintendent is participating as a competitor.

[PL 2005, c. 563, §3 (NEW).]

**3. Enforcement responsibilities.** A pull superintendent shall enforce the laws and rules governing pulling events and shall report participants who are disqualified, violations of the law and other matters, as appropriate, to the Pull Events Commission.

[PL 2005, c. 563, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW).

**§100. Enforcement actions by commission**

Upon receipt of a report pursuant to section 99, subsection 3, the Pull Events Commission shall send a copy of the report to the sponsor whose name appears on the application for the pulling event and to the person whose conduct has been reported to the commission. [PL 2005, c. 563, §3 (NEW).]

**1. Violation by driver.** Upon receipt of a written report alleging that a driver has violated the laws or rules governing pulling events, the Pull Events Commission may after a hearing disqualify a driver from participation in pulling events.
[PL 2017, c. 207, §10 (AMD).]

**2. Violation by pull superintendent or assistant pull superintendent.** Upon receipt of a written report alleging that a pull superintendent or assistant pull superintendent has violated the laws or rules governing pulling events or has failed to take appropriate action to enforce the laws and rules governing pulling events, the Pull Events Commission may after a hearing suspend or revoke that person's certification to act as a pull superintendent.
[PL 2005, c. 563, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW). PL 2017, c. 207, §10 (AMD).

**§101. Violations relating to pulling events**

**1. Conducting pulling event without permit.** A person that conducts, causes to be conducted or sponsors a public or private pulling event between animals or pairs of animals within the State without a permit from the commissioner commits a civil violation for which a fine of not less than $100 nor more than $500 may be adjudged.
[PL 2005, c. 563, §3 (NEW).]

**2. Prohibition on participating in pulling events.** A person who has been convicted of a violation of Title 17, section 1031 or has been adjudicated to have committed a civil violation of section 4011 within the previous 5 years may not participate as an animal owner or handler or in any other capacity, directly or indirectly, in a pulling event. A person who participates in a pulling event in violation of this subsection commits a civil violation for which a fine of not less than $100 nor more than $500 may be adjudged.
[PL 2005, c. 563, §3 (NEW).]

**3. Permit revocation.** The commissioner may, in accordance with Title 5, chapter 375, revoke or refuse to renew a permit to hold a pulling event:

A. If after receiving notice from the department the sponsor of a pulling event allows a person to participate as an owner or handler or in any other capacity, directly or indirectly, in a pulling event within 5 years of that person's being convicted of a violation of Title 17, section 1031 or being adjudicated of a civil violation of section 4011; or [PL 2005, c. 563, §3 (NEW).]

B. When the commissioner has received written notification from the Pull Events Commission of violations of laws or rules at a pulling event conducted under a permit held by that sponsor. [PL 2005, c. 563, §3 (NEW).]

[PL 2005, c. 563, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 563, §3 (NEW).

**§102. Reciprocal disciplinary action**

The department shall obtain current listings from other jurisdictions of persons who have been suspended or barred from pulling competitions. The department shall refuse to allow any person who has been suspended or barred from pulling competitions in another jurisdiction to compete in any pulling competition until the department receives notification from the jurisdiction that has suspended or barred the person from pulling competitions that the person is again eligible to compete in pulling competitions in that jurisdiction. [PL 2013, c. 155, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 155, §1 (NEW).

**§103. Agricultural Fair Promotion Fund**

**1. Eligible nonprofit organization defined.** As used in this section, "eligible nonprofit organization" means a nonprofit organization that is exempt from federal income taxation under Section 501(a) of the United States Internal Revenue Code of 1986 as an organization described by Section 501(c) and that has had, for at least the preceding 25 years, a sole or primary purpose of promoting agricultural fairs in the State.
[PL 2021, c. 681, Pt. J, §2 (NEW).]

**2. Identification of eligible nonprofit organizations.** On January 1st and July 1st of each year, the commissioner shall send a list of all eligible nonprofit organizations to the Treasurer of State.
[PL 2021, c. 681, Pt. J, §2 (NEW).]

**3. Fund created.** The Treasurer of State shall establish an account as a separate unit within the Harness Racing Commission program to be known as "the Agricultural Fair Promotion Fund" and shall credit to it all money received under Title 8, section 1218, subsection 1, paragraph E. The fund is a dedicated, nonlapsing fund within the Department of Agriculture, Conservation and Forestry. All revenues deposited in the fund must be disbursed in accordance with this section.
[PL 2023, c. 643, Pt. L, §1 (AMD).]

**4. Distribution.** On January 31st and July 31st of each year, all amounts credited to the fund established pursuant to this section as of the last day of the preceding month and not distributed before that day must be distributed by the Treasurer of State in equal shares to each organization in the State that has been identified by the commissioner as an eligible nonprofit organization under subsection 2.
[PL 2021, c. 681, Pt. J, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 681, Pt. J, §2 (NEW). PL 2023, c. 643, Pt. L, §1 (AMD).

## CHAPTER 5

## BOARD OF AGRICULTURE AND MAINE AGRICULTURAL EXPERIMENT STATION

**§121. Maine Agricultural Experiment Station**

**1. Establishment.** The department of the University of Maine System known and designated as the Maine Agricultural Experiment Station, referred to in this section as the "station," established at the University of Maine at Orono in connection with the university and under the direction of the university, the director and the Board of Agriculture, for the purpose of carrying into effect 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 an Act approved July 2, 1862, and of the Acts supplementary thereto, must be maintained in accordance with the purposes for which it was originally established.
[PL 1997, c. 711, §3 (NEW).]

**2. Director.** The President of the University of Maine at Orono, in consultation with the Board of Agriculture, shall appoint for a term of 5 years the Director of the Maine Agricultural Experiment Station, referred to in this section as the "director." After the term has expired, the director is eligible for reappointment. The director may be removed by the President of the University of Maine at Orono, in consultation with the Board of Agriculture, for cause. The director shall work with the Board of Agriculture to oversee the work of the university faculty at the station. The director of the station is the executive and administrative officer of the station and shall exercise supervision, direction and control over the station in accordance with the programs and policies of the University of Maine System and those established by the Board of Agriculture.
[PL 1997, c. 711, §3 (NEW).]

SECTION HISTORY

PL 1985, c. 779, §25 (AMD). PL 1997, c. 711, §3 (RPR).

**§122. Orcharding and crops**

The Maine Agricultural Experiment Station shall conduct scientific investigations in orcharding, corn and other farm crops and, to this end, shall maintain the farms purchased in the name of the State, and stocked and equipped for the use and benefit of the station. The Director of the Maine Agricultural Experiment Station, with the agreement of the Board of Agriculture, has the general supervision, management and control of those farms and of all investigations thereon. The board and the director shall seek agreement on all issues. In the event that agreement can not be reached, final authority rests with the director. [PL 2005, c. 512, §2 (AMD).]

SECTION HISTORY

PL 1997, c. 711, §4 (AMD). PL 2005, c. 512, §2 (AMD).

**§123. Animal husbandry**

The Maine Agricultural Experiment Station shall conduct scientific investigations in animal husbandry, including experiments and observations on dairy cattle and other domestic animals, and these investigations are under the control of the director of the station with the agreement of the Board of Agriculture. The experiments in animal husbandry may be conducted at any of the farms owned by the State. The board and the director shall seek agreement on all issues. In the event that agreement can not be reached, final authority rests with the director. [PL 1997, c. 711, §4 (AMD).]

SECTION HISTORY

PL 1997, c. 711, §4 (AMD).

**§124. Expenditure of appropriation**

Sums that are appropriated in favor of the Maine Agricultural Experiment Station must be expended by the director of the station with the agreement of the Board of Agriculture in executing sections 121, 122 and 123. The board and the director shall seek agreement on all issues. In the event that agreement can not be reached, final authority rests with the director. [PL 1997, c. 711, §4 (AMD).]

SECTION HISTORY

PL 1997, c. 711, §4 (AMD).

**§125. Board of Agriculture**

**1. Establishment; duties.** The Board of Agriculture, referred to in this section as the "board," as established in Title 5, section 12004-G, subsection 4-A, is created within the University of Maine System. The board shall advise the Chancellor of the University of Maine System and the President of the University of Maine at Orono on matters concerning the operation and management of agricultural research conducted by the Maine Agricultural Experiment Station and university farm-based programs,

including those of the University of Maine Cooperative Extension Service. The board's duties are limited to advising the chancellor and the president on research and programs relating to agriculture. The board does not advise the Director of the Maine Agricultural Experiment Station or have a role in the operation of research and programs within the Maine Agricultural Experiment Station that relate to forestry, wildlife, or fisheries and aquaculture. The board shall assist the chancellor and the president in articulating the mission of the Maine Agricultural Experiment Station as it pertains to agriculture. The director, with the agreement of the board, shall develop a budget for the station. The board and the director shall seek agreement on all issues. In the event that agreement can not be reached, final authority rests with the director. The board may not interfere with funding and grants for commodity research programs brought to the University of Maine System directly or through the efforts of commodity groups. The board shall respect the expertise of the various commodity groups and shall maintain the integrity of the research being recommended and reviewed by specific commodity groups. The board shall assist in the coordination of activities with commodity groups interested in or supporting agricultural research. The board shall consult with the following agricultural commodity advisory committees on agricultural research and extension priorities:

A. The University of Maine System Wild Blueberry Advisory Committee; and [PL 1997, c. 711, §5 (NEW).]

B. The Maine Potato Board Research and Product Development Committee. [PL 1997, c. 711, §5 (NEW).]

[PL 1997, c. 711, §5 (NEW).]

**2. Membership.** The board consists of the following 20 members:

A. A designee of the President of the University of Maine at Orono; [PL 1997, c. 711, §5 (NEW).]

B. A designee of the Chancellor of the University of Maine System; [PL 1997, c. 711, §5 (NEW).]

C. The Commissioner of Agriculture, Conservation and Forestry or the commissioner's designee; [PL 1997, c. 711, §5 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

D. The president of a statewide farm bureau or the president's designee; [PL 2009, c. 393, §1 (AMD).]

E. The president of a statewide agricultural council or the president's designee; [PL 2009, c. 393, §1 (AMD).]

F. Eight members representing the agricultural industry, one person designated by each of the following:

(1) The Maine Potato Board;

(2) The Wild Blueberry Commission of Maine;

(3) A statewide pomological society;

(4) A statewide vegetable and small fruit growers association;

(5) A statewide dairy industry association;

(6) A statewide landscape and nursery association;

(7) A statewide florist and growers association; and

(8) A statewide organic farmers and gardeners association; [PL 1997, c. 711, §5 (NEW).]

G. Two members of the joint standing committee of the Legislature having jurisdiction over agricultural matters, one appointed by the President of the Senate and one appointed by the Speaker of the House; [PL 1997, c. 711, §5 (NEW).]

H. One farmer with livestock experience in an area other than dairy farming, chosen from a list of 3 nominees submitted by a statewide beef and sheep producers association, appointed by the Governor; [PL 1997, c. 711, §5 (NEW).]

I. Two research faculty members associated with agricultural research at the University of Maine at Orono, appointed by the Board of Trustees of the University of Maine System; [PL 2009, c. 393, §1 (AMD).]

J. The Director of the University of Maine Cooperative Extension Service; and [PL 2009, c. 393, §1 (AMD).]

K. One member representing the aquaculture industry designated by a statewide aquaculture industry association. [PL 2009, c. 393, §1 (NEW).]

[PL 2009, c. 393, §1 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

**3. Terms.** Each member serves a term of 5 years, except that the terms of legislative members expire the first Wednesday in December of even-numbered years. Vacancies must be filled by the appointing authority to complete the term of the preceding appointee.
[PL 1997, c. 711, §5 (NEW).]

**4. Chair; secretary.** The board shall select annually one of its members to serve as chair. The Director of the Agricultural Experiment Station shall serve as secretary to the board but the director is not a member of the board and has no vote.
[PL 1997, c. 711, §5 (NEW).]

**5. Compensation.** The board members are entitled to legislative per diem compensation for attendance at board meetings in accordance with Title 5, chapter 379.
[PL 1997, c. 711, §5 (NEW).]

**6. Report.** The Board of Agriculture shall report at least annually to the joint standing committee of the Legislature having jurisdiction over agricultural matters and to the Board of Trustees of the University of Maine System. The report must include an accounting of meetings and actions of the Board of Agriculture, including agreements entered into, status of demonstration projects, research findings, informational activities and an evaluation of the Maine Agricultural Experiment Station and Cooperative Extension Service programs, with recommendations regarding changes or improvements in the programs and the budget. The Board of Agriculture shall submit annually to the Board of Trustees of the University of Maine System proposals for additional funding for capital building projects at the research farms.
[PL 1997, c. 711, §5 (NEW).]

**7. Long-range plan.** By January 15, 2000, the board shall establish a long-range plan for operation of the Agricultural Experiment Station and the Cooperative Extension Service programs that includes but is not limited to plans for each of the research farms, joint appointments for experiment station and extension faculty, better utilization of research farms and objectives for research for each agricultural commodity in the State. The plan developed by the board does not include operations, research and programs relating to forestry, wildlife, aquaculture and fisheries.
[PL 1999, c. 72, §1 (AMD).]

SECTION HISTORY

PL 1997, c. 711, §5 (NEW). PL 1999, c. 72, §1 (AMD). PL 2009, c. 393, §1 (AMD). PL 2011, c. 657, Pt. W, §6 (REV).

## CHAPTER 6

## MAINE AGRICULTURE PROTECTION ACT

**§151. Short title**

This Act may be known and cited as "the Maine Agriculture Protection Act." [PL 2007, c. 649, §3 (NEW).]

SECTION HISTORY

PL 2007, c. 649, §3 (NEW).

**§152. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2007, c. 649, §3 (NEW).]

**1. Agricultural composting operation.** "Agricultural composting operation" means composting that takes place on a farm. "Agricultural composting operation" does not include an operation that involves nonorganic municipal solid waste or that composts municipal sludge, septage, industrial solid waste or industrial sludge. "Agricultural composting operation" does not include an operation that composts materials with a moderate or high risk of contamination from heavy metals, volatile and semivolatile organic compounds, polychlorinated biphenyls or dioxin.
[PL 2007, c. 649, §3 (NEW).]

**2. Agricultural products.** "Agricultural products" means those plants and animals and their products that are useful to humans and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, bees and bees' products, livestock and livestock products, manure and compost and fruits, berries, vegetables, flowers, seeds, grasses and other similar products, or any other plant, animal or plant or animal products that supply humans with food, feed, fiber or fur. "Agricultural products" does not include trees grown and harvested for forest products.
[PL 2015, c. 145, §1 (AMD).]

**3. Agricultural support services.** "Agricultural support services" means the aerial or surface application of seed, fertilizer, pesticides or soil amendments and custom harvesting.
[PL 2007, c. 649, §3 (NEW).]

**4. Composting.** "Composting" means the controlled aerobic decomposition of organic materials to produce a soil-like product beneficial to plant growth and suitable for agronomic use.
[PL 2007, c. 649, §3 (NEW).]

**5. Farm.** "Farm" means the land, plants, animals, buildings, structures, ponds and machinery used in the commercial production of agricultural products.
[PL 2007, c. 649, §3 (NEW).]

**6. Farm operation.** "Farm operation" means a condition or activity that occurs on a farm in connection with the commercial production of agricultural products and includes, but is not limited to, operations giving rise to noise, odors, dust, insects and fumes; operation of machinery and irrigation pumps; disposal of manure; agricultural support services; and the employment and use of labor.
[PL 2007, c. 649, §3 (NEW).]

SECTION HISTORY

PL 2007, c. 649, §3 (NEW). PL 2015, c. 145, §1 (AMD).

**§153. Farm; farm operation or agricultural composting operation not a nuisance**

A farm, farm operation or agricultural composting operation may not be considered a public or private nuisance under Title 17, chapter 91 if the farm, farm operation or agricultural composting operation alleged to be a nuisance is in compliance with applicable state and federal laws, rules and regulations and: [PL 2007, c. 649, §3 (NEW).]

**1. Farm; farm operation; agricultural composting operation.** The farm, farm operation or agricultural composting operation conforms to best management practices, as determined by the commissioner in accordance with Title 5, chapter 375;
[PL 2007, c. 649, §3 (NEW).]

**2. Storage or use of farm nutrients; complaints.** For complaints regarding the storage or use of farm nutrients as defined in section 4201, subsection 4, the farm, farm operation or agricultural composting operation has implemented a nutrient management plan developed in accordance with section 4204 and operation of the farm, farm operation or agricultural composting operation is consistent with the nutrient management plan; or
[PL 2007, c. 649, §3 (NEW).]

**3. Change in land use; occupancy of land.** The farm, farm operation or agricultural composting operation existed before a change in the land use or occupancy of land within one mile of the boundaries of the farm, farm operation or agricultural composting operation as long as, before the change in land use or occupancy, the farm, farm operation or agricultural composting operation would not have been considered a nuisance. This subsection does not apply to a farm, farm operation or agricultural composting operation that materially changes the conditions or nature of the farm, farm operation or agricultural composting operation after a change in the land use or occupancy of land within one mile of the boundaries of the farm, farm operation or agricultural composting operation. Nothing in this subsection affects the applicability of any of the other provisions of this chapter.
[PL 2007, c. 649, §3 (NEW).]

SECTION HISTORY

PL 2007, c. 649, §3 (NEW).

### §154. Violation of municipal ordinances

A farm operation or agricultural composting operation located in an area where agricultural activities are permitted may not be considered a violation of a municipal ordinance if the farm operation or agricultural composting operation conforms to best management practices as determined by the commissioner in accordance with section 153, subsection 1. [PL 2015, c. 145, §2 (AMD).]

SECTION HISTORY

PL 2007, c. 649, §3 (NEW). PL 2015, c. 145, §2 (AMD).

### §155. Application; municipal ordinances

This chapter does not affect the application of state and federal laws. A municipality must provide the commissioner with a copy of any proposed ordinance that affects farm operations or agricultural composting operations. The clerk of the municipality or a municipal official designated by the clerk shall submit a copy of the proposed ordinance to the commissioner at least 90 days prior to the meeting of the legislative body or public hearing at which adoption of the ordinance will be considered. The commissioner shall review the proposed ordinance and advise the municipality as to whether the proposed ordinance restricts or prohibits the use of best management practices. This section does not affect municipal authority to enact ordinances. [PL 2015, c. 145, §3 (AMD).]

SECTION HISTORY

PL 2007, c. 649, §3 (NEW). PL 2015, c. 145, §3 (AMD).

### §156. Complaint resolution

The commissioner shall investigate all complaints involving a farm, farm operation or agricultural composting operation, including, but not limited to, complaints involving the use of waste products, groundwater and surface water pollution and insect infestations. In cases of insect infestations not arising from agricultural activities, when the State Entomologist believes that the infestation is a public

nuisance and is able to identify the source or sources of the infestation, the commissioner shall refer the matter to the Department of the Attorney General. If the commissioner finds upon investigation that the person responsible for the farm, farm operation or agricultural composting operation is using best management practices, the commissioner shall notify that person and the complainant of this finding in writing. Notwithstanding section 153, subsection 3, if the commissioner identifies the source or sources of the problem and finds that the problem is caused by the use of other than best management practices, the commissioner shall: [PL 2007, c. 649, §3 (NEW).]

**1. Changes.** Determine the changes needed in the farm, farm operation or agricultural composting operation to comply with best management practices and prescribe site-specific best management practices for that farm, farm operation or agricultural composting operation;
[PL 2007, c. 649, §3 (NEW).]

**2. Advise person responsible.** Advise the person responsible for the farm, farm operation or agricultural composting operation of the changes, as determined in subsection 1, that are necessary to conform with best management practices and determine subsequently if those changes are implemented; and
[PL 2007, c. 649, §3 (NEW).]

**3. Findings.** Give the findings of the initial investigation and subsequent investigations and any determination of compliance to the complainant and person responsible.
[PL 2007, c. 649, §3 (NEW).]

SECTION HISTORY

PL 2007, c. 649, §3 (NEW).

**§157. Good faith**

The Maine Rules of Civil Procedure, Rule 11 applies in any private action filed against the owner or operator of a farm, farm operation or agricultural composting operation in which it is alleged that the farm, farm operation or agricultural composting operation constitutes a nuisance if it is determined that the action was not brought in good faith and was frivolous or intended for harassment only. [PL 2007, c. 649, §3 (NEW).]

SECTION HISTORY

PL 2007, c. 649, §3 (NEW).

**§158. Failure to adopt best management practices**

If the person responsible for a farm, farm operation or agricultural composting operation does not apply best management practices as required by the commissioner, the commissioner shall send a written report to an appropriate agency if a federal or state law has been violated and to the Attorney General. The Attorney General may institute an action to abate a nuisance or to enforce the provisions of this chapter or any other applicable state law, and the court may order the abatement with costs as provided under Title 17, section 2702, such injunctive relief as provided in this section or by other applicable law, or that a civil violation has been committed. Failure to apply best management practices in accordance with this chapter constitutes a separate civil violation for which a fine of up to $1,000, together with an additional fine of up to $250 per day for every day that the violation continues, may be adjudged. [PL 2007, c. 649, §3 (NEW).]

SECTION HISTORY

PL 2007, c. 649, §3 (NEW).

**§159. Agricultural Complaint Response Fund**

There is established the nonlapsing Agricultural Complaint Response Fund. The commissioner may accept from any source funds designated to be placed in the fund. The commissioner may authorize

expenses from the fund as necessary to investigate complaints involving a farm, farm operation or agricultural composting operation and to abate conditions potentially resulting from farms, farm operations or agricultural composting operations. [PL 2007, c. 649, §3 (NEW).]

SECTION HISTORY

PL 2007, c. 649, §3 (NEW).

**§160. Educational outreach**

The commissioner shall conduct an educational outreach program for the agricultural community to increase awareness of the provisions of this chapter and the best management practices of the department. The commissioner shall inform the public about the provisions of this chapter, the complaint resolution process adopted by the department and state policy with respect to preservation and protection of agricultural and natural resources. [PL 2007, c. 649, §3 (NEW).]

SECTION HISTORY

PL 2007, c. 649, §3 (NEW).

**§161. Rules**

The commissioner shall adopt rules in accordance with the Maine Administrative Procedure Act to interpret and implement this chapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2007, c. 649, §3 (NEW).]

SECTION HISTORY

PL 2007, c. 649, §3 (NEW).

**§162. Maine Farm Agricultural Resource Management and Sustainability recognition program**

The commissioner shall establish a process for designating Maine Farm Agricultural Resource Management and Sustainability recipients according to this section. This designation provides farmers an opportunity to recognize their commitment to sustainable agricultural practices and long-term resource management and to increase public awareness of agricultural producer commitment to best management practices. [PL 2017, c. 160, §1 (AMD).]

**1. Application.** An applicant for designation as a Maine Farm Agricultural Resource Management and Sustainability recipient shall submit a completed application for verification in accordance with subsection 3 to the department. The department shall develop an application and make it available through the offices of the soil and water conservation districts and private organizations and public agencies that support or represent farmers in the State.
[PL 2017, c. 160, §1 (AMD).]

**2. Eligibility.** A farm is eligible for designation under this section if it engages in the management of cropland or the production of livestock, specialty crops or value-added products and meets the criteria established by the commissioner as follows:

A. The farm consists of land classified as prime farmland, land of statewide or local importance or unique farmland by the Natural Resources Conservation Service within the United States Department of Agriculture. In counties where land of local importance has not been identified, land that is actively farmed may be eligible as provided in rules adopted under subsection 4; [PL 2009, c. 356, Pt. A, §1 (NEW).]

B. The farm is engaged in the commercial production of agricultural products; or [PL 2017, c. 160, §1 (AMD).]

C. The farm complies with additional criteria established in rules adopted under subsection 4. [PL 2017, c. 160, §1 (AMD).]

A farm that is farmed under a lease may be designated as long as the landowner and the lessee sign the application.
[PL 2017, c. 160, §1 (AMD).]

**3. Verification of eligibility.** An applicant for designation as a Maine Farm Agricultural Resource Management and Sustainability recipient shall submit a completed application form together with support materials as required in rules adopted under subsection 4 to the department for verification of eligibility.
[PL 2017, c. 160, §1 (AMD).]

**4. Rules.** The commissioner may adopt rules to further define the verification process under subsection 3 and establish additional eligibility criteria as needed for designation of Maine Farm Agricultural Resource Management and Sustainability recipients. The commissioner may provide signs or certificates or develop other means of recognizing a farm that has attained designation as a Maine Farm Agricultural Resource Management and Sustainability recipient. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2017, c. 160, §1 (AMD).]

**5. Fee.** The commissioner may charge fees as necessary for the administration of this section.
[PL 2017, c. 160, §1 (AMD).]

SECTION HISTORY

PL 2009, c. 356, Pt. A, §1 (NEW). PL 2011, c. 682, §38 (REV). PL 2017, c. 160, §1 (AMD).

**§163. Pilot program for establishing agricultural districts and agriculture enhancement groups**

The commissioner may establish a pilot program to examine the effectiveness of agricultural districts in keeping farmland in agricultural production and enhancing the profitability of farming. For the purposes of this section, "pilot program" means an agricultural districts program that allows farmers to propose that the department designate their farmland as an agricultural district where commercial agriculture is encouraged and farmland protected through collaborative efforts at the state and local level. [PL 2009, c. 356, Pt. A, §2 (NEW).]

**1. Eligibility criteria for agricultural districts.** In order to be eligible to participate in the pilot program, farms must form agricultural districts. An agricultural district must be composed of 3 or more farms that are located in geographic proximity to each other, produce similar types of agricultural products or share common marketing interests. The commissioner shall review eligibility criteria for participants in agricultural districts in other states and may develop additional criteria for participation with the pilot program, including, but not limited to, minimum acreage and farm income thresholds.
[PL 2009, c. 356, Pt. A, §2 (NEW).]

**2. Benefits.** The commissioner shall review benefits accruing to participants in agricultural districts in other states. Prior to initiating the pilot program, the commissioner shall develop a description of potential benefits accruing to participants in a pilot program. Potential benefits may include, but are not limited to, scoring bonuses for competitive grants, loans or business assistance programs and for project proposals screened for submission to the Land for Maine's Future Trust Fund under Title 5, section 6203-D or the Conservation and Recreation Fund under Title 5, section 6203-E. The commissioner shall consult with other agencies administering programs affected by the proposed benefits.
[PL 2023, c. 284, §19 (AMD).]

**3. Selection of regions.** The commissioner shall distribute a description of the purpose and potential benefits of forming an agricultural district. Distribution may be through public agencies and private organizations that have regular contact with farmers in the State. The description must be posted on the department's publicly accessible website. The description notice must include information on

how to contact the department to express interest in learning more about or participating in an agricultural district.

Based on the response to the initial solicitation, the commissioner may designate one or more districts. Prior to making a selection, the commissioner shall communicate with local or regional planning commissions and state, local or regional land trusts to ascertain their willingness to participate in efforts to protect farmland in the proposed districts.

If more than one district is designated for the pilot program, the commissioner shall strive to select districts in different parts of the State or different sectors of the State's agricultural economy.
[PL 2009, c. 356, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2009, c. 356, Pt. A, §2 (NEW). PL 2023, c. 284, §19 (AMD).

**§164. Maine Working Farmland Access and Protection Program**

**1. Program established; administration.** The Maine Working Farmland Access and Protection Program, referred to in this section as "the program," is established to provide protection to strategically significant working farmland properties as defined in Title 5, section 6201, subsection 4-A whose continued availability to commercial agricultural businesses is essential to the long-term future of the economic sector. The department shall administer the program either directly or by contract with a suitable organization.
[PL 2021, c. 135, §5 (NEW).]

**2. Review panel.** The department shall establish a review panel to advise the commissioner in the operation of the program, including, but not limited to, evaluating applications and recommending to the department applicants for participation in the program.
[PL 2021, c. 135, §5 (NEW).]

**3. Selection criteria.** The selection criteria with which to evaluate applications for protection of working farmland property under the program must include, but are not limited to:

A. The interest of the owner of the working farmland property to make the farmland available via lease or transfer the protected property to another farmer or other farmers to advance the department's goal of preserving and increasing access to farmland for new and growing farms; [PL 2021, c. 135, §5 (NEW).]

B. The threat of conversion of the working farmland property such that it would become unavailable for commercial production of agricultural products; [PL 2021, c. 135, §5 (NEW).]

C. The percentage of soils classified by the United States Department of Agriculture as prime farmland, unique farmland, farmland of statewide importance and farmland of local importance; [PL 2021, c. 135, §5 (NEW).]

D. The agricultural structures and improvements associated with the working farmland property; [PL 2021, c. 135, §5 (NEW).]

E. The economic viability of the working farmland property in terms of current and potential future commercial agricultural activities in local, regional and statewide markets; connection of the working farmland property to agricultural services including processors, aggregators and distributors; and number of on-farm jobs supported by the working farmland property; [PL 2021, c. 135, §5 (NEW).]

F. The proximity of other working farmland properties in the town or region; [PL 2021, c. 135, §5 (NEW).]

G. The degree of community support for the proposed protection of the working farmland property; [PL 2021, c. 135, §5 (NEW).]

H. The multiple natural resources values associated with the working farmland property, including open space land, forested land and wetlands; riparian buffers; wildlife habitat; and freshwater aquifers; and [PL 2021, c. 135, §5 (NEW).]

I. Whether the applicant is from or serving an underserved or underprivileged community as defined by the department by rule. Rules adopted under this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2021, c. 135, §5 (NEW).]

[PL 2021, c. 135, §5 (NEW).]

**4. Grant agreements.** The commissioner shall enter into grant agreements with state agencies and cooperating entities for the purpose of receiving grants from the Maine Working Farmland Access and Protection Fund under Title 5, section 6203-C.
[PL 2021, c. 135, §5 (NEW).]

**5. Funding.** A separate, nonlapsing, interest-bearing account, administered by the department, is established in the department within the Bureau of Agriculture, Food and Rural Resources to support public-private partnerships to carry out the purposes of the program. The account consists of money appropriated or allocated to the account or received from any private or public source.
[PL 2025, c. 388, Pt. S, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 135, §5 (NEW). PL 2025, c. 388, Pt. S, §1 (AMD).

## CHAPTER 6-A

## MANAGEMENT OF MOSQUITOES

### §171. Management of mosquitoes for protection of public health; state policy

It is the policy of the State to work to find and implement ways to prevent mosquito-borne diseases in a manner that minimizes risks to humans and the environment. The State, led by the department and the Department of Health and Human Services pursuant to this chapter and Title 22, chapter 257-B, respectively, shall monitor mosquito-borne diseases and shall base mosquito management methods, including potential pesticide use, on an evaluation of the most current risk assessments. On a continuing basis, the State shall research and evaluate means of reducing disease-carrying mosquitoes without the use of pesticides. When the Department of Health and Human Services determines that the disease risk is high and public education efforts are insufficient to adequately prevent mosquito-borne diseases in the State, the Department of Health and Human Services may declare a mosquito-borne disease public health threat pursuant to Title 22, chapter 257-B and the State may undertake emergency activities to reduce disease-carrying mosquito populations that threaten the health of residents of this State. The State in undertaking emergency activities shall use a combination of the lowest risk, most effective integrated pest management techniques and science-based technology and shall consult with officials from affected municipalities in determining the most appropriate combination of response strategies.
[PL 2013, c. 548, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 548, §1 (NEW).

### §172. Department lead agency; powers of commissioner

**1. Lead agency.** The department is the lead agency of the State for carrying out mosquito management activities as described in this chapter.
[PL 2013, c. 548, §1 (NEW).]

**2. Management methods.** The commissioner may use appropriate methods for the management of mosquitoes and the prevention of their breeding in a manner consistent with section 171, including, but not limited to, conducting or contracting for mosquito management activities and purchasing equipment necessary for the purposes of carrying out this chapter.
[PL 2013, c. 548, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 548, §1 (NEW).

**§173. Duties of commissioner**

**1. Study; plan; arrange cooperation.** When sufficient money for such purposes is available in the fund, the commissioner, in cooperation with appropriate personnel from the Department of Health and Human Services, shall:

A. Consider and study mosquito management problems, including mosquito surveillance; [PL 2013, c. 548, §1 (NEW).]

B. Identify means of managing disease-carrying mosquitoes in a manner that minimizes pesticide use; [PL 2013, c. 548, §1 (NEW).]

C. Coordinate plans for mosquito management work that may be conducted by private landowners, groups, organizations, municipalities, counties and mosquito management districts formed pursuant to section 175; and [PL 2013, c. 548, §1 (NEW).]

D. Arrange, to the extent practicable, cooperation among state departments and with federal agencies in conducting mosquito management operations within the State. [PL 2013, c. 548, §1 (NEW).]

[PL 2013, c. 548, §1 (NEW).]

**2. Consultation.** The commissioner shall consult with the University of Maine Cooperative Extension and private sector experts and municipalities in developing plans and procedures for implementing this chapter.
[PL 2013, c. 548, §1 (NEW).]

**3. Assist with disseminating information.** When sufficient money for such purposes is available in the fund, the commissioner, in cooperation with appropriate personnel from the Department of Health and Human Services and experts from the University of Maine Cooperative Extension, shall assist private landowners, groups, organizations, municipalities, counties and mosquito management districts formed pursuant to section 175 to disseminate information to the residents of the State about ways to reduce mosquito populations, to eliminate mosquito breeding sites and to protect themselves from mosquito-borne diseases as well as other relevant information.
[PL 2013, c. 548, §1 (NEW).]

**4. Implement mosquito management response.** When a mosquito-borne disease public health threat is declared by the Commissioner of Health and Human Services pursuant to Title 22, section 1447, the Commissioner of Agriculture, Conservation and Forestry shall implement an effective management response consistent with section 171. The management response must include combinations of integrated pest management techniques. The Commissioner of Agriculture, Conservation and Forestry shall consider the availability of funds in the fund in planning the response.
[PL 2013, c. 548, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 548, §1 (NEW).

**§174. Maine Mosquito Management Fund**

The Maine Mosquito Management Fund, referred to in this chapter as "the fund," is established to carry out the purposes of this chapter. The fund consists of any money received as contributions, grants or appropriations from private and public sources. The fund, to be accounted for within the department, must be held separate and apart from all other money, funds and accounts. Any balance remaining in the fund at the end of a fiscal year does not lapse but must be carried forward to the next fiscal year. The department may expend the money available in the fund and make grants to private landowners, groups, organizations, agencies, municipalities, counties, the University of Maine Cooperative Extension and mosquito management districts formed pursuant to section 175 to carry out the purposes of this chapter. [PL 2013, c. 548, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 548, §1 (NEW).

**§175. Mosquito management districts**

For the purposes of preserving and promoting the public health and welfare by providing for coordinated and effective management of mosquitoes, municipalities may cooperate with each other through the creation of mosquito management districts. [PL 2013, c. 548, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 548, §1 (NEW).

**§176. Rules**

The commissioner may adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this section are major substantive rules as described in Title 5, chapter 375, subchapter 2-A. [PL 2013, c. 548, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 548, §1 (NEW).

## CHAPTER 7

## EXTENSION WORK WITH STATE UNIVERSITY

**§191. Purpose**

In order to aid in diffusing among the people of this State useful and practical information on subjects relating to agriculture and natural resources, youth development, and home economics and community 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 Trustees of the University of Maine System and the University of Maine. [PL 1985, c. 779, §26 (AMD).]

SECTION HISTORY

PL 1985, c. 283, §1 (AMD). PL 1985, c. 779, §26 (AMD).

**§192. Demonstrations and information**

Cooperative extension work shall consist of the giving of practical demonstrations in agriculture and natural resources, youth development, and home economics and community life and imparting information on those subjects through field demonstrations, publications and otherwise. This work shall be carried on in each county in such manner as may be mutually agreed upon by the executive committee of the county extension association provided for in section 193, and the trustees of the University of Maine System, the University of Maine, or their duly appointed representatives. [PL 1985, c. 779, §27 (AMD).]

SECTION HISTORY

PL 1985, c. 283, §2 (AMD). PL 1985, c. 779, §27 (AMD).

**§193. County extension associations**

For the purpose of carrying out this chapter, there may be created in each county or combination of 2 counties within the State an organization to be known as a "county extension association," and its services available to all residents of a county. Such county extension association shall have adopted a constitution and set of bylaws acceptable to the University of Maine and they shall be recognized as the official body within that county or counties for carrying on extension work in agriculture and natural resources, youth development, and home economics and community life within that county or counties in cooperation with the University of Maine. The county extension is viewed as a unique and important educational program of county government. The county extension association may make such regulations and bylaws for its government and the carrying on of its work as are not inconsistent with that chapter, provided that one such organization shall be formed in each county. [PL 1985, c. 779, §28 (AMD).]

SECTION HISTORY

PL 1985, c. 283, §3 (AMD). PL 1985, c. 779, §28 (AMD).

**§194. Budget and taxes**

The executive committee of each county extension association shall prepare an annual budget as requested, showing in detail its estimate of the amount of money to be expended under this chapter within the county or counties for the fiscal year, shall submit the same to a vote of the association at the regular annual meeting and, if the budget is approved by a majority vote of the members of the association present at such meeting, the executive committee shall submit the same to the board of county commissioners on a date requested by the county commissioners, and the county commissioners may, if they deem it justifiable, adopt an appropriate budget for the county extension program and levy a tax therefor. The amount thus raised by direct taxation within any county or combination of counties for the purposes of this chapter shall be used for the salaries of clerks, provision of office space, supplies, equipment, postage, telephone, a contribution toward the salaries of county agents and such other expenses as necessary to maintain an effective county extension program. Whenever the inhabitants of 2 counties shall unite for organization in one association, the executive committee shall present its budget to the county commissioners of both counties. The county commissioners of those counties shall meet jointly to consider and adopt a budget for each county. The amount and proportion of the budget shall be shared in a manner determined by mutual agreement at a joint meeting of the county commissioners. [PL 1985, c. 283, §4 (AMD).]

SECTION HISTORY

PL 1985, c. 283, §4 (AMD).

**§195. Annual reports**

A county extension association shall annually present to the University of Maine and the county commissioners its plan of extension work for the ensuing year and 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. The financial report of a county extension association must be on forms prescribed by the University of Maine and the county commissioners. [PL 2005, c. 512, §3 (AMD).]

SECTION HISTORY

PL 1985, c. 283, §5 (AMD). PL 1985, c. 779, §29 (AMD). PL 2005, c. 512, §3 (AMD).

**§196. Building associations authorized**

The county commissioners of a county or combination of 2 counties in which there is a county extension association may form a county extension building association pursuant to this section and Title 13, chapter 81. In addition to the powers and authority granted and duties and limitations imposed under Title 13, chapter 81, the county extension building association has all the powers and authority granted under this section and is subject to all the duties and limitations imposed under this section, except that, in the case of any conflict between this section and Title 13, chapter 81, this section controls. A county extension building association is a political subdivision of the State and a constituted authority for purposes of the United States Internal Revenue Code of 1986, Section 103. [PL 2001, c. 594, §1 (NEW).]

**1. Purpose.** The purpose of a county extension building association is to acquire, by purchase, lease or otherwise, buildings and other real and personal property to be used by a county extension association in carrying out its public purposes under this chapter.
[PL 2001, c. 594, §1 (NEW).]

**2. Directors.** The county commissioners of the county or counties forming the county extension building association shall determine the method of choosing the building association's directors. A majority of the directors of a county extension building association must be appointed by the county commissioners of the county or counties comprising the affiliated county extension association.
[PL 2001, c. 594, §1 (NEW).]

**3. Borrowing.** In order to carry out its purpose, a county extension building association by a vote of the directors may borrow money on behalf of the county or of either or both of the counties comprising the affiliated county extension association by the issuance of bonds or notes and grant mortgages and security interest in the county extension building association's property to secure the obligations. All bonds or notes must be for a term not to exceed 30 years and contain such terms and conditions as the directors of the county extension building association determine. The bonds or notes may not be an obligation of or pledge the faith and credit of the State or any county or political subdivision other than the county extension building association. Bonds or notes may be issued by the county extension building association under this section without obtaining the consent of any commission, board, bureau or agency of the State or of the county or counties comprising the affiliated county extension association and without any other proceeding or conditions than those proceedings or conditions that are specifically required by this section.
[PL 2001, c. 594, §1 (NEW).]

**4. Limitations; dissolution.** No part of the net earnings of a county extension building association may inure to the benefit of any member, director or officer of the county extension building association or any private individual, except that reasonable compensation may be paid for services rendered, and a member, director or officer of a county extension building association or any private individual is not entitled to share in the distribution of any of the corporate assets on dissolution of the county extension building association. On the dissolution of a county extension building association or on the termination of its activities, the assets of the county extension building association remaining after the payment of its liabilities must be distributed to the county in which the county extension building association is housed.
[PL 2001, c. 594, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 594, §1 (NEW).

**§197. Meat processing workforce development and education**

The University of Maine within available funding shall provide cooperative extension education regarding meat and poultry processing, including quality control training and hazard analysis and critical control point training and plan development for meat and poultry processors. [RR 2023, c. 1, Pt. A, §4 (COR).]

SECTION HISTORY

PL 2023, c. 473, §1 (NEW). RR 2023, c. 1, Pt. A, §4 (COR).

## CHAPTER 8

## PURCHASE OF FOODSTUFFS FROM MAINE CONCERNS

## (REPEALED)

**§201. Statement of policy**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 448, §1 (NEW). MRSA T. 7 §205 (RP).

**§202. Preference for in-state producers**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 448, §1 (NEW). MRSA T. 7 §205 (RP).

**§203. Administration by Department of Agriculture, Food and Rural Resources**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 448, §1 (NEW). PL 1979, c. 731, §19 (AMD). MRSA T. 7 §205 (RP).

**§204. Cooperation by State Government organizations**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 448, §1 (NEW). PL 1979, c. 731, §19 (AMD). MRSA T. 7 §205 (RP).

**§205. Termination**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 448, §1 (NEW). MRSA T. 7 §205 (RP).

## CHAPTER 8-A

## FOOD AND FOOD POLICY

## SUBCHAPTER 1

## PURCHASE OF FOODSTUFFS FROM MAINE

**§211. Statement of policy**

It is the policy of the State to encourage food self-sufficiency for the State. All state institutions must purchase Maine food and food products in accordance with this subchapter to increase the viability

of Maine farms and food businesses, enhance rural economic development and increase the environmental and social wealth of rural communities. [PL 2025, c. 521, §1 (NEW).]

SECTION HISTORY

PL 1983, c. 608, §2 (NEW). PL 2019, c. 677, §1 (AMD). PL 2025, c. 521, §1 (RPR).

**§212. Definitions**

**1. Brokers or wholesalers.**
[PL 2019, c. 677, §2 (RP).]

**2. Maine food producer.** "Maine food producer" means any person who is a resident farmer, person who fishes commercially or processor of food grown or harvested in the State, or an association of resident farmers, persons who fish commercially or food processors in a cooperative or producer group.
[PL 2019, c. 677, §3 (AMD).]

**3. State or school purchaser.**
[PL 2019, c. 677, §4 (RP).]

**4. Opportunity buying.** "Opportunity buying" means the purchasing of food and food products from Maine food producers that are only available for a short period of time before the food or food products become unavailable for purchase.
[PL 2025, c. 521, §2 (NEW).]

**5. State institutions.** "State institutions" means the Department of Corrections; the Dorothea Dix Psychiatric Center and the Riverview Psychiatric Center within the Department of Health and Human Services; and the Maine Veterans' Homes.
[PL 2025, c. 521, §3 (NEW).]

SECTION HISTORY

PL 1983, c. 608, §2 (NEW). PL 1989, c. 443, §18 (AMD). PL 2003, c. 20, §OO2 (AMD). PL 2003, c. 20, §OO4 (AFF). PL 2019, c. 677, §§2-4 (AMD). PL 2025, c. 521, §§2, 3 (AMD).

**§213. Implementation of state policy to purchase foodstuffs from Maine concerns**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 608, §2 (NEW). PL 2005, c. 382, §C1 (AMD). PL 2019, c. 677, §5 (RP).

**§214. Coordination of purchases of foodstuffs from Maine concerns**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 608, §2 (NEW). PL 1985, c. 271, §§1,2 (AMD). PL 1989, c. 700, §A30 (AMD). PL 1991, c. 780, §DDD21 (AMD). PL 2003, c. 689, §B6 (REV). PL 2005, c. 382, §C2 (AMD). PL 2011, c. 655, Pt. EE, §12 (AMD). PL 2011, c. 655, Pt. EE, §30 (AFF). PL 2019, c. 677, §6 (RP).

**§214-A. Maine food and food products procurement program**

In accordance with this section, the commissioner shall implement and promote a Maine food and food products procurement program. State institutions may not be prohibited from procuring food and food products directly from Maine food producers, taking advantage of opportunity buying, coordinating dietary requirements and establishing healthy menus consistently throughout state institutions. The program must measurably improve the quality of food and food products for state

institutions with the goal that, no later than 2030, at least 30% of all food and food products procured by state institutions are Maine food or food products. [PL 2025, c. 521, §4 (NEW).]

**1. Institutional food procurement coordinator.** The commissioner shall designate an employee of the department as an institutional food procurement coordinator, referred to in this section as "the coordinator," to assist in the coordination of food procurement for all state institutions. In order to achieve the procurement goal set forth in this section, the coordinator shall:

A. Implement and oversee a strategy to strengthen connections between Maine food producers, distributors and state institutions for off-contract purchase agreements pursuant to subsection 2; [PL 2025, c. 521, §4 (NEW).]

B. Assist the Department of Administrative and Financial Services, Bureau of General Services in the solicitation and review of bids from distributors and Maine food producers throughout the procurement process; [PL 2025, c. 521, §4 (NEW).]

C. Identify Maine food producers throughout the State who can provide food and food products directly to state institutions for off-contract purchase agreements pursuant to subsection 2; [PL 2025, c. 521, §4 (NEW).]

D. Establish and promote guidelines to assist state institutions in procuring Maine food and food products directly from Maine food producers, including, but not limited to, guidelines for opportunity buying and other off-contract purchase agreements pursuant to subsection 2; [PL 2025, c. 521, §4 (NEW).]

E. To the extent practicable and within existing resources, convene an annual meeting to explore opportunities for cooperation to increase the purchase of Maine food and food products by state institutions. The coordinator may invite representatives from appropriate state agencies and quasi-governmental entities, Maine food producers and food service professionals, for-profit and nonprofit organizations and other relevant stakeholders outside of State Government to participate in the annual meeting; and [PL 2025, c. 521, §4 (NEW).]

F. Perform other duties as determined by the commissioner. [PL 2025, c. 521, §4 (NEW).]
[PL 2025, c. 521, §4 (RPR).]

**2. Off-contract purchases directly from Maine food producers.** Notwithstanding any provision of law to the contrary, state institutions may negotiate directly with Maine food producers and execute agreements for off-contract purchases of food or food products by commodity type, including, but not limited to, vegetables, fruit, eggs, grain or grain products, herbs, seasonings or spices, milk or milk products, meat or meat products, poultry or poultry products, fish or fish products, seafood or seafood products, cider or juice, canned or frozen foods, honey, maple products and condiments. Food or food products purchased under this subsection may be priced up to 15% higher than the same food or food product available under contract.
[PL 2025, c. 521, §4 (RPR).]

**3. Annual meeting.**
[PL 2025, c. 521, §4 (RP).]

**4. Advisory committee.** The commissioner may establish an advisory committee to assist the coordinator in advancing strategies for increasing purchases of Maine food and food products by state institutions. The commissioner may invite representatives from appropriate state agencies and quasi-governmental entities, Maine food producers and food service professionals, for-profit and nonprofit organizations and other relevant stakeholders outside of State Government to serve on the advisory committee. To the extent practicable, the advisory committee membership must reflect the diversity of the State, including, but not limited to, diversity in geographic location, background and professional experience.
[PL 2025, c. 521, §4 (RPR).]

**5. Report.** The commissioner shall include a description of the progress toward reaching the procurement goal under this section in the biennial report submitted to the Legislature pursuant to section 2, subsection 5.
[PL 2025, c. 521, §4 (RPR).]

SECTION HISTORY

PL 2019, c. 677, §7 (NEW). PL 2025, c. 521, §4 (RPR).

**§215. Standards**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 608, §2 (NEW). PL 1989, c. 700, §A31 (AMD). PL 2019, c. 677, §8 (RP).

**§215-A. Rules**

The commissioner shall adopt rules necessary to carry out the provisions of this subchapter. [PL 2025, c. 521, §5 (NEW).]

The rules must establish guidelines for off-contract purchase agreements pursuant to section 214-A, subsection 2. The rules must establish a method and baseline to determine the percentage of Maine food or food products procured by state institutions based on dollars spent for different commodity types. The rules must establish reasonable and measurable benchmarks to achieve the overall procurement goal under this subchapter. [PL 2025, c. 521, §5 (NEW).]

Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2025, c. 521, §5 (NEW).]

SECTION HISTORY

PL 2019, c. 677, §9 (NEW). PL 2025, c. 521, §5 (RPR).

## SUBCHAPTER 2

## FOOD POLICY

**§216. Maine Food Policy Council**

**(REPEALED)**

SECTION HISTORY

RR 2005, c. 2, §6 (COR). PL 2005, c. 614, §4 (NEW). PL 2011, c. 344, §16 (RP).

**§217. Hunters for the Hungry Program; acceptance of donations**

The department and those recipient agencies participating in the department's food assistance distribution programs may accept wild game meat from persons participating in the Hunters for the Hungry Program established under Title 12, section 10108. The department may facilitate the acceptance of that meat by its recipient agencies through coordination with the Department of Inland Fisheries and Wildlife and may undertake educational and promotional efforts on behalf of the program. [PL 2005, c. 614, §4 (NEW).]

SECTION HISTORY

PL 2005, c. 614, §4 (NEW).

**§218. Farmers' Market Program**

**(REPEALED)**

SECTION HISTORY

PL 2005, c. 614, §4 (NEW). PL 2019, c. 677, §10 (RP).

**§218-A. Direct producer-to-consumer agriculture market programs**

**1. Education and outreach.** The commissioner shall provide education and outreach for the purpose of supporting Maine foods providers, such as farmers' markets, farm stands, community-supported agriculture programs and other direct producer-to-consumer venues to further the goal established in this chapter.
[PL 2019, c. 677, §11 (NEW).]

**2. Access to Maine foods and food products for recipients of benefits.** The commissioner shall improve access to Maine foods and food products for recipients of benefits under the Supplemental Nutrition Assistance Program administered by the Department of Health and Human Services under Title 22 by:

A. Expanding opportunities for farmers to sell Maine foods and food products to recipients of Supplemental Nutrition Assistance Program benefits by promoting the use of electronic benefits transfer cards at farmers' markets and, in partnership with a statewide federation of farmers' markets, encouraging participation in community-supported agriculture by recipients of Supplemental Nutrition Assistance Program benefits; [PL 2021, c. 398, Pt. OO, §1 (AMD).]

B. Assisting farmers' markets in accepting payments through the electronic benefits transfer system by helping them secure equipment, including equipment that does not require the use of electricity, for processing payments through the electronic benefits transfer system; and [PL 2019, c. 677, §11 (NEW).]

C. In partnership with the Commissioner of Health and Human Services, educating recipients of Supplemental Nutrition Assistance Program benefits of the opportunity to use the benefits at farmers' markets and the advantages of such use. [PL 2021, c. 398, Pt. OO, §1 (AMD).]
[PL 2021, c. 398, Pt. OO, §1 (AMD).]

SECTION HISTORY

PL 2019, c. 677, §11 (NEW). PL 2021, c. 398, Pt. OO, §1 (AMD).

**§219. Food self-sufficiency**

**1. Farm labor link network.** The department shall maintain an agricultural jobs network linking farms and facilities processing agricultural products grown in the State with available workers who wish to work on a farm or in a local food industry. An available worker under this subsection may include a person involved in raising, processing, preparing or preserving food or who is required to perform community service as a low-income recipient of state supplemental income benefits or under a court order. The department shall coordinate with the University of Maine Cooperative Extension to identify farms and food processing facilities willing to participate in the network and coordinate with the Department of Labor, the Department of Health and Human Services, the Department of Economic and Community Development, the Department of Corrections and the Judicial Department in identifying available workers willing to participate in the network. If a worker participating in the network wishes to pursue additional training or a career in agriculture or food production, the department shall refer the person to available resources or programs that train workers or develop skills or business practices in farming, food production or food processing. A worker may meet the requirements for community service obligations under a state supplemental income benefits program, judicial order or alternative sentencing program by performing work on a farm or food processing facility through participation in the network under this subsection.
[PL 2015, c. 347, §1 (NEW).]

**2. Educational marketing campaign.** The department shall coordinate with the University of Maine Cooperative Extension, the Maine Community College System, the Department of Labor, the Department of Education, the Department of Health and Human Services and the Department of Economic and Community Development to conduct an educational marketing campaign to promote food self-sufficiency by encouraging the public to grow gardens, raise farm animals, preserve garden-grown food and engage in other local food cultivation initiatives through the use of multiple media including social media, radio advertising, posters, brochures and publicly accessible department websites.
[PL 2015, c. 347, §1 (NEW).]

**3. Local purchases for food programs.** If the department, as part of a public-private partnership, purchases food for an emergency or supplemental food program for elderly or low-income persons, the department to the extent practicable shall purchase food that is grown, harvested, prepared, processed or produced in the State.
[PL 2015, c. 347, §1 (NEW).]

**4. Existing resources.** The department shall use existing programs and resources in carrying out the purposes of this section.
[PL 2015, c. 347, §1 (NEW).]

SECTION HISTORY

PL 2015, c. 347, §1 (NEW).

**§219-A. Reusable containers**

**(REPEALED)**

SECTION HISTORY

PL 2021, c. 177, §1 (NEW). PL 2023, c. 528, §1 (RP).

**§219-B. Fund To Address Food Insecurity and Provide Nutrition Incentives**

**1. Fund established.** The Fund To Address Food Insecurity and Provide Nutrition Incentives, referred to in this section as "the fund," is established in the department to provide incentives to food and nutrition assistance program participants for the purchase of locally grown fruits and vegetables and to support outreach for and administration of programs that offer nutrition incentives to participants of food and nutrition assistance programs. The fund is established to match contributions from private and public sources of up to $50,000 annually to further the purposes of this section. The fund, to be accounted within the department, must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the fund become part of the assets of the fund. Any unexpended balances remaining in the fund at the end of any fiscal year do not lapse and must be carried forward to the next fiscal year. For purposes of this section, "local" means within the State.
[PL 2025, c. 543, §1 (AMD).]

**2. Fund recipients.** An organization based in the State that supports local food producers, local food production or low-income individuals in receiving food and nutrition assistance may receive proceeds from the fund upon application with the department. The department shall prioritize an applicant that has a demonstrated history of incentivizing the use of food and nutrition assistance programs to purchase locally grown fruits and vegetables or that demonstrates the ability to leverage the proceeds to match or receive additional funds from local, state, federal or private sources. The department shall periodically post a request for applications for eligible organizations to apply for fund proceeds.
[PL 2025, c. 543, §1 (AMD).]

**3. Report; audit.** The department shall require a periodic report from a recipient under subsection 2 detailing the use of fund proceeds and the food and nutrition assistance programs involved and to ensure that the funds are expended appropriately pursuant to this section. The department may audit a recipient to carry out the purposes of this subsection.
[PL 2025, c. 543, §1 (AMD).]

**4. Rules.** The department may adopt routine technical rules as defined in Title 5, chapter 375, subchapter 2-A to carry out the purposes of the fund, including application criteria and procedures for recipients, disbursement of funds to recipients and for outreach and administration purposes and reporting and audit procedures for recipients.
[RR 2021, c. 1, Pt. A, §7 (COR).]

SECTION HISTORY

PL 2021, c. 468, §1 (NEW). RR 2021, c. 1, Pt. A, §7 (COR). PL 2025, c. 543, §1 (AMD).

**§219-C. Returnable, reusable or refillable containers and packaging**

**1. Use permitted; rules and guidelines.** The department shall ensure that its rules, established in accordance with the commissioner's rule-making authority in section 12, and guidelines:

A. Explicitly allow a business, on a voluntary basis, to allow consumers to supply their own containers or packaging for the purchase of:

(1) Nonfood items;

(2) Shelf-stable food items; and

(3) Food other than shelf-stable food items as determined by the department by rule; [RR 2023, c. 2, Pt. A, §16 (COR).]

B. Explicitly allow a business, on a voluntary basis, to sell nonfood items, shelf-stable food items and other food to consumers in the State in returnable, reusable or refillable containers and packaging, which may be supplied by either the business or a 3rd party; and [PL 2023, c. 528, §2 (NEW).]

C. Explicitly establish the right of a business to refuse any returnable, reusable or refillable container or packaging supplied by a consumer. [PL 2023, c. 528, §2 (NEW).]
[RR 2023, c. 2, Pt. A, §16 (COR).]

**2. Reuse permitted.** A returnable, reusable or refillable container or packaging returned by a consumer may be reclaimed by a business or a 3rd party, restored to standards for health and safety and reused in the packaging and selling of a nonfood item, a shelf-stable item or other food to the same or another consumer. The department shall provide technical assistance and education to businesses and consumers regarding best practices for the use and reuse of returnable, reusable or refillable containers.
[PL 2023, c. 528, §2 (NEW).]

For purposes of this section, "food" has the same meaning as in Title 22, section 2152, subsection 4 and "business" means a business licensed by the department under Title 22, chapter 551. [PL 2023, c. 528, §2 (NEW).]

SECTION HISTORY

PL 2023, c. 528, §2 (NEW). RR 2023, c. 2, Pt. A, §16 (COR).

**§219-D. Keeping chickens on residential property**

A county or municipality may not adopt a regulation or ordinance that prohibits a person from keeping chickens on that person's residential property. For purposes of this section, "chicken" means a female domesticated bird that is raised for meat or eggs and does not include a fully mature

domesticated male chicken. This section may not be construed to limit the home rule authority of a municipality. [PL 2025, c. 174, §1 (NEW).]

SECTION HISTORY

PL 2025, c. 174, §1 (NEW).

## SUBCHAPTER 3

## LOCAL FOODS PROCUREMENT PROGRAM

## (REPEALED)

### §220. Local foods procurement program; local foods access

**(REPEALED)**

SECTION HISTORY

PL 2017, c. 437, §1 (NEW). PL 2019, c. 677, §12 (RP).

## SUBCHAPTER 4

## FARMERS DROUGHT RESILIENCE PROGRAM

### §220-A. Farmers Drought Resilience Program

**1. Grant program established.** The Farmers Drought Resilience Program, referred to in this section as "the program," is established in the department to assist farmers in the State to overcome the adverse effects of drought conditions by providing grants in accordance with this section.
[PL 2025, c. 650, Pt. U, §2 (AMD).]

**2. Eligibility.** A farmer in the State may apply for a grant under the program if the farmer needs to establish a source for irrigation water to alleviate the risk of crop losses due to drought. The source for irrigation water must be sustainable, environmentally sound and affordable.
[PL 2021, c. 729, §1 (NEW).]

**3. Farmers Drought Resilience Program Fund.** The Farmers Drought Resilience Program Fund is established as a nonlapsing fund to provide funding to achieve the purposes of the program. The department may use funds for personnel services and to contract for professional services to carry out the purposes of this section. The fund consists of any funds received from private and public sources. The fund must be held separate and apart from all other money, funds and accounts. Any balance remaining in the fund at the end of any fiscal year must be carried forward to the next fiscal year.
[PL 2025, c. 650, Pt. U, §2 (AMD).]

**4. Rules.** The department shall adopt rules to implement the program. The rules must include grant eligibility requirements, grant application and award procedures and grant funding limits. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2021, c. 729, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 729, §1 (NEW). PL 2025, c. 388, Pt. TT, §1 (AMD). PL 2025, c. 650, Pt. U, §2 (AMD).

## CHAPTER 8-B

## AGRICULTURAL INTERNSHIP AND TRAINING

### §221. Establishment of Maine Agricultural Internship and Training Program

The commissioner shall establish a Maine Agricultural Internship and Training Program. [PL 1987, c. 520 (NEW).]

SECTION HISTORY

PL 1987, c. 520 (NEW).

### §222. Responsibilities of the commissioner

The commissioner shall: [PL 1987, c. 520 (NEW).]

**1. Information.** Conduct studies and otherwise gather, maintain and disseminate information concerning farmland transfers, availability of farm labor, existence of farm internship and training programs, persons desiring to participate in that training, farmers retiring or otherwise ceasing farming operations, persons desiring to enter farming or associated employment and all other information deemed necessary to carry out this chapter;
[PL 1987, c. 520 (NEW).]

**2. Training.** Provide and supervise opportunities for on-farm and off-farm training, through state-sponsored programs or in cooperation with other appropriate agencies and organizations. Training may include on-site experience under the guidance of approved farmer-supervisors or classroom instruction in farm management, finance, equipment use and maintenance, production and marketing principles and techniques and other relevant subjects;
[PL 1987, c. 520 (NEW).]

**3. Assistance.** Provide assistance in matching retiring farmers with persons desiring to enter farming and recruit and place interns with farmer-supervisors;
[PL 2001, c. 168, §1 (AMD).]

**4. Cooperation.** Cooperate with appropriate local, state and federal agencies and institutions and with farm organizations and interested individuals, including the Department of Education, the Department of Labor, the University of Maine and the Cooperative Extension Service, in carrying out this chapter; and
[PL 2013, c. 29, §1 (AMD).]

**5. Staff support.** Designate an employee of the department to oversee the Maine Agricultural and Internship Training Program.
[PL 2013, c. 29, §2 (AMD).]

**6. Report.**
[PL 2013, c. 29, §3 (RP).]

SECTION HISTORY

PL 1987, c. 520 (NEW). PL 1989, c. 700, §A32 (AMD). PL 2001, c. 168, §§1-3 (AMD). PL 2013, c. 29, §§1-3 (AMD).

## CHAPTER 8-C

## COMMISSION ON BIOTECHNOLOGY AND GENETIC ENGINEERING

### §231. Commission established; membership; compensation

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 805, §2 (NEW). PL 1989, c. 486, §2 (AMD). PL 1989, c. 503, §B36 (AMD). PL 1989, c. 798, §1 (AMD). PL 1989, c. 878, §A21 (AMD). PL 1993, c. 410, §E22 (AMD). PL 1999, c. 668, §62 (RP).

**§232. Definitions**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 805, §2 (NEW). PL 1991, c. 837, §A16 (AMD). PL 1999, c. 668, §63 (RP).

**§233. Powers and duties**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 805, §2 (NEW). PL 1989, c. 798, §2 (AMD). PL 1999, c. 668, §64 (RP).

**§234. Confidential information**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 805, §2 (NEW). PL 1999, c. 668, §65 (RP).

**§235. Enforcement**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 805, §2 (NEW). PL 1999, c. 668, §65 (RP).

**§236. Penalties**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 805, §2 (NEW). PL 1999, c. 668, §65 (RP).

## CHAPTER 8-D

## AGRICULTURAL AWARENESS

**§241. Awareness program**

The Commissioner of Agriculture, Conservation and Forestry shall: [PL 1989, c. 194 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

**1. Public awareness.** Produce audio-visual materials, facilitate public service programming, prepare written materials, organize a speakers' bureau and otherwise educate the public. The commissioner, in carrying out these duties, shall address the following needs: maintaining a lasting and sustainable agriculture; protecting our critical rural infrastructures; guaranteeing continued and effective production and marketing of fresh fruits, vegetables and livestock; preserving prime farmland; conserving our soils and water; and generally ensuring the quality of life in rural Maine.
[PL 1989, c. 194 (NEW).]

**2. Agricultural literacy.** Cooperate with the Department of Education to develop instructional materials, train teachers and teacher trainers and otherwise complete actions for utilizing agriculture as an exciting medium for educating students both about society and the natural world, while increasing their literacy by infusing basic agricultural concepts such as agriculture and economics, the dynamics of world hunger, agriculture and history within present subjects taught in Maine schools.
[PL 1989, c. 194 (NEW); PL 1989, c. 700, Pt. A, §33 (AMD).]

**3. Cooperation.** Cooperate with appropriate local, state, and federal agencies and institutions, educational and farm organizations and interested individuals, including the Maine Ag in the Classroom Association, the Department of Education and the Cooperative Extension Service in carrying out this chapter.
[PL 1989, c. 194 (NEW); PL 1989, c. 700, Pt. A, §33 (AMD).]

SECTION HISTORY

PL 1989, c. 194 (NEW). PL 1989, c. 700, §A33 (AMD). PL 2011, c. 657, Pt. W, §6 (REV).

**§242. Maine Agriculture in the Classroom Council**

**1. Establishment.** The Maine Agriculture in the Classroom Council, established in Title 5, section 12004-G, subsection 4-C and referred to in this section as "the council," has all the powers necessary to achieve the public purpose stated in subsection 2 and to carry out the powers conferred under this section.

The exercise of powers conferred by this section is held to be the performance of essential government functions.

A. Employees of the council 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 2007, c. 456, §2 (NEW).]

B. The council may not be construed to be a state agency for any purpose, including the budget, accounts and control, auditing, purchasing or other provisions of Title 5, Part 4. [PL 2007, c. 456, §2 (NEW).]

C. Notwithstanding paragraphs A and B:

(1) Employees of the council may be 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; and

(2) For the purposes of the Maine Tort Claims Act, the council is a governmental entity and its employees and members are employees as those terms are defined in Title 14, section 8102. [PL 2007, c. 456, §2 (NEW).]

D. Employees of the council are entitled to use the services of the Central Fleet Management Division in accordance with provisions established for state agencies under Title 5, section 1830. [PL 2007, c. 456, §2 (NEW).]
[PL 2007, c. 456, §2 (NEW).]

**2. Purpose.** The purpose of the council is to promote an understanding of the food and fiber system in the State and the nation through the infusion of agricultural concepts into primary, secondary and postsecondary curricula. For the purposes of this section, "agricultural concepts" includes, but is not limited to:

A. The importance of agriculture in the State and in the nation's history and development; [PL 2007, c. 456, §2 (NEW).]

B. The connections between geography, climate and agriculture; [PL 2007, c. 456, §2 (NEW).]

C. The relationship between technology and agricultural success and development; [PL 2007, c. 456, §2 (NEW).]

D. The economics of agriculture; [PL 2007, c. 456, §2 (NEW).]

E. The global aspects of agriculture; and [PL 2007, c. 456, §2 (NEW).]

F. The relationship of the food and fiber system to public policy issues. [PL 2007, c. 456, §2 (NEW).]

[PL 2007, c. 456, §2 (NEW).]

**3. Membership.** The council consists of 9 members, appointed as follows:

A. One representative of the department, appointed by the commissioner; [PL 2007, c. 456, §2 (NEW).]

B. One representative of the Department of Education, appointed by the Commissioner of Education; [PL 2007, c. 456, §2 (NEW).]

C. Two members from the agricultural community with demonstrated interest in agriculture education, appointed by the commissioner; [PL 2007, c. 456, §2 (NEW).]

D. One registered or licensed dietitian with a demonstrated interest in agriculture education, appointed by the commissioner; [PL 2007, c. 456, §2 (NEW).]

E. One practicing kindergarten to grade 12 educator with knowledge of agriculture education, appointed by the Commissioner of Education; [PL 2007, c. 456, §2 (NEW).]

F. One educator who teaches or has taught agriculture courses at the secondary school level, appointed by the Commissioner of Education; [PL 2007, c. 456, §2 (NEW).]

G. One representative from the University of Maine Cooperative Extension with a demonstrated interest in agriculture education, appointed by the Director of the University of Maine Cooperative Extension; and [PL 2007, c. 456, §2 (NEW).]

H. One representative of the soil and water conservation districts, appointed by the chair of the State Conservation District Advisory Council. [PL 2007, c. 456, §2 (NEW).]

[PL 2007, c. 456, §2 (NEW).]

**4. Term.** Each member serves for a term of 4 years or until the member's successor is appointed. If a member is unable to complete a term, the appointing authority shall appoint a person to serve out the remainder of the unexpired term.

[PL 2007, c. 456, §2 (NEW).]

**5. Compensation.** Members may be compensated for expenses as provided in the council's bylaws from money received under subsection 10.

[PL 2007, c. 456, §2 (NEW).]

**6. Chair.** The council shall elect annually by majority vote one member of the council to serve as chair and one member to serve as vice-chair.

[PL 2007, c. 456, §2 (NEW).]

**7. Executive director; personnel.** The council may appoint by majority vote an executive director who is the council's chief administrator and who serves at the pleasure of the council. The executive director may employ, as the council directs, additional staff who serve at the pleasure of the executive director. The salaries paid to the executive director and other staff are fixed by the council and are not subject to the personnel laws of the State.

[PL 2007, c. 456, §2 (NEW).]

**8. Powers and duties.** The council shall expend funds received under subsection 10 to provide teacher training and educational resource materials, collect and distribute appropriate agricultural

information and materials from industry and trade groups and incorporate new and innovative ideas and proven outreach strategies to increase agricultural literacy among teachers and their students. The council shall work cooperatively with state agencies, the University of Maine System, farm organizations, agribusinesses and private individuals and groups to collect, organize, develop and promote the use of agricultural curriculum materials in schools and learning centers.

The council may enter into contracts with any local, state, federal or private agency, department, firm, corporation or association as necessary to carry out the purposes of this section.
[PL 2007, c. 456, §2 (NEW).]

**9. Debt.** A debt or obligation incurred by the council is not a debt or obligation of the State.
[PL 2007, c. 456, §2 (NEW).]

**10. Receipt of money and property.** The council may accept grants or contributions of money or other things of value from any source, public or private. The council receives funds from the sale of agriculture education plates pursuant to Title 29-A, section 456-F. The grants, receipts and other contributions must be held by the council and used to carry out the purposes of this section, subject to any condition under which the grant or contribution was accepted by the council. Funds may be used to compensate members of the council for expenses in accordance with the council's bylaws. Funds received under this subsection are not state funds.
[PL 2007, c. 703, §1 (AMD).]

**11. Books and records.** The council 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 accountant shall conduct an annual accounting review of the financial records of the council and report the results of the review to the council, the commissioner, the Treasurer of State and the Legislature.
[PL 2007, c. 456, §2 (NEW).]

**12. Bylaws.** The council may adopt bylaws to govern its functions.
[PL 2007, c. 456, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 456, §2 (NEW). PL 2007, c. 703, §1 (AMD).

## CHAPTER 8-E

## AGRITOURISM ACTIVITIES

### §251. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2011, c. 609, §1 (NEW).]

**1. Agritourism activity.** "Agritourism activity" means any agricultural activity carried out on a farm or ranch that members of the general public are allowed to view or participate in, including farming, ranching, historical and cultural activities, harvest-your-own activities and attractions related to farming or ranching. An activity is an agritourism activity whether or not the participant pays to view or participate in the activity.
[PL 2011, c. 609, §1 (NEW).]

**2. Agritourism professional.** "Agritourism professional" means a person who is engaged in the business of farming or ranching and provides one or more agritourism activities, whether or not for compensation.
[PL 2011, c. 609, §1 (NEW).]

**3. Farm or ranch.** "Farm" or "ranch" means the land, plants, animals, buildings, structures, ponds and machinery used in the commercial production of agricultural products.
[PL 2011, c. 609, §1 (NEW).]

**4. Farming or ranching.** "Farming" or "ranching" means primarily engaging in the commercial production of agricultural products as a livelihood and includes dairy farming; raising livestock, freshwater fish, fur-bearing animals or poultry; producing, cultivating, growing and harvesting fruit, produce or floricultural or horticultural commodities; or any practices on a farm or ranch that are incident to or in conjunction with these farming operations.
[PL 2011, c. 609, §1 (NEW).]

**5. Inherent risks of agritourism activity.** "Inherent risks of agritourism activity" means those dangers or conditions that are an integral part of an agritourism activity, including but not limited to:

A. Certain hazards including surface and subsurface conditions and natural conditions of land, vegetation and waters; [PL 2011, c. 609, §1 (NEW).]

B. The behavior of wild and domestic animals, including but not limited to the depositing of manure; [PL 2011, c. 609, §1 (NEW).]

C. Ordinary dangers of structures or equipment ordinarily used in farming and ranching; and [PL 2011, c. 609, §1 (NEW).]

D. The potential for injury to a participant or others if the participant acts in a negligent manner, including failing to follow instructions given by an agritourism professional or failing to exercise reasonable caution while engaging in an agritourism activity. [PL 2011, c. 609, §1 (NEW).]
[PL 2011, c. 609, §1 (NEW).]

**6. Participant.** "Participant" means any person, other than the agritourism professional, who engages in an agritourism activity, whether or not a fee is paid to view or participate in the agritourism activity.
[PL 2011, c. 609, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 609, §1 (NEW).

**§252. Liability**

**1. No liability.** Except as provided in subsection 2, an agritourism professional is not liable for any property damage or damages arising from the personal injury of a participant resulting from the inherent risks of agritourism activities. Except as provided in subsection 2, a participant or participant's representative may not make any claim or recover from an agritourism professional for property damage or damages for personal injury resulting from the inherent risks of agritourism activities. A participant expressly assumes the risk and legal responsibility for any property damage or damages arising from personal injury that results from the inherent risk of agritourism activities. A participant has the sole responsibility for knowing the range of that person's ability to participate in an agritourism activity. It is the duty of a participant to act within the limits of the participant's own ability, to heed all warnings and refrain from acting in a manner that may cause or contribute to the injury of any person or damage to any property.
[PL 2011, c. 609, §1 (NEW).]

**2. Exceptions.** Nothing in subsection 1 prevents or limits the liability of an agritourism professional if the agritourism professional:

A. Commits an act or omission that constitutes negligence or reckless disregard for the safety of others, and that act or omission causes an injury. For purposes of this section, "reckless" has the same meaning as "recklessly," as defined in Title 17-A, section 35, subsection 3, paragraph A; [PL 2011, c. 609, §1 (NEW).]

B. Has actual knowledge or reasonably should have known of a dangerous condition of the land, facilities or equipment used in an agritourism activity or the dangerous propensity of a particular animal used in the agritourism activity and does not make the danger known to a participant, and the danger causes an injury; or [PL 2011, c. 609, §1 (NEW).]

C. Intentionally injures a participant. [PL 2011, c. 609, §1 (NEW).]
[PL 2011, c. 609, §1 (NEW).]

**3. Assumption of risk.** In a personal injury action against an agritourism professional, a defense or immunity described in subsection 1 may be asserted only if the participant injured in the course of an agritourism activity had been notified of the inherent risks of an agritourism activity and the limitations of liability.

For purposes of this subsection, notice of the inherent risks of agritourism activities may be satisfied either by a statement signed by the participant or a sign or signs prominently displayed at the place or places where the agritourism activities take place. The statement or sign must contain the following information.

"WARNING

Under Maine law, there is no liability for injury to a participant in an agritourism activity conducted at this agritourism location if such injury results from the inherent risks of the agritourism activity. Inherent risks of agritourism activities include, among others, risks of injury inherent to land, equipment and animals, as well as the potential for injury if you act in a negligent manner. You are assuming the risk of participating in this agritourism activity."

The message on the sign must be in black letters at least one inch in height and the sign or signs must be placed in a clearly visible location on or near the places where the agritourism professional conducts agritourism activities.
[PL 2011, c. 609, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 609, §1 (NEW).

## CHAPTER 8-F

## MAINE FOOD SOVEREIGNTY ACT

### §281. Short title

This chapter may be known and cited as "the Maine Food Sovereignty Act." [PL 2017, c. 314, §1 (NEW).]

SECTION HISTORY

PL 2017, c. 314, §1 (NEW).

### §282. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2017, c. 314, §1 (NEW).]

**1. Direct producer-to-consumer transaction.** "Direct producer-to-consumer transaction" means an exchange of food or food products directly between a food producer and a consumer by barter, trade or purchase on the property or premises owned, leased or rented by the food producer; at roadside stands, fundraisers, farmers' markets and community social events; or through buying clubs, deliveries or community-supported agriculture programs, herd-share agreements and other private arrangements. [PL 2023, c. 420, §1 (AMD).]

**1-A. Consumer.** "Consumer" means an individual who acquires food or food products directly from a food producer of the individual's choosing solely for consumption by the individual or the individual's family.
[PL 2025, c. 309, §5 (NEW).]

**2. Food or food products.** "Food or food products" means food or food products that are grown, produced, processed or prepared for human consumption, including, but not limited to, vegetables, fruit, eggs, grain or grain products, herbs, seasonings or spices, milk or milk products, meat or meat products, poultry or poultry products, fish or fish products, seafood or seafood products, cider or juice, acidified foods, canned fruits or vegetables, honey, nuts, maple products or condiments or any combination of those items, such as baked goods, sandwiches or other meals, and that are provided in a direct producer-to-consumer transaction.
[PL 2025, c. 309, §5 (AMD).]

**2-A. Food producer.** "Food producer" means a person that provides directly to a consumer food or food products that the person:

A. Grows, raises or produces; or [PL 2025, c. 309, §5 (NEW).]

B. Grows, raises, produces or acquires from another source and then processes or prepares in a kitchen. [PL 2025, c. 309, §5 (NEW).]

For the purposes of this subsection, "kitchen" means a room, area, site or location where food or food products are produced, processed or prepared for a direct producer-to-consumer transaction.
[PL 2025, c. 309, §5 (NEW).]

**2-B. Food sovereignty.** "Food sovereignty" means the right of persons to healthy and culturally appropriate food produced through ecologically sound and sustainable methods and the right of persons to define their own food and agriculture systems.
[PL 2025, c. 309, §5 (NEW).]

**3. State food law.**
[PL 2021, c. 625, §2 (RP).]

**4. Traditional foodways.** "Traditional foodways" means the cultural, social and economic practices related to the production and consumption of food, including the conveyance of knowledge regarding food production, preservation, preparation and presentation.
[PL 2025, c. 309, §5 (NEW).]

SECTION HISTORY

PL 2017, c. 314, §1 (NEW). PL 2021, c. 625, §§1, 2 (AMD). PL 2023, c. 420, §1 (AMD). PL 2025, c. 309, §5 (AMD).

**§283. Statement of policy; local control and rural economic development**

It is the policy of this State to encourage food self-sufficiency for its citizens. The State shall support policies that: [PL 2025, c. 309, §6 (AMD).]

**1. Local control.** Through local control, preserve the ability of communities to produce, process, sell, purchase and consume locally produced foods;
[PL 2017, c. 314, §1 (NEW).]

**2. Small-scale farming and food production.** Ensure the preservation of family farms and traditional foodways through small-scale farming and food production;
[PL 2017, c. 314, §1 (NEW).]

**3. Improved health and well-being.** Improve the health and well-being of citizens of this State by reducing hunger and increasing food security through improved access to wholesome, nutritious foods by supporting family farms and encouraging sustainable farming and fishing;

[PL 2017, c. 314, §1 (NEW).]

**4. Self-reliance and personal responsibility.** Promote self-reliance and personal responsibility by ensuring the ability of individuals, families and other entities to prepare, process, advertise and sell foods directly to customers intended solely for consumption by the customers or their families;
[PL 2025, c. 309, §7 (AMD).]

**5. Rural economic development.** Enhance rural economic development and the environmental and social wealth of rural communities; and
[PL 2025, c. 309, §8 (AMD).]

**6. Right to food.** Protect the right to food as declared in the Constitution of Maine, Article I, Section 25.
[PL 2025, c. 309, §9 (NEW).]

SECTION HISTORY

PL 2017, c. 314, §1 (NEW). PL 2025, c. 309, §§6-9 (AMD).

**§283-A. Food sovereignty principles**

The Legislature finds that advancing the principles of food sovereignty will further the preservation of rural life and values as set forth in section 1-B and protect the right to food as declared in the Constitution of Maine, Article I, Section 25. Food sovereignty: [PL 2025, c. 309, §10 (NEW).]

**1. Focuses on the people.** Centers the right to sufficient, healthy and culturally appropriate food for the people of the State in food, agriculture, livestock and fisheries policies;
[PL 2025, c. 309, §10 (NEW).]

**2. Values food producers.** Values all those who grow, harvest and process food, including women, small-scale farmers, herders, persons who fish commercially, forest dwellers, indigenous populations and agricultural, migrant and fisheries workers;
[PL 2025, c. 309, §10 (NEW).]

**3. Localizes food systems.** Brings food producers and consumers closer together so they can make joint decisions on food issues that benefit and protect the people of the State;
[PL 2025, c. 309, §10 (NEW).]

**4. Promotes local control.** Respects the right of food producers to have control over their land, seeds and water and protects natural resources for the people of the State;
[PL 2025, c. 309, §10 (NEW).]

**5. Builds knowledge and skills.** Values the sharing of local knowledge and skills that have been passed down through generations to safeguard traditional foodways and enhance sustainable food production, free from technologies that undermine bodily health and well-being; and
[PL 2025, c. 309, §10 (NEW).]

**6. Works with nature.** Focuses on production and harvesting methods that maximize the contribution of ecosystems and improve the resiliency of local food systems in the face of drought and other extreme weather conditions.
[PL 2025, c. 309, §10 (NEW).]

SECTION HISTORY

PL 2025, c. 309, §10 (NEW).

**§284. Authority**

Pursuant to the home rule authority granted to municipalities by Title 30-A, section 3001 and by the Constitution of Maine, Article VIII, Part Second, pursuant to the authority granted to plantations by Title 30-A, section 7051, and notwithstanding any provision of law regulating food in this Title or Title

22 to the contrary, except as contained in section 285, a municipality or plantation may adopt ordinances regarding traditional foodways and direct producer-to-consumer transactions, and the State shall recognize such ordinances by not enforcing those laws or implementing rules with respect to those traditional foodways or direct producer-to-consumer transactions that are governed by the ordinance. [PL 2025, c. 309, §11 (AMD).]

Pursuant to the authority granted to county commissioners by Title 30-A, section 7505 and notwithstanding any provision of law regulating food in this Title or Title 22 to the contrary, except as contained in section 285, a county may adopt ordinances regarding traditional foodways and direct producer-to-consumer transactions within one or more unorganized territories within that county, and the State shall recognize such an ordinance by not enforcing those laws or implementing rules with respect to those traditional foodways or direct producer-to-consumer transactions that are governed by the ordinance. [PL 2025, c. 309, §11 (AMD).]

SECTION HISTORY

PL 2017, c. 314, §1 (NEW). PL 2021, c. 625, §3 (AMD). PL 2025, c. 309, §11 (AMD).

**§284-A. Application**

The provisions of this chapter apply to any local food ordinance adopted by a municipality, plantation or county, including those local food ordinances adopted prior to October 31, 2017. [PL 2025, c. 309, §12 (NEW).]

SECTION HISTORY

PL 2025, c. 309, §12 (NEW).

**§284-B. Construction**

To advance food sovereignty, the principles of food sovereignty pursuant to section 283-A and the policy of the State as set forth in this chapter, and to protect the right to food as declared in the Constitution of Maine, Article I, Section 25, this chapter may not be construed to require a specific form or framework for any ordinance regarding traditional foodways or direct producer-to-consumer transactions authorized pursuant to section 284. [PL 2025, c. 309, §13 (NEW).]

In accordance with Title 30-A, section 3001, subsections 1 and 3, any ordinance regarding traditional foodways or direct producer-to-consumer transactions must be liberally construed to effectuate the purpose of that ordinance. [PL 2025, c. 309, §13 (NEW).]

SECTION HISTORY

PL 2025, c. 309, §13 (NEW).

**§285. Departmental authority; livestock and poultry**

Notwithstanding any provision in this chapter to the contrary, the department shall implement and enforce all provisions of Title 22, chapter 562-A and the rules adopted thereunder that are necessary to ensure that the requirements of the State's meat and poultry products inspection, registration and licensing program are at least equal to the applicable requirements specified under applicable federal acts, as defined by the United States Department of Agriculture or other federal agencies, without exception. [PL 2021, c. 64, §1 (AMD).]

SECTION HISTORY

PL 2017, c. 314, §1 (NEW). PL 2021, c. 64, §1 (AMD).

**§286. Compliance with food safety regulations**

An individual who grows, produces, processes or prepares food or food products for purposes other than direct producer-to-consumer transactions in a municipality, plantation or unorganized territory governed by an ordinance authorized pursuant to section 284 shall grow, produce, process or prepare

the food or food products in compliance with all applicable state and federal food safety laws, rules and regulations. [PL 2021, c. 625, §4 (AMD).]

SECTION HISTORY

PL 2017, c. 314, §1 (NEW). PL 2021, c. 625, §4 (AMD).

## CHAPTER 8-G

## MAINE VEGETABLE GARDEN PROTECTION ACT

### §291. Short title

This chapter may be known and cited as "the Maine Vegetable Garden Protection Act." [PL 2025, c. 309, §14 (NEW).]

SECTION HISTORY

PL 2025, c. 309, §14 (NEW).

### §292. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2025, c. 309, §14 (NEW).]

**1. Food forest.** "Food forest" means a diverse planting of edible plants that attempts to mimic the ecosystems and patterns found in nature.
[PL 2025, c. 309, §14 (NEW).]

**2. Permaculture.** "Permaculture" means sustainable landscape design and ecosystems based on a diversified crop of perennial trees, shrubs, herbs, vegetables, weeds, fungi and root systems that weave together microclimate, annual and perennial plants, soils, water management, wildlife and human needs into intricately connected, productive communities.
[PL 2025, c. 309, §14 (NEW).]

**3. Vegetable garden.** "Vegetable garden" means any plot of ground or elevated soil bed on residential property where annual or perennial vegetables, herbs, fruits, flowers, pollinator plants, leafy greens or other food-producing plants are cultivated.
[PL 2025, c. 309, §14 (NEW).]

SECTION HISTORY

PL 2025, c. 309, §14 (NEW).

### §293. Right to cultivate vegetable gardens

Pursuant to the right to food as declared in the Constitution of Maine, Article I, Section 25, and notwithstanding any provision of law to the contrary, an individual has the right to cultivate vegetable gardens on the individual's property or on the private property of another with the permission of the owner of that property, in any municipality, village, plantation, county, unorganized territory or other political subdivision of this State. [PL 2025, c. 309, §14 (NEW).]

SECTION HISTORY

PL 2025, c. 309, §14 (NEW).

### §294. Permaculture, edible landscaping, food forests and community gardens

Pursuant to the right to food as declared in the Constitution of Maine, Article I, Section 25, any political subdivision of the State may develop and implement a program to promote permaculture and establish edible landscaping, food forests and community gardens in public spaces, including publicly

owned properties, rights-of-way, school grounds, parks and parking lots. [PL 2025, c. 309, §14 (NEW).]

A political subdivision of the State that develops and implements a program under this section may seek and accept money from public and private sources for the development and maintenance of permaculture, edible landscaping, food forests or community gardens and collaborate with local, state or regional public or private entities with expertise in the design and maintenance of permaculture, edible landscaping, food forests or community gardens. [PL 2025, c. 309, §14 (NEW).]

SECTION HISTORY

PL 2025, c. 309, §14 (NEW).

**§295. No prohibition or regulation**

Pursuant to the right to food as declared in the Constitution of Maine, Article I, Section 25, and notwithstanding any provision of law to the contrary, the State or any political subdivision of the State may not prohibit or regulate vegetable gardens, permaculture, edible landscaping, food forests or community gardens in a manner inconsistent with this chapter. [PL 2025, c. 309, §14 (NEW).]

SECTION HISTORY

PL 2025, c. 309, §14 (NEW).

**§296. Construction**

This chapter may not be construed to prohibit the adoption of an ordinance or regulation pursuant to the home rule authority granted to municipalities by the Constitution of Maine, Article VIII, Part Second; the powers granted to villages, plantations, counties or other political subdivisions of the State by Title 30-A; the powers granted to the Maine Land Use Planning Commission by Title 12; and the powers granted to the Department of Environmental Protection by Title 38 of a general nature that does not solely or specifically apply to vegetable gardens, permaculture, edible landscaping, food forests or community gardens, including, but not limited to, ordinances or regulations relating to setbacks, water quality, plant and animal habitats, water use, fertilizer use, pesticide use or control of invasive species, as long as the ordinance or regulation does not have the effect of precluding vegetable gardens, permaculture, edible landscaping, food forests or community gardens in any political subdivision of the State. [PL 2025, c. 309, §14 (NEW).]

SECTION HISTORY

PL 2025, c. 309, §14 (NEW).

## CHAPTER 9

## LOCAL FOOD CENTERS

**§301. Legislative intent**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 532, §2 (NEW). PL 2005, c. 382, §A1 (RP).

**§302. Community cooperative food centers**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 532, §2 (NEW). PL 1991, c. 780, §DDD21 (AMD). PL 2005, c. 382, §C3 (RP).

## CHAPTER 10

## AGRICULTURAL DEVELOPMENT GRANT PROGRAM

### §305. Findings

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 402, §A77 (NEW). PL 1999, c. 72, §3 (RP).

### §306. Technology transfer program

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 402, §A77 (NEW). PL 1999, c. 72, §4 (RP).

### §306-A. Agricultural Development Fund

**1. Agricultural Development Fund.** The commissioner shall establish the Agricultural Development Fund, referred to in this section as "the fund," to accelerate market development, adoption of technology and promotion of state agricultural products by state producers.
[PL 2021, c. 710, §1 (AMD).]

**2. Fund operation.** The commissioner shall utilize the fund to:

A. Provide grants to public agencies and private for-profit entities and nonprofit entities based in the State to conduct market research or to undertake market promotion activities for the purpose of expanding existing markets and developing new markets for state agricultural products; [PL 2021, c. 710, §1 (AMD).]

B. Test and demonstrate new technologies related to the production, storage and processing of state agricultural products; and [PL 2021, c. 710, §1 (AMD).]

C. Provide technical assistance grants for conducting market research, feasibility studies, engineering studies, construction planning, land use planning, facility design and configuration planning and for funding the purchase of on-farm equipment and other technology purchases that directly support the growth of agricultural enterprises as defined in section 434. [PL 2021, c. 710, §1 (NEW).]

The commissioner may disburse grant money awarded to an applicant during any of the 3 fiscal years following award of the grant to an applicant.
[PL 2021, c. 710, §1 (AMD).]

**3. Rulemaking.** The commissioner shall establish, by rule, in a manner consistent with Title 5, chapter 375, subchapter 2-A criteria for the allocation of grant money, application requirements consistent with the provisions of this section, a schedule for accepting and reviewing applications, reporting requirements on grant expenditures and project results and any other administrative requirements necessary for the efficient implementation of this program. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The commissioner is guided by the following criteria:

A. Applications may be submitted by public agencies and private for-profit entities and nonprofit entities based in the State in response to a request for proposals for competitive grants. The commissioner may also contract directly with public agencies and private for-profit entities and nonprofit entities for a special project under section 307; [PL 2021, c. 710, §1 (AMD).]

B. A percentage of the total cost of any project must be funded by the applicant or applicants and a percentage of the total cost must be funded from nonpublic sources. These percentages must be established by rule. A single grant may not exceed 50% of the total funds available to be granted in a given year; [PL 2013, c. 64, §1 (AMD).]

C. Information relative to market research or development activities provided to the commissioner prior to formal application, included in grant applications or provided to the commissioner to fulfill reporting requirements is confidential information and may not be publicly disclosed by the commissioner as long as:

(1) The person to whom the information belongs or pertains has requested that certain information be designated as confidential; and

(2) The commissioner has determined that the information gives the person making the request opportunity to obtain business or competitive advantage over another person who does not have access to the information or will result in loss of business or other significant detriment to the person making the request if access is provided to others; and [PL 1999, c. 72, §5 (NEW).]

D. When possible, the commissioner shall award grants to applicants representing diverse agricultural enterprises and geographic areas of the State. [PL 1999, c. 72, §5 (NEW).]
[PL 2021, c. 710, §1 (AMD).]

**4. Advisory committee.** The commissioner shall establish the Agricultural Development Committee to evaluate grant applications and review project results.
[PL 2021, c. 710, §1 (AMD).]

SECTION HISTORY

PL 1999, c. 72, §5 (NEW). PL 2013, c. 64, §§1, 2 (AMD). PL 2021, c. 710, §1 (AMD).

**§307. Special projects**

The commissioner may contract directly with the University of Maine System or qualified public agencies and private for-profit entities and nonprofit entities based in the State for market research, for testing new technologies and for research on technical problems related to the production, marketing, storage and processing of agricultural products. [PL 2021, c. 710, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 402, §A77 (NEW). PL 1999, c. 72, §6 (AMD). PL 2013, c. 64, §3 (AMD). PL 2021, c. 710, §2 (AMD).

**§308. Special revenues**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 402, §A77 (NEW). PL 1999, c. 72, §6 (AMD). PL 2021, c. 710, §3 (RP).

**§309. Annual review**

The commissioner and the Agricultural Development Committee shall, on an annual basis, review the effectiveness of the programs operated under the provisions of this chapter and provide a summary of the review to the Commissioner of Economic and Community Development. [RR 2015, c. 2, §6 (COR).]

SECTION HISTORY

PL 1987, c. 402, §A77 (NEW). PL 1999, c. 72, §6 (AMD). PL 2009, c. 337, §9 (AMD). RR 2015, c. 2, §6 (COR).

## CHAPTER 10-A

## THE MAINE AGRICULTURAL VIABILITY ACT OF 1985

**§311. Short title**

**(REPEALED)**

SECTION HISTORY

PL 1985, c. 482, §2 (NEW). PL 1987, c. 424, §§1,4 (RP).

**§312. Legislative findings**

**(REPEALED)**

SECTION HISTORY

PL 1985, c. 482, §2 (NEW). PL 1987, c. 424, §§1,4 (RP).

**§313. Maine Agricultural Viability Advisory Committee**

**(REPEALED)**

SECTION HISTORY

PL 1985, c. 482, §2 (NEW). PL 1987, c. 424, §§1,4 (RP). PL 1989, c. 503, §§B37,B38 (AMD).

**§314. Establishing a program for identifying regional opportunities**

**(REPEALED)**

SECTION HISTORY

PL 1985, c. 482, §2 (NEW). PL 1987, c. 424, §§1,4 (RP). PL 1987, c. 424, §2 (AMD).

**§315. Implementation**

**(REPEALED)**

SECTION HISTORY

PL 1985, c. 482, §2 (NEW). PL 1987, c. 424, §§1,4 (RP). PL 1987, c. 424, §3 (RPR).

**§316. Participation of other agencies**

**(REPEALED)**

SECTION HISTORY

PL 1985, c. 482, §2 (NEW). PL 1985, c. 779, §30 (AMD). PL 1987, c. 424, §§1,4 (RP).

## CHAPTER 10-B

## MAINE FARMS FOR THE FUTURE PROGRAM

**§317. Maine Farms for the Future Program**

The Maine Farms for the Future Program, referred to in this chapter as the "program," is created. The program is administered by the department, either directly or by contract with a suitable organization. The program provides a selected farm with assistance in developing a detailed business plan that involves changes in the farm's operation to increase the vitality of the farm and investment money to help implement the plan. Participants in the program are eligible to apply for reduced-interest loans from the Agricultural Marketing Loan Fund established under Title 10, section 1023-J and

administered under section 435. The department shall organize a review panel, referred to in this chapter as the "panel," to evaluate and approve applications for participation in the program and for investment support. [PL 2007, c. 660, §1 (AMD).]

SECTION HISTORY

PL 1999, c. 763, §1 (NEW). PL 2007, c. 660, §1 (AMD).

**§318. Business plan development**

**1. Eligibility.** An applicant must own a farm business that has been producing agricultural products commercially in the State for at least 2 years at the time of application. The applicant must submit an application to the department to be eligible for participation in the program pursuant to procedures developed by the department. Exceptions to the 2-year eligibility requirement may be granted at the discretion of the department.
[PL 2025, c. 254, §1 (AMD).]

**2. Criteria for selection.** The panel shall evaluate and approve applications that are based upon criteria developed by the department, including:

A. The degree of opportunity for increasing the vitality of the farm business due to factors such as the capability of the applicant to effect positive changes in farm business operations and the suitability of the land in agricultural use to sustain those changes; and [PL 2025, c. 254, §1 (AMD).]

B. The degree of threat to the continuation of agricultural use of the land due to factors such as the financial capacity and current farm management practices of the applicant. [PL 2003, c. 167, §1 (AMD).]

The panel, to the extent practicable, may give priority consideration to applications from applicants who have a history of generational poverty or land dispossession in the United States or from applicants who are veterans. For purposes of this subsection, "veteran" means an individual who served in the United States Armed Forces and meets the definition of "veteran" under 38 Code of Federal Regulations, Section 3.1 or who has served or is currently serving in the Maine Army National Guard or Maine Air National Guard or the Reserves of the United States Armed Forces.
[PL 2025, c. 254, §1 (AMD); PL 2025, c. 309, §15 (AMD).]

**3. Services package; reimbursement.** Once an applicant is selected to participate in the program, the department shall assist the selected farm business in assembling a services package to develop the business plan within 18 months of the selection. The services package must include services provided by outside experts, such as the analysis of production practices and markets or the development of financial data. These services may include instruction or classroom training in economics and business planning as available and as required by the department for the owner or operator of the farm business.

A. [PL 2025, c. 254, §1 (RP).]

B. [PL 2025, c. 254, §1 (RP).]

A services package must be approved by the department before it is implemented. The department shall pay for outside services contracted as part of an approved services package. The department may not pay more than $10,000 for outside services contracted as part of the services package to a selected farm business. The department shall keep an accounting of the services provided to a selected farm business as part of the services package.
[PL 2025, c. 254, §1 (AMD).]

**4. First farmland protection agreement.**

[PL 2003, c. 167, §2 (RP).]

**5. Business plan requirements.** A selected farm business must use a services package to develop a business plan that identifies changes in farm management practices and investments in equipment and property that would increase the vitality of the farm business.
[PL 2025, c. 254, §1 (AMD).]

SECTION HISTORY

PL 1999, c. 763, §1 (NEW). PL 2003, c. 167, §§1,2 (AMD). PL 2007, c. 660, §§2, 3 (AMD). PL 2025, c. 254, §1 (AMD). PL 2025, c. 309, §15 (AMD).

**§319. Investment support**

**1. Eligibility.** A selected farm business that has completed a business plan pursuant to section 318 is eligible to apply for funding to implement the plan. The applicant may apply for a reduced-interest loan from the Agricultural Marketing Loan Fund under chapter 101, subchapter 1-D and for a grant pursuant to the terms outlined in subsection 4.
[PL 2025, c. 254, §2 (AMD).]

**2. Award of grants.** The panel shall develop a competitive process to determine the farm businesses that receive grants to implement a business plan in exchange for a farmland protection agreement under subsection 4 and farm businesses that are eligible to apply for a reduced-interest loan under section 435, subsection 3-A. This determination must be based upon selection criteria developed by the department including:

A. The viability of the business plan; [PL 1999, c. 763, §1 (NEW).]

B. The degree of threat to the continuation of agricultural use of the land due to factors such as the financial capacity and current farm management practices of the applicant; and [PL 2003, c. 167, §3 (AMD).]

C. The degree to which the business plan would accomplish broader objectives such as the protection of water resources, wildlife habitat, open space and scenic and cultural amenities. [PL 1999, c. 763, §1 (NEW).]

When possible, the panel shall award grants to applicants representing diverse agricultural enterprises and geographic areas of the State.
[PL 2025, c. 254, §2 (AMD).]

**3. Uses and limitations of funding.** Any funds provided by the department pursuant to this section must be used to implement the business plan either in the plan's original form or in a subsequent amended version that has been approved by the department. For a farm business applying for and receiving a loan from the Agricultural Marketing Loan Fund, the loan requirements and limitations under chapter 101, subchapter 1-D and Title 10, section 1023-J apply. For a farm business receiving a grant, the department may provide funds to implement the business plan in an amount not to exceed $45,000 or 25% of the total investments identified by the business plan, whichever is less.
[PL 2025, c. 254, §2 (AMD).]

**4. Agricultural conservation agreement or farmland protection agreement.** A farm business selected to receive a grant under subsection 2 must have an existing agricultural conservation agreement or enter into a new 7-year farmland protection agreement with the department before the department provides investment support pursuant to this section. The agreement must provide that the farm business will protect the land in agricultural use from nonagricultural development for the period of the agreement. Exceptions may be granted by the department if an applicant does not own the land on which the applicant operates the applicant's farm business but has a long-term lease arrangement. A selected farm business may terminate the farmland protection agreement at any time if the farm business repays the department for any funds provided to the farm business by the department pursuant to this section.

[PL 2025, c. 254, §2 (AMD).]

**5. Review of business plan.** The department shall arrange to review the business plan for a farm business selected to receive a grant under subsection 2 within 2 years of the date the grant is awarded.
[PL 2025, c. 254, §2 (AMD).]

SECTION HISTORY

PL 1999, c. 763, §1 (NEW). PL 2003, c. 167, §§3,4 (AMD). PL 2007, c. 660, §4 (AMD). PL 2025, c. 254, §2 (AMD).

**§320. Program administration**

**1. Duties.** The department shall ensure that the following duties are performed:

A. Promoting the program to farms in the State; [PL 1999, c. 763, §1 (NEW).]

B. Organizing and overseeing the panel; [PL 1999, c. 763, §1 (NEW).]

C. Developing criteria to select participants for the program and recipients of investment support; [PL 1999, c. 763, §1 (NEW).]

D. Compiling a list of outside service providers; [PL 1999, c. 763, §1 (NEW).]

E. Administering the disbursement of investment support; and [PL 2007, c. 660, §5 (AMD).]

F. Executing and enforcing farmland protection agreements. [PL 2007, c. 660, §5 (AMD).]

G. [PL 2007, c. 660, §5 (RP).]
[PL 2007, c. 660, §5 (AMD).]

**2. Outside service providers.** The department shall develop, maintain and periodically update a list of outside service providers who may provide services pursuant to section 318 by widely circulating an application to qualifying entities. The application must request information including qualifications of the entity in any area that may be of use in developing a farm viability business plan. "Qualifying entities" means individuals, private organizations, public organizations and agencies of the State, marketing consultants, accounting firms, business support organizations, farm support organizations and other organizations that the department determines may provide valuable services pursuant to section 318. A selected farm may use an outside service provider identified on the list of service providers or another outside service provider that has been approved by the department.
[PL 1999, c. 763, §1 (NEW).]

**3. Administration by other than department.** The department may contract the administration of this program to a suitable organization selected through a competitive process developed by the department. The contracting organization is responsible for performing all duties set forth in subsection 1, except that it is solely the department's responsibility to perform the duty set forth in subsection 1, paragraph F. Whether the program is administered by the department or an organization under contract with the department, a minimum of 40% of the total annual state funding for the program must be reserved for grants awarded under section 319. Funds appropriated to the program may not lapse but must be carried forward.
[PL 2007, c. 660, §6 (AMD).]

**4. Funding.**
[PL 2007, c. 660, §7 (RP).]

**5. Rulemaking.** The commissioner shall adopt rules to carry out the purposes of this chapter. All rules adopted pursuant to this chapter are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.
[PL 1999, c. 763, §1 (NEW).]

**6. Reporting.** The commissioner shall submit an annual report on or before March 1st of each year to the joint standing committee of the Legislature having jurisdiction over agricultural matters. The report must include a summary of grants made under section 319 during the previous fiscal year. The report must address the effectiveness of the program. Effectiveness measures may include, but are not limited to, evaluation of the number of companies retained, expanded or created; the increase in the number of jobs created or retained; any increased business revenues and new capital raised; improved wages paid to employees; and any new capital investment and increase in profitability.
[PL 2013, c. 256, §1 (AMD).]

SECTION HISTORY

PL 1999, c. 763, §1 (NEW). PL 2007, c. 660, §§5-8 (AMD). PL 2013, c. 256, §1 (AMD).

## CHAPTER 10-C

## AGRICULTURE, FOOD AND FOREST PRODUCTS

### §320-A. Agriculture, food system and forest products infrastructure investment

**1. Definitions.** As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Food system" means all processes, infrastructure and persons involved in feeding a population, including growing, harvesting, collecting, processing, manufacturing, packaging, transporting, marketing, selling, consuming and disposing of food and food-related items in the State. [PL 2021, c. 483, Pt. KK, §2 (NEW).]

B. "Infrastructure" means property, equipment, networks and supporting services associated with the production, harvesting, processing, manufacturing, storage, packaging, transporting, marketing, sales and disposal of food. [PL 2021, c. 483, Pt. KK, §2 (NEW).]

C. "Producer" means a person in the State that grows, manufactures, harvests or otherwise creates agricultural, food or forest products and value-added products, including a person engaged in farming, harvesting or other agricultural and forestry manufacturing activities. [PL 2021, c. 483, Pt. KK, §2 (NEW).]

D. "Supply chain" means the chain of distribution by which agricultural, food and forest products are moved from the producer to the consumer and may include intermediate entities, including aggregators of various products, manufacturers, value-added producers, processors, packagers, warehouse operators and other storage entities, distributors, wholesalers and retailers. [PL 2021, c. 483, Pt. KK, §2 (NEW).]

E. "Value-added" means changing the physical state or form of a product through processing or manufacturing to enhance or increase the product's value, including making the product suitable to generate renewable energy. [PL 2021, c. 483, Pt. KK, §2 (NEW).]
[PL 2021, c. 483, Pt. KK, §2 (NEW).]

**2. Goals; investment; inclusiveness.** The commissioner, in coordination with the Department of Economic and Community Development, industry stakeholders, representatives of Indian tribes, communities of color and other underserved communities and populations and other relevant agencies, shall:

A. Strengthen the State's agricultural, food and forest products economy with a priority of making resulting efforts more inclusive of and increasing investments in historically marginalized, underrepresented and underserved communities, including communities of color, low-income

communities and rural communities that typically lack access to capital to start, sustain, scale and innovate businesses; [PL 2021, c. 483, Pt. KK, §2 (NEW).]

B. Expand infrastructure investments in the agricultural, food and forest products economy to increase access to new markets and opportunities for producers, processors, small businesses and consumers in the State in the producing, processing, manufacturing, packaging, distribution, marketing, sale and consumption of products; and [PL 2021, c. 483, Pt. KK, §2 (NEW).]

C. Collaborate with other state agencies, economic development organizations and other key institutional partners to establish technical assistance programs to support the objectives of this chapter. [PL 2021, c. 483, Pt. KK, §2 (NEW).]

[PL 2021, c. 483, Pt. KK, §2 (NEW).]

**3. Powers.** In carrying out the purposes of this chapter, the commissioner may:

A. Hire or assign staff or contractors, including community development financial institutions, economic development organizations, quasi-governmental entities or other capital or technical assistance providers; [PL 2021, c. 483, Pt. KK, §2 (NEW).]

B. Seek and accept funds from public and private sources; and [PL 2021, c. 483, Pt. KK, §2 (NEW).]

C. Administer funds, grants and programs. [PL 2021, c. 483, Pt. KK, §2 (NEW).]

[PL 2021, c. 483, Pt. KK, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 483, Pt. KK, §2 (NEW).

**§320-B. Maine Agriculture, Food and Forest Products Investment Fund**

**1. Fund established.** The Maine Agriculture, Food and Forest Products Investment Fund, referred to in this chapter as "the fund," is established and administered by the department to support public-private partnerships to carry out the purposes of this chapter. The fund consists of money appropriated to the fund or received from any other private or public source. Interest in investment of money of the fund is credited to the fund. Unexpended balances at the end of the fiscal year do not lapse but carry over into the next fiscal year. The Maine Agriculture, Food System and Forest Products Infrastructure Investment Advisory Board established in section 320-C shall oversee and determine expenditures from the fund.

[PL 2021, c. 483, Pt. KK, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 483, Pt. KK, §2 (NEW).

**§320-C. Maine Agriculture, Food System and Forest Products Infrastructure Investment Advisory Board**

**1. The Maine Agriculture, Food System and Forest Products Infrastructure Investment Advisory Board.** The Maine Agriculture, Food System and Forest Products Infrastructure Investment Advisory Board established in Title 5, section 12004-J, subsection 1-A, referred to in this section as "the board," is created to oversee and determine expenditures from the Maine Agriculture, Food and Forest Products Investment Fund in section 320-B.

[PL 2021, c. 483, Pt. KK, §2 (NEW).]

**2. Membership.** The board consists of the commissioner or the commissioner's designee, the Commissioner of Economic and Community Development or the commissioner's designee and 15 members appointed jointly by the commissioner and the Commissioner of Economic and Community Development as follows:

A. One member of a statewide industry group representing conventional nondairy farming; [PL 2021, c. 483, Pt. KK, §2 (NEW).]

B. One member of a statewide industry group representing organic nondairy farming; [PL 2021, c. 483, Pt. KK, §2 (NEW).]

C. One member of a statewide industry group representing dairy producers; [PL 2021, c. 483, Pt. KK, §2 (NEW).]

D. One member of a statewide industry group representing the forest products industry; [PL 2021, c. 483, Pt. KK, §2 (NEW).]

E. Two members from relevant financial institutions with experience in the agricultural and forest products industries; [PL 2021, c. 483, Pt. KK, §2 (NEW).]

F. One manufacturer of forest products; [PL 2021, c. 483, Pt. KK, §2 (NEW).]

G. One manufacturer of value-added agricultural products or representative of the value-added agricultural products industry; [PL 2021, c. 483, Pt. KK, §2 (NEW).]

H. Two members representing the supply chain in processing, manufacturing or distribution; [PL 2021, c. 483, Pt. KK, §2 (NEW).]

I. One member actively engaged in providing marketing assistance, market development or business and financial planning; [PL 2021, c. 483, Pt. KK, §2 (NEW).]

J. One member from a statewide group representing the logging and trucking industry; [PL 2021, c. 483, Pt. KK, §2 (NEW).]

K. One member who is a member of a federally recognized Indian nation, tribe or band in this State; and [PL 2021, c. 483, Pt. KK, §2 (NEW).]

L. Two members who represent historically underserved racial populations in nondairy farming. [PL 2021, c. 483, Pt. KK, §2 (NEW).]

Board membership must reflect a diversity of skills and experience relevant to investment in agricultural, food and forest products processing and manufacturing industries and represent the racial diversity of the food system in the State with specific representation by Indian tribes, communities of color and other underserved communities and populations.
[PL 2021, c. 483, Pt. KK, §2 (NEW).]

**3. Terms; officers; committees; rules.** Board members serve for 3-year terms and may serve no more than 2 consecutive terms. The members shall elect a chair and may elect officers, establish one or more committees or subcommittees and adopt such procedural rules as the members determine necessary and appropriate to perform the board's work.
[PL 2021, c. 483, Pt. KK, §2 (NEW).]

**4. Quorum; meeting; voting.** A majority of the sitting members constitute a quorum, and action taken by the board may be authorized by a majority of the members present and voting at any regular or special meeting at which a quorum is present. The board may permit any or all members to participate in a regular or special meeting by or conduct the meeting through the use of any means of communication, including electronic telecommunications or a telephone conference call, by which all members participating may communicate with each other during the meeting. A member participating in a meeting by means approved by the board under this subsection is deemed to be present in person at the meeting.
[PL 2021, c. 483, Pt. KK, §2 (NEW).]

**5. Reimbursement.** A member of the board is entitled to reimbursement of mileage and other incidental expenses, if funds are available for such purposes, pursuant to Title 5, chapter 379.
[PL 2021, c. 483, Pt. KK, §2 (NEW).]

**6. Powers and duties of board.** The board, in determining disbursements of the Maine Agriculture, Food and Forest Products Investment Fund, shall:

A. Facilitate strategic investments in the State's agricultural, food and forest products processing and manufacturing industries, including value-added products; [PL 2021, c. 483, Pt. KK, §2 (NEW).]

B. Foster an environment that encourages innovation, sustainable growth, equity and inclusion; [PL 2021, c. 483, Pt. KK, §2 (NEW).]

C. Implement and maintain business technical assistance programs in support of the fund and other funds as needed; [PL 2021, c. 483, Pt. KK, §2 (NEW).]

D. Determine and devise a process for requests for proposals to perform 3rd-party services in support of and for the management and administration of the fund and other potential natural resource-related funds as needed and for technical assistance programs that ensure that economic development organizations, capital providers and community development financial institutions in any region of the State are able to fairly compete for disbursements from the fund to meet identified infrastructure investment needs and fulfill the objectives of the funding and technical assistance programs; [PL 2021, c. 483, Pt. KK, §2 (NEW).]

E. Enter into performance contracts with one or more persons in order to provide investment and services to agricultural, food and forest products industries, including:

(1) Technical assistance and product research services;

(2) Marketing assistance, market development and business and financial planning;

(3) Organizational, regulatory and development assistance, including feasibility studies of facilities or capital investments to optimize construction and other cost efficiencies; and

(4) Identification of workforce needs and programs in order to develop training and incentive opportunities for the agricultural, food and forest products industries after consulting with the Department of Labor; and [PL 2021, c. 483, Pt. KK, §2 (NEW).]

F. Oversee, analyze and evaluate programs, contractors and other recipients of funds disbursed by the board annually, including:

(1) Analyzing fund and technical assistance program use;

(2) Recommending program changes and improvements;

(3) Preparing a comprehensive report, in collaboration with the Department of Economic and Community Development and other appropriate agencies and organizational partners, on the performance, use and sustainability of funds and supporting programs of the Maine Agriculture, Food and Forest Products Investment Fund to submit to the commissioner; and

(4) Collaborating with the Department of Economic and Community Development and other appropriate agencies and organizational partners to ensure that investment objectives are appropriately targeted and not duplicative and to establish various grant and loan instruments as part of the fund. [PL 2023, c. 470, §§1-3 (AMD).]

[PL 2023, c. 470, §§1-3 (AMD).]

SECTION HISTORY

PL 2021, c. 483, Pt. KK, §2 (NEW). PL 2023, c. 470, §§1-3 (AMD).

## CHAPTER 10-D

## FUND TO ADDRESS PFAS CONTAMINATION

**§320-K. Fund To Address PFAS Contamination**

**1. Definitions.** As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Advisory committee" means the Advisory Committee on the Fund To Address PFAS Contamination in section 320-L. [PL 2021, c. 635, Pt. XX, §2 (NEW).]

B. "Agricultural land" has the same meaning as in section 32, subsection 2. [PL 2021, c. 635, Pt. XX, §2 (NEW).]

C. "Commercial farm" means a farm that produces any farm product with the intent that the farm product be sold or otherwise disposed of to generate income. [PL 2021, c. 635, Pt. XX, §2 (NEW).]

D. "Farm product" has the same meaning as in section 52, subsection 3-A. [PL 2021, c. 635, Pt. XX, §2 (NEW).]

E. "Fund" means the Fund To Address PFAS Contamination established under subsection 2. [PL 2021, c. 635, Pt. XX, §2 (NEW).]

F. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in Title 32, section 1732, subsection 5-A. [PL 2021, c. 635, Pt. XX, §2 (NEW).]

G. "Septage" has the same meaning as in Title 38, section 1303-C, subsection 27. [PL 2021, c. 635, Pt. XX, §2 (NEW).]

H. "Sludge" has the same meaning as in Title 38, section 1303-C, subsection 28-A. [PL 2021, c. 635, Pt. XX, §2 (NEW).]

[PL 2021, c. 635, Pt. XX, §2 (NEW).]

**2. Fund established.** The Fund To Address PFAS Contamination is established within the office of the commissioner as a nonlapsing account for the purposes specified in this chapter.
[PL 2021, c. 635, Pt. XX, §2 (NEW).]

**3. Sources of the fund.** The fund is funded from money accepted by the commissioner or allocated or appropriated by the Legislature, including funds stipulated for deposit in the fund as part of the terms of settlement of legal actions relating to PFAS contamination against corporations, partnerships or individuals.
[PL 2021, c. 635, Pt. XX, §2 (NEW).]

**4. Purposes.** Allocations from the fund may be made as determined by the department upon recommendation of the advisory committee and for the following purposes:

A. Monitoring the health of a person, and members of that person's household, whose agricultural land is found to be contaminated by PFAS; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

B. Providing medical care to a person found to have blood levels of PFAS greater than the general population or health effects associated with exposure to PFAS; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

C. Relocating a commercial farm when the agricultural land of the farm is found to be contaminated by PFAS; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

D. Buying and selling agricultural land found to be contaminated by PFAS; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

E. Investing in equipment, facilities and infrastructure to ensure that a commercial farm with land found to be contaminated by PFAS maintains profitability while the commercial farm transitions to an alternative cropping system or implements remediation strategies, technological adaptations,

solar development or other modifications to its operations in response to PFAS contamination; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

F. Assisting a commercial farm with land found to be contaminated by PFAS with developing enterprise budgets for alternative cropping systems, remediation strategies or technological adaptations or transitioning to alternative revenue streams, including but not limited to land use systems combining agricultural use of the land with solar energy production; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

G. Providing short-term assistance to a person whose commercial farm is found to be contaminated by PFAS, including but not limited to income replacement and mortgage payments; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

H. Evaluating the capacity of PFAS testing and data management in the State; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

I. Conducting research that supports short-term farm management decisions and assesses future options for viable uses of agricultural land that has been contaminated with PFAS; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

J. Conducting research that quantifies the impact of PFAS on commercial farms and agricultural communities in the State; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

K. Conducting research on soil and water remediation systems and the viability of those systems for commercial farms; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

L. Conducting research on alternative cropping systems, PFAS uptake of different crops, the use of livestock systems to mitigate exposure to and for remediation of PFAS and food safety criteria for food products; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

M. Developing and implementing educational programs for landowners, including but not limited to determining best practices for informing residents about the potential of being near or on a site on which sludge or septage application was licensed or permitted by the State prior to 2019, and providing information and guidance on buying or selling agricultural lands that have had sludge or septage applied; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

N. Long-term monitoring of PFAS contaminated sites and establishing a corresponding centralized data repository; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

O. Establishing food safety criteria and guidance for farm products; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

P. Assisting commercial farms and others in the agricultural sector not directly affected by PFAS contamination with marketing efforts whose branding and marketing may be affected by public perception of PFAS contamination in the State; and [PL 2021, c. 635, Pt. XX, §2 (NEW).]

Q. Regional planning with other states and the Federal Government to protect food supply and farmers in the State from out-of-state PFAS contamination. [PL 2021, c. 635, Pt. XX, §2 (NEW).]

Health care information obtained by the department in the course of providing services related to paragraphs A and B, including billing information, must be treated as confidential pursuant to Title 22, section 1711-C. For purposes of this section, "health care information" has the same meaning as in Title 22, section 1711-C, subsection 1, paragraph E.
[PL 2025, c. 65, §1 (AMD).]

**5. Administration and authority.** The administration of the fund and the authority to administer the fund is as follows.

A. The department shall administer the fund allocations in accordance with a plan that establishes funding priorities, administration and oversight and with the review and advice of the advisory committee. The department may use funds for personnel services and to contract for professional services to carry out the purposes of this section. [PL 2025, c. 65, §2 (NEW).]

B. The commissioner or the commissioner's designee is authorized to sell, grant, lease, transfer or otherwise convey any real or personal property acquired under subsection 4, paragraph D. Proceeds from the sale or lease of property and the disposal of all other interests in real property including timber sales and revenue generated from solar development must be deposited into the Department of Agriculture, Conservation and Forestry, Office of the Commissioner program, Fund To Address PFAS Contamination, Other Special Revenue Funds account. [PL 2025, c. 65, §2 (NEW).]

[PL 2025, c. 65, §2 (RPR).]

**6. Rules.** The department may adopt rules to implement this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 635, Pt. XX, §2 (NEW).]

**7. Reports.** Beginning March 1, 2023, and annually thereafter, the department shall submit a report on the plan under subsection 5 and on the uses of the fund to the joint standing committees of the Legislature having jurisdiction over agriculture, conservation and forestry, environment and natural resources and health and human services matters. The report must include information on the status of carrying out the purposes of the fund as described in subsection 4, additional needs identified by the agricultural community, what funds have been disbursed from the fund and for what purpose those funds were disbursed. The report must include the activities of the advisory committee, including, but not limited to, the number of meetings held, a summary of each meeting and recommendations for legislation from the advisory committee.

[PL 2021, c. 635, Pt. XX, §2 (NEW).]

SECTION HISTORY

PL 2021, c. 635, Pt. XX, §2 (NEW). PL 2025, c. 65, §§1, 2 (AMD).

**§320-L. Advisory Committee on the Fund To Address PFAS Contamination**

The Advisory Committee on the Fund To Address PFAS Contamination is established pursuant to Title 5, section 12004-I, subsection 2-I to make recommendations to the department regarding administration of the fund. In order to develop recommendations for the department, the advisory committee may form working groups that include and seek input from subject matter experts from the public and private sectors to deliberate issues relating to the purposes of the fund as described in section 320-K, subsection 4, including, but not limited to, health monitoring, short-term financial aid for farmers, research priorities, solar siting, long-term environmental monitoring and land acquisition. [PL 2023, c. 212, §2 (AMD).]

**1. Membership.** The advisory committee consists of:

A. Two members of the Senate, appointed by the President of the Senate, including one member of the party holding the largest number of seats in the Senate and one member of the party holding the 2nd largest number of seats in the Senate; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

B. Two members of the House of Representatives, appointed by the Speaker of the House of Representatives, including one member of the party holding the largest number of seats in the House and one member of the party holding the 2nd largest number of seats in the House; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

C. The commissioner or the commissioner's designee; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

D. The Commissioner of Environmental Protection or the commissioner's designee; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

E. The Commissioner of Health and Human Services or the commissioner's designee; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

F. The dean of the Maine Agricultural and Forest Experiment Station at the University of Maine, College of Natural Sciences, Forestry, and Agriculture or the dean of the University of Maine Cooperative Extension, appointed by the President of the University of Maine; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

G. One member of the public representing the financial sector and with expertise in agricultural finance and lending, appointed by the commissioner; [PL 2021, c. 635, Pt. XX, §2 (NEW).]

H. Five members of the public representing the agricultural sector, appointed by the commissioner; and [PL 2021, c. 635, Pt. XX, §2 (NEW).]

I. One member of the public with expertise in public health, appointed by the commissioner. [PL 2021, c. 635, Pt. XX, §2 (NEW).]

The 7 members of the public appointed by the commissioner serve on the advisory committee for terms of 3 years. Members may be appointed for consecutive terms. Members who are Legislators are appointed for the duration of the legislative terms of office for which they were appointed, except that at the end of the term, members who are Legislators continue to serve until a successor is appointed. [PL 2023, c. 212, §3 (AMD).]

**2. Chairs.** The advisory committee shall select 2 chairs from among its members, each to serve a term of 2 years. Chairs may serve consecutive terms. [PL 2025, c. 65, §3 (RPR).]

**3. Proceedings of the advisory committee.** The advisory committee shall hold at least one public meeting annually to seek input from the public on efforts to meet the purposes of the fund. All proceedings of the advisory committee are public proceedings within the meaning of Title 1, chapter 13, subchapter 1. Notwithstanding Title 1, section 403, subsection 6, all records of proceedings of the advisory committee are public and subject to the requirements of Title 1, section 403, subsection 2. [PL 2025, c. 65, §4 (AMD).]

SECTION HISTORY

PL 2021, c. 635, Pt. XX, §2 (NEW). PL 2023, c. 212, §§2-4 (AMD). PL 2025, c. 65, §§3, 4 (AMD).

## CHAPTER 10-E

## PFAS RESPONSE PROGRAM

## (REALLOCATED TO TITLE 7, CHAPTER 10-F)

### §341. PFAS Response Program

**(REALLOCATED TO TITLE 7, SECTION 320-AA)**

SECTION HISTORY

PL 2025, c. 65, §5 (NEW). RR 2025, c. 1, Pt. A, §12 (RAL).

## CHAPTER 10-E

## MAINE EXPERIENTIAL EDUCATION PROGRAM

**(TEXT EFFECTIVE ON CONTINGENCY: See PL 2025, c. 183, §4)**

**§320-T. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

**1. Farm and sea to school learning program.** "Farm and sea to school learning program" means a program that incorporates agricultural-based education, hands-on learning through school gardens and increased access to local foods through local procurement by school meal programs; improves access to local seafood sourcing by school meal programs; and provides seafood education in schools. [PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

**2. Fund.** "Fund" means the Maine Experiential Education Program Fund established in section 320-V.
[PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

**3. Program.** "Program" means the Maine Experiential Education Program established in section 320-U.
[PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

**4. Public school.** "Public school" has the same meaning as in Title 20-A, section 1, subsection 24.
[PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

**5. School administrative unit.** "School administrative unit" has the same meaning as in Title 20-A, section 1, subsection 26.
[PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

**6. Student.** "Student" means an individual enrolled in prekindergarten to grade 12 in a public school or school administrative unit.
[PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

SECTION HISTORY

PL 2025, c. 183, §1 (NEW). PL 2025, c. 183, §4 (AFF).

**§320-U. Maine Experiential Education Program**

The Maine Experiential Education Program is established to support the outdoor, experiential and farm and sea to school learning program needs of public schools and school administrative units. [PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

**1. Program administration.** The department shall administer the program. In administering the program, the department may collaborate with the Department of Education and other state agencies and nonprofit organizations that support farm and sea to school learning programs, local food procurement and other experiential learning initiatives in public schools and school administrative units.
[PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

**2. Purposes.** The program shall:

A. Develop and manage a grant program to help public schools and school administrative units create staff positions that support:

(1) The learning and academic development of students by ensuring that public schools and school administrative units interested in the program have the capacity necessary to provide experiential hands-on learning;

(2) The health and physical development of students by ensuring that public schools and school administrative units interested in the program have the capacity necessary to help students build

connections between the food that students and their communities produce and the food that they prepare and eat; and

(3) The emotional and behavioral development of students by ensuring that public schools and school administrative units interested in the program have the capacity necessary to build, expand and maintain school gardens and other experiential learning spaces; and [PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

B. Provide ongoing support to public school educators engaged in experiential hands-on education initiatives for continuing education and professional development opportunities. [PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

[PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

SECTION HISTORY

PL 2025, c. 183, §1 (NEW). PL 2025, c. 183, §4 (AFF).

**§320-V. Maine Experiential Education Program Fund**

**1. Fund established.** The Maine Experiential Education Program Fund is established within the department. The fund is nonlapsing and may be invested in the same manner as permitted for investment of other state funds. The fund must be held separate and apart from all other money, funds and accounts. Any balance remaining in the fund at the end of the fiscal year must be carried forward to the next fiscal year.

[PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

**2. Use of fund.** The department shall use money in the fund to:

A. Provide multiyear grants to public schools and school administrative units to help establish experiential education positions and outdoor educator positions within the public schools and school administrative units through a cost-sharing agreement in accordance with the following provisions.

(1) In the first grant year, the fund covers the full cost of salary and benefits, or stipend, of a position; in the 2nd grant year, the fund covers 2/3 of the cost of salary and benefits, or stipend, for the same position and the public school or school administrative unit covers 1/3 of the cost; in the 3rd grant year, the fund covers 1/3 of the cost of salary and benefits, or stipend, for the same position and the public school or school administrative unit covers 2/3 of the cost; and, in subsequent grant years, the public school or school administrative unit covers the full cost of salary and benefits, or stipend, for the same or similar position.

(2) Grants must be made to public schools and school administrative units in a manner that ensures the public schools and school administrative units create experiential education positions and outdoor educator positions that meet the outdoor, experiential or farm and sea to school education learning program needs of the public schools and school administrative units.

(3) Grants must be developed and dispersed so that public schools and school administrative units gradually assume full financial responsibility for the positions as described in subparagraphs (1) and (2) over a period not to exceed 3 years from the awarding of the grant for any individual public school or school administrative unit.

In dispersing grant money from the fund, the department shall prioritize opportunities to expand the range of positions funded by the fund, including such positions as stipend garden coaches, educational technicians and teachers; and [PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

B. Provide for a staff position within the department to administer the program and the fund. [PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

[PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

**3. Fund sources.** The following must be paid into the fund:

A. All money appropriated or allocated by the Legislature for inclusion in the fund; [PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

B. All interest earned from investments of the fund; and [PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

C. All money designated for deposit into the fund from any source, public or private. [PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

[PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

SECTION HISTORY

PL 2025, c. 183, §1 (NEW). PL 2025, c. 183, §4 (AFF).

**§320-W. Evaluation and reporting**

The department shall monitor and evaluate the program and submit an annual report to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters and the joint standing committee of the Legislature having jurisdiction over education matters describing the successes and challenges of instituting experiential education in public schools and school administrative units. [PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

SECTION HISTORY

PL 2025, c. 183, §1 (NEW). PL 2025, c. 183, §4 (AFF).

**§320-X. Rules**

The department shall adopt rules to implement this chapter. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2025, c. 183, §1 (NEW); PL 2025, c. 183, §4 (AFF).]

SECTION HISTORY

PL 2025, c. 183, §1 (NEW). PL 2025, c. 183, §4 (AFF).

## CHAPTER 10-F

## PFAS RESPONSE PROGRAM

## (REALLOCATED FROM TITLE 7, CHAPTER 10-E)

**§320-AA. PFAS Response Program**

**(REALLOCATED FROM TITLE 7, SECTION 341)**

**1. Definitions.** As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Agricultural land" has the same meaning as in section 32, subsection 2. [PL 2025, c. 65, §5 (NEW); RR 2025, c. 1, Pt. A, §12 (RAL).]

B. "Commercial farm" means a farm that produces any farm product with the intent that the farm product be sold or otherwise disposed of to generate income. [PL 2025, c. 65, §5 (NEW); RR 2025, c. 1, Pt. A, §12 (RAL).]

C. "Farm product" means those plants and animals useful to humans and includes, but is not limited to, forages and sod crops, grains and food crops, dairy products, poultry and poultry products, bees,

livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses, Christmas trees and other similar products. [PL 2025, c. 65, §5 (NEW); RR 2025, c. 1, Pt. A, §12 (RAL).]

D. "On-farm mitigation efforts" means activities intended to reduce the impact of perfluoroalkyl and polyfluoroalkyl substances contamination on a commercial farm's production of farm products. [PL 2025, c. 65, §5 (NEW); RR 2025, c. 1, Pt. A, §12 (RAL).]

E. "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in Title 32, section 1732, subsection 5-A. [PL 2025, c. 65, §5 (NEW); RR 2025, c. 1, Pt. A, §12 (RAL).]

F. "Program" means the PFAS Response Program. [PL 2025, c. 65, §5 (NEW); RR 2025, c. 1, Pt. A, §12 (RAL).]

[PL 2025, c. 65, §5 (NEW); RR 2025, c. 1, Pt. A, §12 (RAL).]

**2. Program established; purpose.** The PFAS Response Program is established to effectively respond to and address PFAS contamination affecting agricultural producers in the State, to assist commercial farms affected by PFAS contamination and to safeguard public health. The commissioner shall develop, implement and administer the program for the purpose of abating, cleaning up and mitigating threats and hazards posed by PFAS that affect agricultural producers in the State and that affect the food supply; providing support to affected commercial farms; supporting critical PFAS research; and allowing for the department to strategically and effectively respond to PFAS concerns and issues as they arise. The program may include but is not limited to:

A. Establishing maximum levels for PFAS in farm products in consultation with the Department of Health and Human Services, Maine Center for Disease Control and Prevention. When a maximum level is exceeded, the department may prohibit the commercial sale of the product affected and require the PFAS-impacted agricultural producer to incorporate on-farm mitigation efforts as a prerequisite for any future authorization from the department to resume commercial sale of the product affected; [PL 2025, c. 65, §5 (NEW); RR 2025, c. 1, Pt. A, §12 (RAL).]

B. Providing testing support, including conducting initial sampling and ongoing monitoring, to assist agricultural producers in understanding the extent of PFAS contamination on their commercial farms. Testing may include but is not limited to testing of groundwater, surface water, soil, animal tissue, animal blood and serum, plant tissue, animal feed, eggs, milk, manure and compost; [PL 2025, c. 65, §5 (NEW); RR 2025, c. 1, Pt. A, §12 (RAL).]

C. Providing technical assistance to interpret test results, craft recommendations for on-farm mitigation efforts to reduce the risk of PFAS contamination and implement modifications to ensure the safety of farm products and ongoing farm viability; [PL 2025, c. 65, §5 (NEW); RR 2025, c. 1, Pt. A, §12 (RAL).]

D. Providing financial assistance to PFAS-impacted agricultural producers, including but not limited to self-testing reimbursement, agricultural water filtration equipment and maintenance costs, livestock depopulation, compensation for unmarketable processed livestock, equipment and input cost coverage, clean feed support and infrastructure support; [PL 2025, c. 65, §5 (NEW); RR 2025, c. 1, Pt. A, §12 (RAL).]

E. Establishing baseline criteria that agricultural producers must adhere to in order to receive technical and financial assistance, which includes granting property access sufficient to conduct appropriate and required PFAS investigations, cooperating with program staff by providing timely and complete information regarding product types, feed sources and other relevant management practices and adhering to animal welfare and nutrient management recommendations.

An agricultural producer must have an opportunity to request a hearing before the department pursuant to Title 5, chapter 375, subchapter 4 regarding the program's decision to deny, cease or modify financial support based on the criteria established according to this subsection. The

department shall inform the agricultural producer of the opportunity to request a hearing in the written communication notifying the agricultural producer of the program's decision to deny, cease or modify financial support; and [PL 2025, c. 65, §5 (NEW); RR 2025, c. 1, Pt. A, §12 (RAL).]

F. Undertaking or supporting research efforts necessary to advance scientific understanding of PFAS and their movement and effect in agricultural systems that inform on-farm management recommendations or regulatory decisions. These efforts may be accomplished by department staff or state agency partners or contracted to qualified 3rd parties. [PL 2025, c. 65, §5 (NEW); RR 2025, c. 1, Pt. A, §12 (RAL).]

[PL 2025, c. 65, §5 (NEW); RR 2025, c. 1, Pt. A, §12 (RAL).]

**3. Administration.** The Bureau of Agriculture, Food and Rural Resources within the department shall administer the program. The department may also partner with state agencies or contract with 3rd parties to effectuate the purposes of this chapter. The program is distinct from the Fund To Address PFAS Contamination established in section 320-K. The program enforces maximum levels of PFAS in farm products, provides direct on-farm assistance, including but not limited to testing, analysis and on-farm mitigation strategy recommendations, in addition to providing specific financial support that is integral to commercial farms making changes necessary to adapt to and mitigate on-farm PFAS risk. [PL 2025, c. 65, §5 (NEW); RR 2025, c. 1, Pt. A, §12 (RAL).]

**4. Rules.** The department may adopt rules to implement this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2025, c. 65, §5 (NEW); RR 2025, c. 1, Pt. A, §12 (RAL).]

SECTION HISTORY

PL 2025, c. 65, §5 (NEW). RR 2025, c. 1, Pt. A, §12 (RAL).

## PART 1-A

## AGRICULTURAL AND RURAL RESOURCES DEVELOPMENT

## CHAPTER 9

## AGRICULTURAL TECHNOLOGY TRANSFER AND SPECIAL RESEARCH PROJECTS

## (REPEALED)

### §321. Findings

**(REPEALED)**

SECTION HISTORY

PL 1985, c. 438 (NEW). PL 1985, c. 779, §31 (AMD). PL 1987, c. 402, §A78 (RP).

### §322. Technology transfer program

**(REPEALED)**

SECTION HISTORY

PL 1985, c. 438 (NEW). PL 1985, c. 779, §32 (AMD). PL 1987, c. 402, §A78 (RP).

### §323. Special projects

**(REPEALED)**

SECTION HISTORY

PL 1985, c. 438 (NEW). PL 1987, c. 402, §A78 (RP).

**§324. Special revenues**

**(REPEALED)**

SECTION HISTORY

PL 1985, c. 438 (NEW). PL 1987, c. 402, §A78 (RP).

**§325. Annual review**

**(REPEALED)**

SECTION HISTORY

PL 1985, c. 438 (NEW). PL 1987, c. 402, §A78 (RP).

## PART 1-B

## WATER AND SOIL MANAGEMENT

## CHAPTER 11

## AROOSTOOK COUNTY WATER AND SOIL MANAGEMENT PROGRAM

## (REPEALED)

**§331. Legislative findings**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 435, §3 (NEW). PL 2005, c. 382, §A2 (RP).

**§332. Aroostook Water and Soil Management Board**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 435, §3 (NEW). PL 1989, c. 503, §B39 (AMD). PL 1995, c. 502, §E32 (AMD). PL 1999, c. 497, §1 (AMD). PL 1999, c. 556, §8 (AMD). PL 2009, c. 369, Pt. A, §21 (RP).

**§333. Aroostook Water and Soil Management Fund**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 435, §3 (NEW). PL 2009, c. 369, Pt. A, §21 (RP).

## CHAPTER 13

## AGRICULTURAL WATER MANAGEMENT AND IRRIGATION

**§351. Agricultural Water Management and Irrigation Fund**

**1. Fund; established.** The Agricultural Water Management and Irrigation Fund, referred to in this chapter as "the fund," is established as a nonlapsing fund in the Department of Agriculture,

Conservation and Forestry. The commissioner may accept money for the fund from any public or private source and make expenditures from the fund for the purpose of improving the use of irrigation in agriculture and the use of water resources in animal agriculture.
[PL 2005, c. 150, §2 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

**2. Administration.** The commissioner shall administer the fund.
[PL 2005, c. 150, §2 (NEW).]

**3. Rulemaking.** The commissioner shall adopt rules to carry out the purposes of this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2005, c. 150, §2 (NEW).]

**4. Report.** The commissioner shall submit an annual report on March 1st to the joint standing committee of the Legislature having jurisdiction over agricultural matters. The report must include a summary of money available in the fund, the use of the fund and the status of agricultural irrigation in the State.
[PL 2005, c. 150, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 150, §2 (NEW). PL 2011, c. 657, Pt. W, §5 (REV).

**§352. Maine Agricultural Water Management Board**

The Maine Agricultural Water Management Board is established in Title 5, section 12004-G, subsection 3-D and referred to in this section and section 353 as "the board." [PL 2005, c. 559, §2 (NEW).]

**1. Membership.** All members of the board must be residents of this State. The board consists of 9 members as follows:

A. Five members appointed by the commissioner, consisting of:

(1) A potato producer;

(2) A wild blueberry producer;

(3) A small fruit or vegetable grower;

(4) A producer of ornamental crops; and

(5) A livestock producer; [PL 2005, c. 559, §2 (NEW).]

B. Three members appointed by the Governor, consisting of:

(1) A person with expertise in federal wetlands permitting;

(2) A person with expertise in agricultural engineering and water use efficiency; and

(3) A member of the general public; and [PL 2005, c. 559, §2 (NEW).]

C. The Commissioner of Environmental Protection or the commissioner's designee. [PL 2005, c. 559, §2 (NEW).]
[PL 2005, c. 559, §2 (NEW).]

**2. Duties.** The board, working in conjunction with the Department of Environmental Protection, shall:

A. Oversee and coordinate the environmentally sound and affordable development of water sources for agricultural use; [PL 2005, c. 559, §2 (NEW).]

B. Make recommendations for improvements to federal and state permitting processes for the development of farm ponds and other water sources for agricultural use; [PL 2005, c. 559, §2 (NEW).]

C. Work to secure funding for the construction of environmentally sound, efficient and affordable water sources for agricultural use; [PL 2005, c. 559, §2 (NEW).]

D. Use data generated by water withdrawal reports under Title 38, section 470-D and other available information to prioritize watersheds needing alternative water sources for agricultural use and the allocation of funding; and [PL 2005, c. 559, §2 (NEW).]

E. Facilitate the implementation of the sustainable agricultural water source program under section 353. [PL 2005, c. 559, §2 (NEW).]

[PL 2005, c. 559, §2 (NEW).]

**3. Agricultural water use management plans.** In addition to its duties under subsection 2, the board shall develop a model for agricultural water use management plans including a list of issues to be addressed in each plan. The board shall assist agricultural users in the development of water management plans. For the purposes of this section and section 353, "agricultural water use management plan" means a written document that states the source of water and outlines how water is managed, including a method of storage, if needed, and how water is used on the farm for which the plan is written.

[PL 2005, c. 559, §2 (NEW).]

**4. Terms of membership; chair.** Except for initial appointees under subsection 1, each member appointed serves for a term of 3 years. In the case of a vacancy, the Governor shall appoint a member to fill the unexpired term. The Governor and commissioner shall determine initial appointment terms to stagger term expirations. The board shall annually elect one of its members as chair.

[PL 2005, c. 559, §2 (NEW).]

**5. Compensation.** Members of the board are entitled to expenses only.

[PL 2005, c. 559, §2 (NEW).]

**6. Staff.** The department shall provide staff to the board.

[PL 2005, c. 559, §2 (NEW).]

**7. Meetings.** The board shall meet as needed to perform its duties.

[PL 2005, c. 559, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 559, §2 (NEW).

**§353. Sustainable agricultural water source program**

The board shall work with the department and the Department of Environmental Protection to facilitate implementation of the sustainable agricultural water source program in accordance with this section. The Board of Environmental Protection shall determine flow standards through rulemaking authorized under Title 38, section 470-H. [PL 2005, c. 559, §2 (NEW).]

**1. Site-specific standards.** Upon request of the board, the department or a person using or proposing to use surface waters for agricultural purposes, the Department of Environmental Protection shall determine site-specific flow standards and water levels for a water body used or being considered for use as a water source for agriculture.

[PL 2005, c. 559, §2 (NEW).]

**2. Compliance date for water use standards.** An agricultural producer has 5 years from the effective date of rules adopted under Title 38, section 470-H to meet the standards established in those rules if that agricultural producer is:

A. An agricultural producer who has filed or whose predecessor had filed a water use report under Title 38, section 470-D prior to December 1st of the year in which rules authorized by Title 38, section 470-H are finally adopted; or [PL 2005, c. 559, §2 (NEW).]

B. An agricultural producer who can otherwise document a history of agricultural water use at the site prior to December 1st of the year in which rules authorized by Title 38, section 470-H are finally adopted. [PL 2005, c. 559, §2 (NEW).]

An agricultural producer who has or whose predecessor had a permit or voluntary agreement establishing withdrawal limits must adhere to those limits for the 5-year period or until in compliance with the standards established in rule.

For the purposes of this subsection, "predecessor" means a person who preceded an agricultural producer in the ownership or use of a parcel of land.
[PL 2005, c. 559, §2 (NEW).]

**3. Assistance to agricultural producers.** Agricultural producers may seek assistance from the board for the development of sustainable water sources, including permitting assistance where applicable. An agricultural producer must have an agricultural water use management plan prior to receiving financial support for the development of an alternative water source.
[PL 2005, c. 559, §2 (NEW).]

**4. Compliance extension.** The Department of Environmental Protection, upon recommendation of the board, may grant an extension beyond the original 5 years to an agricultural producer who qualifies for the 5-year compliance date under subsection 2 and has a strategy for compliance with the rules authorized by Title 38, section 470-H if:

A. The agricultural producer requesting the extension has an agricultural water use management plan consistent with the board's model developed under section 352, subsection 3; [PL 2005, c. 559, §2 (NEW).]

B. The agricultural water use management plan identifies water storage options for the agricultural producer and alternative water sources; [PL 2005, c. 559, §2 (NEW).]

C. The agricultural producer has applied for funding and permits as needed; [PL 2005, c. 559, §2 (NEW).]

D. The agricultural producer has implemented all feasible water use reduction options that are consistent with the agricultural water use management plan; [PL 2005, c. 559, §2 (NEW).]

E. The agricultural producer has complied with water withdrawal limits established in an existing permit or voluntary agreement; and [PL 2005, c. 559, §2 (NEW).]

F. Unforeseen or exceptional circumstances, such as weather events, delays in federal permitting or federal cost-share funding, have prevented implementation of the agricultural water use management plan. [PL 2005, c. 559, §2 (NEW).]
[PL 2005, c. 559, §2 (NEW).]

**5. Enforcement.** The board shall examine water withdrawals for agricultural uses that result in a violation of flow rates or water levels, consider any unforeseen or exceptional circumstances of the agricultural producers, withdrawing water from the water bodies and make recommendations to the Department of Environmental Protection regarding compliance. Nothing in the responsibilities or actions of the board limits the enforcement or compliance authority of the Department of Environmental Protection under Title 38.
[PL 2005, c. 559, §2 (NEW).]

**6. Biennial report.** The board shall submit a report on the sustainable agricultural water source program to the joint standing committee of the Legislature having jurisdiction over agricultural matters

and the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 30th of odd-numbered years beginning January 30, 2007.
[PL 2009, c. 652, Pt. A, §5 (AMD).]

SECTION HISTORY

PL 2005, c. 559, §2 (NEW). PL 2009, c. 652, Pt. A, §5 (AMD).

## PART 2

## MARKETING, GRADING AND LABELING

## CHAPTER 101

## GENERAL PROVISIONS

## SUBCHAPTER 1

## MARKETING AND ADVERTISING FARM PRODUCTS

### §401. Methods and costs

The commissioner is authorized and directed, through such agents as the commissioner may appoint for the purpose and in cooperation with such agricultural corporations or associations as the commissioner considers proper, to investigate the existing methods and costs of marketing farm products and purchasing farm supplies and to secure improvement therein. [RR 2021, c. 1, Pt. B, §60 (COR).]

SECTION HISTORY

RR 2021, c. 1, Pt. B, §60 (COR).

### §401-A. Legislative findings

The Legislature finds that the marketing of agricultural commodities produced in the State is crucial to the maintenance and expansion of the agricultural industry, to the preservation of rural life in the State and to the economic well-being of all of the State's people. There exists a need to provide the necessary market information to enable Maine farmers to make wise short-term and long-term production decisions; to establish standards for proper storage, packing and grading of agricultural products; and to create adequate enforceable programs for quality assurance as well as for the effective coordination of promotion and advertising efforts. In order to ensure that these responsibilities are fulfilled, the Legislature finds it necessary to provide state assistance to agricultural marketing and promotion. [PL 2005, c. 512, §4 (AMD).]

SECTION HISTORY

PL 1983, c. 563, §1 (NEW). PL 2005, c. 512, §4 (AMD).

### §401-B. Responsibilities of the commissioner

To further the purposes of this Part, the commissioner shall initiate and implement programs necessary to facilitate the effective, profitable marketing of Maine agricultural products. For the purposes of this subchapter, the terms "agricultural products" and "farm products" include, but are not limited to, products of aquaculture as defined in Title 12, section 6001, subsection 1. These programs include, but are not limited to, the following. [PL 2003, c. 660, Pt. A, §1 (AMD).]

**1. Research.** The commissioner, in conjunction with the Maine Agricultural Experiment Station and the Cooperative Extension Service, shall conduct, assist and foster research to improve the marketing, handling, storage, processing, transportation and distribution of agricultural products in order to develop new and wider markets and reduce distribution costs.
[PL 1983, c. 563, §1 (NEW).]

**2. Information to producers.** The commissioner, in conjunction with the Maine Agricultural Experiment Station and the Cooperative Extension Service and other public or private agencies, shall provide producers information regarding current market conditions and such other information as may be needed to maintain quality control and promote quality improvement for Maine agricultural products.
[PL 1983, c. 563, §1 (NEW).]

**3. Information to consumers.** The commissioner, in conjunction with the Cooperative Extension Service, shall provide for the dissemination of information to consumers about Maine agricultural products.
[PL 1983, c. 563, §1 (NEW).]

**4. Organization.** The commissioner shall aid Maine producers and consumers by assisting cooperative societies of buyers and sellers, encouraging direct marketing and by facilitating the efficient distribution of farm products.
[PL 1983, c. 563, §1 (NEW).]

**5. Coordination and assistance.** The commissioner shall consult with, coordinate and assist producer and dealer organizations and other groups interested in the production, processing and packing, grading, promotion and sale of agricultural goods.
[PL 1983, c. 563, §1 (NEW).]

**6. Monitoring consumption of Maine-produced food.** By November 1, 2000, the commissioner shall develop a method and baseline research to estimate the percentage of food consumed in Maine that is produced within Maine. The commissioner shall update the methodology and estimate every 2 years and include the latest estimate in the biennial report submitted to the Legislature pursuant to section 2, subsection 5.
[PL 1999, c. 769, §3 (NEW).]

SECTION HISTORY

PL 1983, c. 563, §1 (NEW). PL 1999, c. 769, §3 (AMD). PL 2003, c. 660, §A1 (AMD).

**§401-C. Maine Agricultural Promotion Assistance Matching Fund**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 563, §1 (NEW). PL 1991, c. 837, §A17 (RP).

**§401-D. Agricultural Market Research and Development Fund**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 444 (NEW). PL 1999, c. 72, §7 (RP).

**§402. Advertising of products**

The commissioner 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 Maine farm products. The commissioner may receive, administer and disburse any funds or contributions from these persons, firms or corporations,

either independently or in conjunction with state funds allocated to the purpose, as long as funds so contributed are used only for the purposes set forth. The commissioner may employ such agents and assistants, subject to the Civil Service Law, and make such purchases as may be necessary in the proper performance of the commissioner's duties. [RR 2021, c. 1, Pt. B, §61 (COR).]

SECTION HISTORY

PL 1971, c. 608, §1 (AMD). PL 1977, c. 694, §45 (AMD). PL 1979, c. 672, §A15 (RPR). PL 1985, c. 785, §B43 (AMD). RR 2021, c. 1, Pt. B, §61 (COR).

**§402-A. Agriculture promotion**

**1. Agriculture Promotion Committee.**

[PL 1995, c. 233, Pt. A, §2 (RP).]

**2. Fund.** There is created a nonlapsing Agriculture Promotion Fund. The commissioner is authorized to accept moneys for this fund from any public or private source and to credit to this fund any moneys received from the sale of agricultural promotional materials.
[PL 1981, c. 705, Pt. I, §1 (NEW).]

**3. Duties of the committee.**

[PL 1995, c. 233, Pt. A, §3 (RP).]

**4. Rule-making authority.** The commissioner may adopt such rules as the commissioner considers necessary to achieve the purposes of this chapter including, but not limited to, rules requiring registration of persons wishing to identify products as Maine products under a logo or trademark adopted by the department and requiring verification of the origin of those products.
[RR 2021, c. 1, Pt. B, §62 (COR).]

SECTION HISTORY

PL 1981, c. 705, §I1 (NEW). PL 1983, c. 812, §42 (AMD). PL 1989, c. 503, §B40 (AMD). PL 1995, c. 233, §§A2,3 (AMD). RR 2021, c. 1, Pt. B, §62 (COR).

**§402-B. Annual General Fund transfer**

On or before July 31st of each fiscal year, the State Controller shall transfer $500,000 from General Fund undedicated revenue to the Agriculture Promotion Fund established in section 402-A. [PL 2017, c. 284, Pt. RRRRR, §1 (NEW).]

SECTION HISTORY

PL 2017, c. 284, Pt. RRRRR, §1 (NEW).

**§403. State of Maine Building at Eastern States Exposition**

**1. State of Maine Building.** The department shall operate and maintain the State of Maine Building, previously erected upon the Eastern States Agricultural and Industrial Exposition, Inc., at West Springfield, Massachusetts, for the purpose of exhibiting, publicizing and advertising Maine's products and resources in agriculture, industry, fisheries, forests, wildlife and recreation. Except as otherwise provided in this section, the department has complete control and supervision of all exhibits held in these buildings.
[RR 2009, c. 2, §5 (COR).]

**2. Advice.** From time to time, the department shall consult regarding operation and maintenance of the building with, and for any major exhibition shall prior to the exhibition develop a plan after a public hearing and obtain advice on the proposed use of building space from, the following persons: The Commissioner of Marine Resources; Commissioner of Inland Fisheries and Wildlife; Commissioner of Agriculture, Conservation and Forestry; and Commissioner of Economic and Community Development.

[PL 1987, c. 534, Pt. B, §§1, 23 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

**3. Advisory board.**

[PL 1987, c. 786, §10 (RP).]

SECTION HISTORY

PL 1973, c. 574, §1 (NEW). PL 1979, c. 461 (AMD). PL 1981, c. 335, §§1,2 (RPR). PL 1983, c. 812, §43 (AMD). PL 1987, c. 534, §§B1,B23 (AMD). PL 1987, c. 786, §10 (AMD). RR 2009, c. 2, §5 (COR). PL 2011, c. 657, Pt. W, §6 (REV).

## SUBCHAPTER 1-A

## DIRECT MARKETING OF AGRICULTURAL COMMODITIES

### §411. Definitions

As used in this subchapter, the following terms shall have the following meanings. [PL 1977, c. 505 (NEW).]

**1. Commissioner.** "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry.
[PL 1977, c. 505 (NEW); PL 1979, c. 731, §19 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

**2. Direct-marketing.** "Direct-marketing" means the marketing of agricultural commodities by farmers directly to consumers.
[PL 1977, c. 505 (NEW).]

SECTION HISTORY

PL 1977, c. 505 (NEW). PL 1979, c. 731, §19 (AMD). PL 2011, c. 657, Pt. W, §6 (REV).

### §412. Research and preparation of information

The commissioner shall research and prepare information designed to develop and promote direct-marketing. The commissioner shall consult with the farm community, with the faculty of the College of Natural Sciences, Forestry and Agriculture of the University of Maine and with the various county extension agents in compiling information under this section. The information must include, but not be limited to, the following: [PL 2013, c. 65, §1 (AMD).]

**1. Description and evaluation.** A description and evaluation of the various methods of direct-marketing, such as farmers' markets, roadside stands and sales to consumer cooperative;
[PL 1977, c. 505 (NEW).]

**2. Practical information.** Prepare practical information concerning the establishment and operation of various methods of direct-marketing, including promotion, advertisement, management, Supplemental Nutrition Assistance Program purchases and liability insurance;
[PL 2023, c. 405, Pt. C, §2 (AMD).]

**3. Survey.** A survey, by county, of the present demand for agricultural commodities to enable farmers to plan future production in closer accord with marketing demands;
[PL 1977, c. 505 (NEW).]

**4. Feasibility study.** A study of the feasibility of direct-marketing to institutions, such as hospitals and schools; and
[PL 1977, c. 505 (NEW).]

**5. List of farmers.** A list of the names and addresses of all Maine farmers and of the agricultural commodities which each produces.

[PL 1977, c. 505 (NEW).]

SECTION HISTORY

PL 1977, c. 505 (NEW). PL 1985, c. 779, §33 (AMD). PL 2013, c. 65, §1 (AMD). PL 2023, c. 405, Pt. C, §2 (AMD).

**§413. Distribution**

The commissioner shall develop suitable means to distribute information compiled under section 412 to all Maine farmers. If the commissioner considers the cost of distributing any research or instructional publication prohibitive, the commissioner shall, by whatever means appropriate, notify farmers of the availability of the information. Distribution may be accomplished by means currently within the Department of Agriculture, Conservation and Forestry. [RR 2021, c. 1, Pt. B, §63 (COR).]

SECTION HISTORY

PL 1977, c. 505 (NEW). PL 1979, c. 731, §19 (AMD). PL 2011, c. 657, Pt. W, §5 (REV). RR 2021, c. 1, Pt. B, §63 (COR).

**§414. Assistance**

The commissioner shall assist and advise individual farmers or groups of farmers in their efforts to market more effectively directly to consumers by: [PL 2013, c. 65, §2 (AMD).]

**1. Soliciting participation.** Informing farmers of, and soliciting their participation in, any proposed method of direct-marketing; and
[PL 2013, c. 65, §2 (AMD).]

**2. Technical assistance.**
[PL 2013, c. 65, §2 (RP).]

**3. Referral.** Referring farmers to other appropriate sources of assistance.
[PL 2013, c. 65, §2 (AMD).]

SECTION HISTORY

PL 1977, c. 505 (NEW). PL 1985, c. 779, §34 (AMD). PL 2013, c. 65, §2 (AMD).

**§415. Farmers' market**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Farmers' market" means a building, structure or place used by 2 or more farmers for the direct sale of farm and food products to consumers, at which all sellers of farm and food products meet the requirements of subsection 2, paragraph B. [PL 2009, c. 547, §1 (AMD).]

B. "Farm and food products" means any agricultural, horticultural, forest or other product of the soil or water, including, but not limited to, fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, maple products, apple cider, fruit juice, malt liquor, wine, ornamental or vegetable plants, nursery products, fiber or fiber products, firewood and Christmas trees. [PL 2011, c. 280, §1 (AMD).]
[PL 2011, c. 280, §1 (AMD).]

**2. Prohibitions.** The following acts are prohibited.

A. A person may not use the term "farmers' market" to describe a market or other sales location that does not meet the terms of the definition set forth in subsection 1. [PL 1993, c. 138, §1 (NEW).]

B. A person may not sell farm and food products at a market labeled "farmers' market" unless at least 75% of the products offered by that person were grown or processed by that person or under that person's direction. A product not grown or processed by that person or under that person's direction must have been grown or processed by and purchased directly from another farmer and the name and location of the farm must be identified on the product or on a sign in close proximity to the displayed product. [PL 2009, c. 547, §2 (AMD).]

[PL 2009, c. 547, §2 (AMD).]

**3. Penalty.** A person who violates this section commits a civil violation for which a forfeiture of not less than $100 nor more than $200 may be adjudged.

[PL 1993, c. 138, §1 (NEW).]

**4. Relationship to farmers' market rules.** This section does not prohibit a farmers' market from imposing more stringent requirements on its sellers than those imposed by subsection 2, paragraph B or an ordinance adopted pursuant to section 284.

[PL 2023, c. 420, §2 (AMD).]

**5. Enforcement; prima facie evidence.** The commissioner or an agent of the commissioner may request proof of the origin of a product for the purpose of enforcing this section. Failure to provide written documentation or other reasonable proof upon request as to the origin of the products offered for sale at a farmers' market is prima facie evidence that a person is in violation of this section.

[PL 2005, c. 512, §6 (NEW).]

SECTION HISTORY

PL 1993, c. 138, §1 (NEW). PL 2005, c. 512, §§5,6 (AMD). PL 2009, c. 547, §§1, 2 (AMD). PL 2011, c. 280, §1 (AMD). PL 2023, c. 420, §2 (AMD).

## SUBCHAPTER 1-B

## AGRICULTURAL COMMODITIES MARKETING ACT

### §421. Title

This subchapter shall be known and may be cited as the "Maine Agricultural Commodities Marketing Act." [PL 1981, c. 154, §1 (NEW).]

SECTION HISTORY

PL 1981, c. 154, §1 (NEW).

### §422. Purposes

The purposes of this subchapter are: [PL 1981, c. 154, §1 (NEW).]

**1. Correlated marketing.** To enable producers of agricultural commodities of this State, with the aid of the State, to more effectively correlate the marketing of their crops with market demands;

[PL 1981, c. 154, §1 (NEW).]

**2. Uniform grading.** To provide for uniform grading and proper preparation of agricultural commodities for market;

[PL 1981, c. 154, §1 (NEW).]

**3. Development of markets.** To provide methods and means for the development of new and larger markets for agricultural commodities grown within the State;

[PL 1981, c. 154, §1 (NEW).]

**4. Orderly marketing.** To establish orderly marketing and pricing of agricultural commodities grown within this State; and

[PL 1981, c. 154, §1 (NEW).]

**5. Elimination of economic waste.** To eliminate or reduce economic waste in the marketing of agricultural commodities grown within the State.
[PL 1981, c. 154, §1 (NEW).]

SECTION HISTORY

PL 1981, c. 154, §1 (NEW).

**§423. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1981, c. 154, §1 (NEW).]

**1. Agricultural commodity.** "Agricultural commodity" means any and all agricultural, horticultural and vineyard crops and products when produced or sold in this State, either in their natural state or as processed by the producer, including such products as:

A. Poultry or poultry products; [PL 1981, c. 154, §1 (NEW).]

B. Bees; [PL 1981, c. 154, §1 (NEW).]

C. Maple syrup; [PL 1981, c. 154, §1 (NEW).]

D. Livestock, including swine; and [PL 1981, c. 154, §1 (NEW).]

E. Honey. [PL 1981, c. 154, §1 (NEW).]

Agricultural commodity does not include potatoes or potato products, timber or timber products.
[PL 1981, c. 154, §1 (NEW).]

**2. Commissioner.** "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry or the commissioner's designee.
[RR 2021, c. 1, Pt. B, §64 (COR).]

**3. Committee.**

[PL 1999, c. 668, §66 (RP).]

**4. District.** "District" means geographical division of the production areas in this State as may be established by the commissioner pursuant to this subchapter.
[PL 1981, c. 154, §1 (NEW).]

**5. Grade.** "Grade" means one of the officially established grades for an agricultural commodity as defined by the commissioner.
[PL 1981, c. 154, §1 (NEW).]

**6. Handler.** "Handler" means any person, except a common carrier, exempt carrier or contract carrier of agricultural commodities, who is engaged in packing, grading, selling, offering for sale or marketing any agricultural commodities, who as owner, agent or otherwise ships or causes to be shipped an agricultural commodity.
[PL 1981, c. 154, §1 (NEW).]

**7. Market agreement.** "Market agreement" means an agreement with the commissioner entered into pursuant to this subchapter.
[PL 1981, c. 154, §1 (NEW).]

**8. Market order.** "Market order" means an order issued by the commissioner pursuant to this subchapter, prescribing rules governing the marketing, distribution, sale or handling, in any manner of any agricultural commodity during any specified period.
[PL 1981, c. 154, §1 (NEW).]

**9. Person.** "Person" means an individual, partnership, corporation, association, legal representative or any organized group or business unit.
[PL 1981, c. 154, §1 (NEW).]

**10. Processor.** "Processor" means any person, other than a consumer, who purchases or contracts to purchase an agricultural commodity primarily for manufacture into food or other products by operations which change the physical form which that agricultural commodity possessed when produced.
[PL 1981, c. 154, §1 (NEW).]

**11. Producer.** "Producer" means any person engaged within this State in the business of producing, or causing to be produced, for any market, any agricultural commodity.
[PL 1981, c. 154, §1 (NEW).]

SECTION HISTORY

PL 1981, c. 154, §1 (NEW). PL 1999, c. 668, §66 (AMD). PL 2011, c. 657, Pt. W, §6 (REV). RR 2021, c. 1, Pt. B, §64 (COR).

**§424. Administration**

The commissioner shall administer and enforce this subchapter. [PL 1981, c. 154, §1 (NEW).]

**1. Rules.** The commissioner may, in a manner consistent with the rulemaking provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, adopt such rules as may be necessary to carry out and interpret the provisions and purposes of this subchapter.
[PL 1981, c. 154, §1 (NEW).]

**2. Considerations.** In carrying out the purposes of this subchapter the commissioner shall consider any and all facts available to the commissioner with respect to the following economic factors:

A. The quality of an agricultural commodity available for distribution as well as the quantity of the agricultural commodity that would normally be required by consumers; [RR 2021, c. 1, Pt. B, §65 (COR).]

B. The cost of producing an agricultural commodity, the purchasing power of consumers, and the level of prices of commodities, services and articles that producers commonly buy; [RR 2021, c. 1, Pt. B, §65 (COR).]

C. The level of prices of other commodities that compete with or are utilized as substitutes for an agricultural commodity; and [RR 2021, c. 1, Pt. B, §65 (COR).]

D. Such other factors as the nature of the location, volume and marketing structure of production of the agricultural commodity. [PL 1981, c. 154, §1 (NEW).]
[RR 2021, c. 1, Pt. B, §65 (COR).]

**3. Enforcement.** The commissioner may institute investigations, hold hearings, require reports, subpoena records and persons and take other actions that the commissioner finds necessary to implement this subchapter. The commissioner may institute such action as may appear necessary to enforce compliance with any provision of this subchapter or any rule, market agreement or order committed to the commissioner's administration under this subchapter. In addition to any other remedy under this subchapter or otherwise, the commissioner may apply for relief by injunction to protect the public interest without being compelled to allege or prove that an adequate remedy at law does not exist and without being compelled to post bond.
[PL 2005, c. 512, §7 (AMD).]

SECTION HISTORY

PL 1981, c. 154, §1 (NEW). PL 2005, c. 512, §7 (AMD). RR 2021, c. 1, Pt. B, §65 (COR).

**§425. Market orders and agreements**

**1. Market orders.** To carry out the purposes of this subchapter, the commissioner may issue, administer and adopt orders regulating the marketing of any agricultural commodity or designated portion of that commodity. Before issuing a proposed market order or market agreement under this subsection, the commissioner shall, by rule, define the commodity, area and persons proposed to be affected and may, to the extent the commissioner considers necessary, establish by rule the procedures for adopting and implementing that proposal. Such market orders must be proposed and adopted after public hearing, in a manner consistent with the rulemaking provisions of the Maine Administrative Procedure Act. All testimony at the hearings must be received under oath.
[RR 2021, c. 1, Pt. B, §66 (COR).]

**2. Referendum approval.** No market order adopted under this subchapter may take effect unless and until the commissioner determines that the adoption of the order is favored by:

A. Not less than 66 2/3% of the persons participating in a referendum in the area affected and having marketed not less than 51% of the total quantity of the commodity which was marketed in the preceding marketing season by all persons that participated in the referendum; or [PL 1981, c. 154, §1 (NEW).]

B. Not less than 51% of the persons participating in a referendum in the area affected and having marketed not less than 66 2/3% of the total quantity of the commodity which was marketed in the preceding marketing season by all persons that participated in the referendum. [PL 1981, c. 154, §1 (NEW).]
[PL 1981, c. 154, §1 (NEW).]

**3. Market agreements.** To carry out the declared purposes of this subchapter, the commissioner may enter into market agreements with producers, handlers or processors of agricultural commodities. These market agreements shall be binding only upon the signatories. The market agreements shall be proposed and adopted, after public hearing, in a manner consistent with the rulemaking provisions of the Maine Administrative Procedure Act. All testimony at the hearings shall be received under oath. The commissioner may, by rule, establish the minimum number of signatories necessary to effectuate a market agreement.
[PL 1981, c. 154, §1 (NEW).]

**4. Coexistence of market orders and market agreements.** The commissioner may, in the commissioner's discretion, hold concurrent hearings upon proposed market agreements and proposed market orders. The commissioner may issue a market order without executing a market agreement or may execute a market agreement without issuing a market order covering the same commodity. The execution of a market agreement in no manner affects the issuance, administration or enforcement of any market order for the same agricultural commodity.
[RR 2021, c. 1, Pt. B, §67 (COR).]

SECTION HISTORY

PL 1981, c. 154, §1 (NEW). RR 2021, c. 1, Pt. B, §§66, 67 (COR).

**§426. Contents of market order or market agreement**

Any market order or market agreement adopted by the commissioner may contain any or all of the following: [PL 1981, c. 154, §1 (NEW).]

**1. Surplus.** Provisions for determining the existence and extent of the surplus of any agricultural commodity, or of any grade, size or quality thereof, and for regulating and disposing of the surplus;
[PL 1981, c. 154, §1 (NEW).]

**2. Quantity.** Provisions for limiting the total quantity of any agricultural product, or of any grade or grades, size or sizes, or quality or portions of those agricultural products which may be marketed

during any specified period or periods. The total limitations of any commodity so regulated shall not provide for the marketing of less than the quantity which the commissioner finds is reasonably necessary to supply the market demand of consumers for that commodity;
[PL 1981, c. 154, §1 (NEW).]

**3. Time periods.** Provisions for regulating the period or periods, during which any agricultural commodity, or any grade or grades, size or sizes or quality or portions or combinations of a commodity, may be marketed;
[PL 1981, c. 154, §1 (NEW).]

**4. Standards.** Provisions for establishing uniform standards of quality, grade, condition, size, maturity or pack of any agricultural commodity delivered by producers or other persons to handlers or processors or others engaged in the handling of agricultural commodities;
[PL 1981, c. 154, §1 (NEW).]

**5. Prohibition on sale; mandatory inspection.** Provisions prohibiting a producer of an agricultural commodity to which a market order or market agreement applies from selling, offering for sale or delivering a commodity not meeting and complying with standards established pursuant to subsection 4. A provision for mandatory inspection under a market order must be indicated in the market order and specifically included in the referendum proposal under section 425, subsection 2;
[PL 2005, c. 512, §8 (RPR).]

**6. Other sales.** Provisions for requiring that no handler or processor of any agricultural commodity for which standards are established pursuant to subsection 4 may, except as otherwise provided in the market agreement or order, have in the handler's or processor's possession, sell, offer for sale, process, distribute or otherwise handle any such commodity produced within or without the State, not meeting or complying with the established standards;
[RR 2021, c. 1, Pt. B, §68 (COR).]

**7. Other provisions.** Such other provisions as may be necessary to carry out the declared purposes of this subchapter.
[PL 1981, c. 154, §1 (NEW).]

SECTION HISTORY

PL 1981, c. 154, §1 (NEW). PL 2005, c. 512, §8 (AMD). RR 2021, c. 1, Pt. B, §68 (COR).

**§427. Commodity marketing committee**

**(REPEALED)**

SECTION HISTORY

PL 1981, c. 154, §1 (NEW). PL 1983, c. 812, §44 (AMD). PL 1989, c. 503, §B41 (AMD). PL 1999, c. 668, §67 (RP).

**§428. Expenses and fees**

**(REPEALED)**

SECTION HISTORY

PL 1981, c. 154, §1 (NEW). PL 1999, c. 668, §68 (RP).

**§429. Termination, amendment or suspension of market order or agreement**

**(REPEALED)**

SECTION HISTORY

PL 1981, c. 154, §1 (NEW). PL 1999, c. 668, §68 (RP).

**§430. Penalties**

**(REPEALED)**

SECTION HISTORY

PL 1981, c. 154, §1 (NEW). PL 1999, c. 668, §68 (RP).

## SUBCHAPTER 1-C

## MARKET SERVICE

### §431. Legislative findings and purpose

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 563, §2 (NEW). PL 2005, c. 382, §A3 (RP).

### §432. Market information

The commissioner shall collect relevant information from the market place, both directly and from appropriate secondary sources. This information may include product prices, both wholesale and retail, taking into account quantity, packaging, quality, specific market and time of year, purchasing habits of wholesale and retail buyers and preferences of consumers in terms of quantity, packaging, quality and season and availability of supplies of both directly competitive products and substitute products. In addition to these factors needed to make short-term marketing decisions, information may also be collected relevant to long-term marketing decisions, such as production costs, profitability and market structure. [PL 1983, c. 563, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 563, §2 (NEW).

### §433. Preparation and distribution of information

The commissioner shall analyze and interpret relevant market information and shall develop a suitable means to distribute that information to Maine agricultural producers in cooperation with other state and federal agencies of like purpose, including the Cooperative Extension Service. [PL 1983, c. 563, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 563, §2 (NEW).

## SUBCHAPTER 1-D

## AGRICULTURAL MARKETING LOANS

### §434. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1995, c. 658, §1 (NEW).]

**1. Agricultural enterprise.** "Agricultural enterprise" means a person or business located in this State and engaged or beginning to engage in the commercial growing or harvesting of plants; raising of animals; growing or obtaining plant or animal by-products; aquaculture, as defined in Title 12, section 6001, subsection 1; or further processing, storing, packaging or marketing a raw product derived from plants, animals, plant or animal by-products or aquaculture, as defined in Title 12, section 6001, subsection 1, with the intent that the product be sold or otherwise disposed of to generate income.

"Agricultural enterprise" includes a business or activity that attracts visitors to a farm for the purpose of supplementing income from the primary crop or livestock operation. "Agricultural enterprise" does not include a business engaged primarily in the growing, harvesting or further processing of forest species of trees for the purpose of producing pulp or other materials used in the paper manufacturing or wood manufacturing process.
[PL 2021, c. 710, §4 (AMD).]

**2. Direct marketing.**
[PL 2007, c. 660, §9 (RP).]

SECTION HISTORY

PL 1995, c. 658, §1 (NEW). PL 1999, c. 504, §1 (AMD). PL 1999, c. 769, §4 (AMD). PL 2001, c. 152, §§1-3 (AMD). PL 2007, c. 660, §9 (AMD). PL 2021, c. 710, §4 (AMD).

**§435. Agricultural marketing loans**

**1. Administration.** The commissioner shall administer the Agricultural Marketing Loan Fund established under Title 10, section 1023-J.
[PL 1995, c. 658, §1 (NEW).]

**2. Conditions.** Agricultural marketing loans are subject to the following conditions.

A. An agricultural marketing loan for any project under this subchapter, the total cost of which exceeds $200,000, may not exceed 90% of the project cost. A loan from the fund may not be provided for such a project unless the applicant demonstrates a commitment of private funds of at least 5% of the total cost of the project; except that, in order to encourage the undertaking of cooperative projects by 2 or more agricultural enterprises, an agricultural marketing loan may not be provided unless the cooperating agricultural enterprises as a group demonstrate a commitment of private funds of at least 5% of the total cost of the project. [PL 2021, c. 710, §5 (AMD).]

B. An agricultural marketing loan for any project under this subchapter, the total cost of which is $200,000 or less, may not exceed 90% of the total cost of the project. [PL 2021, c. 710, §6 (AMD).]

C. An agricultural marketing loan must be at the interest rate established pursuant to subsection 3 or 3-A. [PL 2007, c. 660, §10 (AMD).]

D. A purchaser of a modern storage facility that was previously financed with a state loan from the Potato Marketing Improvement Fund may receive a loan from the Agricultural Marketing Loan Fund, but not for the same project financed by the Potato Marketing Improvement Fund. Mortgages obtained from the Agricultural Marketing Loan Fund may be assumed by subsequent purchasers of the property. The department shall adopt rules concerning the purchase of existing buildings. These rules must include provisions that ensure that the purchases are consistent with the purposes of this subchapter. [PL 1995, c. 658, §1 (NEW).]

E. An agricultural marketing loan is subject to other terms and conditions prescribed, by rule, by the commissioner, including, but not limited to, a mechanism for reserving funds for, or giving priority to, projects in agricultural enterprises or areas of the State determined by the commissioner to require special assistance. When considering loans for aquacultural enterprises, the commissioner shall consult with the Department of Marine Resources. [PL 1995, c. 658, §1 (NEW).]

F. [PL 1999, c. 533, §1 (NEW); MRSA T. 7 §435, sub-§2, ¶ F (RP).]

G. [PL 2007, c. 660, §11 (RP).]

G. **(REALLOCATED TO T. 7, §435, sub-§2, ¶H)** [PL 1999, c. 769, §5 (NEW); RR 1999, c. 2, §6 (RAL).]

H. **(REALLOCATED FROM T. 7, §435, sub-§2, ¶G)** [PL 1999, c. 769, §5 (NEW); RR 1999, c. 2, §6 (RAL); MRSA T. 7 §435, sub-§2, ¶ H (RP).]

I. [PL 2003, c. 168, §2 (NEW); MRSA T. 7 §435, sub-§2, ¶ I (RP).]
[PL 2021, c. 710, §§5, 6 (AMD).]

**3. Interest rate.**
[PL 2021, c. 710, §7 (RP).]

**3-A. Loans for participants in the Maine Farms for the Future Program.** The interest rate for loans for capital improvements identified in a business plan developed under section 318 for a farm determined eligible under section 319 is the federal prime rate on the date of loan commitment but may not be greater than 2%.
[PL 2021, c. 710, §8 (AMD).]

**3-B. Interest rate.** Except as provided in subsection 3-A, the interest rate for loans under this section is the federal prime rate on the date of loan commitment but may not be greater than 5%. Loans current on the effective date of this subsection may be refinanced at the borrower's request to an interest rate of the federal prime rate but not greater than 5%.
[PL 2021, c. 710, §9 (NEW).]

**4. Administrative costs.** The commissioner may establish, by rule, a fee for administrative costs on loans in excess of $100,000. This fee may not exceed 1% of the loan. The commissioner may contract with the Finance Authority of Maine to assist in the administration of this subchapter.
[PL 2003, c. 168, §3 (AMD).]

**5. Report.** The commissioner shall submit an annual report on or before March 1st of each year to the joint standing committee of the Legislature having jurisdiction over agricultural matters. The report must include a summary of loans made under this section during the previous fiscal year and loans outstanding categorized by the types of agricultural enterprises receiving the loans. The report must address the effectiveness of the program. Effectiveness measures may include, but are not limited to, evaluation of the number of companies retained, expanded or created; the increase in the number of jobs created or retained; any increased business revenues and new capital raised; improved wages paid to employees; and any new capital investment and increase in profitability.
[PL 2013, c. 256, §2 (AMD).]

SECTION HISTORY

PL 1995, c. 658, §1 (NEW). RR 1999, c. 2, §6 (COR). PL 1999, c. 533, §1 (AMD). PL 1999, c. 593, §1 (AMD). PL 1999, c. 769, §5 (AMD). PL 2003, c. 168, §§1-3 (AMD). PL 2007, c. 660, §§10-14 (AMD). PL 2013, c. 256, §2 (AMD). PL 2021, c. 710, §§5-9 (AMD).

**§436. Grants for technical assistance and research**

The commissioner may use all or a portion of the accrued interest in the cash balance of the Agricultural Marketing Loan Fund for grants for technical assistance and for grants from the Agricultural Development Fund in chapter 10. [PL 2021, c. 710, §10 (AMD).]

SECTION HISTORY

PL 1995, c. 658, §1 (NEW). PL 1999, c. 72, §8 (AMD). PL 1999, c. 563, §1 (AMD). PL 2003, c. 120, §1 (AMD). PL 2007, c. 660, §15 (AMD). PL 2021, c. 710, §10 (AMD).

**§436-A. Development of business plans**

**(REPEALED)**

SECTION HISTORY

PL 1999, c. 769, §6 (NEW). PL 2007, c. 660, §16 (RP).

### §437. Routine technical rules

Rules adopted pursuant to this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [PL 1995, c. 658, §1 (NEW).]

SECTION HISTORY

PL 1995, c. 658, §1 (NEW).

## SUBCHAPTER 2

## GRADES AND STANDARDS FOR FARM PRODUCTS

### §441. Rules

The commissioner may prescribe, in a manner consistent with the Maine Administrative Procedure Act, rules for carrying out this subchapter, including the fixing of fees to be charged any individual, firm or organization requesting an inspection pursuant to section 446 or receiving an inspection pursuant to section 951. These fees must, as nearly as possible, cover the costs of the inspection services for the commodity inspected. All fees collected must be paid by the commissioner to the Treasurer of State and are appropriated for the purposes of this subchapter. Any unexpended balance from the funds thus appropriated may not lapse, but must be carried forward to the same fund for the next fiscal year. [PL 1995, c. 298, §1 (AMD).]

SECTION HISTORY

PL 1977, c. 694, §46 (AMD). PL 1979, c. 672, §A16 (RPR). PL 1995, c. 298, §1 (AMD).

### §441-A. Legislative purpose

The Legislature finds that Maine agricultural producers have, in many cases, tended to focus on production, with less attention to marketing, including the adoption of and adherence to quality standards. Consistent high quality of Maine agricultural products is essential to the maintenance and expansion of Maine markets and to the success of agriculture in the State. In order to assure that those quality standards are properly adopted, enforced and promoted, the Legislature finds it is necessary to provide state assistance in these aspects of marketing. [PL 1983, c. 563, §3 (NEW).]

SECTION HISTORY

PL 1983, c. 563, §3 (NEW).

### §441-B. Federal-State Inspection Fund

There is established the Federal-State Inspection Fund, referred to in this section as the "fund." The fund receives all revenues collected by the Federal-State Inspection Service from conducting inspections and inspection-related work including but not limited to inspection fees, fees from state and federal agencies and grants or other funds received by the Federal-State Inspection Service in support of operating a statewide inspection program. All money collected must be deposited in the fund to be used for the management and operation of the Federal-State Inspection Service. Unexpended balances in the fund do not lapse and must be carried forward to be used for the purposes specified in this section. [PL 1997, c. 24, Pt. OO, §1 (NEW).]

Any interest earned on the revenue deposited in the fund only accrues to the fund. [PL 1997, c. 643, Pt. MM, §1 (AMD).]

SECTION HISTORY

PL 1997, c. 24, §OO1 (NEW). PL 1997, c. 395, §D1 (AMD). PL 1997, c. 643, §MM1 (AMD).

### §442. Hearings

The commissioner may establish and promulgate official grades and standards for farm products, excepting dairy products 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 provided in the manner specified in the Maine Administrative Procedure Act and shall further be provided in a newspaper or newspapers of general circulation within the county where the hearing is to be held. [PL 1977, c. 694, §47 (AMD).]

SECTION HISTORY

PL 1977, c. 694, §47 (AMD).

**§443. Brands, labels and trademarks; revocation**

The commissioner may determine or design brands, labels or trademarks for identifying farm products, sardines and, subject to the additional conditions of this section, other natural resource products and commodities, 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 those labels and trademarks may be obtained. A written application to the commissioner requesting permission to use brands, labels or trademarks, and a written acceptance by the commissioner or duly authorized assistants, shall be a condition precedent to the use of those brands, labels or trademarks. The right to use those brands, labels or trademarks may be suspended or revoked in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, whenever it appears on investigation that they have been used to identify farm products, sardines or other natural resource products and commodities not in fact conforming to the grade indicated. [PL 1989, c. 670, §1 (AMD).]

**1. Nonagricultural products.** Before any natural resource product or commodity that is not a farm product is eligible to use a brand, label or trademark designed by the Commissioner of Agriculture, Conservation and Forestry, a commissioner of any other department with regulatory authority, marketing or promotion responsibility or other authority for that product or commodity shall determine whether the use of the brand, label or trademark is in the best interests of packers and shippers of the product or commodity and shall request that the Commissioner of Agriculture, Conservation and Forestry permit the use of the brand, label or trademark in accordance with the provisions of this subchapter. Grades and standards may be established by reference to marketing orders or to federal or state laws and regulations. Grades and standards may also be established through joint rulemaking by the appropriate department and the Department of Agriculture, Conservation and Forestry.
[PL 1989, c. 670, §1 (NEW); PL 2011, c. 657, Pt. W, §§5, 6 (REV).]

**2. Marine resource products.** All marine resource products, as defined in Title 12, section 6001, except sardines, are excluded from the provisions of this subchapter except when the Commissioner of Marine Resources finds that a resource and its related industry would benefit by participation.
[PL 1989, c. 670, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 694, §48 (AMD). PL 1989, c. 670, §1 (AMD). PL 2011, c. 657, Pt. W, §§5, 6 (REV).

**§443-A. Native produce**

**1. Prohibition.** Farm produce sold or offered for sale within the State may not be labeled or advertised as "native," "native-grown," "locally grown" or by a similar designation, unless that product was actually grown in the State.
[PL 1995, c. 294, §1 (NEW).]

**2. Penalty.** Violation of subsection 1 is a civil violation punishable by a fine of not less than $200 nor more than $300.

[PL 1995, c. 294, §1 (NEW).]

**3. Burden of proof.**

[PL 2005, c. 512, §9 (RP).]

**4. Enforcement.** This section is enforced by the Department of Agriculture, Conservation and Forestry.
[PL 1995, c. 294, §1 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

**5. Enforcement; prima facie evidence.** The commissioner or an agent of the commissioner may request proof of the origin of farm produce for the purpose of enforcing this section. Failure to provide written documentation or other reasonable proof upon request as to the origin of the produce offered for sale is prima facie evidence that a person is in violation of this section.
[PL 2005, c. 512, §10 (NEW).]

SECTION HISTORY

PL 1979, c. 184 (NEW). PL 1979, c. 731, §19 (AMD). PL 1995, c. 294, §1 (RPR). PL 2005, c. 512, §§9,10 (AMD). PL 2011, c. 657, Pt. W, §5 (REV).

**§443-B. Certification trademark for Maine products**

**1. Registration of trademark.** The Commissioner of Agriculture, Food and Rural Resources shall, before December 31, 1988, apply to the United States Patent and Trademark Office for registration for a certification trademark or trademarks consisting of a seal in the form of the outline of the State, the word "Maine" and any other appropriate identifying words. Any certification trademark obtained may only be used on farm products or other natural resource products and commodities, as provided in section 443, produced within the State. Any certification trademark obtained may be registered with the State in accordance with Title 10, chapter 301-A.
[PL 1989, c. 670, §2 (AMD).]

**2. Origin of product.** For purposes of this section, the commissioner shall define, by rule, for each commodity group, the meaning of the term "produced within the State" and the minimum percent of the content of any package that must have actually been produced within the State to meet the requirements for use of any mark under this section.

The commissioner shall grant a waiver to the minimum content criteria when emergency market conditions arise which are abnormal to the historic flow of a specific commodity, with the degree of the waiver to be determined by the commissioner. The commissioner shall determine what constitutes an emergency condition.
[PL 1987, c. 844, §1 (NEW).]

**3. Quality grades and standards.** Any product bearing a certification trademark obtained under this section shall meet the official grades and standards established in accordance with section 443 for that commodity.
[PL 1989, c. 670, §2 (AMD).]

**4. Promotion.** The commissioner shall contract for services to promote the use of the proposed state trademark.
[PL 1987, c. 844, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 844, §1 (NEW). PL 1989, c. 670, §2 (AMD).

**§444. Publicity**

Upon the establishment of the grades or standards, brands, labels or trademarks, 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.

**§445. Permits**

**1. Violation.** After notice of the establishment of grades or standards and the determination of brands, labels or trademarks, a person may not use a brand, label or trademark to identify farm products and sardines as being of a grade established before a permit is granted or after the revocation of the right to use such brand, label or trademark by the commissioner.
[PL 2003, c. 452, Pt. B, §1 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**2. Penalty.** The following penalties apply to violations of this section.

A. A person who violates subsection 1 commits a civil violation for which a fine of not more than $50 may be adjudged. [PL 2003, c. 452, Pt. B, §1 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who violates subsection 1 after having previously violated subsection 1 commits a civil violation for which a fine of not more than $200 may be adjudged. [PL 2003, c. 452, Pt. B, §1 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
[PL 2003, c. 452, Pt. B, §1 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1977, c. 696, §57 (AMD). PL 2003, c. 452, §B1 (RPR). PL 2003, c. 452, §X2 (AFF).

**§446. Inspections**

The commissioner or the commissioner's duly authorized agents may inspect any fruits, vegetables, poultry, eggs, farm products, livestock or other commodities that are marked, branded or labeled in accordance with official grades or standards established and adopted by the commissioner for the purpose of determining and certifying the quality and condition thereof and other material facts relative thereto. Certificates issued in pursuance of that inspection and executed by the inspector must state the date and place of inspection, the grade, condition and approximate quality of the fruits, vegetables, poultry, eggs, farm products, livestock or other commodities inspected and such other pertinent facts as the commissioner may require. Such a certificate relative to the condition or quality of the farm products is prima facie evidence in all courts of the State of the facts required to be stated in the certificate. [PL 2003, c. 386, §1 (AMD).]

SECTION HISTORY

PL 1979, c. 672, §A17 (RPR). PL 2003, c. 386, §1 (AMD).

**§447. Access for inspection purposes**

The commissioner, in person or by deputy, has 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 commissioner or are being marketed or held for commercial purposes. The commissioner has power in person or by deputy to open any bags, crates or other containers containing such farm products and examine the contents thereof and may, upon tendering the market price, take samples therefrom. Whoever obstructs or hinders the commissioner or any of the commissioner's duly qualified assistants in the performance of the commissioner's duties under this subchapter commits a civil violation for which a fine of not less than $10 nor more than $100 must be adjudged. [RR 2021, c. 1, Pt. B, §69 (COR).]

SECTION HISTORY

PL 1977, c. 696, §58 (AMD). RR 2021, c. 1, Pt. B, §69 (COR).

**§448. Quality assurance**

The commissioner shall, in conjunction with the Maine Agricultural Experiment Station, the Cooperative Extension Service and other public or private agencies, maintain a program of quality assurance by the diligent enforcement of all provisions of this Part which pertain to grading, labeling, licensing and advertising of agricultural products, and by providing direct and indirect assistance to the industry in the adoption of those new technologies and methods of production which will improve the quality of Maine agricultural products. [PL 1983, c. 563, §4 (NEW).]

SECTION HISTORY

PL 1983, c. 563, §4 (NEW).

## SUBCHAPTER 2-A

## LICENSING OF DEALERS IN AGRICULTURAL COMMODITIES

### §451. Purpose

The Legislature finds that agricultural production has a substantial and unique effect on the economy and way of life of the entire State. Large numbers of the people in the State are directly or indirectly dependent on agricultural production and related industries. It is of vital importance that producers be assured of payment for their production in order to assure commensurate stability in the productive capacity and economy. To a great extent the well-being of the industry is dependent upon those persons engaged in the buying and marketing of the agricultural commodities grown by others and the manner in which their services are performed. The entire manner of marketing of our agricultural production requires special consideration. [PL 1981, c. 139 (NEW).]

The Legislature intends through this legislation to exercise the police power of the State in order to protect and promote the general welfare of the agricultural producers and the people of the State and maintain and encourage fair and equitable practices in the purchase, handling and sale of agricultural commodities, which will, in turn, have the beneficial effect of improving the economy and well-being of the entire State. [PL 1981, c. 139 (NEW).]

SECTION HISTORY

PL 1981, c. 139 (NEW).

### §452. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1981, c. 139 (NEW).]

**1. Agent.** "Agent" means any person who sells or distributes licensed commodities in commerce for or on behalf of producers or others and whose operations may include planting, cultivating, harvesting, grading, packing and furnishing containers, supplies or other services.
[PL 1981, c. 139 (NEW).]

**2. Applicant.** "Applicant" means any person applying for a license under this subchapter.
[PL 1981, c. 139 (NEW).]

**3. Broker.** "Broker" means any person engaged in the business of negotiating sales of licensed commodities in commerce for or on behalf of the seller or the purchaser, respectively. The term "broker" applies to nonresidents of this State who transact business with respect to licensed commodities produced or processed within this State, whether the broker is licensed in another state or not.
[PL 1981, c. 139 (NEW).]

**4. Commissioner.** "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry.
[PL 1981, c. 139 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

**5. Consumer.** "Consumer" means any person who purchases a licensed commodity for consumption or use other than sale, storage or retention for the purpose of sale.
[PL 1981, c. 139 (NEW).]

**6. Dealer.** "Dealer" means any person other than a consumer, engaged in the business of buying or selling licensed commodities in commerce, except as provided in section 458. The term "dealer" applies to nonresidents of this State who transact business of buying and selling licensed commodities produced or processed in this State, whether the dealer is licensed in another state or not.
[PL 1981, c. 139 (NEW).]

**7. Licensed commodities.** "Licensed commodities" means dry beans and other vegetables listed in rules established pursuant to section 453, but does not mean potatoes, which are governed by chapter 103, subchapter 10, article 3.
[PL 2005, c. 512, §11 (AMD).]

**8. Licensee.** "Licensee" means any person who holds a commodities license issued under this subchapter.
[PL 1981, c. 139 (NEW).]

**9. Processor.** "Processor" means any person other than a consumer who purchases or contracts to purchase licensed commodities primarily for manufacture into articles of food by operations which change the physical form the commodities possessed when harvested. The effects of the following operations shall be considered as so changing the physical form possessed when harvested: Chopping, slicing, cutting, dicing, mashing, removal of skin or peel, frying or otherwise cooking, freezing, canning, dehydrating or comparable methods of preparation for marketing in what is generally considered to be a processed form.
[PL 1981, c. 139 (NEW).]

**10. Retailer.** "Retailer" means a person engaged in the business of buying licensed commodities in wholesale quantities and reselling the licensed commodities bought, primarily to consumers.
[PL 1981, c. 139 (NEW).]

**11. Sale.** "Sale" includes every contract of purchase or sale, contract to purchase or sell, purchase, sale and disposition of licensed commodities for value.
[PL 1981, c. 139 (NEW).]

**12. Seller.** "Seller" means any person who sells or contracts to sell licensed commodities in the regular course of business.
[PL 1981, c. 139 (NEW).]

SECTION HISTORY

PL 1981, c. 139 (NEW). PL 2005, c. 512, §11 (AMD). PL 2011, c. 657, Pt. W, §6 (REV).

**§453. Rules and regulations**

The commissioner may, in a manner consistent with Title 5, chapter 375, adopt rules for carrying out this subchapter and establishing a list of commodities for which a person must have a license under section 454 to act as an agent, broker, dealer or processor. [PL 2005, c. 512, §12 (AMD).]

SECTION HISTORY

PL 1981, c. 139 (NEW). PL 2005, c. 512, §12 (AMD).

**§454. Licensing required**

A person may not act as agent, broker, dealer or processor unless duly licensed as provided in this subchapter. Before acting as a dealer, processor, broker or agent, a person shall file an application with the commissioner for a license to transact the business of a dealer, processor, broker or agent and the application must be accompanied by the license fee provided in this subchapter. [PL 2005, c. 512, §13 (AMD).]

A person may not buy, solicit or negotiate the sale of any licensed commodity in this State as a representative of any agent, broker, dealer or processor unless that person has been authorized as a representative by a licensee in writing, and a copy of the authorization is filed with the commissioner, except when the person conducts business in the office of the licensee. A licensee shall notify the commissioner in writing immediately upon terminating the authorization for a person to act as that licensee's representative. [PL 2005, c. 512, §13 (AMD).]

SECTION HISTORY

PL 1981, c. 139 (NEW). PL 2005, c. 512, §13 (AMD).

**§455. Application for license**

**1. Application.** The applicant shall file an application on forms as prescribed and furnished by the commissioner. These forms shall include the full name of the person applying for the license and, if the applicant is a corporation, partnership, association, exchange or legal representative or officer, director, partner or member thereof, all names and positions are to be stated on the application. If the applicant is a foreign corporation, it shall certify that it is registered with the Secretary of State under Title 13-A, chapter 12 and further state the principal business address of the applicant in the State or elsewhere, the address of all places of business in the State and the name or names of the person or persons authorized to receive and accept service of lawful process upon the applicant within the State. All questions required to be answered in application for licenses shall be sworn to.
[PL 1981, c. 139 (NEW).]

**2. Notice to interested persons.** Upon receipt of the applications, the commissioner shall cause written notice to be provided to any person who has filed, within the preceding year, a written request to receive the notice of applications. Any interested person shall have 10 days in which to file comments as to the applicant's qualifications or to request a hearing prior to the issuance of the license.
[PL 1981, c. 139 (NEW).]

**3. Qualifications of applicant.** The applicant shall satisfy the commissioner of the applicant's character, financial responsibility and good faith in seeking to engage in the business. The commissioner may issue a license to the applicant if the commissioner is satisfied as to the applicant's qualifications. When the license is issued, the applicant may act in the capacity described in the license for a period of one year from the date of issuance.
[RR 2021, c. 1, Pt. B, §70 (COR).]

**4. Bond.** In order to insure the licensee's financial responsibility and to protect producers of licensed commodities, the commissioner shall require the licensee to file a bond in a form and amount satisfactory to the commissioner, but in any event not less than $5,000 nor more than $100,000, payable to the commissioner in the commissioner's official capacity and conditioned on the full and prompt payment for all licensed commodities received or purchased from producers or other licensees during the effective period of the license.
[RR 2021, c. 1, Pt. B, §71 (COR).]

**5. License fees.** Each license must plainly state the name and business address or addresses of the licensee and must be posted in a conspicuous place in each office where the business is transacted. The fee for each license is $50. If the licensee desires to carry on business in more than one place within the State, the licensee shall procure additional copies of the license, certified by the commissioner, for each place where business is to be conducted. The fee for each certification is $10. All fees collected under

this subchapter must be paid forthwith to the Treasurer of State and credited to the Department of Agriculture, Conservation and Forestry for the administration of this subchapter and other expenses incident to the administration of the department, and must be expended by the commissioner for the purposes for which the department is created. If any fees are not expended during the year in which they are collected, the unexpended balance does not lapse, but is carried as a continuing account available for the purposes specified, until expended.
[RR 2021, c. 1, Pt. B, §72 (COR).]

SECTION HISTORY

PL 1981, c. 139 (NEW). PL 2011, c. 657, Pt. W, §5 (REV). RR 2021, c. 1, Pt. B, §§70-72 (COR).

**§456. Complaints; investigation; hearings**

The commissioner or the commissioner's duly authorized agent may investigate, upon the complaint of any interested person, or on the commissioner's or the agent's own motion, the conduct and activities of any person applying for or holding a license under this subchapter and, for that purpose, may examine the books and papers of any applicant or licensee and may require testimony and affidavits thereon under oath. The commissioner may, in a manner consistent with the Maine Administrative Procedure Act, conduct such hearings as the commissioner considers necessary pursuant to this subchapter. The commissioner has full power to subpoena such witnesses and documents as the commissioner considers necessary. [RR 2021, c. 1, Pt. B, §73 (COR).]

SECTION HISTORY

PL 1981, c. 139 (NEW). RR 2021, c. 1, Pt. B, §73 (COR).

**§457. Refusal, suspension, revocation of license**

**1. Acts enumerated.** The commissioner or the commissioner's duly authorized agent may refuse to grant a license, after notice and opportunity for a hearing is provided in a manner consistent with the Maine Administrative Procedure Act as to adjudicatory proceedings, upon a finding that any of the following acts have occurred:

A. That fraudulent charges or returns have been made by the applicant or licensee for the handling, sale or storage of licensed commodities or for the rendering of any service in connection with the handling, sale or storage of licensed commodities; [PL 1981, c. 139 (NEW).]

B. That the applicant or licensee has failed or refused to render a true account of sales, or to make a settlement thereon, within the time and in the manner required by this subchapter or has failed to or refused to pay for licensed commodities purchased by the applicant or licensee within 30 days after acceptance of the licensed commodities; [PL 1981, c. 139 (NEW).]

C. That the applicant or licensee has knowingly made any false material statement as to the condition, quality or quantity of licensed commodities received, handled, sold, purchased or stored by the applicant or licensee; [RR 2021, c. 1, Pt. B, §74 (COR).]

D. That the applicant or licensee has knowingly made any substantial misrepresentation as to the condition of the market for licensed commodities; [PL 1981, c. 139 (NEW).]

E. That the applicant or licensee has defrauded or attempted to defraud a producer; [PL 1981, c. 139 (NEW).]

F. That the applicant or licensee to whom any consignment is made has reconsigned the consignment to another dealer, processor, broker or agent and has received, collected or charged by such means more than one commission for making the sale for the consignor without previously obtaining the written consent of the consignor; [PL 1981, c. 139 (NEW).]

G. That the applicant or licensee knowingly made any false material statements in the procurement of a license under this subchapter; [PL 1981, c. 139 (NEW).]

H. That the applicant or licensee has not accounted promptly and properly to the producer with regard to any claim settled or collected by the applicant or licensee for the producer; [RR 2021, c. 1, Pt. B, §74 (COR).]

I. That the applicant or licensee has failed or refused, upon demand, to permit the commissioner or the commissioner's agents to make the investigations, examinations or audits as provided in this subchapter or that the applicant or licensee has removed or sequestered any books, records or papers necessary to any such investigations, examinations or audits or has otherwise obstructed the same; [RR 2021, c. 1, Pt. B, §74 (COR).]

J. That the applicant or licensee has failed or refused to keep and maintain the records as required by this subchapter; or [PL 1981, c. 139 (NEW).]

K. That the applicant or licensee has committed any act or conduct with regard to the handling, sale or storage of licensed commodities, whether of the same or different character than specified in this subsection, that constitutes or demonstrates bad faith, incompetency, untrustworthiness or dishonest, fraudulent or improper dealings. [RR 2021, c. 1, Pt. B, §74 (COR).]

[RR 2021, c. 1, Pt. B, §74 (COR).]

**2. District Court.** The District Court may, in a manner consistent with the Maine Administrative Procedure Act, suspend or revoke a license upon finding that the licensee has committed any of the Acts enumerated in subsection 1.

Any order revoking or suspending a license may, within the discretion of the District Court, be made conditional upon the settlement, adjustment or satisfaction of the consequence of the violation or violations as specified and the operation of such an order may be deferred for that purpose. Any order may contain provisions for its modification or dismissal upon presentation to the District Court of evidence that the matter of complaint has been settled, adjusted or withdrawn at any time before the order becomes final.

[PL 1981, c. 139 (NEW); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

**3. Notification of insufficient payment or nonpayment.** Producers may notify the commissioner of insufficient payment or nonpayment for licensed commodities delivered to any agent, broker, dealer or processor in violation of subsection 1, paragraph B. In addition to any other remedies available under this subchapter:

A. The commissioner or the commissioner's agent, upon notification by a producer of insufficient payment or nonpayment, shall immediately investigate the complaint and shall, in a manner consistent with the provisions of the Maine Administrative Procedure Act, hold a hearing. The person accused of nonpayment, the respondent, shall provide the commissioner with a copy of the contract, if any, and all other materials and information necessary to enable the commissioner to carry out this section. Upon finding that the respondent has violated the contract or other obligation, express or implied, the commissioner shall require the respondent to post a bond sufficient to cover the debt owed to the producer or producers. Failure to post the bond must be considered a violation of this subchapter and each day failure continues must be considered a separate violation; [RR 2021, c. 1, Pt. B, §75 (COR).]

B. The commissioner may require the licensee, accused of or found after a hearing to be in default of payment to a producer, to submit a payment schedule to the commissioner. In the event that the schedule of payment proposed is not satisfactory to the commissioner, the commissioner may establish the schedule of payment; and [RR 2021, c. 1, Pt. B, §76 (COR).]

C. The commissioner may file a complaint with the District Court to compel the posting of a bond required under paragraph A and to suspend the license of any licensee who fails to conform to the payment schedule established in this subsection until the producer is paid the total claim to which the producer is entitled. Upon the filing of a complaint by the commissioner in the District Court, the licensee shall post a bond sufficient to cover the total claim on the date on which the complaint is filed. The bond required in a court proceeding may be waived by the District Court in the event that the bond required in paragraph A is valid and sufficient to cover the total claimed. Nothing in this subsection may be construed to prohibit a producer from seeking redress for insufficient payment or nonpayment from licensees in any court or in accordance with any other state and federal procedure established to obtain redress. [PL 1981, c. 139 (NEW); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

[RR 2021, c. 1, Pt. B, §§75, 76 (COR).]

SECTION HISTORY

PL 1981, c. 139 (NEW). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). RR 2021, c. 1, Pt. B, §§74-76 (COR).

**§458. Exemptions**

**1. Producers.** Producers are exempt from this subchapter when selling licensed commodities which they have grown, which they are presently growing or which they intend to grow.

[PL 1981, c. 139 (NEW).]

**2. Other persons.** The commissioner, by rule, may provide an exemption from this subchapter for persons who deal in quantities of licensed commodities sufficiently small so as to not require the imposition of the standards of financial responsibility established by this subchapter.

[PL 1981, c. 139 (NEW).]

**3. Retailers.** A retailer who sells licensed commodities to consumers is exempt from this subchapter with respect to those sales.

[PL 2005, c. 512, §14 (AMD).]

SECTION HISTORY

PL 1981, c. 139 (NEW). PL 2005, c. 512, §14 (AMD).

**§459. Forfeiture of bond; recovery on bond**

If a licensee fails to make payment as provided in section 457, subsection 1, paragraph B, that licensee by reason of the nonpayment is in default as to all producers or licensees whose accounts then remain unpaid and the bond provided for must be forfeited to the extent of all sums then due from the licensee to the producers or licensees. Whenever the commissioner determines that a licensee has failed to make payment, the commissioner shall provide notice, in a manner consistent with the Maine Administrative Procedure Act, that payment under the bond will be sought and indicating the time within which other producer or licensee claims may be made known to the commissioner. Upon determination of the commissioner that there has been a default in payment by a licensee, the conditions of the bond are deemed to be broken and the commissioner may bring action on the defaulted bond for the benefit of producers or licensees. Whenever the amount of the bond is not sufficient to cover all valid claims, the commissioner shall distribute the amount available on a pro rata basis. [PL 2005, c. 512, §15 (AMD).]

SECTION HISTORY

PL 1981, c. 139 (NEW). PL 2005, c. 512, §15 (AMD).

**§460. Violations**

Any person who commits any of the actions specified in section 457, except in section 457, subsection 1, paragraph B, or otherwise fails, neglects or refuses to comply with the provisions of this subchapter or any rule promulgated hereunder is subject to the following civil penalties payable to the State, to be recovered in a civil action: [PL 1981, c. 139 (NEW).]

**1. First violation.** For the first violation, a civil penalty not to exceed $1,000; and
[PL 1981, c. 139 (NEW).]

**2. Subsequent violation.** For each subsequent violation, a civil penalty not to exceed $3,000.
[PL 1981, c. 139 (NEW).]

The commissioner may recover the penalties imposed for violations in a civil action brought in the commissioner's own name and, if the commissioner prevails in that action, the commissioner may recover full costs. The District Court and the Superior Court have concurrent jurisdiction of the actions. The Attorney General and the several district attorneys shall provide assistance to the commissioner. [RR 2021, c. 1, Pt. B, §77 (COR).]

All penalties received under this subchapter shall be paid to the Treasurer of State for deposit in the General Fund. [PL 1981, c. 139 (NEW).]

SECTION HISTORY

PL 1981, c. 139 (NEW). RR 2021, c. 1, Pt. B, §77 (COR).

## SUBCHAPTER 2-B

## STATE-GROWN PRODUCE PROGRAM

## (REPEALED)

### §471. Farmers' Market Program

**(REPEALED)**

SECTION HISTORY

PL 1993, c. 58, §1 (NEW). PL 2003, c. 689, §B7 (REV). PL 2005, c. 382, §C4 (AMD). PL 2005, c. 614, §5 (RP).

## SUBCHAPTER 3

## ADULTERATED OR MISBRANDED GOODS

### §481. Definitions

**(REPEALED)**

SECTION HISTORY

PL 2005, c. 512, §16 (RP).

### §482. Manufacture and sale prohibited

A person may not manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation any article of commercial feeding stuff, commercial fertilizer or food that is adulterated or misbranded within the meaning of this chapter or chapter 103. [PL 2005, c. 512, §17 (AMD).]

SECTION HISTORY

PL 2005, c. 512, §17 (AMD).

**§483. Adulteration**

For the purpose of this chapter and chapter 103, unless the term is more specifically defined, "adulterated" means made impure or inferior by adding extraneous ingredients. Goods that are prepared in food establishments that are licensed facilities under Title 22, section 2167 and that contain cannabis for medical use by a qualifying patient, pursuant to Title 22, chapter 558-C, are not considered to be adulterated under this subchapter. [PL 2011, c. 407, Pt. A, §1 (AMD); PL 2021, c. 669, §5 (REV).]

**1. Drug.**
[PL 2005, c. 512, §18 (RP).]

**2. Meat or meat products.** In case of meat or meat products: If any sodium sulphite, sodium bisulphite or any drug, chemical, chemical compound or preservative from which sulphur dioxide can be liberated has been added thereto or mixed therewith.

SECTION HISTORY

PL 2005, c. 512, §18 (AMD). PL 2009, c. 631, §1 (AMD). PL 2009, c. 631, §51 (AFF). PL 2011, c. 407, Pt. A, §1 (AMD). PL 2021, c. 669, §5 (REV).

**§484. Misbranding**

The term "misbranded" as used in this chapter or chapter 103 applies to all articles of commercial feeding stuff, commercial fertilizer or food, the package or label of which bears any statement, design or device regarding such article, or the ingredients or substances contained therein, that is false or misleading in any particular or that is falsely branded in any particular. [PL 2005, c. 512, §19 (AMD).]

**1. Drug.**

[PL 2005, c. 512, §19 (RP).]

SECTION HISTORY

PL 2005, c. 512, §19 (AMD).

**§485. Annual analysis**

**(REPEALED)**

SECTION HISTORY

PL 1969, c. 42, §1 (AMD). PL 1975, c. 382, §1 (AMD). PL 2005, c. 512, §20 (RP).

**§486. Place of analysis**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A18 (AMD). PL 2005, c. 512, §21 (RP).

**§487. Certificates**

**(REPEALED)**

SECTION HISTORY

PL 2005, c. 512, §22 (RP).

**§488. Prohibitions and penalties**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 696, §59 (RPR). PL 2003, c. 452, §B2 (RP). PL 2003, c. 452, §X2 (AFF).

**§488-A. Prohibitions and penalties**

**1. Violation.** A person may not adulterate or misbrand, within the meaning of this chapter or chapter 103, any commercial feeding stuff, commercial fertilizer, food or vinegar or manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation any article of commercial feeding stuff, commercial fertilizer, food or vinegar in violation of this chapter or chapter 103.
[PL 2005, c. 512, §23 (AMD).]

**2. Penalty.** The following penalties apply to violations of this section.

A. A person who violates subsection 1 commits a civil violation for which a fine of not more than $100 may be adjudged. [PL 2003, c. 452, Pt. B, §3 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who violates subsection 1 after having previously violated subsection 1 commits a civil violation for which a fine of not more than $200 may be adjudged. [PL 2003, c. 452, Pt. B, §3 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. B, §3 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 2003, c. 452, §B3 (NEW). PL 2003, c. 452, §X2 (AFF). PL 2005, c. 512, §23 (AMD).

**§489. Exceptions**

A person may not be prosecuted under chapter 401, and sections 482 to 488-A, 490 and 640 to 643, when that person 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 of this chapter or chapter 103. [PL 2005, c. 512, §24 (AMD).]

SECTION HISTORY

PL 1979, c. 663, §20 (AMD). PL 1981, c. 470, §A10 (AMD). PL 2003, c. 452, §B4 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2005, c. 512, §24 (AMD).

**§490. Sampling and analysis of seed, commercial feed, commercial fertilizer and food**

**1. Right of entry.** For the purposes of administering and enforcing this subchapter, the commissioner and agents authorized by the commissioner have rights of access, ingress and egress at reasonable hours to any place or building where seeds, commercial feed, commercial fertilizer or food is sold or offered for sale or where those items are stored, manufactured or transported prior to sale or being offered for sale.
[PL 2005, c. 512, §25 (NEW).]

**2. Taking of samples.** For the purposes of administering and enforcing this subchapter, the commissioner and agents authorized by the commissioner may open any case, package or other container of seeds, commercial feed, commercial fertilizer or food. Upon receipt of a written request for payment, the commissioner shall pay the fair market value of any samples taken and retained or destroyed.
[PL 2005, c. 512, §25 (NEW).]

**3. Analysis and disclosure of test results.** The commissioner may submit a sample obtained for the purposes of enforcing this subchapter to a public or private laboratory for analysis. The commissioner shall make available to the public the results of such an analysis, including the name of the person from whom the sample was obtained, the name of the manufacturer of the sample and additional information that the commissioner believes is advisable.
[PL 2005, c. 512, §25 (NEW).]

**4. Issuance of certificate.** A certificate stating the results of an analysis performed in accordance with this section and signed by the director of the laboratory performing the analysis is presumptive evidence of the facts stated in the certificate.
[PL 2005, c. 512, §25 (NEW).]

SECTION HISTORY

PL 2005, c. 512, §25 (NEW).

## SUBCHAPTER 4

## HAZARDOUS SUBSTANCES LABELING ACT

### §501. Title

This subchapter shall be known and may be cited as the "Uniform Hazardous Substances Labeling Act." [PL 1965, c. 65 (NEW).]

SECTION HISTORY

PL 1965, c. 65 (NEW).

### §502. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms shall have the following meanings. [PL 1979, c. 541, Pt. A, §46 (RPR).]

**1. Commissioner.** "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry and the commissioner's agents.
[RR 2021, c. 1, Pt. B, §78 (COR).]

**2. Corrosive.** "Corrosive" means any substance which in contact with living tissue causes destruction of tissue by chemical action; but does not refer to action on inanimate surfaces.
[PL 1965, c. 65 (NEW).]

**3. Department.** "Department" means the Department of Agriculture, Conservation and Forestry.
[PL 1965, c. 65 (NEW); PL 1979, c. 731, §19 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

**4. Flammable.** "Flammable" means any substance which has a flashpoint of above 20 degrees to and including 80 degrees Fahrenheit as determined by the Tagliabue Open Cup Tester, except that the flammability of solids and of the contents of self-pressurized containers is determined by methods generally applicable to such containers and established by regulations issued by the commissioner and "extremely flammable" means any substance which has a flashpoint at or below 20 degrees Fahrenheit as determined by the Tagliabue Open Cup Tester.
[PL 1965, c. 65 (NEW).]

**5. Hazardous substance.** "Hazardous substance" means any substance or mixture of substances which is toxic, corrosive, an irritant, strong sensitizer, flammable, or which generates pressure through decomposition, heat or other means and which may cause substantial personal injury or illness during any customary or reasonable anticipated handling or use including reasonably foreseeable ingestion by children and also means any radioactive substance, if, with respect to such substance as used in a particular class of article or as packaged, the commissioner determines by regulation that the substance is sufficiently hazardous to require labeling in accordance with this subchapter in order to protect the public health.
[PL 1965, c. 65 (NEW).]

**6. Highly toxic.** "Highly toxic" means any substance which produces death within 14 days in at least half of a group of 10 or more laboratory white rats each weighing between 200 and 300 grams,

when a single dose of 50 milligrams or less per kilogram of body weight, is orally administered or when inhaled continuously for a period of one hour or less at an atmospheric concentration of 200 parts per million by volume or less of gas, vapor, mist or dust, or which produces death within 14 days in at least half of 10 or more rabbits tested in a dosage of 200 milligrams or less per kilogram of body weight, when administered by continuous contact with the bare skin for 24 hours or less.

If the commissioner finds that available data on human experience with any substance indicate results different from those on animals in the above-named dosages or concentrations, the human data shall take precedence.
[PL 1965, c. 65 (NEW).]

**7. Household use.** "Household use" means any use, or intended use of an article in or about the living area or living quarters of a house, apartment house or other place of abode.
[PL 1965, c. 65 (NEW).]

**8. Immediate container.** "Immediate container" does not include package liners.
[PL 1965, c. 65 (NEW).]

**9. Irritant.** "Irritant" means any substance, not corrosive, which on immediate, prolonged or repeated contact with normal living tissue will induce inflammatory reaction.
[PL 1965, c. 65 (NEW).]

**10. Label.** "Label" means a display of written, printed or graphic matter upon or attached to the immediate package or container of any substance; and a requirement made by or under authority of this subchapter that any word, statement or other information appear on the label shall not be considered to be complied with unless such word, statement or other information also appears on the outside container or wrapper, if any there be, unless it is easily legible through the outside container or wrapper, and on all accompanying literature where there are directions for use, written or otherwise.
[PL 1965, c. 65 (NEW).]

**11. Misbranded package.** "Misbranded package" or "misbranded package of a hazardous substance" means a hazardous substance in a container intended or suitable for household use unless the product bears a label with the information specified in section 507, except as otherwise provided by or pursuant to this subchapter.
[PL 1965, c. 65 (NEW).]

**12. Person.** "Person" means and includes any corporation, association, copartnership or one or more individuals.
[PL 1965, c. 65 (NEW).]

**13. Radioactive substance.** "Radioactive substance" means any substance which emits ionizing radiation.
[PL 1965, c. 65 (NEW).]

**14. Strong sensitizer.** "Strong sensitizer" means any substance which will cause on normal living tissue through an allergic or photodynamic process a hypersensitivity which becomes evident on reapplication of the same substance and which is designated as such by the commissioner. Before designating any substance as a strong sensitizer, the commissioner shall find that the frequency of occurrence and severity of the reaction indicate a significant potential for causing hypersensitivity.
[PL 1965, c. 65 (NEW).]

**15. Toxic.** "Toxic" means any substance other than a radioactive substance that has the inherent capacity to produce bodily injury or illness to humans through ingestion, inhalation or absorption through any body surface.
[RR 2021, c. 1, Pt. B, §79 (COR).]

SECTION HISTORY

PL 1965, c. 65 (NEW). PL 1979, c. 541, §A46 (AMD). PL 1979, c. 731, §19 (AMD). PL 2011, c. 657, Pt. W, §§5, 6 (REV). RR 2021, c. 1, Pt. B, §§78, 79 (COR).

**§503. Submission of names and amounts**

The commissioner, when the commissioner considers it necessary in the administration of this subchapter, may require the submission of the names and amounts of any hazardous ingredients in any hazardous substance. [RR 2021, c. 1, Pt. B, §80 (COR).]

SECTION HISTORY

PL 1965, c. 65 (NEW). RR 2021, c. 1, Pt. B, §80 (COR).

**§504. Duties**

The department is authorized: [PL 1965, c. 65 (NEW).]

**1. Investigate and examine.** To investigate and examine hazardous substances subject to this subchapter.
[PL 1965, c. 65 (NEW).]

**2. Collection.** To effect the collection and examination of samples of hazardous substances to determine the compliance with the requirements of this subchapter and the officers and employees of the department have authority at all reasonable hours to enter into any motor vehicle, warehouse, store, building, boat, vessel, aircraft or place supposed to contain hazardous substances, for the purpose of inspection or sampling, and to procure samples for analysis or examination from any lot, package or parcel or hazardous substance.
[PL 1965, c. 65 (NEW).]

**3. Rules and regulations.** To make and enforce such reasonable rules and regulations necessary to carry out this subchapter. The rules and regulations so promulgated shall be adopted in a manner consistent with the Maine Administrative Procedure Act and shall conform so far as practicable to rules and regulations promulgated under authority of the Federal Act.
[PL 1977, c. 694, §49 (AMD).]

SECTION HISTORY

PL 1965, c. 65 (NEW). PL 1977, c. 694, §49 (AMD).

**§505. Access to carriers**

Carriers engaged in commerce, and persons receiving hazardous substances in commerce or holding such substances so received, shall upon the request of an officer or employee duly designated by the department permit such officer or employee, at reasonable times, to have access to and to copy all records showing movement in commerce of any hazardous substance, or the holding thereof during or after such movement, and the quantity, shipper and consignee thereof. It is unlawful for any such carrier or person to fail to permit access to and copying of any such records so requested when such request is accompanied by a statement in writing specifying the nature or kind of hazardous substance to which the request relates. Evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained and carriers shall not be subject to the other provisions of this subchapter by reason of their receipt, carriage, holding or delivery of hazardous substances in the usual course of business as carriers. [PL 1965, c. 65 (NEW).]

SECTION HISTORY

PL 1965, c. 65 (NEW).

**§506. Withdrawal from sale; condemnation and confiscation**

**1. "Withdrawal from sale" orders.** When the commissioner finds by inspection or examination of a hazardous substance that it is being sold or distributed in violation of any of the provisions of this

subchapter, the commissioner may issue and enforce a written or printed "withdrawal from sale" order warning the distributor not to dispose of the hazardous substance in any manner until written permission is given by the commissioner or the court. The issuance of such an order may not be considered licensing or an adjudicatory proceeding as defined by the Maine Administrative Procedure Act. The commissioner shall release the hazardous substance so withdrawn when the provisions and regulations have been complied with and all costs and expenses incurred in the withdrawal have been paid. If compliance is not obtained within 30 days, the commissioner may begin proceedings for condemnation. [RR 2021, c. 1, Pt. B, §81 (COR).]

**2. Condemnation and confiscation.** Any hazardous substance not in compliance with this subchapter shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which said hazardous substance is located. In the event the court finds the said hazardous substance to be in violation of this subchapter, and orders the condemnation of said hazardous substance, it shall be disposed of in any manner consistent with the quality of the hazardous substance and the laws of the State. In no instance shall the disposition of said hazardous substance be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said hazardous substance or for permission to process or relabel said hazardous substance to bring it into compliance with this subchapter.
[PL 1965, c. 65 (NEW).]

SECTION HISTORY

PL 1965, c. 65 (NEW). PL 1977, c. 694, §50 (AMD). RR 2021, c. 1, Pt. B, §81 (COR).

**§507. Labeling provisions**

It is unlawful for any person to distribute, sell or offer for sale within the State or deliver for transportation or transport in intrastate commerce or between points within this State through any point outside this State any of the following: [PL 1965, c. 65 (NEW).]

**1. Household use.** Any hazardous substance intended or suitable for household use, unless there is affixed to the container, a label bearing:

A. The name and address of the manufacturer, packer or distributor; [PL 1965, c. 65 (NEW).]

B. The common or usual name, or the chemical name or the recognized generic name, not trade name only, of the hazardous substance or of each component which contributes substantially to its hazard; [PL 1965, c. 65 (NEW).]

C. One of the following words: "Danger," "Warning" or "Caution." The word "Danger" shall be used for substances which are highly toxic, extremely flammable or corrosive. The word "Warning" or "Caution" shall be used on all other hazardous substances; [PL 1965, c. 65 (NEW).]

D. An affirmative statement of the principal hazard, such as "flammable," "vapor harmful," "causes burns," "absorbed through skin," or similar wording descriptive of the hazard; [PL 1965, c. 65 (NEW).]

E. Precautionary measures describing the action to be followed or avoided; [PL 1965, c. 65 (NEW).]

F. Instructions, when necessary, for the first aid treatment in case of contact or exposure, if the substance is hazardous through contact or exposure; [PL 1965, c. 65 (NEW).]

G. Instructions for handling and storage of packages which require special care in handling or storage; [PL 1965, c. 65 (NEW).]

H. A statement, "Keep out of reach of children," or its practical equivalent; [PL 1965, c. 65 (NEW).]

I. The word "Poison" for any hazardous substance which is highly toxic; and [PL 1965, c. 65 (NEW).]

J. A hazardous substance upon which a stop-sale order has been placed by the commissioner. [PL 1965, c. 65 (NEW).]

[PL 1965, c. 65 (NEW).]

**2. Statement.** Any statements required under this subchapter shall be located prominently and shall be in the English language in conspicuous and legible type in contrast by typography, layout or color with other printed matter on the label.

[PL 1965, c. 65 (NEW).]

If the commissioner finds that, because of the size of the package involved or because of the minor hazard presented by the substance contained therein, or for other good and sufficient reasons, full compliance with the labeling requirements otherwise applicable under this subchapter is impracticable or is not necessary for the adequate protection of the public health and safety, the commissioner shall promulgate regulations exempting such substance from these requirements to the extent the commissioner determines to be consistent with adequate protection of the public health and safety, or if the commissioner finds that the requirements of this section are not adequate for the protection of the public health and safety in view of the special hazard presented by any particular hazardous substance, the commissioner may by regulation establish such reasonable variations or additional label requirements as the commissioner finds necessary for the protection of the public health and safety; and any container of such hazardous substance, intended or suitable for household use, that fails to bear a label in accordance with such regulations is a misbranded package of a hazardous substance. [RR 2021, c. 1, Pt. B, §82 (COR).]

Whenever in the judgment of the commissioner, such action will promote the objectives of this subchapter by avoiding or resolving uncertainty as to its application, the commissioner may by regulation declare to be a hazardous substance, for the purposes of this subchapter, any substance or mixture of substances that the commissioner finds meets the requirements of section 502, subsection 5. [RR 2021, c. 1, Pt. B, §83 (COR).]

SECTION HISTORY

PL 1965, c. 65 (NEW). RR 2021, c. 1, Pt. B, §§82, 83 (COR).

**§508. Unlawful acts**

It is unlawful: [PL 1965, c. 65 (NEW).]

**1. Alteration.** For any person to detach, alter, deface or destroy, in whole or in part, any label or labeling provided for in this subchapter or the rules and regulations promulgated hereunder, or to add any substance to, or take any substance from a hazardous substance in a manner that may defeat the purposes of this subchapter;

[PL 1965, c. 65 (NEW).]

**2. Use of information.** For any person to use for the person's own advantage or to reveal, other than to the commissioner, or officials or employees of the commissioner or officials or employees of the United States Department of Agriculture, or other federal agencies, or to the courts in response to a subpoena, or to physicians, and in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, in accordance with such directions as the commissioner may prescribe, any information relative to formulas of products acquired by authority of this subchapter;

[RR 2021, c. 1, Pt. B, §84 (COR).]

**3. Interference.** For any person to oppose or interfere in any way with the commissioner or the commissioner's duly authorized agents in carrying out the duties imposed by this subchapter;

[RR 2021, c. 1, Pt. B, §85 (COR).]

**4. False guaranty.** For any person to give a guaranty which is false;
[PL 1979, c. 541, Pt. A, §47 (AMD).]

**5. Manufacture.** For any person to manufacture a misbranded package of a hazardous substance within this State;
[PL 1979, c. 541, Pt. A, §47 (AMD).]

**6. Delivery.** For any person to introduce or deliver for introduction into commerce of any misbranded package of a hazardous substance; or
[PL 1979, c. 541, Pt. A, §47 (AMD).]

**7. Reused food or drugs.** To introduce or deliver for introduction into commerce, or the receipt in commerce and subsequent delivery or proffered delivery for pay or otherwise, of a hazardous substance in a reused food, drug or cosmetic container or in a container that, though not a reused container, is identifiable as a food, drug or cosmetic container by its labeling or other identification. The reuse of a food, drug or cosmetic container as a container for a hazardous substance is an act that results in the hazardous substance being a misbranded package. For the purposes of this subsection and section 509, "drug" has the same meaning as defined in Title 32, section 13702-A, subsection 11.
[PL 2007, c. 695, Pt. B, §1 (AMD).]

SECTION HISTORY

PL 1965, c. 65 (NEW). PL 1979, c. 541, §A47 (AMD). PL 2005, c. 512, §26 (AMD). PL 2007, c. 695, Pt. B, §1 (AMD). RR 2021, c. 1, Pt. B, §§84, 85 (COR).

**§509. Application**

This subchapter shall not apply to: [PL 1965, c. 65 (NEW).]

**1. Carrier.** Any carrier, while lawfully engaged in transporting a hazardous substance within this State, if such carrier shall, upon request, permit the commissioner or the commissioner's designated agent to copy all records showing the transactions in and movements of the articles;
[RR 2021, c. 1, Pt. B, §86 (COR).]

**2. Public officials.** Public officials of this State and of the Federal Government engaged in the performance of their official duties;
[PL 1965, c. 65 (NEW).]

**3. Experimental use.** The manufacturer or shipper of a hazardous substance for experimental use only:

A. By or under the supervision of an agency of this State or of the Federal Government authorized by law to conduct research in the field of hazardous substances; or [PL 1965, c. 65 (NEW).]

B. By others if the hazardous substance is not sold and if the container thereof is plainly and conspicuously marked "For experimental use only -- Not to be sold," together with the manufacturer's name and address. If a written permit has been obtained from the commissioner, hazardous substances may be sold for experimental purposes subject to such restrictions and conditions as may be set forth in the permit; [PL 1965, c. 65 (NEW).]

[PL 1965, c. 65 (NEW).]

**4. Federal and state law.** Any preparation, drug or chemical subject to the laws of the United States relating to drugs, devices or cosmetics, the Uniform Drug Device and Cosmetic Act, or to preparations, drugs and chemicals which are dispensed by pharmacists authorized by and pursuant to the pharmacy laws of this State;
[PL 1965, c. 65 (NEW).]

**5. Certain poisons.** Any economic poison registered with the United States Department of Agriculture pursuant to the Federal Insecticide, Fungicide and Rodenticide Act and subject thereto;

[PL 1965, c. 65 (NEW).]

**6. Fuel.** Fuel used primarily for cooking, heating or refrigeration when stored in containers and used in the heating, cooking or refrigeration system of a household.
[PL 1965, c. 65 (NEW).]

The commissioner may exempt from the requirements established by or pursuant to this subchapter any container of a hazardous substance with respect to which the commissioner finds adequate requirements satisfying the purposes of this subchapter have been established by or pursuant to and in compliance with any other federal or state law. [RR 2021, c. 1, Pt. B, §87 (COR).]

SECTION HISTORY

PL 1965, c. 65 (NEW). RR 2021, c. 1, Pt. B, §§86, 87 (COR).

**§510. Injunction**

The department may, by application to any court having jurisdiction, obtain an injunction restraining any person who engages in acts which violate this subchapter or the rules and regulations adopted pursuant thereto. Upon refusal or neglect to obey the order of court, the court may compel obedience thereof by proceedings for contempt. [PL 1965, c. 65 (NEW).]

SECTION HISTORY

PL 1965, c. 65 (NEW).

**§511. Enforcement**

It is the duty of the department, its officers, agents, inspectors and employees to enforce this subchapter. [PL 1965, c. 65 (NEW).]

SECTION HISTORY

PL 1965, c. 65 (NEW).

**§512. Penalties**

A person who violates a provision of this subchapter commits a civil violation for which a forfeiture of not less than $100 nor more than $500 may be adjudged. A person is not subject to the penalties provided in this section if the person establishes a written guarantee or undertaking in which is furnished the name and address of the manufacturer or distributor, and the statement that the person received the products in good faith in reliance upon the manufacturer or distributor to the effect that such products were manufactured and labeled in compliance with this subchapter or with federal law that may relate to the regulations of the distribution of hazardous substances covered by this subchapter. [PL 2001, c. 421, Pt. B, §5 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

SECTION HISTORY

PL 1965, c. 65 (NEW). PL 1977, c. 696, §60 (AMD). PL 2001, c. 421, §B5 (AMD). PL 2001, c. 421, §C1 (AFF).

**§513. Exception**

No person shall be prosecuted for violation of any provision of this subchapter if such person has been acquitted or convicted under the Federal Hazardous Substances Labeling Act of the same act or omission which, it is alleged, constitutes a violation of this subchapter. [PL 1965, c. 65 (NEW).]

SECTION HISTORY

PL 1965, c. 65 (NEW).

**SUBCHAPTER 5**

## MAINE FAIR PACKAGING AND LABELING ACT

### §521. Short title

This subchapter shall be known and be cited as the "Maine Fair Packaging and Labeling Act." [PL 1969, c. 325 (NEW).]

SECTION HISTORY

PL 1969, c. 325 (NEW).

### §522. Unfair and deceptive packaging and labeling

It shall be unlawful for any person engaged in the packaging or labeling of any consumer commodity, as defined in section 523, for the distribution in commerce, or for any person other than a common carrier for hire, a contract carrier for hire or a freight forwarder for hire engaged in the distribution in commerce of any packaged or labeled commodity, to distribute or cause to be distributed in commerce any commodity if such commodity is contained in a package, or if there is affixed to that commodity a label, which does not conform to this subchapter and to the regulations promulgated thereunder. [PL 1969, c. 325 (NEW).]

Persons engaged in business as wholesale or retail distributors of consumer commodities shall be exempt from this subchapter except to the extent that such persons are engaged in the packaging and labeling of such commodities or prescribe or specify by any means the manner in which such commodities are packaged or labeled. [PL 1969, c. 325 (NEW).]

SECTION HISTORY

PL 1969, c. 325 (NEW).

### §523. Definitions

**1. Label.** "Label" shall mean any written, printed or graphic matter affixed to, applied to, blown into, formed, molded into, embossed on, or appearing upon or adjacent to a commodity or package containing any consumer commodity, for the purpose of branding, identifying or giving any information in respect to the commodity or to the contents of the package.
[PL 1969, c. 325 (NEW).]

**2. Commodity in package form.** "Commodity in package form" shall mean a commodity put up or packaged in a manner in advance of sale in units suitable for either wholesale or retail sale, exclusive of any auxiliary shipping container enclosing packages that individually conform to the requirements of this subchapter. An individual item or lot of any commodity not in package form as defined in this section but on which there is marked a selling price based on an established price per unit of weight or measure shall mean a commodity in package form.
[PL 1969, c. 325 (NEW).]

**3. Consumer commodity.** "Consumer commodity," except as specifically provided by this subchapter, means any food, as defined by the Maine Food Law, Title 22, chapter 551, subchapter I, and any other article, product or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use.
[PL 1971, c. 544, §18 (AMD).]

**4. Principal display panel.** "Principal display panel" shall mean that part, or those parts, of the label so designed as to be most likely to be displayed, presented, shown or examined under normal conditions of display or for retail sale.

[PL 1969, c. 325 (NEW).]

**5. Container.** "Container" means a glass, metal or plastic bottle, can, jar or other receptacle for holding liquids, powders or other materials, which has been sealed by a manufacturer and which, at the time of sale, contains less than one gallon or 231 cubic inches.
[PL 1987, c. 373, §§ 1, 5 (NEW).]

SECTION HISTORY

PL 1969, c. 325 (NEW). PL 1971, c. 544, §18 (AMD). PL 1987, c. 373, §§1,5 (AMD).

**§524. Requirements and prohibitions**

No person shall distribute or cause to be distributed in commerce any packaged consumer commodity unless the commodity bears a label specifying the identity of the commodity, the name and place of business of the manufacturer, packer or distributor, the net quantity of contents in terms of weight, measure or numerical count, separately and accurately stated in a uniform location upon the principal display panel of the label and the label statement of net quantity. [PL 1969, c. 325 (NEW).]

A package containing less than 4 pounds or one gallon, and labeled in terms of weight or fluid measure, shall be expressed both in ounces, either avoirdupois or fluid ounces, and if applicable in pounds for weight, with the remainder in terms of ounces or common decimal fractions of the pound, or in the case of liquid measure, in the largest whole unit, quarts, quarts and pints, with the remainder in terms of fluid ounces or common decimal fraction of the pint or quart. [PL 1969, c. 325 (NEW).]

A random package shall be expressed in terms of the pound carried out to not more than 2 decimal places. [PL 1969, c. 325 (NEW).]

A package labeled in terms of linear measure, shall be expressed both in terms of inches and the largest whole unit, yards, yards and feet, or feet, with any remainder in terms of inches or common decimal fractions of the foot or yard. [PL 1969, c. 325 (NEW).]

A package labeled in terms of measure of area shall be expressed both in terms of square inches and the largest whole square unit, square yards, square yards and square feet, or square feet, with the remainder in terms of square inches or common decimal fractions of the square foot or square yard. [PL 1969, c. 325 (NEW).]

SECTION HISTORY

PL 1969, c. 325 (NEW). PL 1987, c. 373, §§2,5 (AMD). PL 1993, c. 341, §4 (AMD).

**§524-A. Produce packed in State**

When produce that was grown or raised in a foreign country is packed in this State, the label must identify the country in which the produce was grown in letters as large or larger than the letters identifying the name and place of business of the packer. [PL 1999, c. 405, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 405, §1 (NEW).

**§525. Net quantity of contents**

The net quantity of contents shall appear in conspicuous and easily legible type in distinct contrast, by topography, layout, color, embossing or molding, with other matter on the package. The letters or numerals used shall be in type size which shall be established in relationship to the area of the principal display panel of the package and uniform for all packages of substantially the same size. The lines of printed matter included in that statement shall be placed generally parallel to the base on which the package rests as it is designed to be displayed. [PL 1969, c. 325 (NEW).]

SECTION HISTORY

PL 1969, c. 325 (NEW).

**§526. Consumer commodity label**

The label on a package of a consumer commodity which bears a representation as to the number of servings of such commodity contained in such package shall bear a statement of the net quantity in terms of weight, measure or numerical count, of each serving. [PL 1969, c. 325 (NEW).]

SECTION HISTORY

PL 1969, c. 325 (NEW).

**§527. Promulgation of regulations**

The authority to promulgate regulations for the enforcement of this subchapter is vested in the State Sealer of Weights and Measures. Regulations shall be adopted in a manner consistent with the Maine Administrative Procedure Act. The regulation or regulations so promulgated shall become effective on a date fixed by the sealer which date shall not be prior to 30 days after filing with the Secretary of State. Such promulgation may be amended or repealed in the same manner as is provided for its adoption, except in the case of emergency rulemaking rules shall become effective as provided in the Maine Administrative Procedure Act. In the promulgation of regulations, the sealer shall, in the interest of promoting uniformity, give consideration to regulations promulgated under the Fair Packaging and Labeling Act of November 3, 1966, Public Law 89-755. The sealer, among other things, may give consideration to: [PL 1977, c. 694, §51 (AMD).]

**1. Exemptions.** Exempting a particular commodity because of nature, form or quantity or for other good and sufficient reason making it impracticable or not necessary for adequate protection of consumers;
[PL 1969, c. 325 (NEW).]

**2. Standards.** Establishing and defining standards for characterization of the size of a package enclosing a consumer commodity which may be used to supplement the label statement of net quantity of contents of packages containing such commodity;
[PL 1969, c. 325 (NEW).]

**3. Printed matter.** The placement upon any package containing any commodity or upon any label printed matter stating or representing by implication that such commodity is offered for retail sale at a price lower than ordinary and customary retail price or that a retail sale price is accorded purchasers thereof by reason of size of the package or quantity of its contents;
[PL 1969, c. 325 (NEW).]

**4. Usual name.** Requiring that the label on each package of a consumer commodity bear the common or usual name of such commodity and in the case such commodity consists of 2 or more ingredients, the common or usual name of each ingredient listed in decreasing predominance.
[PL 1969, c. 325 (NEW).]

SECTION HISTORY

PL 1969, c. 325 (NEW). PL 1977, c. 694, §51 (AMD).

**§528. Exemptions**

All packages of consumer commodities that have been labeled in accordance with federal regulations established by the United States Department of Health and Human Services, the Federal Trade Commission or the United States Department of Agriculture are in compliance with this subchapter. [PL 2005, c. 512, §27 (AMD).]

SECTION HISTORY

PL 1969, c. 325 (NEW). PL 1973, c. 625, §38 (AMD). PL 2005, c. 512, §27 (AMD).

**§529. Violations**

Any person, firm or corporation who shall fail, neglect or refuse to comply with any of the provisions of this subchapter, or the rules and regulations issued thereunder, commits a civil violation for which the following forfeiture may be adjudged: [PL 1977, c. 696, §61 (RPR).]

**1. First violation.** For the first violation, a forfeiture not to exceed $100; and
[PL 1977, c. 696, §61 (NEW).]

**2. Subsequent violations.** For each subsequent violation, a forfeiture not to exceed $200.
[PL 1977, c. 696, §61 (NEW).]

SECTION HISTORY

PL 1969, c. 325 (NEW). PL 1977, c. 696, §61 (RPR).

## SUBCHAPTER 6

## LABELING FRESH PRODUCE

**§530. Country of origin required**

**1. Label required.** Fresh produce must be labeled in accordance with this section.

A. Fresh produce sold or offered for retail sale in this State that was grown or raised in a foreign country must be identified by labeling with the country of origin as provided in paragraphs B to D. [PL 1999, c. 405, §2 (AMD).]

B. Except as provided in paragraph D, each item of fresh produce offered for retail sale as an individual unit must be individually labeled in accordance with subsection 3. [PL 1989, c. 527, §1 (NEW).]

C. Except as provided in paragraph D, fresh produce packaged in consumer units must be labeled in accordance with subsection 3 and section 524-A. For purposes of this section, banana and grape clusters are a consumer unit. [PL 1999, c. 405, §2 (AMD).]

D. Fresh produce that is not labeled in accordance with paragraph B or C may be sold at retail if the labeling information required by subsection 3 appears on a bin label or placard contiguous to the produce being displayed for retail sale or on the original shipping container if it contains the produce offered for sale. [PL 1989, c. 527, §1 (NEW).]
[PL 1999, c. 405, §2 (AMD).]

**2. Rules.**
[PL 1999, c. 405, §3 (RP).]

**3. Label statement.** The country of origin label shall:

A. Clearly state the country in which the fresh produce was raised or grown; [PL 1989, c. 527, §1 (NEW).]

B. Be conspicuously and prominently placed so as to be easily seen by the consumer; and [PL 1989, c. 527, §1 (NEW).]

C. Be as legible, indelible and permanent as the nature and display of the product allow without causing adulteration to the product. [PL 1989, c. 527, §1 (NEW).]
[PL 1989, c. 527, §1 (NEW).]

**4. Educational program.** Subject to available funding, the department shall institute an educational program designed to inform the general public about this section. This program must

include, but not be limited to, dissemination of information about the countries and produce affected and the pesticides, residues and known and potential adverse health effects of those pesticides. This dissemination must be made by at least the following:

A. Brochures to be made available to consumers through retail outlets; and [PL 1989, c. 527, §1 (NEW).]

B. Media coverage, such as public service announcements, press releases and press conferences. [PL 1989, c. 527, §1 (NEW).]

[PL 1991, c. 506, §1 (AMD).]

**5. Enforcement.** If inspection personnel of the department find that fresh produce is not properly labeled as required by this section, the commissioner shall issue a stop order for the product until it is labeled in accordance with this section.

[PL 1989, c. 527, §1 (NEW).]

**6. Penalty.** A person who fails to comply with the provisions of this section commits a civil violation and may be adjudged a fine not more than $100. Each day in violation constitutes a separate offense.

[PL 1989, c. 527, §1 (NEW).]

**7. Repealed.**

[PL 1991, c. 506, §2 (RP).]

SECTION HISTORY

PL 1989, c. 527, §1 (NEW). PL 1991, c. 506, §§1,2 (AMD). PL 1999, c. 405, §§2,3 (AMD).

## SUBCHAPTER 7

## LABELING FOODS FREE OF GENETIC ENGINEERING

### §530-A. Voluntary labeling

**1. Labeling permitted; rules.** Beginning January 1, 2002, a label may be placed on any food, food product or food ingredient offered for sale in the State designating that food, food product or food ingredient as free of or made without recombinant deoxyribonucleic acid technology, genetic engineering or bioengineering. The department shall adopt rules implementing this subsection. The rules must allow any food 1% or less of which consists of genetically engineered ingredients to be labeled as free of genetically engineered ingredients. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[PL 2001, c. 334, §1 (NEW).]

**2. Department verification.** The department may investigate a business operation that claims a food, food product or food ingredient sold in the State by the business operation is free of or made without recombinant deoxyribonucleic acid technology, genetic engineering or bioengineering for the purposes of verifying the claim.

[PL 2001, c. 334, §1 (NEW).]

**3. Misbranding.** If a manufacturer, distributor, processor, wholesaler or retailer falsely labels or advertises any food, food product or food ingredient offered for sale in the State as free of or made without recombinant deoxyribonucleic acid technology, genetic engineering or bioengineering, the food, food product or food ingredient is misbranded in violation of section 488-A.

[PL 2003, c. 452, Pt. B, §5 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 2001, c. 334, §1 (NEW). PL 2003, c. 452, §B5 (AMD). PL 2003, c. 452, §X2 (AFF).

## CHAPTER 103

## PRODUCTS CONTROLLED

## SUBCHAPTER 1

## APPLES

### §531. Definitions

For the purpose of this subchapter, apples packed in a closed package or container or sold at retail in bulk or in an open package or container 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:

**1. Container fails to bear all statements.** If the package or container, whether open or closed, fails to bear all statements required by section 534;

**2. False or misleading statements.** If the package or container, whether open or closed, 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.

### §532. Standard box for apples

The standard box for apples shall have the following inside dimensions when measured without distention of parts: Length, 17 inches; width, 13 inches; height, 11 inches. A box having a capacity of 2,431 cubic inches shall be a lawful bushel. [PL 1977, c. 696, §62 (AMD).]

SECTION HISTORY

PL 1977, c. 696, §62 (AMD).

### §533. Standard grades established

The grades for apples recommended by the United States Department of Agriculture and recognized in the central markets of the country as government grades and such other grades or standards as may be promulgated by the commissioner under sections 441 to 447, are made the official state grades for apples of the State presented for intrastate or interstate shipment. All containers as presented for shipment whether by truck, train or boat shall have written, stamped or attached thereon the provisions required in section 534.

### §534. Labels; sales in bulk or open package

Every closed package or container 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 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 or the numerical count of the apples in the packages, together with the minimum volume of the apples in the container. If the apples were grown in Maine, that fact shall be plainly designated.

All apples sold, offered, exposed or advertised for sale at retail in bulk or in open packages or containers shall be plainly and conspicuously marked and identified as to variety and grade.

### §535. Prohibitions

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 531.

**§536. Advertising**

When apples are advertised for sale by radio, television, newspapers or any other medium in which the price is to be quoted, such advertisement must state the correct grade, size and variety.

No signs, flyers, advertisements or false labels shall be used to sell or offer for sale or expose for sale any apples which do not conform to the standards as established in section 533. When signs, flyers or posters are used to advertise the price of apples, the variety, size or numerical count, and grade must be shown on such signs, flyers and posters.

**§537. Sale and movement of apples**

A person, firm or corporation may not within this State sell, distribute, transport, offer or expose for sale, distribution or transportation any apples that do not conform to the apple grades established in section 533. This section does not apply to any person, firm or corporation supplying apples consigned to a processing plant for use therein. This subchapter may not be construed to prevent a grower or shipper of apples from delivering the same to a packing house for grading or to a processing plant or cold storage plant where apples are stored and prepared for market. Apples that do not meet the established grades or classifications as provided by section 533 may be sold as culls as long as the package or container is conspicuously marked with the word "Culls". The commissioner shall diligently enforce this section and in person or by deputy has 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. The commissioner may in person or by deputy upon tendering the market price take samples of apples therefrom. [RR 2021, c. 1, Pt. B, §88 (COR).]

SECTION HISTORY

RR 2021, c. 1, Pt. B, §88 (COR).

**§538. Guaranty bar to prosecution**

A person is not subject to suit under this subchapter, if the person can establish a guaranty, signed by the person from whom the person received any such article, to the effect that the same is not adulterated or misbranded within the meaning of section 531. Such guaranty, to afford protection, must contain the name and address of the party or parties making the sale or such article to such dealer, and in such case such party or parties must be amenable to the suits, forfeitures and other penalties that would attach, in due course, to the dealer under this subchapter. [RR 2021, c. 1, Pt. B, §89 (COR).]

SECTION HISTORY

PL 1977, c. 696, §63 (AMD). RR 2021, c. 1, Pt. B, §89 (COR).

**§539. Sale, exchange or transport of "controlled atmosphere" apples**

A person may not sell or exchange or offer or expose for sale or exchange or transport for sale any apples represented as having been exposed to "controlled atmosphere" or "modified atmosphere," alone or with other words, or use any such term or form of words or symbols of similar import on any container or lot of apples advertised, sold, offered for sale or transported for sale within this State unless such apples have been kept in a room or storage building with not more than 5% oxygen for a minimum of 45 days, except that the commissioner, after notice and public hearing, may change the minimum number of days, as conditions in the apple industry may require. [PL 2005, c. 512, §28 (AMD).]

If within a period of 50 consecutive days the oxygen content of a sealed storage room is at 5% or less for a total of 45 days, the room qualifies as a legal controlled atmosphere room. [PL 2005, c. 512, §28 (AMD).]

SECTION HISTORY

PL 1965, c. 6 (AMD). PL 1971, c. 13, §1 (AMD). PL 2005, c. 512, §28 (AMD).

**§540. Registration**

Any person owning or operating a controlled atmosphere room or storage building or packers or repackers of apples coming under section 539 shall register with the commissioner on a form prescribed by the commissioner. The registration period shall commence on August 1st and end on July 31st of each year. Owners or operators of such a room or storage building shall register on or before August 1st of each year.

The commissioner shall assign each approved registrant a registration number preceded by the letters "Maine C.A." This number shall be clearly marked on all containers coming under section 539 and shall be in accordance with all provisions of law pertaining to markings for apples.

**§540-A. Sealing; notification**

The commissioner shall be notified of the date of sealing of a controlled atmosphere room within 5 days of the sealing operation. [PL 1971, c. 13, §2 (NEW).]

SECTION HISTORY

PL 1971, c. 13, §2 (NEW).

**§540-B. Department of Agriculture, Conservation and Forestry seal**

All controlled atmosphere storage rooms must be sealed by a Department of Agriculture, Conservation and Forestry seal affixed by an authorized representative of the department. All storages to qualify for controlled atmosphere must have been sealed by a department representative on or before November 15th of the storage year. [PL 2005, c. 512, §29 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

No seal may be broken nor any such room be entered during the 45-day required period, except as provided in section 539. Whenever such interruptions occur, the department must be notified within 48 hours after the opening of such rooms. Such entered room must thereafter be resealed by an authorized representative of the department. [PL 2005, c. 512, §29 (AMD).]

SECTION HISTORY

PL 1971, c. 13, §3 (NEW). PL 1979, c. 541, §A48 (AMD). PL 1979, c. 731, §19 (AMD). PL 2005, c. 512, §29 (AMD). PL 2011, c. 657, Pt. W, §5 (REV).

**§541. Air components determinations**

Each owner or operator shall make the required air components determinations daily. The percent of oxygen shall be reduced to 5% within 20 days after date of sealing.

**§542. Records**

A record on a form approved by the commissioner must be kept at a convenient location adjacent to such room or storage building from the day of sealing to the day of opening of such room or storage building, and is subject to review by the commissioner or the commissioner's authorized agents at any time for a period of at least one year. It must include the owner or operator's name and address, room number, date of sealing, date of opening, capacity in bushels, lot identification, number of bushels within each lot, daily air components determination recordings showing date of test, time of test, percentage of carbon dioxide, percentage of carbon dioxide and oxygen, percentage of oxygen, temperature and comments. [RR 2021, c. 1, Pt. B, §90 (COR).]

Each owner or operator shall submit to the department, within 20 days after date of sealing, a report in writing for each room showing room number, date of sealing and number of bushels contained therein.

SECTION HISTORY

RR 2021, c. 1, Pt. B, §90 (COR).

**§543. Access**

The commissioner, in person or by deputy, has 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. The commissioner may, in person or by deputy, open any box or other container and may, upon tendering the market price, take samples therefrom. [RR 2021, c. 1, Pt. B, §91 (COR).]

SECTION HISTORY

RR 2021, c. 1, Pt. B, §91 (COR).

**§543-A. Cider**

**1. Restriction on product labeled as cider.** A person may not sell, advertise, offer or expose for sale any product labeled as "cider" if that product does not require refrigeration from pressing through purchase or has been heated.
[PL 2021, c. 111, §1 (AMD).]

**2. Accepted processing methods.** All cider sold, advertised, offered or exposed for sale must be treated by ultraviolet light or pressed under a state-approved hazard and critical control plan unless the cider bears a warning label in accordance with subsection 3. A state-approved hazard and critical control plan must prohibit the pressing of apples that have dropped from the trees for use in cider.
[PL 2021, c. 111, §2 (AMD).]

**3. Warning label.** A person selling, advertising, offering or exposing for sale cider that has not been processed in accordance with subsection 2 must affix a label to that product stating: "WARNING: This product has not been pasteurized. It may contain harmful bacteria that can cause serious illness in children, the elderly and persons with weakened immune systems."
[PL 1999, c. 175, §1 (NEW).]

**4. Exemption.** Hard cider and nonalcoholic carbonated cider labeled as "sparkling cider" are exempt from this section. For purposes of this subsection, "hard cider" means liquor produced by fermentation of the juice of apples or pears, including, but not limited to, flavored, sparkling or carbonated cider, that contains not less than 1/2 of 1% alcohol by volume and "liquor" has the same meaning as in Title 28-A, section 2, subsection 16.
[PL 2023, c. 175, §1 (AMD).]

SECTION HISTORY

PL 1983, c. 220 (NEW). PL 1999, c. 175, §1 (RPR). PL 2021, c. 111, §§1-3 (AMD). PL 2023, c. 175, §1 (AMD).

**§544. Violations**

Whoever adulterates or misbrands apples within the meaning of section 531, or whoever packs, sells, distributes, transports, offers or exposes for sale, distribution or transportation apples in violation of any provision of this subchapter commits a civil violation for which the following forfeitures may be adjudged: [PL 1977, c. 696, §64 (RPR).]

**1. First violation.** For the first violation, a forfeiture not to exceed $100; and
[PL 1977, c. 696, §64 (NEW).]

**2. Subsequent violation.** For each subsequent violation, a forfeiture not to exceed $200.
[PL 1977, c. 696, §64 (NEW).]

SECTION HISTORY

PL 1977, c. 696, §64 (RPR).

## SUBCHAPTER 1-A

## LABELING OF WATER

**§551. Definitions**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 240, §§1,2 (NEW). PL 1985, c. 329, §1 (AMD). PL 2003, c. 220, §2 (RP).

**§552. Food labeled or advertised as natural**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 240, §§1,2 (NEW). PL 1981, c. 314 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2003, c. 220, §3 (RP).

**§553. Labeling and advertising**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 240, §§1,2 (NEW). PL 1985, c. 329, §2 (AMD). PL 1989, c. 756, §§1,2 (AMD). PL 2003, c. 220, §4 (RP).

**§554. Prohibition on labeling or advertising as "health food"**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 240, §§1,2 (NEW). PL 2003, c. 220, §5 (RP).

**§555. Prohibition on certain claims of superiority**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 240, §§1,2 (NEW). PL 2003, c. 220, §5 (RP).

**§556. Certification**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 240, §§1,2 (NEW). PL 1989, c. 663 (AMD). PL 1991, c. 57, §1 (AMD). PL 2003, c. 220, §6 (RP).

**§557. Records**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 240, §§1,2 (NEW). PL 1979, c. 731, §19 (AMD). PL 2003, c. 220, §7 (RP).

**§558. Exemptions**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 240, §§1,2 (NEW). PL 2003, c. 220, §8 (RP).

**§559. General penalty**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 240, §§1,2 (NEW). PL 1991, c. 57, §2 (RP).

**§560. Injunctive relief**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 240, §§1,2 (NEW). PL 2003, c. 220, §8 (RP).

**§561. Stores and restaurants**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 240, §§1,2 (NEW). PL 2003, c. 220, §8 (RP).

**§562. Enforcement obligations**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 240, §§1,2 (NEW). PL 1979, c. 731, §19 (AMD). PL 1991, c. 57, §3 (RP).

**§562-A. Enforcement obligations**

**1. Rules.** The department shall adopt rules as it determines appropriate for the proper administration of this subchapter.
[PL 1991, c. 57, §4 (NEW).]

**2. Violation notices.** The department shall issue notices to bottlers and distributors alleged to have violated any provision of this subchapter. A person who violates this subchapter commits a civil violation for which a fine not to exceed $1,000 may be adjudged. The department may also recover costs of investigation, with the limitation that the total fine and costs assessed for a violation may not exceed $1,000.
[PL 2003, c. 220, §9 (AMD).]

SECTION HISTORY

PL 1991, c. 57, §4 (NEW). PL 2003, c. 220, §9 (AMD).

**§562-B. Identification of source of water sold in containers and intended for human consumption**

The label on water that is sold in the State in containers and that is intended for human consumption must include words that, without the use of abbreviations or acronyms, identify the name and geographic location of the water body, well or public water supply from which the water was obtained.
[PL 2003, c. 5, §1 (AMD).]

SECTION HISTORY

PL 2001, c. 283, §1 (NEW). PL 2003, c. 5, §1 (AMD).

**§563. Water labeled or advertised as from Maine**

Water may not be labeled or advertised as "Maine water" or "from Maine" if the water is not from a natural source in the State. [PL 2001, c. 174, §2 (NEW).]

SECTION HISTORY

PL 2001, c. 174, §2 (NEW).

## SUBCHAPTER 2

## ECONOMIC POISONS

## (REPEALED)

**§581. Title**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 382, §2 (RP).

**§582. Definitions**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 382, §2 (RP).

**§583. Rules and regulations**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 382, §2 (RP).

**§584. Registration**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 382, §2 (RP).

**§585. Corrections; protests**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 382, §2 (RP).

**§586. Exceptions; renewal; fees**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 382, §2 (RP).

**§587. Prohibitions**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 382, §2 (RP).

**§588. Exemptions**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 382, §2 (RP).

**§589. Cooperation with Federal Government and other states**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 382, §2 (RP).

**§590. Seizure; forfeiture**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 382, §2 (RP).

**§591. Penalties**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 382, §2 (RP).

**§592. "Stop-sale" order**

**(REPEALED)**

SECTION HISTORY

PL 1973, c. 245 (NEW). PL 1975, c. 382, §2 (RP).

## SUBCHAPTER 2-A

## MAINE PESTICIDE CONTROL ACT OF 1975

**§601. Title**

This subchapter may be known and cited as the "Maine Pesticide Control Act of 1975." [PL 2005, c. 620, §1 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 2005, c. 620, §1 (AMD).

**§602. Enforcing official**

This subchapter is administered by the Board of Pesticides Control, referred to in this subchapter as the "board," established in Title 5, section 12004-D, subsection 3 and further described in Title 22, chapter 258-A. [PL 2005, c. 620, §2 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1979, c. 731, §19 (AMD). PL 1989, c. 841, §1 (AMD). PL 1989, c. 878, §E1 (AMD). PL 1993, c. 349, §22 (RPR). PL 2005, c. 620, §2 (AMD).

**§603. Declaration of purpose**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 2005, c. 382, §A4 (RP).

**§604. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2005, c. 620, §3 (AMD).]

**1. Active ingredient.** "Active ingredient" means any ingredient that will prevent, destroy, repel, control or mitigate pests or that will act as a plant regulator, defoliant or desiccant.
[PL 2005, c. 620, §3 (AMD).]

**2. Adulterated.** "Adulterated," as applied to a pesticide, means that:

A. The pesticide's strength or purity falls below the standard of quality as expressed on the labeling under which it is sold; [PL 2005, c. 620, §3 (NEW).]

B. A substance has been substituted wholly or in part for the pesticide; or [PL 2005, c. 620, §3 (NEW).]

C. A valuable constituent of the pesticide has been wholly or in part abstracted. [PL 2005, c. 620, §3 (NEW).]
[PL 2005, c. 620, §3 (AMD).]

**3. Animal.** "Animal" means all vertebrate and invertebrate species, including but not limited to humans and other mammals, birds, fish and shellfish.
[PL 2005, c. 620, §3 (AMD).]

**4. Beneficial insects.** "Beneficial insects" means those insects that, during their life cycle, are effective pollinators of plants, are parasites or predators of pests or are otherwise beneficial.
[PL 2005, c. 620, §3 (AMD).]

**5. Commissioner.**

[PL 2005, c. 620, §3 (RP).]

**6. Defoliant.** "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.
[PL 1975, c. 382, §3 (NEW).]

**7. Desiccant.** "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.
[PL 1975, c. 382, §3 (NEW).]

**8. Device.** "Device" means any instrument or contrivance, other than a firearm, that is intended for trapping, destroying, repelling or mitigating any pest or any other form of plant or animal life, other than a human being and other than a bacterium, virus or other microorganism on or in a living human being or other living animal. "Device" does not include equipment used for the application of pesticides when sold separately from pesticides.
[PL 2005, c. 620, §3 (AMD).]

**9. Distribute.** "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment or receive and, having so received, deliver or offer to deliver pesticides in this State.
[PL 2005, c. 620, §3 (AMD).]

**10. Environment.** "Environment" includes water, air and land and all plants and human beings and other animals living therein and the interrelationships that exist among these.
[PL 2005, c. 620, §3 (AMD).]

**11. EPA.** "EPA" means the United States Environmental Protection Agency.
[PL 1975, c. 382, §3 (NEW).]

**12. FIFRA.** "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act.

[PL 1975, c. 382, §3 (NEW).]

**13. Fungi.** "Fungi" means all nonchlorophyll-bearing thallophytes, that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts, including but not limited to rusts, smuts, mildews, molds, yeasts and bacteria, except those on or in living human beings or other living animals, and except those in or on processed food, beverages or pharmaceuticals.
[PL 2005, c. 620, §3 (AMD).]

**14. Highly toxic pesticide.** "Highly toxic pesticide" means any pesticide determined to be a highly toxic pesticide under FIFRA, Section 25(c)(2) or by the board under section 610, subsection 1, paragraph B.
[PL 2005, c. 620, §3 (AMD).]

**15. Imminent hazard.** "Imminent hazard" means a situation that exists when the continued use of a pesticide during the time required for cancellation proceedings pursuant to section 609 would likely result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the United States Secretary of the Interior under United States Public Law 91-135.
[PL 2005, c. 620, §3 (AMD).]

**16. Inert ingredient.** "Inert ingredient" means an ingredient that is not an active ingredient.
[PL 2005, c. 620, §3 (AMD).]

**17. Ingredient statement.** "Ingredient statement" means a statement of the following:

A. The name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide; and [PL 2005, c. 620, §3 (NEW).]

B. If the pesticide contains arsenic in any form, the percentages of total and water-soluble arsenic, each calculated as elemental arsenic. [PL 2005, c. 620, §3 (NEW).]
[PL 2005, c. 620, §3 (AMD).]

**18. Insect.** "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising 6-legged, usually winged forms, including but not limited to beetles, bugs, bees and flies, and to other allied classes or arthropods whose members are wingless and usually have more than 6 legs, including but not limited to spiders, mites, ticks, centipedes and wood lice.
[PL 2005, c. 620, §3 (AMD).]

**19. Label.** "Label" means the written, printed or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.
[PL 1975, c. 382, §3 (NEW).]

**20. Labeling.** "Labeling" means the label and all other written, printed or graphic matter:

A. Accompanying the pesticide or device at any time; or [PL 2005, c. 620, §3 (NEW).]

B. To which reference is made on the label or in literature accompanying the pesticide or device, except current official publications of EPA, the United States Department of Agriculture, the United States Department of the Interior, the United States Department of Health and Human Services, a state experiment station, a state agricultural college or other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides. [PL 2005, c. 620, §3 (NEW).]
[PL 2005, c. 620, §3 (AMD).]

**21. Land.** "Land" means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.
[PL 1975, c. 382, §3 (NEW).]

**22. Nematode.** "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented roundworms with elongated fusiform or sac-like bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; nematodes may also be called nemas or eelworms.
[PL 2005, c. 620, §3 (AMD).]

**22-A. Perfluoroalkyl and polyfluoroalkyl substances or PFAS.** "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in Title 32, section 1732, subsection 5-A.
[PL 2021, c. 673, §1 (NEW).]

**23. Person.** "Person" means any individual, partnership, association, fiduciary, corporation or any organized group of persons whether incorporated or not.
[PL 1975, c. 382, §3 (NEW).]

**24. Pest.** "Pest" means any insects, rodents, nematodes, fungi, weeds, and other forms of terrestrial or aquatic plant or animal life or viruses, bacteria or other microorganisms, except viruses, bacteria or other microorganisms on or in living human beings or other living animals, that the commissioner declares to be a pest under section 610, subsection 1, paragraph A.
[PL 2005, c. 620, §3 (AMD).]

**25. Pesticide.** "Pesticide" means:

A. Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pests; [PL 2021, c. 673, §2 (NEW).]

B. Any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and [PL 2021, c. 673, §2 (NEW).]

C. Any substance or mixture of substances intended to be used as a spray adjuvant. [PL 2021, c. 673, §2 (NEW).]

"Pesticide" includes a highly toxic pesticide.
[PL 2021, c. 673, §2 (RPR).]

**25-A. Plant-incorporated protectant.** "Plant-incorporated protectant" means a pesticidal substance that is produced and used in a living plant through genetic engineering and the genetic material necessary for the production of the pesticidal substance.
[PL 2007, c. 484, §1 (NEW).]

**26. Plant regulator.** "Plant regulator" means any substance or mixture of substances intended through physiological action for accelerating or retarding the rate of growth or rate of maturation or for otherwise altering the behavior of plants or the produce thereof. "Plant regulator" does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants or soil amendments.
[PL 2005, c. 620, §3 (AMD).]

**27. Protect health and the environment.** "Protect health and the environment" means to protect against any unreasonable adverse effects on the environment.
[PL 2005, c. 620, §3 (AMD).]

**28. Registrant.** "Registrant" means a person who has registered any pesticide pursuant to the provisions of this subchapter.
[PL 1975, c. 382, §3 (NEW).]

**29. Registration.** "Registration" includes reregistration.
[PL 2005, c. 620, §3 (AMD).]

**30. Restricted use pesticide.** "Restricted use pesticide" means any pesticide or pesticide use classified for restricted use by the EPA Administrator.
[PL 2005, c. 620, §3 (AMD).]

**31. Rodent.** "Rodent" means any member of the animal group of the order rodentia, including but not limited to rats, mice, gophers, porcupines and squirrels.
[PL 2005, c. 620, §3 (AMD).]

**31-A. Spray adjuvant.** "Spray adjuvant" means any wetting agent, spreading agent, sticker, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier or similar agent that is intended to be used with any other pesticide as an aid to the application or the effect of it and that is in a package or container separate from that of the other pesticide.
[PL 2021, c. 673, §3 (NEW).]

**32. Unreasonable adverse effects on the environment.** "Unreasonable adverse effects on the environment" means any unreasonable risk to human beings or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide.
[PL 2005, c. 620, §3 (AMD).]

**33. Weed.** "Weed" means any plant that grows where it is not wanted.
[PL 2005, c. 620, §3 (AMD).]

**34. Wildlife.** "Wildlife" means all living things that are neither human, domesticated nor, as defined in this subchapter, pests, including but not limited to mammals, birds and aquatic life.
[PL 1975, c. 382, §3 (NEW).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1979, c. 731, §19 (AMD). PL 1989, c. 878, §E2 (AMD). PL 2005, c. 620, §3 (AMD). PL 2007, c. 484, §1 (AMD). PL 2021, c. 673, §§1-3 (AMD).

**§605. Misbranded**

The term "misbranded": [PL 2005, c. 620, §4 (AMD).]

**1. False, misleading or inconspicuous labeling.** As applied to any pesticide subject to this subchapter means that:

A. Its labeling bears any statement, design or graphic representation relative to the pesticide or to its ingredients that is false or misleading in any particular; [PL 2005, c. 620, §4 (AMD).]

B. It is an imitation of or is distributed under the name of another pesticide; or [PL 2005, c. 620, §4 (AMD).]

C. Any word, statement or other information required to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs or graphic matter, in the labeling and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or [PL 2005, c. 620, §4 (AMD).]
[PL 2005, c. 620, §4 (AMD).]

**2. Lack of certain information.** As applied to any pesticide means that:

A. The labeling does not contain a statement of the use classification under which the product is registered; [PL 2005, c. 620, §4 (AMD).]

B. The labeling accompanying it does not contain directions for use that are necessary for effecting the purpose for which the product is intended and that, if complied with, together with any requirements imposed under FIFRA, Section 3(d), are adequate to protect health and the environment; [PL 2005, c. 620, §4 (AMD).]

B-1. The label does not contain a warning or caution statement that may be necessary and that, if complied with, together with any requirements imposed under FIFRA, Section 3(d), would be adequate to protect the health and environment; [PL 2005, c. 620, §4 (NEW).]

B-2. The label does not bear an ingredient statement on that part of the immediate container, and on the outside container and wrapper of the retail package, if there is one, through which the ingredient statement on the immediate container cannot be clearly read, which is presented or displayed under customary conditions of purchase. The pesticide is not misbranded if the ingredient statement appears prominently on another part of the container as permitted pursuant to FIFRA, Section 2(q)(2)(A) if the size or form of the container makes it impracticable to place it on the part of the retail package that is presented or displayed under customary conditions of purchase; [PL 2005, c. 620, §4 (NEW).]

C. There is not affixed to its container, and to the outside container or wrapper of the retail package, if there is one, through which the required information on the immediate container cannot be clearly read, a label bearing:

(1) The name, brand or trademark under which the pesticide is sold;

(4) The net weight or measure of the content;

(5) The name and address of the manufacturer, registrant or person for whom manufactured; and

(6) The EPA registration number assigned to each establishment in which it was produced and the EPA registration number assigned to the pesticide, if required by regulations under FIFRA; [PL 2005, c. 620, §4 (AMD).]

D. The pesticide contains any substance or substances in quantities highly toxic to human beings unless the label bears, in addition to other label requirements:

(1) The skull and crossbones;

(2) The word "POISON" in red prominently displayed on a background of distinctly contrasting color; and

(3) A statement of a practical treatment, including first aid or otherwise, in case of poisoning by the pesticide; or [PL 2005, c. 620, §4 (AMD).]

E. The pesticide container does not bear a registered label or the label does not contain all the information required by this subchapter or the rules adopted under this subchapter. [PL 2005, c. 620, §4 (AMD).]

[PL 2005, c. 620, §4 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 2005, c. 620, §4 (AMD).

**§606. Prohibited acts**

**1. Unlawful distribution.** A person may not distribute in the State any of the following:

A. A pesticide that has not been registered pursuant to the provisions of this subchapter; [PL 2005, c. 620, §5 (AMD).]

B. A pesticide if any of the claims made for it or any of the directions for its use or other labeling differs from the representations made in connection with its registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration; a change in the labeling or formulation of a pesticide may be made within a registration period without requiring reregistration of the product if the registration is amended to reflect that change and if

that change will not violate any provision of FIFRA or this subchapter; [PL 2005, c. 620, §5 (AMD).]

C. A pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container and there is affixed to the container, and to the outside container or wrapper of the retail package, if there is one, through which the required information on the immediate container cannot be clearly read, a label bearing the information required in this subchapter and rules adopted under this subchapter; [PL 2005, c. 620, §5 (AMD).]

D. A pesticide that has not been colored or discolored pursuant to section 610, subsection 1, paragraph D; [PL 2005, c. 620, §5 (AMD).]

E. A pesticide that is adulterated or misbranded or any device that is misbranded; [PL 2021, c. 105, §1 (AMD).]

F. A pesticide in containers that are unsafe due to damage; [PL 2021, c. 673, §4 (AMD).]

G. Beginning January 1, 2022, a pesticide containing chlorpyrifos as an active ingredient; [PL 2021, c. 673, §4 (AMD).]

H. A pesticide that has been contaminated by perfluoroalkyl and polyfluoroalkyl substances; or [PL 2021, c. 673, §4 (NEW).]

I. Beginning January 1, 2030, a pesticide that contains intentionally added PFAS that may not be sold or distributed pursuant to Title 38, section 1614, subsection 5, paragraph D. [PL 2021, c. 673, §4 (NEW).]

[PL 2021, c. 673, §4 (AMD).]

**2. Unlawful alteration, misuse, divulging of formulas, transportation, disposal and noncompliance.** A person may not:

A. Detach, alter, deface or destroy, wholly or in part, any label or labeling provided for in this subchapter or rules adopted under this subchapter; [PL 2005, c. 620, §5 (AMD).]

A-1. Add any substance to or take any substance from a pesticide in a manner that may defeat the purpose of this subchapter or rules adopted under this subchapter; [PL 2005, c. 620, §5 (NEW).]

B. Use or cause to be used any pesticide in a manner inconsistent with its labeling or with rules of the board, if those rules further restrict the uses provided on the labeling; [PL 2005, c. 620, §5 (AMD).]

C. Use for that person's own advantage or reveal, other than to the board or proper officials or employees of the state or federal executive agencies, to the courts of this State or of the United States in response to a subpoena, to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of section 607 or any information judged by the board to contain or relate to trade secrets or commercial or financial information obtained by authority of this subchapter and marked as privileged or confidential by the registrant; [PL 2005, c. 620, §5 (AMD).]

D. Handle, transport, store, display or distribute pesticides in such a manner as to endanger human beings or their environment or to endanger food, feed or any other products that may be transported, stored, displayed or distributed with such pesticides; [PL 2005, c. 620, §5 (AMD).]

E. Dispose of, discard or store any pesticides or pesticide containers in such a manner as may cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects or pollute any water supply or waterway; [PL 2005, c. 620, §5 (AMD).]

F. Refuse or otherwise fail to comply with the provisions of this subchapter, the rules adopted under this subchapter or any lawful order of the board; [PL 2021, c. 673, §5 (AMD).]

G. Apply pesticides in a manner inconsistent with rules for pesticide application adopted by the board; or [PL 2021, c. 673, §5 (AMD).]

H. Use or cause to be used any pesticide container inconsistent with rules for pesticide containers adopted by the board. [PL 2021, c. 673, §5 (NEW).]

[PL 2021, c. 673, §5 (AMD).]

**3. Unlawful use.** A person may not apply glyphosate or dicamba within 75 feet of school grounds. This subsection does not apply to residential property or land used for commercial farming.

For purposes of this subsection, unless the context otherwise indicates, the following terms have the following meanings:

A. "Commercial farming" has the same meaning as in section 52, subsection 3; [PL 2021, c. 197, §1 (NEW).]

B. "Residential property" means real property located in this State that is used for residential dwelling purposes; [PL 2021, c. 197, §1 (NEW).]

C. "School" means any public, private or tribally funded elementary school as defined in Title 20-A, section 1, subsection 10, secondary school as defined in Title 20-A, section 1, subsection 32 or a nursery school that is part of an elementary or secondary school; and [PL 2021, c. 197, §1 (NEW).]

D. "School grounds" means:

(1) Land associated with a school building including playgrounds and athletic fields used by students or staff of a school. "School grounds" does not include land used for a school farm; and

(2) Any other outdoor area used by students or staff including property owned by a municipality or a private entity that is regularly used for school activities by students and staff but not including land used primarily for nonschool activities, such as golf courses, farms and museums. [PL 2021, c. 197, §1 (NEW).]

[PL 2021, c. 197, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1983, c. 558, §§1,2 (AMD). PL 1983, c. 761, §§1,2 (AMD). PL 1985, c. 506, §A6 (AMD). PL 1989, c. 878, §§E3,4 (AMD). PL 2005, c. 620, §5 (AMD). PL 2021, c. 105, §§1-3 (AMD). PL 2021, c. 197, §1 (AMD). PL 2021, c. 673, §§4, 5 (AMD).

**§607. Registration**

**1. Conditions requiring registration.** A pesticide may not be distributed in this State unless it is registered with the board in accordance with the provisions of this subchapter, except that registration is not required if:

A. A pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and is used solely at that plant or warehouse as a constituent part to make a pesticide that is registered under the provisions of this subchapter; or [PL 2005, c. 620, §6 (NEW).]

B. A pesticide is distributed under the provisions of an experimental use permit issued by EPA. [PL 2005, c. 620, §6 (NEW).]

[PL 2005, c. 620, §6 (AMD).]

**2. Contents of statement made by applicant.** The applicant for registration shall file a statement with the board, which must include:

A. The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than applicant's; [PL 1975, c. 382, §3 (NEW).]

B. The name of the pesticide; [PL 1975, c. 382, §3 (NEW).]

C. Other necessary information required by the board; and [PL 2005, c. 620, §6 (AMD).]

D. A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions for use and the use classification as provided for in FIFRA. [PL 1975, c. 382, §3 (NEW).]

[PL 2005, c. 620, §6 (AMD).]

**3. Submission of formula.** The board, when it determines it necessary in the administration of this subchapter, may require the submission of the complete formula of any pesticide, including the active and inert ingredients.

[PL 2005, c. 620, §6 (AMD).]

**4. Test results.** The board may require a full description of all tests made and the results of those tests on any pesticide not registered pursuant to FIFRA, Section 3 or on any pesticide on which restrictions are being considered by the board. In the case of renewal of registration, the board may require a statement only with respect to test result information that is different from that furnished when the pesticide was registered or last reregistered.

[PL 2005, c. 620, §6 (AMD).]

**5. Power to require other information.** The board may by rules adopted under section 610 require the submission of other necessary information.

[PL 2005, c. 620, §6 (AMD).]

**5-A. Confidentiality.** Notwithstanding Title 1, section 402, data submitted pursuant to subsections 3, 4 and 5 that have been determined confidential by the Administrator of the United States Environmental Protection Agency in accordance with 7 United States Code, Section 136h (2007) are confidential and may not be available for public inspection.

[PL 2007, c. 597, §8 (AMD).]

**6. Registration fee; programs funded.** The applicant desiring to register a pesticide must pay an annual registration fee of $215 for each pesticide registered for that applicant. Annual registration periods expire on December 31st or in a manner consistent with Title 5, section 10002, whichever is later.

The board shall monitor fee revenue and expenditures under this subsection to ensure that adequate funds are available to fund board and related department programs and, to the extent funds are available, to provide grants to support stewardship programs. The board shall use funds received under this subsection to provide:

A. An annual grant of no less than $135,000 to the University of Maine Cooperative Extension, on or about April 1st, for development and implementation of integrated pest management programs; [PL 2019, c. 243, §1 (AMD).]

B. Funding for public health-related mosquito monitoring programs or other pesticide stewardship and integrated pest management programs, if designated at the discretion of the board, as funds allow after expenditures under paragraph A. The board may seek the advice of the Integrated Pest Management Council established in section 2404 in determining the most beneficial use of the funds, if available, under this subsection; and [PL 2019, c. 243, §1 (AMD).]

C. An annual grant of not less than $65,000 to the University of Maine Cooperative Extension, on or about April 1st, for the development and revision of training manuals for applicator certification, licensing and recertification and to perform other aspects of pesticide education programs. The University of Maine Cooperative Extension may seek the advice of the board in establishing the

pesticide education programs and shall submit an annual report on the use of the funds under this paragraph, no later than January 15th, to the board and the joint standing committee of the Legislature having jurisdiction over pesticide education and certification matters. [PL 2019, c. 243, §1 (NEW).]

The University of Maine may not charge overhead costs against grants under this subsection.

By February 15th annually, the board shall submit a report to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters detailing the grants funded by the fee under this subsection. The annual report must include a recommendation by the board as to whether the amount of the fee is adequate to fund the programs described in this subsection. The joint standing committee may report out a bill to the Legislature based on the board's recommendations.
[PL 2023, c. 22, §1 (AMD).]

**7. Renewal of registration.** Registrations must be renewed annually prior to January 1st. The board shall mail forms for reregistration to registrants at least 30 days prior to the due date.
[PL 2005, c. 620, §6 (AMD).]

**8. Approval of application for registration.**

[PL 2005, c. 620, §6 (RP).]

**8-A. Approval of application for registration.** The processing of an application for registration is governed by this subsection.

A. The board shall consider the required information set forth under subsections 2, 3, 4 and 5 and shall register a pesticide if it determines that:

(1) Its composition warrants the proposed claims for it;

(2) Its labeling and other material required to be submitted comply with the requirements of this subchapter;

(3) It will perform its intended function without unreasonable adverse effects on the environment;

(4) When used in accordance with widespread and commonly recognized practice, it will not generally cause unreasonable adverse effects on the environment; and

(5) A need for the pesticide exists. [PL 2005, c. 620, §6 (NEW).]

B. If, within 180 days from the date the completed application for registration is submitted, the board fails to act upon an application for registration of a pesticide that has been certified by EPA, the pesticide is deemed registered under this chapter unless the board issues a written statement containing the reasons for the failure to act upon the application. The statement of the board is deemed a refusal to register pursuant to section 609. [PL 2005, c. 620, §6 (NEW).]

C. Paragraphs A and B do not apply if the registrant fails to provide any information required to be submitted under this subchapter or does not provide other information requested by the board in order to determine whether the pesticide should be registered.

Nothing in this paragraph affects the rights of the board to make further inquiry regarding the registration of a pesticide or to refuse reregistration, to suspend or revoke registration or to otherwise restrict or condition the use of pesticides in order to protect public health and the environment. [PL 2005, c. 620, §6 (NEW).]

D. Prior to registering a pesticide for a special local need, the board shall classify the uses of the pesticide for general or restricted use in conformity with FIFRA, Section 3(d). The board may not make any lack of essentiality a criterion for denying registration of any pesticide. When 2 pesticides

meet the requirements of this paragraph, the board may not register one in preference to the other. [PL 2005, c. 620, §6 (NEW).]

E. The board may establish such other requirements by rule in accordance with section 610 as are necessary to carry out the provisions of this subsection. [PL 2005, c. 620, §6 (NEW).]

[PL 2005, c. 620, §6 (NEW).]

**9. Adverse environmental effects.** If, at any time after the registration of a pesticide, the registrant has additional factual information regarding unreasonable adverse effects of a pesticide on the environment, the registrant shall submit that information to the board.

[PL 2005, c. 620, §6 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1977, c. 694, §§52-55 (AMD). PL 1979, c. 644, §1 (AMD). PL 1981, c. 9 (AMD). PL 1983, c. 568, §1 (AMD). PL 1985, c. 592 (AMD). PL 1985, c. 627, §1 (AMD). PL 1987, c. 310, §1 (AMD). PL 1987, c. 723, §1 (AMD). PL 1989, c. 878, §E5 (AMD). PL 1993, c. 410, §S1 (AMD). PL 2001, c. 498, §1 (AMD). PL 2003, c. 282, §1 (AMD). PL 2005, c. 585, §1 (AMD). PL 2005, c. 620, §6 (AMD). PL 2007, c. 466, Pt. A, §25 (AMD). PL 2007, c. 597, §8 (AMD). PL 2013, c. 290, §1 (AMD). PL 2013, c. 290, §4 (AFF). PL 2019, c. 243, §1 (AMD). PL 2023, c. 22, §1 (AMD).

**§607-A. Review or reregistration**

**1. Review required.** The board shall review chemical pesticides used in this State in accordance with the requirements of this section. The board shall select 2 pesticides for review each year with priority given to pesticides that have patterns of use in this State that differ from prevalent use patterns nationally or regionally. The board may select additional pesticides for review as the board determines need and as resources allow.

[PL 2005, c. 620, §7 (AMD).]

**2. Review process.** In cooperation with technical personnel of the Department of Environmental Protection; the Department of Inland Fisheries and Wildlife; the Department of Health and Human Services; the Department of Marine Resources; and the Department of Agriculture, Conservation and Forestry, specifically the Maine Forest Service, the board shall conduct a review consisting of the following or portions of the following as the board determines relevant:

A. An environmental risk assessment to determine the effects of pesticides on the ecosystem. This assessment is to be based on available literature. The board shall request data that it determines necessary to carry out the purpose of this chapter; or [PL 2005, c. 620, §7 (AMD).]

B. A health risk assessment, based on a literature search of laboratory, clinical and epidemiological data available within and without the State. The board shall request data it determines necessary to carry out the purpose of this chapter. [PL 2005, c. 620, §7 (AMD).]

C. [PL 2005, c. 620, §7 (RP).]

[PL 2005, c. 620, §7 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

**2-A. Water residue surveys.** The board shall conduct a water residue survey at least once every 6 years to establish a representative sample of a number of wells or bodies of water, selected at random, in areas of possible contamination or at other locations to be described by the board, for the purpose of testing these waters and preparing a profile of the kinds and amounts of pesticides present.

[PL 2005, c. 620, §7 (NEW).]

**3. Effect of review on reregistration.** If the reviews in this section demonstrate that the impact of the pesticide on the ecosystem warrants additional health or environmental safeguards, the board shall require implementation of those safeguards prior to reregistration. The board may not refuse to

renew a pesticides registration based solely on its inability to conduct a review in accordance with this section.
[PL 2005, c. 620, §7 (AMD).]

SECTION HISTORY

PL 1983, c. 558, §3 (NEW). PL 1989, c. 878, §E6 (AMD). RR 1997, c. 2, §26 (COR). PL 2003, c. 689, §B6 (REV). PL 2005, c. 620, §7 (AMD). PL 2011, c. 657, Pt. W, §5 (REV).

**§608. Experimental use permits**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1977, c. 694, §§56-58 (AMD). PL 1989, c. 878, §E7 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2005, c. 620, §8 (RP).

**§609. Refusal to register; cancellation; suspension; legal recourse**

**1. Procedure.** The following provisions govern the board when refusing to register a pesticide, refusing to renew a pesticide registration, canceling a pesticide registration or suspending a pesticide registration.

A. If it does not appear to the board that a pesticide warrants the proposed claims for it or if the pesticide and its labeling and other material required to be submitted do not comply with the provisions of this subchapter or rules adopted under this subchapter, the board shall notify the applicant of the manner in which the pesticide, labeling or other material required to be submitted fails to comply with the provisions of this subchapter so as to afford the applicant an opportunity to make the necessary corrections. [RR 2005, c. 2, §7 (COR).]

B. When the board determines that a pesticide or its labeling does not comply with the provisions of this subchapter or rules adopted under this subchapter, the board may cancel or refuse to renew the registration of a pesticide or change its classification, after notice and opportunity for hearing has been provided in a manner consistent with the Maine Administrative Procedure Act. [PL 2005, c. 620, §9 (AMD).]

C. When the board determines that there is an imminent hazard, it may, on its own motion, suspend the registration of a pesticide in accordance with Title 5, section 10004. [PL 2005, c. 620, §9 (AMD).]

D. When the board becomes cognizant of any possible hazard or violation involving a registered product, it shall cause notice of the possible hazard or violation to be delivered by registered mail, return receipt requested, to the registrant and may cancel or refuse to renew the registration of the pesticide or change its classification after notice and opportunity for hearing has been provided in a manner consistent with the Maine Administrative Procedure Act. [PL 2005, c. 620, §9 (AMD).]

E. [PL 2005, c. 620, §9 (RP).]
[RR 2005, c. 2, §7 (COR).]

**2. Federally registered pesticides.** If the board determines that any federally registered pesticide, with respect to the use of such pesticide within this State, does not warrant the claims for it, or might cause unreasonable adverse effects on the environment, the board may refuse to register the pesticide as required in section 607 or, if the pesticide is registered under section 607, may cancel or suspend the registration in accordance with subsection 1. If the board believes the pesticide does not comply with the provisions of FIFRA or the regulations adopted by EPA pursuant to FIFRA, it shall advise EPA of the manner in which the pesticide, labeling or other material required to be submitted fails to comply with the provisions of FIFRA and suggest necessary corrections.
[PL 2005, c. 620, §9 (AMD).]

**3. Person adversely affected by board action.** Any person adversely affected by a final action of the board under this section may obtain judicial review thereof by filing in the District Court, within 60 days after the entry of that final action, a petition praying that the action be set aside in whole or in part. A copy of the petition must be forthwith transmitted by the clerk of the court to the board and upon receipt the board shall file in the court the record of the proceedings on which it based its final action. The court has jurisdiction to affirm or set aside the final action complained of in whole or in part. The findings of the board with respect to questions of fact must be sustained if supported by substantial evidence when considered on the record as a whole. Upon application, the court may remand the matter to the board to take further testimony if there are reasonable grounds for the failure to adduce the evidence in the prior hearing. The board may modify its findings and final action by reason of the additional evidence and shall file the additional record and any modification of the findings or final action with the clerk of the court.
[PL 2005, c. 620, §9 (NEW).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1977, c. 694, §§59-61 (AMD). PL 1989, c. 878, §E8 (AMD). PL 2005, c. 620, §9 (AMD). RR 2005, c. 2, §7 (COR).

**§610. Determinations; rules; restricted use pesticides; uniformity**

**1. Determinations.** The board may by rule:

A. Declare as a pest any form of plant or animal life, except viruses, bacteria or other microorganisms on or in living human beings or other living animals, that is injurious to health or the environment; [RR 2005, c. 2, §8 (COR).]

B. Determine whether pesticides registered under the authority of FIFRA, Section 24(c) are highly toxic to human beings. [PL 2005, c. 620, §10 (AMD).]

C. Determine whether pesticides or quantities of substances contained in pesticides are injurious to the environment. The board must be guided by EPA regulations in this determination; and [PL 2005, c. 620, §10 (AMD).]

D. Require any pesticide to be colored or discolored if it determines that such a requirement is feasible and is necessary for the protection of health and the environment. [PL 2005, c. 620, §10 (AMD).]
[RR 2005, c. 2, §8 (COR).]

**2. Rule-making powers.** The board may adopt other rules that it determines necessary to carry out the provisions of this subchapter. The board's rule-making authority includes, but is not limited to, rules:

A. Providing for the collection, examination and reporting of samples of pesticides or devices; [PL 2005, c. 620, §10 (AMD).]

B. Providing for the safe handling, transportation, storage, display, distribution and disposal of pesticides and their containers; [PL 2005, c. 620, §10 (AMD).]

C. Establishing requirements of all pesticides required to be registered under provisions of this subchapter, provided that such rules do not impose any requirements for federally registered labels in addition to or different from those required pursuant to FIFRA; [PL 2005, c. 620, §10 (AMD).]

D. Specifying classes of devices that are subject to the provisions of section 605, subsection 1; [PL 2005, c. 620, §10 (AMD).]

E. Governing pesticide application, including, but not limited to, rules:

(1) Designed to minimize pesticide drift to the maximum extent practicable under currently available technology;

(2) Prescribing procedures to be used for the application of pesticides, including the time, place, manner and method of that application;

(3) Restricting or prohibiting the use of pesticides in designated areas or during specified periods of time; and

(4) Prescribing tolerance levels for pesticide residues in off-target areas; [PL 2005, c. 620, §10 (NEW).]

F. Prescribing the submission of information necessary for the board to undertake its responsibilities under this subchapter; [PL 2005, c. 620, §10 (NEW).]

G. Prescribing requirements as necessary to carry out the provisions of section 607; [PL 2005, c. 620, §10 (NEW).]

H. Governing the registration and the cancellation and suspension of registration of pesticides pursuant to section 609; and [PL 2005, c. 620, §10 (NEW).]

I. For the purpose of achieving uniformity of requirements between the states and the Federal Government, provided the rules are in conformity with the primary pesticide standards, particularly as to labeling, registration requirements and criteria for classifying pesticides for restricted use, as established by EPA or other federal or state agencies. [PL 2005, c. 620, §10 (NEW).]

[PL 2005, c. 620, §10 (AMD).]

**3. Uniformity of requirements; restricted uses.**

[PL 2005, c. 620, §10 (RP).]

**4. Designation of rules.** Rules adopted under this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A unless otherwise specified or designated in accordance with subsection 5.

[PL 2005, c. 620, §10 (NEW).]

**5. Review of regulatory agenda; designation as major substantive rules.** Notwithstanding Title 5, section 8060, subsection 2, the due date for the submission of a regulatory agenda by the board under section 8060 is January 15th. The board shall annually submit a regulatory agenda complying with Title 5, section 8060, subsection 1 to the joint standing committee of the Legislature having jurisdiction over pesticides regulation. The legislative committee of jurisdiction shall complete its review of the board's regulatory agenda no later than February 15th of each year. The committee may report out legislation no later than February 20th to designate any rule on the board's regulatory agenda as a major substantive rule subject to legislative review under Title 5, chapter 375, subchapter 2-A.

[PL 2005, c. 620, §10 (NEW).]

**6. Major substantive rules.** Rules proposed for adoption by the board after July 1, 2007 that pertain to topics specified in paragraphs A to E are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Rules in effect on July 1, 2007 that pertain to topics specified in paragraphs A to E continue in effect, except that proposed amendments to those rules are major substantive rules and must be reviewed and approved prior to final adoption in accordance with Title 5, section 8072. Rules proposed for adoption by the board after March 1, 2008 that pertain to topics specified in paragraphs F and G are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Rules in effect on March 1, 2008 that pertain to topics specified in paragraph G continue in effect, except that proposed amendments to those rules are major substantive rules and must be reviewed and approved prior to final adoption in accordance with Title 5, section 8072. Topics governed by this subsection are:

A. Drift from outside spraying; [PL 2007, c. 145, §1 (NEW).]

B. Notification requirements for outside spraying; [PL 2007, c. 145, §1 (NEW).]

C. Pesticides applications in occupied buildings; [PL 2007, c. 145, §1 (NEW).]

D. A notification registry for indoor applications of pesticides; [PL 2007, c. 484, §2 (AMD).]

E. Buffers from shorelines for broadcast applications of pesticides; [PL 2007, c. 484, §2 (AMD).]

F. Use of organophosphate pesticides adjacent to occupied areas; and [PL 2007, c. 484, §2 (NEW).]

G. Distribution and use of plant-incorporated protectants. [PL 2007, c. 484, §2 (NEW).]
[PL 2007, c. 484, §2 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1977, c. 694, §§62,63 (AMD). PL 1989, c. 878, §E9 (AMD). RR 2005, c. 2, §8 (COR). PL 2005, c. 620, §10 (AMD). PL 2007, c. 145, §1 (AMD). PL 2007, c. 484, §2 (AMD).

**§611. Enforcement**

**1. Board powers.** Notwithstanding any other provision of law, the sampling and examination of pesticides or devices for the purpose of determining whether they comply with the requirements of this subchapter must be done under the direction of the board. The board may, upon presentation of proper identification, enter any distributor's premises, including any vehicle of transport, at all reasonable times in order to have access to labeled pesticides or devices packaged for distribution, may open any case, package or other container and may, upon tendering the market price, take samples for analysis. If it appears from such an examination that a pesticide or device fails to comply with the provisions of this subchapter or rules adopted under this subchapter, and the board contemplates instituting criminal proceedings against any person, the board shall cause appropriate notice to be given to that person in a manner consistent with the Maine Administrative Procedure Act. The board shall provide any person so notified an opportunity for a hearing in a manner consistent with the Maine Administrative Procedure Act's provisions governing adjudicatory proceedings. If in the opinion of the board it appears that the provisions of this subchapter or rules adopted under this subchapter have been violated by that person, the board shall refer a copy of the results of the analysis or the examination of such pesticide or device to the attorney for the district in which the violation occurred.
[RR 2005, c. 2, §9 (COR).]

**2. Minor violations.** Nothing in this subchapter may be construed as requiring the board to report minor violations of this subchapter for prosecution or for the institution of condemnation proceedings when the board believes that the public interest will be served best by a suitable notice of warning in writing.
[PL 2005, c. 620, §11 (AMD).]

**3. Repeated violations.** The board shall record all violations of this subchapter and Title 22, chapter 258-A, including the name of the owner of the land on which the pesticides were intended to be applied, the name of the licensed pesticides applicator and the name of the person who contracted the pesticide application services. The board shall identify persons who repeatedly violate provisions relating to pesticide use and recommend to the Attorney General methods to prevent further violations by those persons.
[PL 2005, c. 620, §11 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1977, c. 694, §64 (AMD). PL 1983, c. 558, §4 (AMD). PL 1989, c. 878, §E10 (AMD). PL 2005, c. 620, §11 (AMD). RR 2005, c. 2, §9 (COR).

**§612. "Stop sale, use or removal" order**

When the board has reasonable cause to believe a pesticide or device is being distributed, stored, transported or used in violation of any of the provisions of this subchapter or of any of the rules adopted pursuant to this subchapter, it may issue and serve a written "stop sale, use or removal" order upon the

owner or custodian of that pesticide or device. If the owner or custodian is not available for service of the order, the board may attach the order to the pesticide or device and notify the owner or custodian and the registrant. The pesticide or device may not be sold, used or removed until the provisions of this subchapter have been complied with and the pesticide or device has been released in writing under conditions specified by the board or the violation has been otherwise disposed of as provided in this subchapter by a court of competent jurisdiction. The issuance of such an order is not a licensing or an adjudicatory proceeding as defined by the Maine Administrative Procedure Act. [PL 2005, c. 620, §12 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1977, c. 694, §65 (AMD). PL 1989, c. 878, §E11 (AMD). PL 2005, c. 620, §12 (AMD).

**§613. Judicial action after "stop sale, use or removal" order**

The following provisions govern judicial actions concerning a "stop sale, use or removal" order by the board. [PL 2005, c. 620, §13 (NEW).]

**1. Filing action; adjudication.** After service of a "stop sale, use or removal" order is made upon any person, either that person, the registrant or the board may file an action in a court of competent jurisdiction in the district in which the violation is alleged to have occurred for an adjudication of the alleged violation. The court may issue temporary or permanent injunctions, mandatory or restraining, and any intermediate orders it determines necessary or advisable. The court may order condemnation of any pesticide or device that does not meet the requirements of this subchapter or rules adopted under this subchapter.
[PL 2005, c. 620, §13 (AMD).]

**2. Disposition of condemned pesticide; costs and fees.** If the court orders that a pesticide or device is condemned, the court shall direct that the pesticide or device be disposed of by destruction or sale. If the pesticide or device is directed to be sold, the proceeds less costs, including legal costs, must be paid to the Treasurer of State as provided in section 621. A pesticide or device may not be sold contrary to the provisions of this subchapter or rules adopted under this subchapter. When a decree of condemnation is entered against a pesticide or device, the court shall charge court costs, fees, storage and other proper expenses against the person, if any, appearing as claimant of the pesticide. The court may direct that the pesticide or device be delivered to the owner, upon payment of costs and execution and delivery of a good and sufficient bond conditioned on the pesticide or device not being disposed of unlawfully, for relabeling, reprocessing or otherwise bringing the product into compliance.
[PL 2005, c. 620, §13 (AMD).]

**3. Award of court costs and fees.**

[PL 2005, c. 620, §13 (RP).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1989, c. 878, §E12 (AMD). PL 2005, c. 620, §13 (AMD).

**§614. Denial, suspension, revocation of license**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1977, c. 694, §66 (AMD). PL 1989, c. 878, §E13 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2005, c. 620, §14 (RP).

**§615. Subpoenas**

The board may issue subpoenas to compel the attendance of witnesses and the production of books, documents and records in the State in any hearing affecting the authority or privilege granted by a license, registration or permit issued under the provisions of this subchapter. [PL 1989, c. 878, Pt. E, §14 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1989, c. 878, §E14 (AMD).

**§616. Penalties**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1977, c. 696, §65 (AMD). PL 1989, c. 841, §2 (RP). PL 1989, c. 878, §E15 (AMD). PL 2005, c. 620, §15 (RP).

**§616-A. Penalties**

**1. Informal hearing.** When the staff of the board proposes that the board take action on a possible violation, the board shall notify the alleged violator before discussing the alleged violation. The alleged violator may choose to address the board and may also choose to be represented by legal counsel. This requirement does not constitute and is not subject to the same procedures as an adjudicatory hearing under the Maine Administrative Procedure Act.
[PL 2005, c. 620, §16 (AMD).]

**2. Civil violations.** The following violations are civil violations.

A. A person may not violate this subchapter or a rule adopted pursuant to this subchapter or Title 22, chapter 258-A or a rule adopted pursuant to Title 22, chapter 258-A. This paragraph does not apply to a private applicator as defined in Title 22, section 1471-C, subsection 22 or a private applicator of general use pesticides as defined in Title 22, section 1471-C, subsection 22-A. Except as provided in paragraph B, the following penalties apply to violations of this paragraph.

(1) A person who violates this paragraph commits a civil violation for which a fine may be adjudged as follows.

(a) A fine of not more than $10,000 may be adjudged except as provided in division (b).

(b) A fine of not more than $50,000 may be adjudged for an unauthorized pesticide application in a case in which the preponderance of the evidence demonstrates that the person who violated this paragraph benefited substantially from the violation as determined by the board by routine technical rule as described in Title 5, chapter 375, subchapter 2-A. Clear and convincing evidence that only one person benefited substantially from an unauthorized pesticide application constitutes prima facie evidence that the person is responsible for the unauthorized pesticide application.

(2) A person who violates this paragraph and is subject to a fine under subparagraph (1), division (a) after having previously violated this paragraph and having been subject to a fine under subparagraph (1), division (a) within the previous 4-year period commits a civil violation for which a fine of not more than $75,000 may be adjudged. A person who violates this paragraph and is subject to a fine under subparagraph (1), division (b) after having previously violated this paragraph and having been subject to a fine under subparagraph (1), division (b) within the previous 4-year period commits a civil violation for which a fine of not more than $150,000 may be adjudged. [PL 2025, c. 292, §1 (AMD).]

B. A private applicator, as defined in Title 22, section 1471-C, subsection 22, and a private applicator of general use pesticides, as defined in Title 22, section 1471-C, subsection 22-A, may not violate this subchapter or a rule adopted pursuant to this subchapter or Title 22, chapter 258-A

or a rule adopted pursuant to Title 22, chapter 258-A or a rule regarding records maintained pursuant to section 606, subsection 2, paragraph G. The following penalties apply to violations of this paragraph.

(1) A person who violates this paragraph commits a civil violation for which a fine of not more than $1,000 may be adjudged.

(2) A person who violates this paragraph after having previously violated this paragraph within the previous 4-year period commits a civil violation for which a fine of not more than $2,000 may be adjudged. [PL 2025, c. 292, §2 (AMD).]

[PL 2025, c. 292, §§1, 2 (AMD).]

**2-A. Criminal violation.** A person may not intentionally or knowingly violate this subchapter or Title 22, chapter 258-A, a rule adopted under this subchapter or Title 22, chapter 258-A or a restriction of a registration issued pursuant to this subchapter. A person who violates this subsection commits a Class E crime. Notwithstanding Title 17-A, section 1604, subsection 1 and sections 1704 and 1705, the court may impose a sentencing alternative of a fine of not more than $7,500 or a term of imprisonment of not more than 30 days, or both, for each violation. Prosecution under this subsection is by summons and not by warrant. A prosecution under this subsection is separate from an action brought pursuant to subsection 2.

[PL 2019, c. 113, Pt. C, §1 (AMD).]

**3. Continuation.** Each day that the violation continues is considered a separate offense.

[PL 1989, c. 841, §3 (NEW).]

**4. Exceptions.**

[PL 2003, c. 452, Pt. B, §8 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

**5. Criminal violations.**

[PL 2003, c. 452, Pt. B, §8 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

**6. Other relief.** Notwithstanding Title 22, section 1471-D, subsections 6 to 8 and in addition to other sanctions provided under this section, the court may order that a violator obtain recertification credits through board-approved meetings or courses as a condition of retaining, maintaining or renewing a certification or license required under Title 22, chapter 258-A.

[PL 1989, c. 841, §3 (NEW).]

**7. Considerations.** In setting a penalty under this section, the court shall consider, without limitation:

A. Prior violations by the same party; [PL 1989, c. 841, §3 (NEW).]

B. The degree of harm to the public and the environment; [PL 1989, c. 841, §3 (NEW).]

C. The degree of environmental damage that has not been abated or corrected; [PL 1989, c. 841, §3 (NEW).]

D. The extent to which the violation continued following the board's notice to the violator; [PL 1989, c. 841, §3 (NEW).]

E. The importance of deterring the same person or others from future violations; and [PL 1989, c. 841, §3 (NEW).]

F. The cause and circumstances of the violation, including:

(1) The foreseeability of the violation;

(2) The standard of care exercised by the violator; and

(3) Whether or not the violator reported the incident to the board. [PL 1989, c. 841, §3 (NEW).]

[PL 1989, c. 841, §3 (NEW).]

**8. Injunction.** The board may bring an action to enjoin the violation or threatened violation of any provision of this subchapter or any rule made pursuant to this subchapter in a court of competent jurisdiction of the district in which the violation occurs or is about to occur.

[PL 1989, c. 841, §3 (NEW).]

**9. No damages from administrative action if probable cause exists.** A court may not allow the recovery of damages from administrative action taken, or for a stop sale, use or removal order, if the court finds that there was probable cause for the administrative action.

[PL 1989, c. 841, §3 (NEW).]

**10. Sunset.**

[PL 1991, c. 829, §1 (RP).]

SECTION HISTORY

PL 1989, c. 841, §3 (NEW). PL 1991, c. 829, §1 (AMD). PL 2003, c. 452, §§B6-8 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2005, c. 620, §16 (AMD). PL 2011, c. 510, §1 (AMD). PL 2019, c. 113, Pt. C, §1 (AMD). PL 2025, c. 292, §§1, 2 (AMD).

**§617. Exemptions**

**1. Exemptions from penalties.** The penalties provided for violations of section 606, subsection 1, paragraphs A, B, C, D and E do not apply to:

A. Any carrier while lawfully engaged in transporting a pesticide within this State if the carrier, upon request, permits the board to copy all records showing the transactions in and movement of the pesticides or devices; [PL 2005, c. 620, §17 (AMD).]

B. Public officials of this State and the Federal Government while engaged in the performance of their official duties in administering state or federal pesticide laws or regulations; [PL 1975, c. 382, §3 (NEW).]

C. The manufacturer, shipper or other distributor of a pesticide for experimental use only, provided that person holds or is covered by a valid experimental use permit issued by EPA, and provided further that the permit covers the conduct in question; or [PL 2005, c. 620, §17 (AMD).]

D. Any person who ships a substance or mixture of substances being put through tests the purpose of which is only to determine the value of the substance or mixture for pesticide purposes or to determine its toxicity or other properties and from the use of which the user does not expect to receive any benefit in pest control. [PL 2005, c. 620, §17 (AMD).]

[PL 2005, c. 620, §17 (AMD).]

**2. Exemption from this subchapter; pesticides for export.** A pesticide or device may not be found to be in violation of this subchapter if the pesticide or device is intended solely for export to a foreign country and is prepared or packed according to the specifications or directions of the purchaser. If the pesticide or device is not so exported, all the provisions of this subchapter apply.

[PL 2005, c. 620, §17 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1989, c. 878, §E16 (AMD). PL 2005, c. 620, §17 (AMD).

**§618. Publication of information**

The board may publish, at least annually and in such form as it determines proper, results of analyses based on official samples as compared with the guaranteed analyses and information

concerning the distribution of pesticides. The board may not publish individual distribution information, and that information is not a public record under Title 1, section 402. [PL 2005, c. 620, §18 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1989, c. 878, §E17 (AMD). PL 2005, c. 620, §18 (AMD).

**§619. Delegation of duties**

All authority vested in the board under this subchapter may, with like force and effort, be executed by employees of the board to whom the board from time to time delegates such authority. [PL 2005, c. 620, §19 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1989, c. 878, §E18 (AMD). PL 2005, c. 620, §19 (AMD).

**§620. Cooperation**

The board may cooperate with, receive grants-in-aid from and enter into cooperative agreements with any agency of the Federal Government or of this State or its subdivisions, or with any agency of another state, in order to implement this subchapter, including but not limited to taking such actions to: [PL 2005, c. 620, §20 (AMD).]

**1. Uniformity.** Secure uniformity of regulations;
[PL 1975, c. 382, §3 (NEW).]

**2. Cooperative agreements with EPA.** Prepare and submit state plans and enter into cooperative agreements with EPA to register pesticides under the authority of this subchapter and FIFRA;
[PL 1975, c. 382, §3 (NEW).]

**3. Use of state and federal facilities.** Cooperate in the enforcement of the federal pesticide control laws through the use of state or federal personnel, or both, and facilities and to implement cooperative enforcement programs including, but not limited to, the registration and inspection of establishments;
[PL 1975, c. 382, §3 (NEW).]

**4. Contracts for monitoring pesticides.** Enter into contracts for monitoring pesticides for the national plan; and
[PL 1975, c. 382, §3 (NEW).]

**5. Preparation of state plans.** Prepare and submit state plans to meet federal certification standards for issuing experimental use permits.
[PL 1975, c. 382, §3 (NEW).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1989, c. 878, §E19 (AMD). PL 2005, c. 620, §20 (AMD).

**§621. Disposition of funds**

All money received by the board under this subchapter must be deposited in the State Treasury to the credit of a special fund to be used for carrying out the provisions of this subchapter and Title 22, chapter 258-A, Board of Pesticides Control, and for such other expenses related to insect and pest management as provided by law. Positions that are allocated to the fund but that do not perform functions specifically assigned to the board in this subchapter and Title 22, chapter 258-A remain under supervision and management of the Department of Agriculture, Conservation and Forestry. [PL 2005, c. 620, §21 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

The State Controller is authorized to advance up to $500,000 from the Board of Pesticides Control account to the Animal Welfare Fund during any state fiscal year if requested in writing by the commissioner. The funds must be used to meet expenditures of the animal welfare program within the

department. The funds must be returned to the account before the close of the state fiscal year in which the advance was made. [PL 2007, c. 702, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1979, c. 644, §§2,8 (AMD). PL 1989, c. 878, §E20 (AMD). PL 1993, c. 410, §S2 (AMD). PL 2005, c. 620, §21 (AMD). PL 2007, c. 702, §1 (AMD). PL 2011, c. 657, Pt. W, §5 (REV).

**§622. Separability**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 2005, c. 620, §22 (RP).

**§623. Prior liability**

The enactment of this subchapter does not have the effect of terminating or in any way modifying any liability, civil or criminal, in existence on October 1, 1975. [PL 2005, c. 620, §23 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1977, c. 78, §25 (AMD). PL 2005, c. 620, §23 (AMD).

**§624. Repealers**

Jurisdiction in all matters pertaining to the registration, distribution and disposal of pesticides and devices is by this subchapter vested exclusively in the board. [PL 1989, c. 878, Pt. E, §21 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1975, c. 623, §§5-A (AMD). PL 1989, c. 878, §E21 (AMD).

**§625. Right-of-way spraying; no-spray agreements**

Any public utility, or the Department of Transportation, that maintains a right-of-way through a municipality shall offer a no-spray agreement, with reasonable provisions, for the municipality to consider if it desires. Any agreement negotiated may include, but is not limited to, the responsibilities of the parties, the allocation of costs and the rights and remedies of the parties in the event of default and may apply to all or any part of the right-of-way within the municipality. Any agreement reached under this section must be negotiated in good faith, written and signed by all parties. As part of the no-spray agreement, the municipality may either perform the vegetation control work to standards as provided in the agreement or contract with the public utility or the Department of Transportation to conduct the work. [PL 2005, c. 620, §24 (AMD).]

If a reasonable no-spray agreement is offered to a municipality and an agreement is not reached within 90 days after the date of the offer, the public utility or the Department of Transportation at its own option may apply pesticides in its right-of-way or use other methods to control the vegetation. If the municipality agrees to perform vegetation control work but does not perform it by the agreed-upon date, the public utility or the Department of Transportation, after 90 days' written notice to the municipality, at its own option may apply pesticides in its right-of-way or use other methods to control the vegetation. [PL 2005, c. 620, §24 (AMD).]

It is the intent of the Legislature that this section make available to municipalities an alternative to right-of-way maintenance procedures that use pesticides. This section does not affect municipal authority to enact ordinances nor the authority of public utilities or the Department of Transportation to maintain its right-of-way clear of unwanted vegetation in the absence of an agreement. [PL 2005, c. 620, §24 (AMD).]

SECTION HISTORY

PL 1987, c. 702, §1 (NEW). PL 2005, c. 620, §24 (AMD).

## SUBCHAPTER 3

## EGGS

### §631. Definitions

Terms used in sections 631 to 639 shall be construed as follows unless a different meaning is clearly apparent from the language or context:

**1. Candling.** "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.

**1-A. Restricted egg.** "Restricted egg" means any check, dirty egg, incubator reject, inedible, leaker or loss.
[PL 1973, c. 48, §1 (NEW).]

**2. Retail.** "Retail" means selling direct to consumer.

**3. Wholesale.** "Wholesale" means selling to retailers.

SECTION HISTORY

PL 1973, c. 48, §1 (AMD).

### §631-A. Official standards

The commissioner may by rule establish official definitions and standards and sizes for grading or classifying, packaging and labeling eggs. [PL 2005, c. 512, §30 (AMD).]

The standards and sizes pursuant to this section may not be lower in their requirements than the minimum requirements and the official standards and sizes for corresponding grades or classifications as adopted by the Secretary of Agriculture of the United States, commonly known as U.S. Grades. The commissioner may adopt by reference the United States standards, grades and weight classes for shell eggs as adopted by the United States Department of Agriculture Agricultural Marketing Service. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2005, c. 512, §30 (AMD).]

SECTION HISTORY

PL 1973, c. 48, §2 (NEW). PL 1977, c. 694, §67 (AMD). PL 2005, c. 512, §30 (AMD).

### §632. Labeling

All eggs sold or offered for sale for human consumption by any person, partnership, association, firm or corporation shall be labeled with the grade and size designation as set forth in the Maine consumer grades, except as otherwise provided.

### §633. Standards of quality

Except as provided in section 636, the standards of quality for Maine consumer grades for shell eggs that are established by the commissioner apply to all shell eggs sold or offered for sale. The final determination of the grades is made by candling. [PL 2005, c. 512, §31 (AMD).]

SECTION HISTORY

PL 1973, c. 48, §3 (RPR). PL 2005, c. 512, §31 (AMD).

### §634. Grades; advertising

The net weight and size requirements for Maine consumer grades for shell eggs shall be established by the commissioner. In the establishment of such grades, the commissioner shall consult an advisory committee of 5 appointed by him, 3 of whom shall be chosen from a list submitted by the Maine Poultry Improvement Association. [PL 1979, c. 541, Pt. A, §49 (AMD).]

All advertising of such eggs shall include the correct size and grade designation in describing the eggs and the correct size and grade designation shall appear in clearly legible letters on the container in which such eggs are offered for sale. Each lot of eggs sold at wholesale shall be accompanied by an invoice stating both size and grade designation.

No signs, flyers, advertisements or false labels shall be used to sell or offer for sale or expose for sale any eggs which do not conform to the standards for quality and size for Maine consumer grades or established by the commissioner, or which do not conform to sections 631 to 639.

SECTION HISTORY

PL 1973, c. 48, §4 (AMD). PL 1979, c. 541, §A49 (AMD).

**§635. Descriptive labels**

The terms "fresh eggs," "strictly fresh eggs," "hennery eggs," "new-laid eggs," "farm fresh eggs," "selected eggs," "quality certified eggs," "nearby eggs," "native eggs" or words or descriptions of similar import shall not be used on any eggs which do not meet the minimum requirements for Maine consumer Grade A.

**§635-A. Prohibition on sale of restricted eggs**

A person may not sell restricted eggs except that an egg producer or packer may sell restricted eggs on that producer's or packer's premises directly to a household consumer for use by that consumer and members of the consumer's household and the consumer's nonpaying guests and employees. [PL 2005, c. 512, §32 (NEW).]

SECTION HISTORY

PL 2005, c. 512, §32 (NEW).

**§636. Exemptions**

**1. Direct sales to consumers.** Producers selling eggs of their own production direct to consumers are exempt from sections 631-A to 635 for those sales.
[PL 2005, c. 512, §33 (NEW).]

**2. Eggs shipped for wholesale sale.** An egg producer may ship eggs to a wholesaler or to another shipper without labeling and grading the eggs in accordance with sections 631-A to 635. When an egg producer ships eggs that are marked as to grade and size, the labeling must be accurate and comply with the standards of this subchapter and rules adopted pursuant to section 631-A.
[PL 2005, c. 512, §33 (NEW).]

SECTION HISTORY

PL 1973, c. 48, §5 (RPR). PL 2005, c. 512, §33 (RPR).

**§637. Enforcement**

The commissioner shall administer sections 631 to 643 and may adopt, in a manner consistent with the Maine Administrative Procedure Act, uniform rules for such administration. The commissioner may recover the fines imposed for violations of sections 631 to 643 in a civil action brought in the commissioner's name, with the venue to be as in other civil actions, and if prevailing in that action, the commissioner shall recover full costs. [PL 2005, c. 512, §34 (AMD).]

SECTION HISTORY

PL 1977, c. 694, §68 (AMD). PL 1977, c. 696, §66 (AMD). PL 2005, c. 512, §34 (AMD).

**§638. Disposal of forfeitures**

All fines imposed for violation of this subchapter must be paid to the commissioner. The commissioner shall send all fines received for violations of this subchapter to the Treasurer of State for deposit in the General Fund. [PL 2005, c. 512, §35 (AMD).]

SECTION HISTORY

PL 1977, c. 696, §67 (RPR). PL 2005, c. 512, §35 (AMD).

**§639. Violations**

Any person, firm, partnership, association or corporation who shall violate any of the provisions of sections 631 to 639 or shall neglect or refuse to comply with the provisions thereof or any rule or regulation promulgated hereunder commits a civil violation for which the following forfeitures shall be adjudged: [PL 1977, c. 696, §68 (RPR).]

**1. First violation.** For the first violation, a forfeiture not to exceed $50; and
[PL 1977, c. 696, §68 (NEW).]

**2. Subsequent violation.** For each subsequent violation, a forfeiture not to exceed $200.
[PL 1977, c. 696, §68 (NEW).]

SECTION HISTORY

PL 1977, c. 696, §68 (RPR).

**§640. Definitions**

As used in this Title, unless the context otherwise indicates, the following terms shall have the following meanings. [PL 1979, c. 541, Pt. A, §50 (AMD).]

**1. Processed eggs.** "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.

**2. Storage eggs.** "Storage eggs" 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 fresh prohibited.

**3. Word fresh prohibited.** 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.

SECTION HISTORY

PL 1979, c. 541, §A50 (AMD).

**§641. Marking of storaged or processed eggs**

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. 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.

**§642. Contents of invoice**

Whenever any person, firm or corporation within this State ships or delivers to a purchaser within this State any shell eggs that 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 must be marked plainly with date of receipt and date of withdrawal by the officer, or the officer's agents, in charge of the cold storage plant. [RR 2021, c. 1, Pt. B, §92 (COR).]

SECTION HISTORY

RR 2021, c. 1, Pt. B, §92 (COR).

**§643. Violations**

A person, firm or corporation that violates any provision of sections 640 to 642 commits a civil violation for which a forfeiture of not less than $100 nor more than $500 may be adjudged. [PL 2001, c. 421, Pt. B, §6 (AMD); PL 2001, c. 421, Pt. C, §1 (AFF).]

SECTION HISTORY

PL 1977, c. 696, §69 (RPR). PL 2001, c. 421, §B6 (AMD). PL 2001, c. 421, §C1 (AFF).

## SUBCHAPTER 4

## FEEDS

**§691. Title**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 77, §2 (RP).

**§692. Definitions**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 77, §2 (RP).

**§693. Registration**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 77, §2 (RP).

**§694. Labeling**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 77, §2 (RP).

**§695. Adulteration**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 77, §2 (RP).

**§696. Misbranding**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 77, §2 (RP).

**§697. Inspection, sampling and analysis**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 77, §2 (RP).

**§698. Regulations, standards and definitions**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 77, §2 (RP).

**§699. Detained commercial feeds**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 77, §2 (RP).

**§700. Enforcement**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 77, §2 (RP).

**§701. Penalties**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 77, §2 (RP).

## SUBCHAPTER 4-A

## FEEDS

**§711. Title**

This subchapter shall be known as the "Maine Commercial Feed Law of 1971." [PL 1971, c. 77, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 77, §1 (NEW).

**§712. Definitions**

As used in this subchapter, unless the context otherwise indicates, the following terms shall have the following meanings. [PL 1979, c. 541, Pt. A, §51 (AMD).]

**1. Brand name.** "Brand name" means a word, name, symbol or device, or any combination thereof, that identifies the commercial feed of a distributor or registrant and distinguishes it from that of others.

[PL 2005, c. 512, §36 (AMD).]

**2. Commercial feed.** "Commercial feed" means all materials except unmixed seed, whole or processed, when not adulterated within the meaning of section 717, subsections 1 to 4 which are distributed for use as feed or for mixing in feed, provided that the commissioner by regulation may exempt from this definition, or from specific provisions of this Act, commodities such as hay, straw, stover, silage, cobs, husks, hulls and individual chemical compounds or substances when such commodities, compounds or substances are not intermixed or mixed with other materials, and are not adulterated within the meaning of section 717, subsection 1, paragraph A.
[PL 1971, c. 77, §1 (NEW).]

**3. Contract feeder.** "Contract feeder" means a person who, as an independent contractor, feeds commercial feed to animals pursuant to a contract whereby such commercial feed is supplied, furnished or otherwise provided to such person and whereby such person's remuneration is determined all or in part by feed consumption, mortality, profits or amount or quality of product.
[PL 1971, c. 77, §1 (NEW).]

**4. Customer-formula feed.** "Customer-formula feed" means commercial feed which consists of a mixture of commercial feeds or feed ingredients or both, each batch of which is manufactured according to the specific instructions of the final purchaser.
[PL 1971, c. 77, §1 (NEW).]

**5. Distribute.** "Distribute" means to offer for sale, sell, exchange or barter commercial feed; or to supply, furnish or otherwise provide commercial feed to a contract feeder.
[PL 1971, c. 77, §1 (NEW).]

**6. Distributor.** The term "distributor" means any person who distributes.
[PL 1971, c. 77, §1 (NEW).]

**7. Drug.** "Drug" means any article intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in animals other than humans and articles other than feed intended to affect the structure or any function of the animal body.
[RR 2021, c. 1, Pt. B, §93 (COR).]

**8. Feed ingredient.** "Feed ingredient" means each of the constituent materials making up a commercial feed.
[PL 1971, c. 77, §1 (NEW).]

**8-A. Home-based manufacturer of pet food.** "Home-based manufacturer of pet food" means a person who manufactures 10 or fewer product names in that person's home and sells the products directly to consumers.
[PL 2007, c. 459, §1 (NEW).]

**9. Label.** "Label" means a display of written, printed or graphic matter upon or affixed to the container in which a commercial feed is distributed, or in the case of a bulk shipment the information shall accompany delivery.
[PL 1971, c. 77, §1 (NEW).]

**10. Labeling.** "Labeling" means all labels and other written, printed or graphic matter upon a commercial feed or any of its containers or wrapper, or accompanying such commercial feed.
[PL 1971, c. 77, §1 (NEW).]

**11. Manufacture.** "Manufacture" means to grind, mix or blend, or further process a commercial feed for distribution.
[PL 1971, c. 77, §1 (NEW).]

**12. Mineral feed.** "Mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.

[PL 1971, c. 77, §1 (NEW).]

**13. Official sample.** "Official sample" means a sample of feed taken by the commissioner or the commissioner's agent in accordance with section 720, subsections 3, 5 or 6.
[RR 2021, c. 1, Pt. B, §94 (COR).]

**14. Percent.** "Percent" or "percentages" means percentages by weights.
[PL 1971, c. 77, §1 (NEW).]

**15. Person.** "Person" includes individual, partnership, corporation and association.
[PL 1971, c. 77, §1 (NEW).]

**16. Pet.** "Pet" means any domesticated animal normally maintained in or near the household of the owner thereof.
[PL 1971, c. 77, §1 (NEW).]

**17. Pet food.** "Pet food" means any commercial feed prepared and distributed for consumption by pets.
[PL 1971, c. 77, §1 (NEW).]

**18. Product name.** "Product name" means the name of the commercial feed that identifies it as to kind, class or specific use and distinguishes it from all other products bearing the same brand name.
[PL 2005, c. 512, §37 (AMD).]

**18-A. Specialty pet.** "Specialty pet" means any domesticated animal pet normally maintained in a cage or tank, such as, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes and turtles.
[PL 1973, c. 43 (NEW).]

**18-B. Specialty pet food.** "Specialty pet food" means any commercial feed prepared and distributed for consumption by specialty pets.
[PL 1973, c. 43 (NEW).]

**19. Ton.** "Ton" means a net weight of 2,000 pounds avoirdupois.
[PL 1971, c. 77, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 77, §1 (NEW). PL 1973, c. 43 (AMD). PL 1979, c. 541, §A51 (AMD). PL 2005, c. 512, §§36,37 (AMD). PL 2007, c. 459, §1 (AMD). RR 2021, c. 1, Pt. B, §§93, 94 (COR).

**§713. Enforcing official**

This subchapter shall be administered by the Commissioner of Agriculture, Conservation and Forestry hereinafter in this subchapter called the "commissioner." [PL 1971, c. 77, §1 (NEW); PL 1979, c. 731, §19 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

SECTION HISTORY

PL 1971, c. 77, §1 (NEW). PL 1979, c. 731, §19 (AMD). PL 2011, c. 657, Pt. W, §6 (REV).

**§714. Registration**

**1. Application for registration.** A person may not distribute in this State a commercial feed, except a customer-formula feed, that has not been registered pursuant to this section. The application for registration must be submitted in the manner prescribed by the commissioner on forms furnished by the commissioner. The annual fee is $80 per product name for pet food and the total annual fee for a home-based manufacturer of pet food is $80. The annual fee is $80 per product name for all other commercial feed. Upon approval by the commissioner the registration must be issued to the applicant. All registrations expire on the 31st day of December. The commissioner may issue a registration for a one-year, 2-year or 3-year period. Registrations for a period in excess of one year may only be issued

with the agreement of or at the request of the applicant. The fee for a 2-year registration is 2 times the annual fee. The fee for a 3-year registration is 3 times the annual fee.
[PL 2007, c. 702, §2 (AMD).]

**2. Fees.** The commissioner shall deposit 20% of the fees collected pursuant to subsection 1 in the General Fund and 80% of the fees collected in the Animal Welfare Fund established under section 3906-B.
[PL 2021, c. 696, §1 (AMD).]

**3. Refusal.** The commissioner is empowered to refuse registration of any commercial feed not in compliance with this subchapter and to cancel any registration subsequently found not to be in compliance with any provision of this subchapter. Registration, refusal and cancellation are rulemaking as that term is defined in the Maine Administrative Procedure Act and notice and opportunity for a hearing must be provided prior to refusal or cancellation in a manner consistent with the Maine Administrative Procedure Act. In any case, no registration may be refused or canceled, unless the registrant has been given an opportunity to amend the application in order to comply with the requirements of this subchapter.
[RR 2007, c. 1, §3 (COR).]

**4. Surcharge on registration of pet food.** For each product name of pet food registered in accordance with subsection 1, the applicant shall pay a $20 surcharge in addition to the registration fee, except that a home-based manufacturer of pet food shall pay a total annual surcharge of $20. The commissioner shall deposit the surcharge directly into the Companion Animal Sterilization Fund established under section 3910-B as it is received until the total of the surcharges received for that registration year equals $100,000.

The commissioner shall deposit all surcharges received for a registration year in excess of $100,000 up to $157,000 into the Animal Welfare Fund established under section 3906-B, subsection 2. The commissioner shall deposit all surcharges received for a registration year in excess of $157,000 into the Companion Animal Sterilization Fund established under section 3910-B.
[PL 2017, c. 263, §1 (AMD).]

SECTION HISTORY

PL 1971, c. 77, §1 (NEW). PL 1977, c. 694, §69 (AMD). PL 1979, c. 672, §A19 (AMD). PL 1989, c. 888, §1 (AMD). PL 1993, c. 410, §S3 (AMD). PL 1997, c. 454, §1 (AMD). PL 2001, c. 422, §§1,2 (AMD). PL 2005, c. 281, §1 (AMD). PL 2005, c. 512, §§38,39 (AMD). RR 2007, c. 1, §3 (COR). PL 2007, c. 459, §2 (AMD). PL 2007, c. 702, §2 (AMD). PL 2009, c. 148, §1 (AMD). PL 2017, c. 263, §1 (AMD). PL 2021, c. 696, §1 (AMD).

**§715. Labeling**

A commercial feed shall be labeled as follows: [PL 1971, c. 77, §1 (NEW).]

**1. Commercial feed.** In case of a commercial feed, except a customer-formula feed, it shall be accompanied by a label bearing the following information:

A. The net weight; [PL 1971, c. 77, §1 (NEW).]

B. The product name and the brand name, if any, under which the commercial feed is distributed; [PL 1971, c. 77, §1 (NEW).]

C. The guaranteed analysis stated in such terms as the commissioner by regulation determines is required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by the Association of Official Analytical Chemists; [PL 1971, c. 77, §1 (NEW).]

D. The common or usual name of each ingredient used in the manufacture of the commercial feed:

The commissioner by regulation may permit the use of a collective term for a group of ingredients that perform a similar function, or the commissioner may exempt such commercial feeds or any group thereof, from this requirement of an ingredient statement, if the commissioner finds that such statement is not required in the interest of consumers; [RR 2021, c. 1, Pt. B, §95 (COR).]

E. The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed; [PL 1971, c. 77, §1 (NEW).]

F. Adequate directions for use for all commercial feeds containing drugs and for such other feeds as the commissioner may require by regulation as necessary for their safe and effective use; [PL 1971, c. 77, §1 (NEW).]

G. Such precautionary statements as the commissioner by regulation determines are necessary for the safe and effective use of the commercial feed. [PL 1971, c. 77, §1 (NEW).]

[RR 2021, c. 1, Pt. B, §95 (COR).]

**2. Customer-formula feed.** In the case of a customer-formula feed, it shall be accompanied by a label, invoice, delivery slip or other shipping document, bearing the following information:

A. Net weight; [PL 1971, c. 77, §1 (NEW).]

B. Name and address of the manufacturer; [PL 1971, c. 77, §1 (NEW).]

C. Name and address of the purchaser; [PL 1971, c. 77, §1 (NEW).]

D. Date of delivery; [PL 1971, c. 77, §1 (NEW).]

E. The product name and brand name, if any, and the net weight of each registered commercial feed used in the mixture, and the net weight of each other ingredient used; [PL 1971, c. 77, §1 (NEW).]

F. Adequate directions for use for all customer-formula feeds containing drugs and for such other feeds as the commissioner may require by regulation as necessary for their safe and effective use; [PL 1971, c. 77, §1 (NEW).]

G. Such precautionary statements as the commissioner by regulation determines are necessary for the safe and effective use of the customer-formula feed. [PL 1971, c. 77, §1 (NEW).]

[PL 1971, c. 77, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 77, §1 (NEW). RR 2021, c. 1, Pt. B, §95 (COR).

**§716. Misbranding**

**1. Conditions deemed misbranding.** A commercial feed shall be deemed to be misbranded:

A. If its labeling is false or misleading in any particular; [PL 1971, c. 77, §1 (NEW).]

B. If it is distributed under the name of another commercial feed; [PL 1971, c. 77, §1 (NEW).]

C. If it is not labeled as required in section 715; [PL 1971, c. 77, §1 (NEW).]

D. If it purports to be or is represented as a commercial feed, or if it purports to contain or is represented as containing a commercial feed ingredient, unless such commercial feed or feed ingredient conforms to the definition, if any, prescribed by regulation by the commissioner; [PL 1971, c. 77, §1 (NEW).]

E. If any word, statement, or other information required by or under authority of this subchapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs or devices in the labeling; and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use. [PL 1971, c. 77, §1 (NEW).]

[PL 1971, c. 77, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 77, §1 (NEW).

**§717. Adulteration**

**1. Conditions deemed adulteration.** A commercial feed shall be deemed to be adulterated:

A. If it bears or contains any poisonous or deleterious substance which may render it injurious to health, but in case the substance is not an added substance, such commercial feed shall not be considered adulterated under this subsection if the quantity of such substance in such commercial feed does not ordinarily render it injurious to health; or [PL 1971, c. 77, §1 (NEW).]

B. If it bears or contains any added poisonous, added deleterious or added nonnutritive substance which is unsafe within the meaning of section 406 of the Federal Food, Drug and Cosmetic Act (other than one which is a pesticide chemical in or on a raw agricultural commodity, or a food additive); or [PL 1971, c. 77, §1 (NEW).]

C. If it is, or it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug and Cosmetic Act; or [PL 1971, c. 77, §1 (NEW).]

D. If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of the Federal Food, Drug and Cosmetic Act, section 408(a); provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under the Federal Food, Drug and Cosmetic Act, section 408, and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating or milling, the residue of such pesticide chemical remaining in or on such processed feed shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of the Federal Food, Drug and Cosmetic Act, section 408(a). [PL 1979, c. 541, Pt. A, §52 (AMD).]

[PL 1979, c. 541, Pt. A, §52 (AMD).]

**2. Valuable constituent omitted.** If any valuable constituent has been in whole or in part omitted or abstracted therefrom or any less valuable substance substituted therefor;
[PL 1971, c. 77, §1 (NEW).]

**3. Composition or greatly differs from labeling.** If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling;
[PL 1971, c. 77, §1 (NEW).]

**4. Contains drug but does not conform to regulations.** If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing or packaging do not conform to current good manufacturing practice regulations promulgated by the commissioner to assure that the drug meets the requirement of this Act as to safety and has the identity and strength and meets the quality and purity characteristics that it purports or is represented to possess. In promulgating such regulations, the commissioner shall adopt the current good manufacturing practice regulations for medicated feed premixes and for medicated feeds established under authority of the Federal Food, Drug and Cosmetic Act, unless the commissioner determines that they are not appropriate to the conditions that exist in this State;
[RR 2021, c. 1, Pt. B, §96 (COR).]

**5. Contains viable weed seed over limits.** If it contains viable weed seeds in amounts exceeding the limits which the commissioner shall establish by rule or regulation.
[PL 1971, c. 77, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 77, §1 (NEW). PL 1979, c. 541, §A52 (AMD). RR 2021, c. 1, Pt. B, §96 (COR).

**§718. Prohibited acts**

**1. Prohibitions.** The following acts and the causing thereof within the State are prohibited:

A. The manufacture or distribution of any commercial feed that is adulterated or misbranded; [PL 1971, c. 77, §1 (NEW).]

B. The adulteration or misbranding of any commercial feed; [PL 1971, c. 77, §1 (NEW).]

C. The distribution of agricultural commodities such as whole seed, hay, straw, stover, silage, cobs, husks and hulls, which are adulterated within the meaning of section 717, subsection 1; [PL 1971, c. 77, §1 (NEW).]

D. The removal or disposal of a commercial feed in violation of an order under section 721; [PL 1971, c. 77, §1 (NEW).]

E. The failure or refusal to register in accordance with section 714; and [PL 2003, c. 452, Pt. B, §9 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

F. The violation of section 722, subsection 2. [PL 2003, c. 452, Pt. B, §9 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]
[PL 2003, c. 452, Pt. B, §9 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1971, c. 77, §1 (NEW). PL 2003, c. 452, §B9 (AMD). PL 2003, c. 452, §X2 (AFF).

**§719. Rules and regulations**

**1. Promulgation.** The commissioner is authorized to promulgate, in a manner consistent with the Maine Administrative Procedure Act, such rules and regulations for commercial feeds and pet foods as are specifically authorized in this subchapter and such other reasonable rules and regulations as may be necessary for the efficient enforcement of this subchapter. In the interest of uniformity the commissioner shall by regulation adopt, unless the commissioner determines that they are inconsistent with this subchapter or are not appropriate to conditions that exist in this State, the following:

A. The official definitions of feed ingredients and official feed terms adopted by the Association of American Feed Control Officials and published in the official publication of that organization; and [RR 2021, c. 1, Pt. B, §97 (COR).]

B. Any regulation promulgated pursuant to the authority of the Federal Food, Drug and Cosmetic Act U.S.C. Sec. 301, et seq., as long as the commissioner would have the authority under this subchapter to promulgate such regulations. [RR 2021, c. 1, Pt. B, §97 (COR).]
[RR 2021, c. 1, Pt. B, §97 (COR).]

**2. Publication.** Before the issuance, amendment or repeal of any rule or regulation authorized by this subchapter, notice and opportunity for a hearing shall be provided in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act. Notwithstanding this paragraph, if the commissioner, pursuant to the authority of this subchapter, adopts the official definitions of feed ingredients or official feed terms as adopted by the Association of American Feed Control Officials, or regulations promulgated pursuant to the authority of the Federal Food, Drug and Cosmetic Act, any amendment or modification adopted by the association or by the Secretary of Health, Education and Welfare in the case of regulations promulgated pursuant to the Federal Food, Drug and Cosmetic Act,

shall be adopted automatically under this subchapter without regard to the publication of the notice required by this subsection unless the commissioner by rule specifically determines that the amendment or modification shall not be adopted.
[PL 1977, c. 694, §71 (RPR).]

SECTION HISTORY

PL 1971, c. 77, §1 (NEW). PL 1977, c. 694, §§70,71 (AMD). RR 2021, c. 1, Pt. B, §97 (COR).

**§720. Inspection, sampling and analysis**

**1. Inspection.** For the purpose of enforcement of this subchapter, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the commissioner, upon presenting appropriate credentials, are authorized to enter, during normal business hours, any factory, warehouse or establishment within the State in which commercial feeds are manufactured, processed, packed or held for distribution, or to enter any vehicle being used to transport or hold such feeds, and to inspect at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment or vehicle and all pertinent equipment, finished and unfinished materials, containers and labeling therein. The inspection may include the verification of only such records, and production and control procedures as may be necessary to determine compliance with the good manufacturing practice regulations established under section 717, subsection 4.
[PL 1971, c. 77, §1 (NEW).]

**2. Completion.** Each such inspection shall be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle shall be so notified.
[PL 1971, c. 77, §1 (NEW).]

**3. Receipt of sample.** If the officer or employee making such inspection of a factory, warehouse or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises the officer or employee shall give to the owner, operator or agent in charge a receipt describing the samples obtained.
[RR 2021, c. 1, Pt. B, §98 (COR).]

**4. Warrant.** If the owner of any factory, warehouse or establishment described in subsection 1, or the owner's agent, refuses to admit the commissioner or the commissioner's agent to inspect in accordance with subsections 1 and 2, the commissioner is authorized to obtain from any state court a warrant directing such owner or owner's agent to submit the premises described in such warrant to inspection.
[RR 2021, c. 1, Pt. B, §99 (COR).]

**5. Entry.** For the purpose of the enforcement of this subchapter, the commissioner or the commissioner's duly designated agent is authorized to enter upon any public or private premises, including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine records relating to distribution of commercial feeds.
[RR 2021, c. 1, Pt. B, §100 (COR).]

**6. Methods.** Sampling and analysis must be conducted in accordance with methods published by the Association of Official Analytical Chemists, or in accordance with other generally recognized methods.
[PL 2005, c. 512, §40 (AMD).]

**7. Results.** The results of all analyses of official samples shall be forwarded by the commissioner to the person named on the label and to the purchaser, if known, and the distributor of the feed. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or

misbranded, and upon request within 30 days following receipt of the analysis, the commissioner shall furnish to the registrant a portion of the sample concerned.
[RR 1991, c. 1, §16 (COR).]

**8. Official sample.** The commissioner, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided by the official sample as defined in section 712, subsection 13 and obtained and analyzed as provided for in subsections 3, 5 and 6.
[PL 1971, c. 77, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 77, §1 (NEW). RR 1991, c. 1, §16 (COR). PL 2005, c. 512, §40 (AMD). RR 2021, c. 1, Pt. B, §§98-100 (COR).

**§721. Detained commercial feeds**

**1. Withdrawal from distribution.** When the commissioner or the commissioner's authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this subchapter or of any of the prescribed regulations under this subchapter, the commissioner or the commissioner's authorized agent may issue and enforce a written or printed "withdrawal from distribution" order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the commissioner or the court. The commissioner shall release the lot of commercial feed so withdrawn when such provisions and regulations have been complied with. The issuance of such an order may not be considered licensing or an adjudicatory proceeding, as defined by the Maine Administrative Procedure Act. If compliance is not obtained within 30 days, the commissioner may begin, or upon request of the distributor or registrant shall begin, proceedings for condemnation.
[RR 2021, c. 1, Pt. B, §101 (COR).]

**2. Condemnation and confiscation.** Any lot of commercial feed not in compliance with said provisions and regulations shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which said commercial feed is located. In the event the court finds the said commercial feed to be in violation of this subchapter and orders the condemnation of said commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the State; provided that in no instance shall the disposition of said commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial feed or for permission to process or relabel said commercial feed to bring it into compliance with this subchapter.
[PL 1971, c. 77, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 77, §1 (NEW). PL 1977, c. 694, §72 (AMD). RR 2021, c. 1, Pt. B, §101 (COR).

**§722. Penalties**

**1. Civil violation.** A person may not violate this subchapter or impede, hinder or otherwise prevent the commissioner or the commissioner's duly authorized agent from performing the commissioner's duties in connection with this subchapter. The following penalties apply to violations of this subsection.

A. A person who violates this subsection commits a civil violation for which a fine of not less than $100 and not more than $200 may be adjudged. [PL 2003, c. 452, Pt. B, §10 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who violates this subsection after having previously violated this subsection commits a civil violation for which a fine of not less than $200 and not more than $500 may be adjudged. [PL 2003, c. 452, Pt. B, §10 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. B, §10 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**2. Trade secret violation.** A person may not use to that person's own advantage or reveal to other than the commissioner or officers of the department or to the courts when relevant in any judicial proceeding information acquired under the authority of this subchapter concerning a method, record, formulation or process that as a trade secret is entitled to protection. A person who violates this subsection commits a civil violation for which a fine of not less than $100 and not more than $500 may be adjudged. This prohibition does not prohibit the commissioner or the commissioner's duly authorized agent from exchanging information of a regulatory nature with duly appointed officials of the United States Government or of other states who are similarly prohibited by law from revealing this information.
[PL 2003, c. 452, Pt. B, §10 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**3. Application.** This subchapter may not be construed as requiring the commissioner or the commissioner's agent to cause suit to be brought or institute seizure proceedings or issue a withdrawal from distribution order as a result of minor violations of this subchapter or when the commissioner believes that the public interest will best be served by suitable notice of warning in writing.
[PL 2003, c. 452, Pt. B, §10 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**4. Process.** The authorities to whom a violation is reported shall cause appropriate proceedings to be instituted in a court of competent jurisdiction without delay. Before the commissioner reports a violation for suit to be brought, the distributor must have an opportunity to present the distributor's view to the commissioner.
[PL 2003, c. 452, Pt. B, §10 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**5. Injunction.** The commissioner is authorized to apply for and the court to grant a temporary or permanent injunction restraining a person from violating or continuing to violate this subchapter or any rule or regulation adopted under this subchapter notwithstanding the existence of other remedies at law. This injunction must be issued without bond.
[PL 2003, c. 452, Pt. B, §10 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**6. Review.** A person adversely affected by an act, order or ruling made pursuant to this subchapter may bring action within 45 days after that act, order or ruling in the Superior Court in the county of the enforcement official's office for judicial review of the actions. The form of the proceeding must be any that may be provided by statute of the State to review decisions of administrative agencies or, in the absence or inadequacy of such a form, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunctions.
[PL 2003, c. 452, Pt. B, §10 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1971, c. 77, §1 (NEW). PL 1977, c. 696, §§70,71 (AMD). PL 1979, c. 541, §A53 (AMD). PL 1979, c. 731, §19 (AMD). PL 2001, c. 421, §B7 (AMD). PL 2001, c. 421, §C1 (AFF). PL 2003, c. 452, §B10 (RPR). PL 2003, c. 452, §X2 (AFF).

### §723. Cooperation with other entities

The commissioner may cooperate with and enter into agreements with governmental agencies of this State, other states, agencies of the Federal Government and private associations in order to carry out the purpose of this subchapter. [PL 1971, c. 77, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 77, §1 (NEW).

### §724. Publication

The commissioner shall publish the results of analysis of commercial feeds together with the names of persons from whom the samples were obtained, the names of the manufacturers thereof and such additional information as the commissioner determines is advisable. [PL 2005, c. 512, §41 (AMD).]

SECTION HISTORY

PL 1971, c. 77, §1 (NEW). PL 2005, c. 512, §41 (AMD).

## SUBCHAPTER 5

## FERTILIZERS

### §741. Title

This subchapter shall be known as the "Maine Commercial Fertilizer Law".

### §742. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms shall have the following meanings. [PL 1979, c. 541, Pt. A, §54 (AMD).]

**1. Agricultural lime.**
[PL 2007, c. 147, §1 (RP).]

**1-A. Biosolids.** "Biosolids" means municipal sewage sludge that is a primarily organic, semisolid product resulting from the wastewater treatment process that can be beneficially recycled, including material derived from biosolids and septic tank sludge, also known as septage.
[PL 2013, c. 204, §1 (NEW).]

**2. Brand.** "Brand" means a term, design or trademark used in connection with one or several grades of commercial fertilizer.

**3. Bulk fertilizers.** "Bulk fertilizers" means commercial fertilizer distributed in a non-packaged form.

**4. Commercial fertilizer.** "Commercial fertilizer" means a substance containing one or more recognized fertilizer materials bearing a guaranteed analysis on the product label of a packaged product or the accompanying delivery paperwork or invoice of a bulk fertilizer. It does not include unmanipulated animal and vegetable manures.
[PL 2013, c. 204, §2 (RPR).]

**5. Commissioner.** "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry or the commissioner's authorized agent.
[RR 2021, c. 1, Pt. B, §102 (COR).]

**6. Distribute; distributor.** "Distribute" means to offer for sale, sell, barter or otherwise supply commercial fertilizers. The term "distributor" means any person who distributes.

**7. Fertilizer material.** "Fertilizer material" means any substance containing nitrogen, phosphorus, potassium or any recognized plant nutrient element or compound which is used primarily for its plant nutrient content or for compounding mixed fertilizers except unmanipulated animal and vegetable manures.

**8. Grade.** "Grade" means any commercial fertilizer having a specific minimum percentage of plant nutrients that is the same as the guaranteed analysis, expressed in whole numbers.
[PL 2009, c. 393, §2 (AMD).]

**9. Guaranteed analysis.** "Guaranteed analysis":

A. "Guaranteed analysis" means the minimum percentage of plant nutrients claimed in the following order and form:

Total Nitrogen (N) ..... %

Available Phosphate ($P_2O_5$)..... %

Soluble Potash ($K_2O$) ..... %; and [PL 2015, c. 191, §1 (AMD).]

B. "Guaranteed analysis" in paragraph A includes:

(1) For unacidulated mineral phosphatic materials and basic slag, both total and available phosphorus or phosphoric acid and the degree of fineness. For bone, tankage and other organic phosphatic materials, total phosphorus or phosphoric acid; and

(2) Additional plant nutrients expressed as the elements, when permitted by the commissioner. [PL 2007, c. 147, §2 (AMD).]

[PL 2015, c. 191, §1 (AMD).]

**10. Mixed fertilizers.** "Mixed fertilizers" means any combination or mixture of fertilizer materials designed for use or claimed to have value in promoting plant growth.

**11. Official sample.** "Official sample" means any sample of commercial fertilizer taken by the commissioner.

**11-A. Packaged biosolids.** "Packaged biosolids" means biosolids distributed in a sealed container provided by the distributor of the material.
[PL 2013, c. 204, §3 (NEW).]

**12. Per cent or percentage.** "Per cent" or "percentage" means the percentage by weight.

**13. Person.** "Person" includes individual, partnership, association, firm and corporation.

**14. Registrant.** "Registrant" means the person who registers commercial fertilizer under this subchapter.

**15. Singular and plural.** Words importing the singular number may extend and be applied to several persons or things and words importing the plural number may include the singular.

**16. Ton.** "Ton" means a net weight of 2,000 pounds avoirdupois.

**17. Unpackaged biosolids.** "Unpackaged biosolids" means biosolids distributed in a loose, unpackaged form in an unsealed container, including, but not limited to, a tote bag, tote tank, bin, tank, trailer, spreader truck, railcar and pickup truck bed or other container provided by the final user solely for transport of the material.
[PL 2013, c. 204, §4 (NEW).]

SECTION HISTORY

PL 1979, c. 541, §A54 (AMD). PL 1979, c. 731, §19 (AMD). PL 2007, c. 147, §§1, 2 (AMD). PL 2009, c. 393, §2 (AMD). PL 2011, c. 657, Pt. W, §6 (REV). PL 2013, c. 204, §§1-4 (AMD). PL 2015, c. 191, §1 (AMD). RR 2021, c. 1, Pt. B, §102 (COR).

**§743. Registration**

Each brand and grade of commercial fertilizer must be registered before being offered for sale, sold or distributed in this State. The application for registration must be submitted to the commissioner on forms furnished by the commissioner and must be accompanied by an annual fee of $125 per product. All registrations expire on December 31st or in a manner consistent with the provisions as to license expiration of the Maine Administrative Procedure Act, Title 5, section 10002, whichever is later. The commissioner may issue a registration for a one-year, 2-year or 3-year period. Registrations for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year registration is 2 times the annual fee. The fee for a 3-year registration is 3 times the annual fee. The commissioner may refuse to register or renew or may suspend or cancel registration for failure to comply with this subchapter or with rules adopted pursuant to this subchapter. This refusal, suspension or cancellation is considered rulemaking as that term is defined in the Maine

Administrative Procedure Act, Title 5, chapter 375 and notice and opportunity for a hearing must be provided in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375. The application must include the following information: [PL 2015, c. 191, §2 (AMD).]

**1. Weight.** The net weight;

**2. Brand and grade.** The brand and grade;

**3. Analysis.** The guaranteed analysis;

**4. Registrant's name and address.** The name and address of the registrant; and
[PL 2001, c. 670, §2 (AMD).]

**5. Additional information.** Additional information as required in rules adopted by the department.
[PL 2001, c. 670, §3 (NEW).]

Of the fee collected by the commissioner under this section, $100 must be deposited in the General Fund and $25 must be deposited in a dedicated, nonlapsing account established under section 765, subsection 2 and used for the purpose of administering and enforcing this subchapter and subchapter 5-A. [PL 2015, c. 191, §2 (AMD).]

A distributor is not required to register any brand and grade of commercial fertilizer that is already registered under this subchapter by another person. [PL 2015, c. 191, §2 (AMD).]

The plant nutrient content of each and every brand and grade of commercial fertilizer must remain uniform for the period of registration.

The commissioner shall review annually the fertilizer inspection and sampling program established under this subchapter and report findings and any recommendations for changes to the program by February 1st annually to the joint standing committee of the Legislature having jurisdiction over agricultural matters, which after receiving the report may report out a bill to the Legislature to make adjustments to the program. [PL 2015, c. 191, §2 (NEW).]

SECTION HISTORY

PL 1977, c. 694, §§73,74 (AMD). PL 1979, c. 672, §§A22,23 (AMD). PL 1989, c. 888, §2 (AMD). PL 1997, c. 454, §2 (AMD). PL 2001, c. 670, §§1-3 (AMD). PL 2005, c. 12, §EEE1 (AMD). PL 2015, c. 191, §2 (AMD).

**§743-A. Tonnage report**

**1. Registrants required to report.** On or before September 1st of each year, a registrant shall file with the commissioner, on a form prescribed by the commissioner, the number of tons of each brand and grade of commercial fertilizer sold by the registrant in the State during the 12 months preceding July 1st of that year.
[PL 2015, c. 191, §3 (AMD).]

**2. Fees; nonlapsing fund.**
[PL 2015, c. 191, §4 (RP).]

**3. Commissioner's report.** The commissioner or the commissioner's agent may publish and distribute annually, to each registrant and other interested persons, a report showing the total tons of commercial fertilizer and the total tons by grade sold in the State.
[PL 2015, c. 191, §5 (AMD).]

SECTION HISTORY

PL 2009, c. 393, §3 (NEW). PL 2011, c. 607, §1 (AMD). PL 2015, c. 191, §§3-5 (AMD).

**§743-B. Exemption for biosolids**

Sections 743 and 743-A do not apply to packaged biosolids or unpackaged biosolids that are derived primarily from residuals regulated by Title 38, chapter 13 and by rules adopted by the Department of Environmental Protection governing solid waste management matters concerning composting facilities and the agronomic utilization of residuals when those biosolids include a legible and conspicuous disclaimer on their marketing materials and labeling specifically stating: "This product is not a commercial fertilizer, and any nutrient claims are not a guaranteed analysis." If a fertilizer material percentage statement appears on a label or accompanying delivery documentation, except for those products for which delivery documentation is required by Department of Environmental Protection rule, that product must be registered as a fertilizer. [PL 2013, c. 204, §5 (NEW).]

SECTION HISTORY

PL 2013, c. 204, §5 (NEW).

**§744. Labeling**

Any commercial fertilizer distributed in this State in containers must have placed on or affixed to the container a label setting forth in clearly legible form the information required by section 743, subsections 1 to 5. [PL 2007, c. 147, §3 (AMD).]

If distributed in bulk, a written or printed statement of the information required by section 743, subsections 1 to 5, must accompany delivery and be supplied to the purchaser at time of delivery. [PL 2007, c. 147, §3 (AMD).]

SECTION HISTORY

PL 2007, c. 147, §3 (AMD).

**§745. Inspection, sampling and analysis**

The commissioner shall inspect and sample for analysis in accordance with section 490 commercial fertilizers distributed within this State to the extent the commissioner considers necessary to determine compliance with this subchapter. The commissioner or the commissioner's agent is authorized to enter upon any public or private premises during regular business hours in order to have access to commercial fertilizers, subject to this subchapter and the rules adopted pursuant to section 748. [PL 2015, c. 191, §6 (AMD).]

The methods of sampling, sample preparation and analysis are those adopted from sources such as AOAC International. The commissioner, in determining for administrative purposes whether a commercial fertilizer is deficient in any component, is guided solely by the official sample as defined and obtained and analyzed as provided for in this section. [PL 2007, c. 147, §4 (AMD).]

When the inspection and analysis of an official sample indicate a commercial fertilizer has been adulterated or misbranded, the commissioner shall forward the results of the analysis to the distributor or manufacturer. Upon request within 30 days, the commissioner shall furnish to the registrant a portion of the sample concerned. [PL 2005, c. 512, §42 (AMD).]

SECTION HISTORY

PL 2005, c. 512, §42 (AMD). PL 2007, c. 147, §4 (AMD). PL 2015, c. 191, §6 (AMD).

**§746. Misbranding**

No person shall distribute misbranded fertilizer. A commercial fertilizer shall be deemed to be misbranded:

**1. False or misleading statements.** If false or misleading statements concerning its agricultural value are made on the container or in any advertising matter accompanying or associated with the commercial fertilizer;

**2. Distributed under another name.** If it is distributed under the name of another fertilizer;

**3. Container not labeled as required.** If its container is not labeled as required in section 744 and in regulations prescribed under this subchapter;

**4. Information required placed conspicuously.** If any word, statement or other information required by or under authority of this subchapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

**5. Not registered and fee not paid.** If it is a grade of commercial fertilizer which is not registered with the commissioner and the prescribed fee paid in accordance with this subchapter.

**§747. Adulteration**

No person shall distribute an adulterated commercial fertilizer. A commercial fertilizer shall be deemed to be adulterated:

**1. Quality, etc. not in conformity.** If its weight, composition, quality, strength or purity do not conform in each particular to the claims made upon the affixed guaranty;

**2. Deleterious materials.** If it contains any material in sufficient amount to be deleterious to growing plants or any deleterious or harmful substances in sufficient amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil or water; or
[PL 2001, c. 670, §4 (AMD).]

**3. Other materials.** If it is found to contain any pulverized leather, hair, ground hoofs, horns, wool waste, peat, garbage tankage or any nitrogenous ingredients derived from any inert material, unless the same has been so treated as to be available as plant food as determined by the methods adopted by AOAC International, without an explicit printed statement of fact, conspicuously affixed to the package of the fertilizer and accompanying and going with every lot or package of the same, in which fertilizer materials named in this subsection aid in making up the required or guaranteed analysis.
[PL 2007, c. 147, §5 (AMD).]

SECTION HISTORY

PL 2001, c. 670, §4 (AMD). PL 2007, c. 147, §5 (AMD).

**§748. Regulations, standards and definitions**

The commissioner is charged with the enforcement of this subchapter, and is empowered to promulgate and adopt, in a manner consistent with the Maine Administrative Procedure Act, such reasonable rules and regulations as may be necessary to carry into effect the full intent and meaning of this subchapter. The commissioner is empowered to adopt regulations establishing definitions and standards for commercial fertilizer ingredients and such other regulations as may be necessary for the enforcement of any provisions of this subchapter. [PL 1977, c. 694, §75 (AMD).]

**1. "Withdrawal from sale" orders.** When the commissioner has reasonable cause to believe a commercial fertilizer is being distributed in violation of any of the provisions of this subchapter, or of any of the prescribed regulations under this subchapter, the commissioner may issue and enforce a written or printed "withdrawal from sale" order warning the distributor not to dispose of the fertilizer in any manner until written permission is given by the commissioner or the court. The commissioner shall release the commercial fertilizer so withdrawn when the provisions and regulations have been complied with and all costs and expenses incurred in the withdrawal have been paid. The issuance of such an order may not be considered licensing or an adjudicatory proceeding, as defined by the Maine Administrative Procedure Act. If compliance is not obtained within 30 days, the commissioner may begin proceedings for condemnation.
[RR 2021, c. 1, Pt. B, §103 (COR).]

**2. Condemnation and confiscation.** Any lot of commercial fertilizer, not in compliance with this subchapter, shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which said commercial fertilizer is located. In the event the court finds the said commercial fertilizer to be in violation of this subchapter, and orders the condemnation of said commercial fertilizer, it shall be disposed of in any manner consistent with the quality of the commercial fertilizer and the laws of the State. In no instance shall the disposition of said commercial fertilizer be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial fertilizer or for permission to process or relabel said commercial fertilizer to bring it into compliance with this subchapter.

**3. Establishment of allowances.** The commissioner shall establish by rule allowances for deviations from the guaranteed analysis for plant nutrients and from the overall index value of a fertilizer. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2007, c. 147, §6 (NEW).]

SECTION HISTORY

PL 1977, c. 694, §§75,76 (AMD). PL 2007, c. 147, §6 (AMD). RR 2021, c. 1, Pt. B, §103 (COR).

**§749. Enforcement**

This subchapter shall be administered by the commissioner. [PL 1979, c. 541, Pt. A, §55 (AMD).]

SECTION HISTORY

PL 1979, c. 541, §A55 (AMD).

**§750. Violations**

**1. Violation.** A person, firm or corporation may not violate this subchapter or a rule adopted pursuant to this subchapter.
[PL 2003, c. 452, Pt. B, §11 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**2. Penalty.** The following penalties apply to violations of this section.

A. A person who violates subsection 1 commits a civil violation for which a fine of not more than $500 may be adjudged. [PL 2007, c. 147, §7 (AMD).]

B. A person who violates subsection 1 after having previously violated subsection 1 commits a civil violation for which a fine of not more than $1,000 may be adjudged. [PL 2007, c. 147, §7 (AMD).]
[PL 2007, c. 147, §7 (AMD).]

**3. Application.** This subchapter may not be construed as requiring the commissioner or the commissioner's agent to report for suit or for the institution of seizure proceedings as a result of minor violations of this subchapter when the commissioner believes that the public interest will be best served by a suitable notice of warning in writing.
[PL 2003, c. 452, Pt. B, §11 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1977, c. 696, §72 (RPR). PL 2003, c. 452, §B11 (RPR). PL 2003, c. 452, §X2 (AFF). PL 2007, c. 147, §7 (AMD).

**§751. Assessments for deficiencies**

In addition to any fine adjudged under section 750, an assessment for deficiencies in a fertilizer must be made in accordance with this section. For the purposes of this section, a deficiency occurs

when an investigational analysis determines that the allowances established in rules adopted under section 748, subsection 3 have been exceeded. [PL 2007, c. 147, §8 (NEW).]

**1. Primary plant nutrients; overall index.** An assessment of 2 times the commercial value of the deficiency or deficiencies as determined under subsection 3 must be made if:

A. The analysis determines that a fertilizer is deficient in one or more of its guaranteed primary plant nutrients; or [PL 2007, c. 147, §8 (NEW).]

B. The analysis determines that the overall index value is deficient. [PL 2007, c. 147, §8 (NEW).]

When a fertilizer is subject to an assessment under both paragraphs A and B, the larger assessment applies.
[PL 2007, c. 147, §8 (NEW).]

**2. Other deficiencies.** When a fertilizer is labeled to guarantee or a bulk fertilizer is accompanied by a statement guaranteeing that the fertilizer contains recognized plant nutrients other than nitrogen, available phosphate or soluble potash, the commissioner may evaluate the fertilizer and prescribe an assessment for deficiencies in any of the claimed nutrients based on commercial values determined under subsection 3.
[PL 2007, c. 147, §8 (NEW).]

**3. Determination of commercial value.** For the purpose of determining the commercial value to be applied in determining assessment under this section, the commissioner shall determine and publish annually the values per unit of total nitrogen, available phosphate and soluble potash or other nutrients that the registrant is required to or may guarantee in fertilizers in this State. The values so determined and published must be used in determining and assessing penalty payments.
[PL 2015, c. 191, §7 (AMD).]

**4. Payment to consumer; commissioner.** Assessments made under subsections 1 and 2 must be paid by the registrant to the consumer of the lot of fertilizer represented by the sample analyzed. The commissioner shall send notification of the amount of the assessment with the results of the analysis sent in accordance with section 745. Assessments must be made within 30 days of the date of the notification. If the consumer cannot be located, the registrant shall submit the assessment to the commissioner for deposit in the commercial fertilizer account under subsection 5.
[PL 2007, c. 147, §8 (NEW).]

**5. Commercial fertilizer account.** The commissioner shall deposit all assessments submitted to the commissioner in accordance with subsection 4 in a dedicated account established within the department. The account is a nonlapsing interest-bearing account. Funds from the account may only be used to pay costs of sampling and analyzing fertilizer.
[PL 2007, c. 147, §8 (NEW).]

SECTION HISTORY

PL 2007, c. 147, §8 (NEW). PL 2015, c. 191, §7 (AMD).

## SUBCHAPTER 5-A

## AGRICULTURAL LIMING MATERIALS

### §761. Title

This subchapter shall be known and may be cited as the "Maine Agricultural Liming Materials Act." [PL 1987, c. 425, §§ 1, 3 (NEW).]

SECTION HISTORY

PL 1987, c. 425, §§1,3 (NEW).

**§762. Definitions**

As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings. [PL 1987, c. 425, §§ 1, 3 (NEW).]

**1. Agricultural liming materials.** "Agricultural liming material" means a product whose calcium and magnesium compounds are capable of neutralizing soil acidity.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

**2. Brand.** "Brand" means the term, designation, trademark, product name or other specific designation under which an individual agricultural liming material is offered for sale.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

**3. Bulk.** "Bulk" means a nonpackaged form.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

**4. Burnt lime.** "Burnt lime" means a material made from limestone which consists essentially of calcium oxide or a combination of calcium oxide with magnesium oxide.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

**5. Calcium carbonate equivalent.** "Calcium carbonate equivalent" means the acid neutralizing capacity of an agricultural liming material expressed as a weight percentage of calcium carbonate.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

**6. Commissioner.** "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry.
[RR 2009, c. 2, §6 (COR); PL 2011, c. 657, Pt. W, §6 (REV).]

**7. Distribute; distributor.** "Distribute" means to offer for sale, sell, barter or otherwise supply agricultural liming materials. The term "distributor" means any person who is engaged in the business of distributing agricultural liming materials.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

**8. Fineness.** "Fineness" means the percentage by weight of the material which will pass federal standard sieves of specified sizes. In promulgating rules relating to fineness, the commissioner shall be guided by recommendations established by the American Society for Testing Materials.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

**9. High magnesium.** "High magnesium" means lime designated as high-mag or dolomitic which must contain at least 5% magnesium.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

**10. Hydrated lime.** "Hydrated lime" means a material, made from burnt lime, which consists essentially of calcium hydroxide or a combination of calcium hydroxide with magnesium oxide and magnesium hydroxide.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

**11. Industrial by-product.** "Industrial by-product" means any industrial waste or by-product containing calcium or calcium and magnesium in forms that will neutralize soil acidity.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

**12. Label.** "Label" means any written or printed matter on or attached to the package or on the delivery ticket which accompanies bulk shipments.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

**13. Limestone.** "Limestone" means a material capable of neutralizing soil acidity, consisting essentially of calcium carbonate or a combination of calcium carbonate with magnesium carbonate.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

**14. Marl.** "Marl" means a granular or loosely consolidated loam composed largely of clays, sea shell fragments and carbonates of calcium and magnesium.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

**15. Percent or percentage.** "Percent" or "percentage" means by weight.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

**16. Person.** "Person" means individual, partnership, association, firm or corporation.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

**17. Ton.** "Ton" means a net weight of 2,000 pounds avoirdupois or metric weight, if and when appropriate and in accordance with rules.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

**18. Weight.** "Weight" means the weight of undried material as offered for sale.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

SECTION HISTORY

PL 1987, c. 425, §§1,3 (NEW). RR 2009, c. 2, §6 (COR). PL 2011, c. 657, Pt. W, §6 (REV).

**§763. Labeling**

**1. Contents of label.** Agricultural liming materials distributed in the State shall have affixed to each package in a conspicuous manner on the outside of the package, a plainly printed, stamped or otherwise marked label, tag or statement or, in the case of bulk sales, a delivery slip setting forth at least the following information:

A. The name and principal office address of the manufacturer or distributor; [PL 1987, c. 425, §§1, 3 (NEW).]

B. The brand or trade name of the material; [PL 1987, c. 425, §§1, 3 (NEW).]

C. The identification of the type of agricultural liming material according to section 762; [PL 1987, c. 425, §§1, 3 (NEW).]

D. The net weight of the agricultural liming material; [PL 1987, c. 425, §§1, 3 (NEW).]

E. A statement expressing minimum total neutralizing value stated as calcium carbonate equivalence and the minimum calcium carbonate equivalence derived from magnesium sources; and [PL 1987, c. 425, §§1, 3 (NEW).]

F. The minimum percent of the agricultural liming material by weight passing through federal standard sieves as prescribed by rules adopted by the commissioner. [PL 1987, c. 425, §§1, 3 (NEW).]
[PL 1987, c. 425, §§1, 3 (NEW).]

**2. False or misleading information prohibited.** No information or statement may appear on any package, label, delivery slip or advertising matter which is false or misleading relative to the quality, analysis, type or composition of the agricultural liming material.
[PL 1987, c. 425, §§1, 3 (NEW).]

**3. Adulterated material.** In the case of any material which has been adulterated subsequent to packaging, labeling or loading and before delivery to the consumer, a plainly marked notice to that effect shall be affixed by the vendor to the package or delivery slip to identify the kind and degree of the adulteration.
[PL 1987, c. 425, §§1, 3 (NEW).]

**4. Posting of statement.** At every site from which agricultural liming materials are delivered in bulk and at every place where consumer orders for bulk deliveries are placed, there shall be

conspicuously posted a copy of the label required by this section for each brand and type of agricultural liming material sold in bulk.
[PL 1987, c. 425, §§1, 3 (NEW).]

**5. Rule concerning calcium and magnesium content.** When the commissioner finds, after a public hearing held in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, that the requirement for expressing the calcium and magnesium in elemental form will not impose an economic hardship on distributors and users of agricultural liming materials by reason of conflicting labeling requirements among the states, the commissioner may require that the minimum percentage of calcium carbonate and magnesium carbonate be expressed in the following form:

Total calcium (Ca) ..... percent

Total magnesium (Mg)..... percent

The effective date of the rule may be not less than 6 months following the issuance of the rule and, for a period of 2 years following the effective date of the rule, the equivalent of calcium and magnesium may also be shown in the form of calcium carbonate and magnesium carbonate.
[RR 2021, c. 1, Pt. B, §104 (COR).]

SECTION HISTORY

PL 1987, c. 425, §§1, 3 (NEW). RR 2021, c. 1, Pt. B, §104 (COR).

**§764. Prohibited acts**

No person may sell or offer for sale any agricultural liming material in this State unless it complies with this subchapter and rules adopted under this subchapter. No person may sell or offer for sale any agricultural liming material in this State containing materials that are or will be deleterious to plant or animal life, when the agricultural liming material is applied at rates recommended by a soils testing laboratory. [PL 1987, c. 425, §§ 1, 3 (NEW).]

SECTION HISTORY

PL 1987, c. 425, §§1,3 (NEW).

**§764-A. Exemption for industrial by-products**

Section 764 does not apply to unpackaged industrial by-products derived primarily from residuals regulated by Title 38, chapter 13 and by rules adopted by the Department of Environmental Protection governing solid waste management matters concerning composting facilities and the agronomic utilization of residuals when those industrial by-products include a legible and conspicuous disclaimer on their marketing materials and labeling specifically stating: "This product is an industrial by-product, and any claims of neutralizing value and fineness are not guarantees." [PL 2013, c. 204, §6 (NEW).]

Industrial by-products exempted under this section need not comply with sections 765 and 766. [PL 2013, c. 204, §6 (NEW).]

SECTION HISTORY

PL 2013, c. 204, §6 (NEW).

**§765. Registration**

**1. Registration required; fee.** Each separately identified agricultural liming product shall be registered before being offered for sale, sold or distributed in the State. The application for registration shall be submitted to the commissioner on forms furnished or approved by the commissioner and shall be accompanied by a fee of $50. Upon approval by the commissioner, a copy of the registration shall be furnished to the applicant. All registrations expire on December 31st of each year.
[PL 1987, c. 425, §§1, 3 (NEW).]

**2. Fees; nonlapsing fund.** The commissioner shall collect all fees under this subchapter and section 743 and deposit them with the Treasurer of State in a separate account to be used for carrying out this subchapter and subchapter 5, including the cost of inspection, sampling and analysis of commercial fertilizers and agricultural liming materials. These funds do not lapse, but remain in a carry-over account.
[PL 2015, c. 191, §8 (AMD).]

**3. Registration not required if already registered.** A distributor shall not be required to register any brand of agricultural liming material which is already registered under this subchapter by another person, provided that the label does not differ in any respect.
[PL 1987, c. 425, §§1, 3 (NEW).]

SECTION HISTORY

PL 1987, c. 425, §§1,3 (NEW). PL 2009, c. 393, §4 (AMD). PL 2015, c. 191, §8 (AMD).

**§766. Report of tonnage**

**1. By registrants.** On or before September 1st in each year each registrant shall file with the commissioner, on forms prescribed by the commissioner, the number of tons of each agricultural liming material sold during the 12 months preceding July 1st of that year.
[PL 2015, c. 191, §9 (AMD).]

**2. Commissioner's report.** The commissioner may publish and distribute annually, to each agricultural liming material registrant and other interested persons, a composite report showing the tons of agricultural liming material sold in the State.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

SECTION HISTORY

PL 1987, c. 425, §§1,3 (NEW). PL 2009, c. 393, §5 (AMD). PL 2011, c. 607, §2 (AMD). PL 2015, c. 191, §9 (AMD).

**§767. Inspection; sampling; analysis**

**1. Commissioner shall inspect, analyze, test.** The commissioner, or the commissioner's authorized agent, shall sample, inspect, analyze and test the agricultural liming materials distributed within this State to determine whether the agricultural liming materials are in compliance with this subchapter. The commissioner, individually or through the commissioner's agent, may enter upon any public or private premises or carriers during regular business hours in order to have access to agricultural liming materials subject to this subchapter and rules adopted under this subchapter and to the records relating to their distribution.
[RR 2021, c. 1, Pt. B, §105 (COR).]

**2. Methods of analysis and sampling.** The methods of analysis and sampling shall be those approved by the commissioner and shall be guided by the Association of Official Analytical Chemists procedures.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

**3. Adulterated or misbranded materials.** When the inspection and analysis of an official sample indicate an agricultural liming material has been adulterated or misbranded, the results of analysis shall be forwarded by the commissioner to the registrant and to the distributor of the sample. If the registrant or distributor, within 30 days of notification, requests a portion of the test sample then the commissioner shall furnish, within 30 days of this request, a portion of the sample to the registrant or distributor who made the request.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

SECTION HISTORY

PL 1987, c. 425, §§1,3 (NEW). RR 2021, c. 1, Pt. B, §105 (COR).

**§768. Stop sale orders**

**1. Issuance of order.** The commissioner may issue a written "stop sale, use or removal" order to the owner or custodian of any lot of agricultural liming materials when the commissioner determines that a violation of this subchapter has taken place. The order must include a notice that the owner or custodian may request a review of the determination of the commissioner at a hearing by filing a written request with the commissioner.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

**2. Hearing.** Within 10 days of receipt of a request for a hearing under subsection 1, the commissioner shall hold a hearing in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV. Upon the hearing, the commissioner shall either rescind the order or, for good cause shown, continue the order.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

**3. Release of materials.** When the requirements of this subchapter have been met and all costs and expenses incurred in connection with the withdrawal have been paid, the commissioner shall release the agricultural liming materials held under this section by terminating the "stop sale, use or removal" order and issuing a release order. The issuance of the release order shall not be considered licensing or an adjudicatory proceeding, as defined by the Maine Administrative Procedure Act, Title 5, chapter 375.
[PL 1987, c. 425, §§ 1, 3 (NEW).]

SECTION HISTORY

PL 1987, c. 425, §§1,3 (NEW).

**§769. Fines for violations**

**1. Violation.** A person, firm or corporation may not violate this subchapter or a rule adopted pursuant to this subchapter.
[PL 2003, c. 452, Pt. B, §12 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**2. Penalty.** The following penalties apply to violations of this section.

A. A person who violates subsection 1 commits a civil violation for which a fine of not more than $100 may be adjudged. [PL 2003, c. 452, Pt. B, §12 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who violates subsection 1 after having previously violated subsection 1 commits a civil violation for which a fine of not more than $200 may be adjudged. [PL 2003, c. 452, Pt. B, §12 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
[PL 2003, c. 452, Pt. B, §12 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**3. Application.** This subchapter may not be construed as requiring the commissioner or the commissioner's agent to bring suit or institute seizure proceedings as a result of minor violations of this subchapter when the commissioner believes that the public interest will be best served by a suitable notice of warning in writing.
[PL 2003, c. 452, Pt. B, §12 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1987, c. 425, §§1,3 (NEW). PL 2003, c. 452, §B12 (RPR). PL 2003, c. 452, §X2 (AFF).

**§770. Rules for administration**

The commissioner after reasonable notice and hearing may promulgate and enforce rules for the administration of this subchapter, in a manner consistent with the Maine Administrative Procedure Act,

Title 5, chapter 375, and grant exemptions from specific requirements of this subchapter as, from time to time, may be required. [PL 1987, c. 425, §§ 1, 3 (NEW).]

SECTION HISTORY

PL 1987, c. 425, §§1,3 (NEW).

## SUBCHAPTER 5-B

## MAINE PLANT AND SOIL AMENDMENT ACT

### §775. Title

This Act shall be known as the "Maine Plant and Soil Amendment Act." [PL 1979, c. 491, §1 (NEW).]

SECTION HISTORY

PL 1979, c. 491, §§1,2 (NEW).

### §776. Definitions

As used in this subchapter, unless the context indicates otherwise, the following terms shall have the following meanings. [PL 1979, c. 491, §1 (NEW).]

**1. Brand name.** "Brand name" means the term, designation, trademark, product name or other specific designation under which individual plant or soil amendments are distributed.
[PL 1979, c. 491, §1 (NEW).]

**2. Bulk.** "Bulk" means in nonpackaged form.
[PL 1979, c. 491, §1 (NEW).]

**3. Commissioner.** "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry.
[PL 1979, c. 491, §§1,2 (NEW); PL 1979, c. 731, §19 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

**4. Distribute.** "Distribute" means to import, consign, manufacture, produce, compound, mix or blend plant or soil amendments, or offer for sale, sell, barter or otherwise supply plant or soil amendments in this State.
[PL 1979, c. 491, §1 (NEW).]

**5. Distributor.** "Distributor" means any person who distributes.
[PL 1979, c. 491, §1 (NEW).]

**6. Ingredient form.** "Ingredient form" means the chemical compound such as salt, chelate, oxide, acid, etc., of an ingredient or the physical form of an ingredient.
[PL 1979, c. 491, §1 (NEW).]

**7. Investigational allowance.** "Investigational allowance" means an allowance for variations inherent in the taking, preparation, analysis or testing of an official sample of a plant or soil amendment.
[PL 1979, c. 491, §1 (NEW).]

**8. Label.** "Label" means any written, printed or graphic matter upon the immediate container or accompanying a plant or soil amendment.
[PL 1979, c. 491, §1 (NEW).]

**9. Labeling.** "Labeling" means any written, printed or graphic matter, upon or accompanying any plant or soil amendment, or advertisements, brochures, posters or television or radio announcements used in promoting the sale of the plant or soil amendment.

[PL 1979, c. 491, §1 (NEW).]

**10. Net weight.** "Net weight" means the weight of amending ingredients plus other ingredients as offered for sale, exclusive of the weight of any package or container.
[PL 1979, c. 491, §1 (NEW).]

**11. Official sample.** "Official sample" means any sample of plant or soil amendment taken by the commissioner and designated as "official" by the commissioner.
[PL 1979, c. 491, §1 (NEW).]

**12. Other ingredients.** "Other ingredients" means any ingredients present in plant or soil amendments which are not plant-amending ingredients or soil-amending ingredients, respectively.
[PL 1979, c. 491, §1 (NEW).]

**13. Percent or percentage.** "Percent" or "percentage" means percent or percentage by weight.
[PL 1979, c. 491, §1 (NEW).]

**14. Person.** "Person" means individual, partnership, association, firm or corporation, municipality or quasi-municipal entity.
[PL 1985, c. 10 (AMD).]

**15. Plant-amending ingredients.** "Plant-amending ingredients" means any substance applied to plants or seeds which is intended to improve germination, growth, yield, product quality, reproduction, flavor or other desirable characteristics of plants, except commercial fertilizers, soil amendments, agricultural liming materials, animal and vegetable manures, pesticides, plant regulators and other like materials, which may be exempted by rule.
[PL 1979, c. 491, §1 (NEW).]

**16. Plant amendment.** "Plant amendment" means any product distributed consisting of a plant-amending ingredient and other ingredients.
[PL 1979, c. 491, §1 (NEW).]

**17. Registrant.** "Registrant" means the person who registers plant or soil amendments under the provisions of this subchapter.
[PL 1979, c. 491, §1 (NEW).]

**18. Soil-amending ingredient.** "Soil-amending ingredient" means any substance which is intended to improve the chemical, biological or physical characteristics of the soil, except commercial fertilizers, plant-amending ingredients, agricultural liming materials, unmanipulated animal and vegetable manures, pesticides and other like material, exempted by rule.
[PL 1979, c. 491, §1 (NEW).]

**19. Soil amendment.** "Soil amendment" means any product distributed consisting of a soil-amending ingredient and other ingredients.
[PL 1979, c. 491, §1 (NEW).]

**20. Ton.** "Ton" means a net weight of 2,000 pounds avoirdupois.
[PL 1979, c. 491, §1 (NEW).]

SECTION HISTORY

PL 1979, c. 491, §§1,2 (NEW). PL 1979, c. 731, §19 (AMD). PL 1985, c. 10 (AMD). PL 2011, c. 657, Pt. W, §6 (REV).

**§777. Labeling**

The following information shall appear on the face or display side of the container of any plant amendment or soil amendment offered for sale. It shall be in a readable and conspicuous form and shall be considered the label. If distributed in bulk, a written or printed statement of the required information

shall accompany delivery and be supplied to the purchaser at time of delivery: [PL 1979, c. 491, §1 (NEW).]

**1. Net weight.** Net weight;
[PL 1979, c. 491, §1 (NEW).]

**2. Brand name.** Brand name;
[PL 1979, c. 491, §1 (NEW).]

**3. Guaranteed analysis.** The name of each amending ingredient and the amount of each expressed in terms commonly applied to the ingredients, and the total percent of other ingredients;
[PL 1979, c. 491, §1 (NEW).]

**4. Purpose of product.** Purpose of product;
[PL 1979, c. 491, §1 (NEW).]

**5. Direction for application.** Direction for application; and
[PL 1979, c. 491, §1 (NEW).]

**6. Name and address of the registrant.** Name and address of the registrant.
[PL 1979, c. 491, §1 (NEW).]

No information shall appear on any package, label, delivery slip or advertising matter which is false or misleading. [PL 1979, c. 491, §1 (NEW).]

The commissioner may require proof of claims made for any plant or soil amendment. If no claims are made the commissioner may request statements of usefulness and value of the plant or soil amendment. For verification of claims or statements the commissioner may rely on experimental data, evaluations or advice supplied from such sources as the Director of the Maine Agricultural Experiment Station. The verification must be related to Maine conditions for which the product is intended. [RR 2021, c. 1, Pt. B, §106 (COR).]

The commissioner may allow labeling by volume rather than weight in packaging of plant or soil amendments. [PL 1979, c. 491, §1 (NEW).]

SECTION HISTORY

PL 1979, c. 491, §§1,2 (NEW). RR 2021, c. 1, Pt. B, §106 (COR).

**§778. Registration**

Each separately identified plant or soil amendment product must be registered by the distributor before being distributed in this State. The application for registration must be submitted to the commissioner on the form approved by the commissioner and must be accompanied by a fee of $25 per product. Upon approval by the commissioner a copy of the approved registration must be furnished to the applicant. All registrations expire on December 31st of each year. A registrant shall submit to the commissioner a copy of labels and advertising literature with the registration request for each soil amendment. [RR 2021, c. 1, Pt. B, §107 (COR).]

A distributor shall not be required to register any brand of plant or soil amendment which is already registered under this subchapter by another person, providing the label and advertising literature do not differ in any respect. [PL 1979, c. 491, §1 (NEW).]

Any material intended for use in promoting any plant or soil amendment which is developed subsequent to application for acquisition shall be submitted to the commission for approval prior to use. The material shall not be so used without the approval of the commissioner. [PL 1979, c. 491, §1 (NEW).]

The commissioner may by rule set the minimum percentage of a plant or soil-amending ingredient that shall be present before a plant or soil amendment can be registered. [PL 1979, c. 491, §1 (NEW).]

The fees shall be deposited with the Treasurer of State and are appropriated for carrying out this subchapter. These funds shall not lapse. [PL 1979, c. 491, §1 (NEW).]

SECTION HISTORY

PL 1979, c. 491, §§1,2 (NEW). RR 2021, c. 1, Pt. B, §107 (COR).

**§779. Tonnage reporting**

Every person who distributes a plant or soil amendment shall file with the commissioner on or before September 1st in each year, on forms supplied by him, the number of tons of each plant or soil amendment sold in the State during the 12 months preceding July 1st of the current year. [PL 1979, c. 491, §1 (NEW).]

When more than one distributor is involved in the distribution of a plant or soil amendment product, the last registrant who distributes to a nonregistrant is responsible for reporting the tonnage. [PL 1979, c. 491, §1 (NEW).]

SECTION HISTORY

PL 1979, c. 491, §§1,2 (NEW).

**§780. Inspection; sampling; analysis; testing**

The commissioner shall sample, inspect, analyze and test plant and soil amendment distributed within the State as the commissioner considers necessary to determine whether the plant or soil amendments are in compliance with this subchapter. The commissioner may enter upon any public or private premises or carriers during regular business hours in order to have access to plant or soil amendments subject to this subchapter and to the records relating to their distribution. [RR 2021, c. 1, Pt. B, §108 (COR).]

The methods of analysis, testing and sampling shall be those adopted by the commissioner from sources such as the Association of Official Analytical Chemists, or other sources acceptable to the commissioner. [PL 1979, c. 491, §1 (NEW).]

The results of official analyses or tests shall be distributed by the commissioner as provided by rule. [PL 1979, c. 491, §1 (NEW).]

SECTION HISTORY

PL 1979, c. 491, §§1,2 (NEW). RR 2021, c. 1, Pt. B, §108 (COR).

**§781. Disposition of misbranded or adulterated amendments**

If the analyses or tests show that any plant or soil amendments are misbranded or adulterated, disposition of the amendment shall be in accordance with rules. [PL 1979, c. 491, §1 (NEW).]

The commissioner may adopt rules establishing tolerable deficiencies for guaranteed analyses. The commissioner may also establish a schedule of assessments for exceeding the tolerable deficiencies. The assessments must be against the registrant of a soil or plant amendment. The assessments must bear a reasonable relationship to the commercial value of the deficiency. [RR 2021, c. 1, Pt. B, §109 (COR).]

Nothing contained in this section shall prevent any person from appealing to a court of competent jurisdiction for a judgment as to the justification of the assessments imposed. [PL 1979, c. 491, §1 (NEW).]

The assessments shall in no manner be construed as limiting the consumer's right to bring a civil action in damage against the registrant paying the assessment. [PL 1979, c. 491, §1 (NEW).]

For the purpose of determining commercial values to be applied under this section, the commissioner shall determine from the registrant's sales invoice the values charged for the plant or soil

amending ingredients. If no invoice is available or if the invoice fails to provide sufficient information, the commissioner may use other methods to determine values. The values so determined shall be used in determining and levying assessments. [PL 1979, c. 491, §1 (NEW).]

The assessment shall in no manner be construed as limiting the department's right to bring a civil action for a penalty against the registrant. [PL 1979, c. 491, §1 (NEW).]

The assessments and penalties received shall be deposited with the Treasurer of State and are appropriated for carrying out this subchapter. These funds shall not lapse. [PL 1979, c. 491, §1 (NEW).]

SECTION HISTORY

PL 1979, c. 491, §§1,2 (NEW). RR 2021, c. 1, Pt. B, §109 (COR).

**§782. Misbranding**

No person shall distribute a misbranded plant or soil amendment. A plant or soil amendment shall be deemed to be misbranded if: [PL 1979, c. 491, §1 (NEW).]

**1. False labeling.** Its labeling is false or misleading in any particular;
[PL 1979, c. 491, §1 (NEW).]

**2. Not labeled.** If it is not labeled as required in this subchapter; or
[PL 1979, c. 491, §1 (NEW).]

**3. Nonconformance.** If it does not conform to ingredient form or investigational allowances in the rules adopted by the commissioner.
[PL 1979, c. 491, §1 (NEW).]

SECTION HISTORY

PL 1979, c. 491, §§1,2 (NEW).

**§783. Stop sale**

The commissioner may issue and enforce a written order to the owner or custodian of any plant or soil amendment to stop sale, use or removal, when the commissioner finds the plant or soil amendment is being offered for sale in violation of any of the provisions of this subchapter, until the subchapter has been complied with and the soil amendment is released in writing by the commissioner, or the violation has been otherwise legally disposed of. The issuance of the order shall not be considered licensing or an adjudicatory proceeding, as defined by the Maine Administrative Procedure Act, Title 5, chapter 375. [PL 1979, c. 491, §1 (NEW).]

SECTION HISTORY

PL 1979, c. 491, §§1,2 (NEW).

**§784. Forfeiture for violations**

Any person who violates any provision of this subchapter commits a civil violation for which a fine of not less than $200 must be adjudged. This subchapter may not be construed to require the commissioner to sue or to issue an order as a result of minor violations of this subchapter, when the commissioner believes that the public interest will best be served by a suitable written warning. In such a case the commissioner shall issue a written warning. [RR 2021, c. 1, Pt. B, §110 (COR).]

The commissioner may apply for a temporary or permanent injunction restraining any person from violating or continuing to violate this subchapter, notwithstanding the existence of other remedies at law. The injunction shall be issued without bond being required of the State. [PL 1979, c. 491, §1 (NEW).]

SECTION HISTORY

PL 1979, c. 491, §§1,2 (NEW). RR 2021, c. 1, Pt. B, §110 (COR).

**§785. Rules and regulations**

The commissioner is authorized pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, to adopt and enforce such rules as may be necessary for this subchapter. [PL 1979, c. 491, §1 (NEW).]

SECTION HISTORY

PL 1979, c. 491, §§1,2 (NEW).

**§786. Adulteration**

No person shall distribute an adulterated plant or soil amendment. A plant or soil amendment shall be deemed to be adulterated if: [PL 1979, c. 491, §1 (NEW).]

**1. Deleterious or harmful agent.** It contains any deleterious or harmful agent in sufficient amount to render it injurious to beneficial plant, animal or aquatic life when applied in accordance with directions for use on the label, or if adequate warning statements and directions for use, which may be necessary to protect plant, animal or aquatic life, are not shown upon the label;
[PL 1979, c. 491, §1 (NEW).]

**2. Inferior composition.** If its composition falls below or differs from that which it is purported to possess by its labeling; or
[PL 1979, c. 491, §1 (NEW).]

**3. Unwanted crop or weed seed.** If it contains unwanted crop or weed seed or primary noxious or secondary noxious weed seed.
[PL 1979, c. 491, §1 (NEW).]

SECTION HISTORY

PL 1979, c. 491, §§1,2 (NEW).

**§787. Cancellation or refusal of registration**

Consistent with the Maine Administrative Procedure Act, the commissioner may refuse registration of any brand of plant or soil amendment if the commissioner finds the brand of plant or soil amendment violates this subchapter, and may investigate whether the registration of any plant or soil amendment should be cancelled, in which case the commissioner may apply to the District Court for cancellation. [RR 2021, c. 1, Pt. B, §111 (COR).]

SECTION HISTORY

PL 1979, c. 491, §§1,2 (NEW). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). RR 2021, c. 1, Pt. B, §111 (COR).

## SUBCHAPTER 6

## FLOUR, BREAD AND ROLLS

## (REPEALED)

**§791. Definitions**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A20 (RP).

**§792. Reinforcement of flour**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A20 (RP).

**§793. Vitamins and minerals in bread and rolls**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A20 (RP).

**§794. Enforcement**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 694, §§77-79 (AMD). PL 1979, c. 672, §A20 (RP).

**§795. Violations**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 696, §73 (RPR). PL 1979, c. 672, §A20 (RP).

## SUBCHAPTER 7

## FROZEN DAIRY PRODUCTS

## (REPEALED)

**§831. Title**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A20 (RP).

**§832. Definitions**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 188 (AMD). PL 1979, c. 541, §A56 (AMD). PL 1979, c. 672, §A20 (RP).

**§833. Rules and regulations**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 694, §§80-81 (AMD). PL 1979, c. 672, §A20 (RP).

**§834. License applications**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 694, §82 (AMD). PL 1979, c. 672, §A20 (RP).

**§835. Fees**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 694, §83 (AMD). PL 1979, c. 672, §A20 (RP).

**§836. Disposition of fees and forfeitures**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 696, §74 (RPR). PL 1979, c. 672, §A20 (RP).

**§837. Revocation or suspension of license**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 694, §§84-86 (AMD). PL 1979, c. 127, §44 (AMD). PL 1979, c. 672, §A20 (RP).

**§838. Prohibitions**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A20 (RP).

**§839. Violations**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 696, §75 (RPR). PL 1979, c. 672, §A20 (RP).

## SUBCHAPTER 8

## HAY

**§871. Marking of hay**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 251, §1 (RP).

## SUBCHAPTER 8-A

## MEATS

## (REPEALED)

**§881. Labeling of imported meats**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 405 (NEW). PL 1967, c. 124 (RP).

## SUBCHAPTER 8-B

## MAPLE PRODUCTS

### §891. Exposed for sale

Maple products packed in any type or kind of container, and found in any place in the State of Maine, whether that place shall be a warehouse, packing house or any place where maple products are stored, shall be deemed to be exposed for sale under sections 891 to 898. [PL 1967, c. 104 (NEW).]

SECTION HISTORY

PL 1967, c. 104 (NEW).

### §892. Official standards

**(REPEALED)**

SECTION HISTORY

PL 1967, c. 104 (NEW). PL 1977, c. 694, §87 (AMD). PL 1991, c. 326, §1 (RP).

### §892-A. Official grade standards for maple syrup

**(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Brix" means the scale used to measure the specific gravity of maple syrup. [PL 1991, c. 326, §2 (NEW).]

B. "Damage" means any defect that affects the color, appearance, flavor, aroma, edibility or shipping quality of maple syrup. [PL 1991, c. 326, §2 (NEW).]

C. "Light transmission" means the ability of maple syrup to transmit light as determined optically by means of a spectrophotometer. [PL 1991, c. 326, §2 (NEW).]

D. **(TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 2013, c. 117, §3)** "Maple syrup," which may also be spelled "maple sirop" or "maple sirup," means the liquid derived by concentration and heat treatment of the sap of maple trees, (Acer) or by the solution in water of maple sugar or maple concentrate made from such sap. The solids content of maple syrup may not be less than 66% by weight or more than 69% by weight, as measured in Brix units at a temperature of 68 degrees Fahrenheit. [PL 2007, c. 24, §1 (AMD).]

D. **(TEXT EFFECTIVE ON CONTINGENCY: See PL 2013, c. 117, §3)** "Maple syrup," which may also be spelled "maple sirop" or "maple sirup," means the liquid derived by concentration and heat treatment of the sap of maple trees, (Acer) or by the solution in water of maple sugar or maple concentrate made from such sap. The solids content of maple syrup may not be less than 66% by weight or more than 68.9% by weight, as measured in Brix units at a temperature of 68 degrees Fahrenheit. [PL 2013, c. 117, §1 (AMD); PL 2013, c. 117, §3 (AFF).]

E. The symbol "%Tc" means the percentage of light transmission through maple syrup, measurable by a spectrophotometer using matched square optical cells having a 10-millimeter light path at a wavelength of 560 nanometers, the color values being expressed in percent of light transmission as compared to A.R. Glycerol fixed at 100% transmission. [PL 1991, c. 326, §2 (NEW).]

[PL 2007, c. 24, §1 (AMD); PL 2013, c. 117, §1 (AMD); PL 2013, c. 117, §3 (AFF).]

**2. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 2013, c. 117, §3) Maple syrup grades.** The following grades are established as the official maple syrup grade standards for the State.

A. "Grade A Light Amber" means pure maple syrup that is free of any material other than pure, clear liquid maple syrup in sanitary condition; has a color no darker than the federal Department of Agriculture's visual color standard light amber or has a color for light transmittance not less than 75.0%Tc; has a delicately sweet, original maple flavor; and has a density of at least the equivalent of 66.0° Brix at 60° Fahrenheit Modulus 145. Grade A Light Amber maple syrup must be free of sugar crystals and may not be damaged in any way. [PL 1991, c. 326, §2 (NEW).]

B. "Grade A Medium Amber" means pure maple syrup that is free of any material other than pure, clear liquid maple syrup in sanitary condition; has a color no darker than the federal Department of Agriculture's visual color standard medium amber or has a color for light transmittance between the range of 74.9%Tc to 60.5%Tc; and may have a flavor that is more pronounced than that of Grade A Light Amber, but that is not strong or unpleasant. Grade A Medium Amber must meet the density requirement of Grade A Light Amber. Grade A Medium Amber maple syrup must be free of sugar crystals and may not be damaged in any way. [PL 1991, c. 326, §2 (NEW).]

C. "Grade A Dark Amber" means pure maple syrup that is free of any material other than pure, clear liquid maple syrup in sanitary condition; has a color no darker than the federal Department of Agriculture's visual color standard dark amber or has a color for light transmittance between the range of 60.4%Tc to 44.0%Tc; and may have a flavor that is stronger than that of Grade A Medium Amber, but that is not sharp, bitter, buddy or off-flavor. Grade A Dark Amber must meet the density requirement of Grade A Light Amber. Grade A Dark Amber maple syrup must be free of sugar crystals and may not be damaged in any way. [PL 1991, c. 326, §2 (NEW).]

D. "Grade A Extra Dark Amber" means pure maple syrup that is free of any material other than pure, clear liquid maple syrup in sanitary condition; has a color for light transmittance between the range of 43.9%Tc to 27.0%Tc; and may have a flavor stronger than Grade A Dark Amber. Grade A Extra Dark Amber must meet the density requirements of Grade A Light Amber. Grade A Extra Dark Amber maple syrup must be free of sugar crystals and may not be damaged in any way. [PL 1991, c. 326, §2 (NEW).]

E. "Commercial Grade" means pure maple syrup that is free of any material other than pure, clear liquid maple syrup in a sanitary condition; has a color for light transmittance less than 27.0%Tc; and may have a strong flavor. Commercial Grade maple syrup must be free of sugar crystals and may not be damaged in any way. Commercial Grade maple syrup may not be placed in packaged maple syrup containers and may not be sold, offered for sale or exposed for sale as packaged maple syrup. [PL 1991, c. 326, §2 (NEW).]

F. "Substandard" means bulk maple syrup that fails to meet the requirements of any other grade. Such syrup may not be placed in packaged maple syrup containers and may not be sold, offered for sale or exposed for sale as packaged maple syrup. [PL 1991, c. 326, §2 (NEW).]

[PL 1991, c. 326, §2 (NEW).]

**2. (TEXT EFFECTIVE ON CONTINGENCY: See PL 2013, c. 117, §3) Maple syrup grades.** The following grades are established as the official maple syrup grade standards for the State.

A. [PL 2013, c. 117, §2 (RP); PL 2013, c. 117, §3 (AFF).]

B. [PL 2013, c. 117, §2 (RP); PL 2013, c. 117, §3 (AFF).]

C. [PL 2013, c. 117, §2 (RP); PL 2013, c. 117, §3 (AFF).]

D. [PL 2013, c. 117, §2 (RP); PL 2013, c. 117, §3 (AFF).]

E. [PL 2013, c. 117, §2 (RP); PL 2013, c. 117, §3 (AFF).]

F. [PL 2013, c. 117, §2 (RP); PL 2013, c. 117, §3 (AFF).]

G. "Grade A Golden" means pure maple syrup that is free of any material other than pure, clear liquid maple syrup in sanitary condition; has a color for light transmittance of not less than 75%Tc; has a delicate taste; and has a light to more pronounced golden color. Grade A Golden maple syrup must be free of sugar crystals and may not be damaged in any way. [PL 2013, c. 117, §2 (NEW); PL 2013, c. 117, §3 (AFF).]

H. "Grade A Amber" means pure maple syrup that is free of any material other than pure, clear liquid maple syrup in sanitary condition; has a color for light transmittance of less than 75%Tc but not less than 50%Tc; has a rich or full-bodied taste; and has a light amber color. Grade A Amber maple syrup must be free of sugar crystals and may not be damaged in any way. [PL 2013, c. 117, §2 (NEW); PL 2013, c. 117, §3 (AFF).]

I. "Grade A Dark" means pure maple syrup that is free of any material other than pure, clear liquid maple syrup in sanitary condition; has a color for light transmittance of less than 50%Tc but not less than 25%Tc; has a more robust or stronger taste than maple syrup in lighter color classes; and has a dark color. Grade A Dark maple syrup must be free of sugar crystals and may not be damaged in any way. [PL 2013, c. 117, §2 (NEW); PL 2013, c. 117, §3 (AFF).]

J. "Grade A Very Dark" means pure maple syrup that is free of any material other than pure, clear liquid maple syrup in sanitary condition; has a color for light transmittance of less than 25%Tc; has a very strong taste; and has a very dark color. Grade A Very Dark maple syrup must be free of sugar crystals and may not be damaged in any way. [PL 2013, c. 117, §2 (NEW); PL 2013, c. 117, §3 (AFF).]

K. "Processing Grade" means any maple syrup that does not qualify for Grade A labeling, including off-flavored maple syrup. Processing Grade maple syrup may not be sold in retail markets and must be packed in 5-gallon or larger containers. [PL 2013, c. 117, §2 (NEW); PL 2013, c. 117, §3 (AFF).]

[PL 2013, c. 117, §2 (AMD); PL 2013, c. 117, §3 (AFF).]

SECTION HISTORY

PL 1991, c. 326, §2 (NEW). PL 2007, c. 24, §1 (AMD). PL 2013, c. 117, §§1, 2 (AMD). PL 2013, c. 117, §3 (AFF).

**§893. Labeling of maple syrup**

All containers of maple syrup sold or offered for sale for human consumption by any person, partnership, association, firm or corporation shall be labeled with the grade, the volume, name and address of the producer or packer, together with the producer's or packer's seal in such form as approved by the commissioner on the cap of the container which must be so affixed that the container cannot be opened until such seal is broken. Any marking which indicates pure Maine maple syrup shall be used exclusively upon pure maple syrup produced within the State of Maine and which has not been bleached or lightened in color by artificial means. [PL 1979, c. 541, Pt. A, §57 (AMD).]

The words "Maine Maple" shall not be used alone or in combinations with other words on a label or container to designate the flavor of the contents unless all of the maple flavoring of the contents is a pure maple, produced in this State. [PL 1967, c. 104 (NEW).]

SECTION HISTORY

PL 1967, c. 104 (NEW). PL 1979, c. 541, §A57 (AMD).

**§894. Labeling containers**

Any person, partnership, association, firm or corporation shall not sell or offer for sale in any place, or serve in any hotel, restaurant or other public eating place any maple sugar, maple confection or candy or maple syrup or any product labeled or represented as such that is in any way combined, interfused or diluted with cane or other sugars or any substance without distinctly marking, stamping or labeling

the article or the package containing the same or the advertisement of or menu statement thereof with an accurate and descriptive name of such article and in the case of maple sugar and maple syrup, the percentage in which maple sugar or maple syrup enters into its composition. In case of maple confection or candy a list of the ingredients thereof shall be listed in the order of their volume. The word "maple", "mapled", "mapleing" and words of similar import, except as printed in the percentage statement shall not appear in any manner on the said article in which a product of maple sap is so combined, interfused or diluted, unless the word "blend" appears immediately before, after, above or below said word or words of similar import in equal prominence with the word "maple" or similar term, or unless the term "maple flavored" appears in similar fashion on the label. [PL 1967, c. 104 (NEW).]

SECTION HISTORY

PL 1967, c. 104 (NEW).

**§895. Advertising**

Any person, partnership, association, firm or corporation, when quoting the price, shall include the grade on all flyers, newspapers, radio and television advertisements. [PL 1967, c. 104 (NEW).]

SECTION HISTORY

PL 1967, c. 104 (NEW).

**§896. Exemptions**

Any producer selling to another producer or packer is exempt, except if containers are labeled with a grade, the contents of that container shall meet the grade marked on that container. [PL 1979, c. 541, Pt. A, §58 (AMD).]

SECTION HISTORY

PL 1967, c. 104 (NEW). PL 1979, c. 541, §A58 (AMD).

**§897. Enforcement; jurisdiction**

The commissioner shall diligently enforce all of the provisions of sections 891 to 898. The commissioner, either in person or by a duly authorized representative, has free access, ingress and egress to any place or building, store, gift shop or any building wherein maple or maple products are packed, stored, transported, sold or offered or exposed for sale or for transportation. The commissioner may also in person, or by a duly authorized representative, open any container and may upon tendering market price, take samples therefrom. The commissioner may recover forfeitures imposed for violation of those sections in a civil action brought in the commissioner's own name and if the commissioner prevails in that action, recovers full costs. [RR 2021, c. 1, Pt. B, §112 (COR).]

All money and forfeitures received by the commissioner for violations of sections 891 to 898 must be paid by the commissioner to the Treasurer of State and must be appropriated for carrying out those sections. [RR 2021, c. 1, Pt. B, §113 (COR).]

The commissioner shall, in a manner consistent with the Maine Administrative Procedure Act, establish such rules and regulations as may be needed for the proper enforcement of sections 891 to 898. [PL 1977, c. 694, §88 (RPR).]

SECTION HISTORY

PL 1967, c. 104 (NEW). PL 1977, c. 694, §88 (AMD). PL 1977, c. 696, §§76,77 (AMD). RR 2021, c. 1, Pt. B, §§112, 113 (COR).

**§898. Violations**

Any person, firm or corporation who shall violate any of the provisions of sections 891 to 898 or neglect or refuse to comply with any of the provisions required in those sections or in any way violates

any of those provisions commits a civil violation for which the following forfeitures may be adjudged: [PL 1977, c. 696, §78 (RPR).]

**1. First violation.** For the first violation, a forfeiture not to exceed $100; and [PL 1977, c. 696, §78 (NEW).]

**2. Subsequent violations.** For each subsequent violation, a forfeiture not to exceed $200. [PL 1977, c. 696, §78 (NEW).]

SECTION HISTORY

PL 1967, c. 104 (NEW). PL 1977, c. 696, §78 (RPR).

## SUBCHAPTER 8-C

## BIRCH SYRUP PRODUCTS

### §901. Exposed for sale

For purposes of this subchapter, any birch syrup products governed by this subchapter that are packed in any type or kind of container and found in any place in the State, whether a warehouse, packing house or place where birch syrup products are stored, are deemed to be exposed for sale. [PL 2021, c. 43, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 43, §1 (NEW).

### §902. Labeling of birch syrup

All containers of birch syrup sold or offered for sale for human consumption must be labeled with the volume, name and address of the producer or packer, together with the producer's or packer's seal in a manner approved by the commissioner on the cap of the container, which must be affixed so that the container cannot be opened until the seal is broken. Any marking that indicates pure Maine birch syrup must be used exclusively for pure birch syrup produced in this State that has not been bleached or lightened in color by artificial means. [PL 2021, c. 43, §1 (NEW).]

The words "Maine Birch" may not be used alone or in combination with other words on a label or container to designate the flavor of the contents unless all of the birch flavoring of the contents is a pure birch produced in this State. [PL 2021, c. 43, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 43, §1 (NEW).

### §903. Labeling containers

A person may not sell or offer for sale in any place or serve in any hotel, restaurant or other public eating place any birch sugar, birch confection or candy or birch syrup or any product labeled or represented as such that is in any way combined, interfused or diluted with cane or other sugars or other substance without distinctly marking, stamping or labeling the article or the package containing cane or other sugars or other substance or the advertisement of or menu statement with an accurate and descriptive name of the article and, in the case of birch sugar and birch syrup, the percentage in which birch sugar or birch syrup enters into its composition. In the case of birch confection or candy, the ingredients must be listed in the order of the volume of each ingredient with the ingredient of greatest volume listed first. The words "birch," "birched" and "birching" and words of similar import, except as printed in the percentage statement, may not appear in any manner on the article in which a product of birch syrup is combined, interfused or diluted, unless the word "blend" appears immediately before,

after, above or below and in equal prominence with the word "birch" or words of similar import, or unless the term "birch flavored" appears in similar fashion on the label. [PL 2021, c. 43, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 43, §1 (NEW).

**§904. Enforcement; jurisdiction**

The commissioner shall enforce this subchapter. The commissioner or the commissioner's designee must have free access to any place or building, store, gift shop or any other building where birch syrup or birch syrup products are packed, stored, transported, sold or offered or exposed for sale or for transportation. The commissioner or the commissioner's designee may open any container and may upon tendering the market price take samples. The commissioner may recover fines imposed for a violation under this subchapter in a civil action and if the commissioner prevails in that action may recover full costs. [PL 2021, c. 43, §1 (NEW).]

All fines for violations under this subchapter must be paid to the Treasurer of State and appropriated for enforcing this subchapter. [PL 2021, c. 43, §1 (NEW).]

The commissioner shall adopt rules to implement this subchapter. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2021, c. 43, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 43, §1 (NEW).

**§905. Violations**

A person who violates any of the provisions of this subchapter commits a civil violation for which the following fines may be adjudged: [PL 2021, c. 43, §1 (NEW).]

**1. First violation.** For the first violation, a fine not to exceed $100; and
[PL 2021, c. 43, §1 (NEW).]

**2. Subsequent violations.** For each subsequent violation, a fine not to exceed $200.
[PL 2021, c. 43, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 43, §1 (NEW).

## SUBCHAPTER 9

## MINERAL OILS

## (REPEALED)

**§911. Definition**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A21 (RP).

**§912. Use restricted**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A21 (RP).

**§913. Violations**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 696, §79 (RPR). PL 1979, c. 672, §A21 (RP).

## SUBCHAPTER 10

## POTATOES

## ARTICLE 1

## GRADING

**§950. Definitions**

**1. Exposed for sale.** Potatoes packed in any type or kind of container, and found in any place in the State of Maine, whether that place shall be a depot, station, warehouse, packing house, boat dock or any place where potatoes are held in storage, or loaded on a boat, truck, trailer, or railroad car or motor vehicle, shall be deemed to be exposed for sale under this subchapter.

Potatoes in any dwelling house for the purpose of consumption on the premises shall not be deemed to be exposed for sale.
[PL 1965, c. 219, §1 (NEW).]

**2. Consumer pack.** "Consumer pack" means a unit of potatoes contained in a bag, crate or any other type of container.
[PL 1997, c. 388, §1 (AMD).]

**3. Shipping season.** "Shipping season" means the period after August 1st of each year and before July 31st of the following year.
[PL 1981, c. 513, §2 (NEW).]

SECTION HISTORY

PL 1965, c. 219, §1 (NEW). PL 1981, c. 513, §2 (AMD). PL 1997, c. 388, §1 (AMD).

**§951. Official standards**

The Commissioner of Agriculture, Conservation and Forestry is authorized and empowered, after holding public hearings in a manner consistent with the Maine Administrative Procedure Act, to establish and promulgate official definitions and standards for grading, or classifying, packing and labeling potatoes and to change such official standards from time to time. [PL 1977, c. 694, §89 (AMD); PL 1977, c. 694, §89 (AMD); PL 1979, c. 731, §19 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

Such official standards shall not be lower in their requirements than the minimum requirements of the official standards for corresponding grades or classifications as promulgated from time to time by the Secretary of Agriculture of the United States, commonly known as U. S. Grades. [PL 1965, c. 219, §2 (RPR).]

Notwithstanding the provisions of article 4, the commissioner after consultation with the Maine Potato Board may require, by rules adopted pursuant to the Maine Administrative Procedure Act, the inspection of all consumer packs of potatoes for conformity with the U.S. #1 grade or other grades.

Inspection under any rule adopted pursuant to this section must be performed by a licensed federal-state potato inspector, state potato inspector or seed potato inspector. At the request of and in consultation with the Maine Potato Board, the commissioner shall initiate rulemaking to require inspection of consumer packs of potatoes. [PL 1997, c. 388, §2 (AMD).]

A person who violates rules adopted under this section commits a civil violation for which a forfeiture not to exceed $1,000 for the first offense and $2,000 for any subsequent offense may be adjudged. [PL 1995, c. 298, §2 (NEW).]

SECTION HISTORY

PL 1965, c. 219, §2 (RPR). PL 1977, c. 694, §89 (AMD). PL 1979, c. 731, §19 (AMD). PL 1995, c. 298, §2 (AMD). PL 1997, c. 388, §2 (AMD). PL 2011, c. 657, Pt. W, §6 (REV).

**§951-A. Minimum standards for planting**

A person may not plant seed potatoes in the State, the product of which is intended for sale, in lots of one or more acres unless that seed is certified in accordance with rules adopted by the commissioner. These rules may include without limitation requirements for filing reports with the commissioner and requirements for filing records to the commissioner or the commissioner's designee, upon request, that demonstrate that the potatoes planted have been properly certified. A person, firm or corporation that plants potatoes in violation of this section is subject to a fine of $1,000 plus not more than $400 per acre for each acre or part of an acre planted. Failure to file complete and accurate reports or failure to provide complete and accurate records in accordance with the rules adopted by the commissioner is an additional violation resulting in a separate fine of not less than $200 nor more than $1,000 for each such failure. Any fine collected under this section is payable to the Treasurer of State and credited without lapsing to the commissioner for the enforcement of this section. The commissioner shall adopt and may amend rules consistent with the Maine Administrative Procedure Act to implement this section. In addition to the enforcement powers and penalties established in this section, the commissioner may issue subpoenas to any individual in order to compel delivery of any reports or records required under this section. These subpoenas are enforceable by any court of competent jurisdiction. [PL 2013, c. 475, §1 (AMD).]

In the event there is not available to be planted in Maine in any year a sufficient volume of Maine potato seed meeting Maine certified seed potato disease standards, in any or all varieties, the commissioner may, upon application of one or more growers, permit seed of a higher disease content to be planted for that growing season. [PL 1979, c. 532, §1 (NEW).]

Each grower shall keep records of seed planted by variety and by fields during the growing season and report planting records as may be requested by the commissioner. Notwithstanding Title 1, chapter 13, records pertaining to minimum standards for planting received or kept by the Department of Agriculture, Conservation and Forestry are confidential and not available for inspection. The confidential status terminates when the records are subpoenaed as evidence in any proceeding to enforce a provision of this section, or in any prosecution for a criminal violation. A grower may authorize in writing the disclosure of records pertaining to minimum standards for planting. [PL 1989, c. 783 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

PL 1979, c. 532, §1 (NEW). PL 1985, c. 184 (AMD). PL 1989, c. 783 (AMD). PL 2011, c. 657, Pt. W, §5 (REV). PL 2013, c. 475, §1 (AMD).

**§951-B. Compliance with official standards**

To achieve compliance with official standards, the commissioner may adopt, consistent with this Article and with section 402, a fee schedule for inspection of potatoes. The potato inspection fee

schedule may provide for a lower inspection rate for any person who is packing potatoes in a Maine bag as defined by section 1032, subsection 3. [PL 1981, c. 540, §1 (AMD).]

SECTION HISTORY

PL 1981, c. 513, §3 (NEW). PL 1981, c. 540, §1 (AMD).

**§952. Branding**

It is 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, at wholesale or retail, to ship, deliver or consign or have in possession potatoes prepared for market unless in containers that have been legibly and conspicuously tagged, branded, labeled or stenciled with the name and address of the person or persons responsible for packing and the name of the grade, net weight and the word "potatoes." All potatoes packed in this State must be packed in containers that conspicuously bear the name of the country where the potatoes were grown. The person or persons responsible for grading are as follows: If the violation is discovered in the packing house then the person or persons packing the potatoes are responsible; if the violation is discovered at any other place, then the person or persons whose name appears on the container are responsible. Each lot of potatoes sold at wholesale must be accompanied by a bill of lading or invoice stating grade, name and address of packer, name and address of the consignor, name and address of the consignee, date of loading and name of loading point. The bill of lading or invoice is prima facie evidence in any court of the person or persons packing potatoes. It is conclusive evidence that potatoes are exposed for sale when packed in containers for delivery or transit, or when the same are in the process of delivery or transit, or are located at a depot, station, warehouse, packing house, boat dock or any place where potatoes are held in storage, or loaded on a boat, truck, trailer or railroad car, for immediate or future sale or transit. For the purposes of this section only, potatoes located at warehouses, or packing houses at point of origin, are not considered exposed for sale until they are loaded or are in the process of being loaded in vehicles of transportation. When a violation of this section occurs, it is deemed to have taken place at the loading point or where such violation first became evident to the commissioner or the commissioner's duly authorized representative. Upon request and submission of proof to the Department of Agriculture, Food and Rural Resources by a packer that the packer has on hand a supply of bags that do not meet the requirement that the bags conspicuously bear the name of a country where the potatoes were grown, and those bags were purchased or contracted for before September 23, 1983, the Commissioner of Agriculture, Food and Rural Resources shall exempt the packer from that requirement until January 1, 1986. The commissioner, at the commissioner's discretion and upon unusual circumstances, may grant packers extended waivers until January 1, 1987. [RR 2021, c. 1, Pt. B, §114 (COR).]

SECTION HISTORY

PL 1965, c. 219, §3 (RPR). PL 1965, c. 464 (AMD). PL 1979, c. 541, §A59 (AMD). PL 1981, c. 513, §4 (AMD). PL 1983, c. 462 (AMD). PL 1985, c. 5 (AMD). PL 1985, c. 655, §1 (AMD). RR 2021, c. 1, Pt. B, §114 (COR).

**§953. False or misleading potato branding or labeling**

Notwithstanding section 952, it shall be unlawful for any person, firm, association, organization or corporation to expose for sale or sell at full sale or retail, to ship, deliver or consign, or have in possession potatoes prepared for market in containers which bear any statements, design or device regarding such potatoes which shall be false or misleading, in any particular, or potatoes packed in such manner that the face or shown surface is not an average of the contents of the package, or potatoes that fail to meet the grade requirements established and promulgated by the commissioner or potatoes that are accompanied by a bill of lading false or misleading in any particular. When a violation of this section occurs, it is deemed to have taken place at the point where such violation first became evident to the commissioner or his duly authorized representative. [PL 1981, c. 513, §5 (AMD).]

SECTION HISTORY

PL 1965, c. 219, §4 (RP). PL 1971, c. 271 (NEW). PL 1979, c. 541, §A60 (AMD). PL 1981, c. 513, §5 (AMD).

**§954. Sale without grading by grower**

No provisions of sections 951 to 957 shall be construed to prevent a grower or shipper of potatoes from selling or delivering the same within the State unpacked, or selling his crop in bulk, or any part thereof, to a packer for grading, packing or storage within 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 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. [PL 1965, c. 219, §5 (AMD).]

SECTION HISTORY

PL 1965, c. 219, §5 (AMD).

**§954-A. Seizure of misbranded, mislabeled or misrepresented product**

Whenever the commissioner or his duly authorized representative shall find from inspection, as authorized in section 956, that potatoes are being sold, exposed for sale, or shipped for sale in containers, and the containers bear any statements, design or device regarding such potatoes which shall be false or misleading, in any particular, or if potatoes are packed in such manner that the face or shown surface is not an average of the contents of the package, or if such potatoes fail to meet the minimum grade requirements established as a state grade by the commissioner, or if the potatoes are not accompanied by a proper bill of lading or invoice as provided by section 952, then the commissioner, or his duly authorized representative, may seize such potatoes so that they cannot be sold, offered, exposed for sale or transported. Any potatoes seized by the commissioner or his duly authorized representative for failure to meet the minimum grade requirements established by the commissioner shall be returned to the person, firm, or corporation responsible for packing the potatoes at the point of origin. Misbranded potatoes shall not be exposed or offered for sale or transported until such potatoes have been regraded and are accompanied by a federal-state inspection certificate showing that the potatoes meet the minimum grade requirements specified on the container. [PL 1975, c. 687, §1 (AMD).]

Notwithstanding section 957, any violation of this section shall constitute a separate civil violation with a minimum penalty of $1,000 for each occurrence. Each lot of potatoes exposed or offered for sale, transported, shipped or dumped without the requisite federal and state inspection certificate required under this section showing that the potatoes meet the minimum grade requirements specified on the container shall constitute a separate violation. There is no violation if the potatoes are removed from the containers under the supervision of the Department of Agriculture, Conservation and Forestry and are to be used for processing or charitable purposes. [PL 1989, c. 605 (NEW); PL 1989, c. 878, Pt. D, §5 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

PL 1965, c. 219, §6 (NEW). PL 1975, c. 687, §1 (AMD). PL 1989, c. 605 (AMD). PL 1989, c. 878, §D5 (AMD). PL 2011, c. 657, Pt. W, §5 (REV).

**§955. Exemptions**

Certified seed potatoes as defined by chapter 401 are exempted from sections 951 to 957, except as may otherwise be promulgated by the commissioner.

**§956. Enforcement; jurisdiction**

The commissioner shall diligently enforce all of the provisions of sections 951 to 957. The commissioner, either in person or by a duly authorized representative, has free access, ingress and egress to any place or field or any building, boat, truck, trailer, railroad car, warehouse, depot, station, packing house, boat dock or any building wherein potatoes are packed, stored, transported, sold, offered or exposed for sale or for transportation or for planting. The commissioner may also, in person, or by duly authorized representative, open any container and may take samples therefrom. The commissioner shall, upon written request, pay the packer the fair market value of any sample retained or destroyed by the commissioner. The commissioner may recover fines imposed for violation of those sections in a civil action brought in the commissioner's own name and, if the commissioner prevails in that action, recover full costs. [PL 2013, c. 475, §2 (AMD).]

Any person who refuses or interferes with access by the commissioner or the commissioner's representative as provided for in this section, following oral request and warning given by the commissioner or the commissioner's representative regarding the contents of this section, is guilty of a separate civil violation under section 957. [PL 1993, c. 699, §1 (AMD).]

All fees received under sections 951 to 957 by the commissioner and all money and forfeitures received by the commissioner under those sections must be paid by the commissioner to the Treasurer of State and must be appropriated for carrying out those sections. The commissioner shall, in a manner consistent with the Maine Administrative Procedure Act, establish such rules as may be needed for the proper enforcement of sections 951 to 957. [RR 2021, c. 1, Pt. B, §115 (COR).]

SECTION HISTORY

PL 1965, c. 219, §7 (AMD). PL 1977, c. 694, §90 (AMD). PL 1977, c. 696, §§80,81 (AMD). PL 1979, c. 541, §B6 (AMD). PL 1979, c. 731, §§10,11 (AMD). PL 1985, c. 655, §2 (AMD). PL 1993, c. 699, §1 (AMD). PL 2013, c. 475, §2 (AMD). RR 2021, c. 1, Pt. B, §115 (COR).

**§957. Violations**

Any person, firm or corporation who violates any of the provisions of sections 952 to 957 or to Article 4 or neglects or refuses to comply with any of the provisions required therein or in any way violates any of those provisions shall be subject to warning and to civil penalties payable to the State to be recovered in a civil action as provided in this section. [PL 1981, c. 513, §6 (RPR).]

**1. First violation.**

[PL 1993, c. 699, §2 (RP).]

**1-A. Penalty.** The following civil penalties apply:

A. For the first violation committed during a shipping season, a forfeiture of not more than $200; [PL 1993, c. 699, §3 (NEW).]

B. For the 2nd violation committed during a shipping season, a forfeiture of $1,000; and [PL 1993, c. 699, §3 (NEW).]

C. For the 3rd and subsequent violations committed during a shipping season, a forfeiture of not less than $1,500. [PL 1993, c. 699, §3 (NEW).]

[PL 1993, c. 699, §3 (NEW).]

**1-B. Mandatory inspection.** After notice and an opportunity for hearing in an adjudicatory proceeding in accordance with the Maine Administrative Procedure Act, the commissioner may order a person the commissioner finds has violated this chapter 3 or more times in a shipping season to undergo mandatory inspection in the manner provided in section 446 for a period of one year from the date of the final administrative determination. If the inspection order is stayed during appeal of the administrative determination, the period of the stay is not counted in calculating the one-year period. A person subject to mandatory inspection under this subsection may not ship potatoes packed in consumer packs unless the packs are accompanied by an unrestricted, original certificate of inspection

covering the entire manifest, or an original or a copy of a certificate of inspection positively identifying the actual bags or containers in the shipment. Shipment of potatoes without the certificate required by this subsection is a separate violation subject to the penalties provided by this section.
[PL 1993, c. 699, §3 (NEW).]

**2. Violations subsequent to the first.**

[PL 1993, c. 699, §4 (RP).]

**2-A. No violation.** There shall be no violation of section 952 or 953 where the lot of potatoes involved has been segregated and conspicuously marked with a sign stating that the potatoes are known to be out of grade or that the potatoes are awaiting state inspection under section 1036; provided that no such potatoes may be moved without consent of the department, except for purposes of repacking or regrading; and provided further that the department has been notified of the location and quantity of the potatoes involved. Any potatoes segregated under this subsection must be inspected by the department prior to shipment.
[PL 1985, c. 655, §3 (NEW).]

**3. Third and subsequent violations.**

[PL 1981, c. 513, §6 (RP).]

SECTION HISTORY

PL 1965, c. 219, §8 (AMD). PL 1975, c. 687, §2 (RPR). PL 1977, c. 696, §82 (RPR). PL 1979, c. 454 (AMD). PL 1979, c. 532, §2 (AMD). PL 1981, c. 513, §6 (RPR). PL 1985, c. 655, §3 (AMD). PL 1993, c. 699, §§2-4 (AMD).

**§958. Law enforcement officers**

In enforcing this Article, the commissioner or any other duly authorized representative shall be considered law enforcement officers only for purposes of service of process consistent with Title 17-A, section 17, subsection 1. [PL 1979, c. 731, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 731, §12 (NEW).

## ARTICLE 1-A

## CENTRAL STORAGE, PACKING AND MARKETING

**§970. Definitions**

As used in this article, unless the context otherwise indicates, the following terms have the following meanings. [PL 2013, c. 403, §2 (NEW).]

**1. Board.** "Board" means the Maine Potato Board established in Title 36, section 4603.
[PL 2013, c. 403, §2 (NEW).]

**2. Committee.**
[PL 2021, c. 560, §5 (RP).]

**3. Fund.** "Fund" means the Potato Marketing Improvement Fund established in Title 10, section 1023-N.
[PL 2013, c. 403, §2 (NEW).]

SECTION HISTORY

PL 2013, c. 403, §2 (NEW). PL 2021, c. 560, §5 (AMD).

**§971. Purpose**

**(REPEALED)**

SECTION HISTORY

PL 1981, c. 513, §7 (NEW). PL 2005, c. 382, §A5 (RP).

**§972. Potato Marketing Improvement Committee**

**(REPEALED)**

SECTION HISTORY

PL 1981, c. 513, §7 (NEW). PL 1983, c. 812, §45 (AMD). PL 1985, c. 779, §35 (AMD). PL 1987, c. 319, §1 (AMD). PL 1987, c. 534, §§B2,B23 (AMD). PL 1987, c. 769, §A35 (RPR). PL 1989, c. 503, §B42 (AMD). PL 2001, c. 125, §1 (AMD). PL 2005, c. 335, §2 (RP).

**§972-A. Advisory role of Maine Potato Board**

**(REPEALED)**

SECTION HISTORY

PL 2005, c. 335, §3 (NEW). PL 2013, c. 403, §3 (RP).

**§972-B. Potato Marketing Improvement Fund Committee**

**(REPEALED)**

SECTION HISTORY

PL 2013, c. 403, §4 (NEW). PL 2021, c. 560, §6 (RP).

**§973. Potato Marketing Improvement Fund**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 731, §§5-7,19 (AMD). PL 1981, c. 513, §7 (NEW). PL 1987, c. 319, §2 (AMD). PL 1987, c. 727, §§1,2,4 (AMD). PL 1987, c. 754, §1 (AMD). PL 1989, c. 502, §B3 (RPR). PL 1993, c. 699, §5 (AMD). PL 2001, c. 125, §2 (RP).

**§973-A. Administration of Potato Marketing Improvement Fund**

The board shall administer the fund. [PL 2013, c. 403, §5 (AMD).]

SECTION HISTORY

PL 2001, c. 125, §3 (NEW). PL 2013, c. 403, §5 (AMD).

**§974. State loans**

**(REPEALED)**

SECTION HISTORY

PL 1981, c. 513, §7 (NEW). PL 1987, c. 319, §3 (RP).

**§974-A. State loans**

**1. State loans.** State loans are subject to the following conditions.

A. No state loan for any project under this article, the total cost of which exceeds $150,000, may exceed 45% of the project cost and no state loan may be provided for such a project unless the applicant demonstrates a commitment of private funds of at least 10% of the total cost of the project, except that, in order to encourage the undertaking of cooperative projects by 2 or more farmers, no state loan for such a project may exceed 50% of the total cost of the project and no state loan may

be provided unless the cooperating farmers as a group demonstrate a commitment of private funds of at least 5% of the total cost of the project. [PL 2017, c. 6, §1 (AMD).]

B. No state loan for any project under this article, the total cost of which is $150,000 or less, may exceed 55% of the total cost of the project. [PL 2017, c. 6, §1 (AMD).]

C. State loans must be at the interest rate established pursuant to subsection 2-A. [PL 2021, c. 31, §1 (AMD).]

D. Other terms and conditions prescribed by rule by the board. [PL 2021, c. 560, §7 (AMD).]
[PL 2021, c. 560, §7 (AMD).]

**2. State loan interest rate.**

[PL 2021, c. 31, §2 (RP).]

**2-A. State loan interest rate.** The interest rate for state loans is the federal prime rate on the date of loan commitment but may not be greater than 5%. Loans current on the effective date of this subsection may be refinanced at the borrower's request to an interest rate of the federal prime rate but not greater than 5%.

A fee for administrative costs, which must be at a rate set by rule by the board but may not exceed 1% of the loan, must be charged on a loan made for a project the total cost of which exceeds $50,000. This fee must be deposited in the fund.
[PL 2021, c. 31, §3 (NEW).]

**3. Approval of loans and grants.** The commissioner has authority to approve all loans and grants from the fund.
[PL 2013, c. 403, §8 (NEW).]

SECTION HISTORY

PL 1987, c. 319, §4 (NEW). PL 1987, c. 754, §2 (AMD). PL 1999, c. 127, §A14 (AMD). PL 2001, c. 125, §4 (AMD). PL 2005, c. 335, §4 (AMD). PL 2013, c. 403, §§6-8 (AMD). PL 2017, c. 6, §1 (AMD). PL 2021, c. 31, §§1-3 (AMD). PL 2021, c. 560, §7 (AMD).

**§975. Grants**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 727, §2 (NEW). PL 1987, c. 727, §4 (RP). PL 1987, c. 754, §3 (NEW). PL 1989, c. 502, §§B4,B5 (RPR).

**§975-A. Interest on Potato Marketing Improvement Fund balance**

All or any portion of the interest earned or accruing on the cash balance of the Potato Marketing Improvement Fund may be used for grants to partially or fully fund research projects to study and assess technical problems experienced with new and retrofitted storage facilities and to develop means of dealing with such problems, or to examine, monitor and develop new technologies for the production, storage and handling of potatoes or to fund programs and activities that improve the economic viability of the potato industry. [PL 2005, c. 335, §5 (AMD).]

SECTION HISTORY

PL 1993, c. 410, §HHHH1 (NEW). PL 1997, c. 388, §3 (AMD). PL 2005, c. 335, §5 (AMD).

**§976. Aroostook County office**

The board shall maintain or arrange for the maintenance of an office in Aroostook County located in a town most convenient to the largest number of potential users of the fund. This office must be staffed by one or more business development specialists primarily responsible for work associated with

the fund as well as other activities as defined by the board. The business development specialists must be available in the Aroostook County office on a regular basis. [PL 2013, c. 403, §9 (AMD).]

Should the performance of the functions of the business development specialists be contracted for, this contract must be made by the board and must be awarded through competitive bidding. [PL 2013, c. 403, §9 (AMD).]

SECTION HISTORY

PL 1989, c. 502, §B6 (NEW). PL 2005, c. 335, §6 (AMD). PL 2013, c. 403, §9 (AMD).

**§977. Potato Marketing Improvement Fund Operating Account**

There is established a Potato Marketing Improvement Fund Operating Account. This account draws funds from the fund on a periodic basis to be determined by the board to cover the costs of administering the fund and any grants made. [PL 2013, c. 403, §10 (AMD).]

SECTION HISTORY

PL 2001, c. 125, §5 (NEW). PL 2013, c. 403, §10 (AMD).

## ARTICLE 2

## MARKETING

**§991. Title**

Sections 991 to 994 may be known and cited as the "Maine Potato Marketing Act." [RR 1999, c. 2, §7 (COR).]

SECTION HISTORY

PL 1981, c. 154, §§2,3 (RP). PL 1981, c. 513, §11 (AMD). RR 1999, c. 2, §7 (COR).

**§992. Purposes**

The purposes of sections 991 to 994 are: [RR 1999, c. 2, §8 (COR).]

**1. Correlate marketing.** To enable potato producers of this State, with the aid of the State, more effectively to correlate the marketing of their potatoes with market demands therefor;

**2. Uniform grading.** To provide for uniform grading and proper preparation of potatoes for market;

**3. Develop markets.** To provide methods and means for the development of new and larger markets for potatoes grown within this State;

**4. Orderly marketing.** To establish orderly marketing of potatoes grown within this State;

**5. Eliminate economic waste.** To eliminate or reduce economic waste in the marketing of potatoes.

SECTION HISTORY

PL 1981, c. 154, §§2,3 (RP). PL 1981, c. 513, §11 (AMD). RR 1999, c. 2, §8 (COR).

**§993. Definitions**

As used in sections 991 to 994, unless the context otherwise indicates, the following terms have the following meanings. [RR 1999, c. 2, §9 (COR).]

**1. Committee.**
[PL 1999, c. 668, §69 (RP).]

**2. Consumer pack.** "Consumer pack" means a unit of less than 50 pounds new weight of potatoes contained in a bag, crate or any other type of container.

**3. District.** "District" means each one of the geographical divisions of the production area established as follows:

A. District No. 1. Township 11, Range 8, Townships 11, 12, 13 and 14, Range 7, Township 14, Range 6, Townships 14, 15, 16, Range 5, Townships 16, 17, Range 4, Township 17, Range 3, the Towns of Van Buren, Cyr, Connor, Caswell, Hamlin and all towns and townships north and west thereof in Aroostook County;

B. District No. 2. All the towns and townships in Aroostook County not included in Districts Nos. 1 and 3;

C. District No. 3. Mount Chase Plantation, Stacyville Plantation, the Town of Patten and Township 2, Range 6, in Penobscot County, and Township 8, Range 5, Township 8, Range 4, Township 8, Range 3, Township C, Range 2, the Town of Monticello and all the towns and townships south thereof in Aroostook County;

D. District No. 4. All the remaining counties, towns and townships in the State not included in Districts 1, 2 and 3.

**4. Export.** "Export" means shipment of potatoes beyond the boundaries of continental United States.

**5. Fiscal year.** "Fiscal year" means the period beginning July 1st of each year and ending June 30th of the following year.

**6. Grade.** "Grade" means one of the officially established grades of potatoes and "size" means any one of the officially established sizes of potatoes, as defined and set forth in:

A. The United States Standards for Potatoes issued by the Department of Agriculture on September 10, 1941, effective June 1, 1942 (12 F. R. 3651), or amendments thereto, or modifications thereof, or variations based thereon;

B. United States Consumer Standards for Potatoes as issued by the United States Department of Agriculture on November 3, 1947, effective December 8, 1947 (12 F. R. 7281), or amendments thereto, or modifications thereof, or variations based thereon;

C. State of Maine Standards for Potatoes issued by the commissioner in accordance with section 951. [PL 1979, c. 541, Pt. A, §62 (AMD).]

[PL 1979, c. 541, Pt. A, §62 (AMD).]

**7. Handler.** "Handler" is synonymous with shipper and means any person, except a common or contract carrier of potatoes owned by another person, who ships potatoes in fresh form or packs or prepares potatoes for market.

**8. Person.** "Person" means an individual, partnership, corporation, association, legal representative or any organized group or business unit.

**9. Potatoes.** "Potatoes" means all Irish potatoes grown within the State which retain the same physical form as possessed when harvested. The effects of the following operations shall not be considered as changing the physical form possessed by potatoes when harvested: Washing with or without chemicals; drying for the removal of surface moisture; slicing or cutting for seed purposes only; precooling, preheating, ventilating, humidifying or otherwise controlling atmospheric conditions in storage; treating with chemical formulations for sprout inhibition; waxing, packaging or otherwise preparing potatoes for marketing in what is generally considered to be fresh form.

[PL 1971, c. 600, §1 (AMD).]

**10. Potatoes prepared for market.** "Potatoes prepared for market" means and includes all potatoes packed in containers and intended for delivery or in transit or exposed for sale or in the process of delivery or in transit or located at a depot, station, boat dock or any place where potatoes are held in storage or for immediate or future sale or transit.

**11. Producer.** "Producer" means any person engaged in the production of potatoes for market.

**12. Seed potatoes.** "Seed potatoes" means and includes all potatoes officially certified and tagged, marked or otherwise appropriately identified, under the supervision of the official seed potato certifying agency of the State.

**13. Ship or handle.** "Ship" or "handle" means to transport, sell or in any other way to pack or prepare potatoes for market.

**14. Table stock potatoes.** "Table stock potatoes" means and includes all potatoes not included within the definition of "seed potatoes".

**15. Varieties.** "Varieties" means and includes all classifications or subdivisions of Irish potatoes according to those definitive characteristics now or hereafter recognized by the United States Department of Agriculture.

**16. Wholesale pack.** "Wholesale pack" means a unit of 50 pounds net weight or more of potatoes contained in a bag, crate or any other type of container.

SECTION HISTORY

PL 1965, c. 513, §9 (AMD). PL 1971, c. 600, §1 (AMD). PL 1979, c. 541, §§A61,A62 (AMD). PL 1981, c. 154, §§2,3 (RP). PL 1981, c. 513, §11 (AMD). PL 1999, c. 668, §69 (AMD). RR 1999, c. 2, §9 (COR).

**§994. Administration**

The commissioner shall administer and enforce sections 991 to 994 and has and may exercise any or all of the administrative powers conferred upon the head of a department of the State. In order to effectuate the declared purposes of said sections, the commissioner is authorized to issue, administer and enforce the marketing orders regulating the marketing of potatoes within the State. [RR 1999, c. 2, §10 (COR).]

Whenever the commissioner has reason to believe that the issuance of a marketing order will tend to effectuate the declared policy of sections 991 to 994, the commissioner shall, in a manner consistent with the rule-making provisions of the Maine Administrative Procedure Act, either upon the commissioner's own motion or upon application of any producer or handler of potatoes, give due notice of and an opportunity for a public hearing upon a proposed marketing order. [RR 1999, c. 2, §10 (COR).]

Due notice of any hearing called for such purpose must be given to all persons who may be directly affected by any action of the commissioner pursuant to sections 991 to 994 and whose names appear upon lists to be filed with the commissioner. Such hearing must be open to the public. All testimony must be received under oath and a full and complete record of all proceedings at any such hearing must be made and filed by the commissioner at the commissioner's office. [RR 1999, c. 2, §10 (COR).]

In order to effectuate the declared policy of sections 991 to 994, the commissioner has the power, after due notice and opportunity for hearing, to enter into marketing agreements with handlers, producers and others engaged in the handling of potatoes, regulating the preparation, sale and handling of potatoes, which said marketing agreement is binding upon the signatories thereto exclusively. The execution of such marketing agreement may in no manner affect the issuance, administration or enforcement of any marketing order provided for in sections 991 to 994. The commissioner may issue such marketing order without executing a marketing agreement or may execute a marketing agreement without issuing a marketing order covering the same subject matter. The commissioner, in the

commissioner's discretion, may hold a concurrent hearing upon a proposed marketing agreement and a proposed marketing order in the manner provided for giving due notice and opportunity for hearing for a marketing order as provided in sections 991 to 994. [RR 1999, c. 2, §10 (COR).]

After such notice and hearing, the commissioner may issue a marketing order if the commissioner finds it will tend to effectuate the declared policy of sections 991 to 994, subject to the following: [RR 1999, c. 2, §10 (COR).]

**1. Approved by 2/3 of producers participating in referendum.** No marketing order or amendment thereto issued pursuant to sections 991 to 994 may become effective unless and until the commissioner determines that the issuance of such order is approved and favored by at least 2/3 of the producers who participated in a referendum on the question of its approval and who, during the preceding fiscal year, have been engaged in the production of potatoes for market within the production area specified in such marketing order, and who, during such year, have produced at least 2/3 of the volume of potatoes produced for market within such production area specified herein by all producers who participated in the said referendum.
[RR 1999, c. 2, §10 (COR).]

**2. Assent of handlers.** No marketing agreement or amendment thereto, directly affecting handlers, issued pursuant to sections 991 to 994, may become effective unless and until the commissioner finds that such agreement has been assented to in writing by the handlers who handle not less than 50% of the volume of the potatoes handled within the area defined in such agreement and by not less than 50% of the number of handlers engaged in handling potatoes within such area.
[RR 1999, c. 2, §10 (COR).]

SECTION HISTORY

PL 1977, c. 694, §91 (AMD). PL 1981, c. 154, §§2,3 (RP). PL 1981, c. 513, §11 (AMD). RR 1999, c. 2, §10 (COR).

**§995. Potato Marketing Committee**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 541, §B7 (AMD). PL 1981, c. 154, §§2,3 (RP). PL 1981, c. 513, §11 (AMD). PL 1983, c. 812, §§46,47 (AMD). PL 1989, c. 503, §B43 (AMD). PL 1999, c. 668, §70 (RP).

**§996. Expenses and assessments**

**(REPEALED)**

SECTION HISTORY

PL 1981, c. 154, §§2,3 (RP). PL 1981, c. 513, §11 (AMD). PL 1999, c. 668, §71 (RP).

**§997. Regulation**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 694, §§92-96 (AMD). PL 1999, c. 668, §72 (RP).

**§998. Control of surplus**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 694, §97 (AMD). PL 1981, c. 154, §§2,3 (RP). PL 1981, c. 513, §11 (AMD). PL 1999, c. 668, §73 (RP).

**§999. Change of regulations**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 694, §98 (AMD). PL 1981, c. 154, §§2,3 (RP). PL 1981, c. 513, §11 (AMD). PL 1999, c. 668, §73 (RP).

**§1000. Reports**

**(REPEALED)**

SECTION HISTORY

PL 1981, c. 154, §§2,3 (RP). PL 1981, c. 513, §11 (AMD). PL 1999, c. 668, §73 (RP).

**§1001. Compliance**

**(REPEALED)**

SECTION HISTORY

PL 1981, c. 154, §§2,3 (RP). PL 1981, c. 513, §11 (AMD). PL 1999, c. 668, §73 (RP).

**§1002. Termination or change of marketing orders**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 694, §99 (AMD). PL 1981, c. 154, §§2,3 (RP). PL 1981, c. 513, §11 (AMD). PL 1999, c. 668, §73 (RP).

**§1003. Effect of termination or amendment**

**(REPEALED)**

SECTION HISTORY

PL 1981, c. 154, §§2,3 (RP). PL 1981, c. 513, §11 (AMD). PL 1999, c. 668, §73 (RP).

**§1004. Duration of immunities**

**(REPEALED)**

SECTION HISTORY

PL 1981, c. 154, §§2,3 (RP). PL 1981, c. 513, §11 (AMD). PL 1999, c. 668, §73 (RP).

**§1005. Personal liability of committee member**

**(REPEALED)**

SECTION HISTORY

PL 1981, c. 154, §§2,3 (RP). PL 1981, c. 513, §11 (AMD). PL 1999, c. 668, §73 (RP).

**§1006. Penalties**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 696, §83 (AMD). PL 1981, c. 154, §§2,3 (RP). PL 1981, c. 513, §11 (AMD). PL 1999, c. 668, §73 (RP).

**§1006-A. Penalties**

A person who violates a provision of sections 991 to 994 or a provision of a marketing order duly issued by the commissioner commits a civil violation for which a forfeiture of not less than $100 nor

more than $500 may be adjudged. Each day during which a violation continues constitutes a separate offense. [PL 2001, c. 421, Pt. B, §8 (NEW); PL 2001, c. 421, Pt. C, §1 (AFF).]

SECTION HISTORY

PL 2001, c. 421, §B8 (NEW). PL 2001, c. 421, §C1 (AFF).

**§1007. Dumping of waste potatoes**

**(REPEALED)**

SECTION HISTORY

PL 1995, c. 261, §1 (RP).

**§1007-A. Improperly maintaining cull potato piles; public nuisance**

**1. Declaration of public nuisance.** The Legislature declares that the A2 strain of late blight and other potato diseases constitute a clear and present danger to the potato industry in the State, which is a significant part of the State's economy. Control of the A2 strain of potato blight and other potato diseases requires the proper disposal of cull potato piles. The Legislature finds it necessary to exercise the police power of the State to require proper disposal of cull potatoes and cull potato piles and to provide procedures for the disposal of these potatoes by the department when the responsible party fails to comply with the requirements of this section. In addition to constituting a civil violation as prescribed in this section, cull potato piles that are not managed and disposed of in accordance with these requirements are considered a public nuisance and are subject to action under Title 17, chapter 91.
[PL 2007, c. 570, §1 (AMD).]

**1-A. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Cull potatoes" means:

(1) Potatoes that are not marketable or usable for human consumption or as seed potatoes;

(2) Potatoes that are used for animal feed;

(3) The residue potatoes left in the field from commercial or seed potato production the preceding year; and

(4) Potatoes that spoil while in storage. [PL 2007, c. 570, §1 (NEW).]

B. "Responsible party" means the owner or lessee of the property on which cull potatoes are found or another person determined to be responsible for the potatoes in accordance with rules adopted under subsection 3. [PL 2007, c. 570, §1 (NEW).]
[PL 2007, c. 570, §1 (NEW).]

**2. Disposal requirements; maintenance of cull potato piles.** The commissioner shall adopt rules in accordance with subsection 3 to prescribe acceptable methods for disposal of cull potatoes and establish best management practices for maintaining cull potato piles. Except as provided in rules adopted under subsection 3, all cull potatoes must be properly disposed of on or before June 10th of each year. A person who keeps a pile of cull potatoes shall maintain the pile in accordance with best management practices. Upon inspection authorized under subsection 4, the commissioner may determine site-specific best management practices for a pile of cull potatoes and order the responsible party to comply with these practices.
[PL 2007, c. 570, §1 (AMD).]

**3. Rules.** The commissioner shall adopt any rules necessary to implement this section in accordance with the Maine Administrative Procedure Act, except that the commissioner may shorten or suspend the notice and hearing requirements as necessary to respond to an imminent threat of disease.

The commissioner shall adopt a set of best management practices for the maintenance of cull potato piles between June 10th and October 1st and may adopt a different set of best management practices applicable to piles maintained between October 1st of one year and June 10th of the following year. The commissioner may use emergency rulemaking to temporarily vary:

A. The dates established in subsection 2 when circumstances require that cull potatoes be disposed of prior to the June 10th date to prevent or minimize the spread of disease; [PL 2007, c. 570, §1 (NEW).]

B. The dates established in subsection 2 when weather or economic circumstances allow an extension of the time period during which cull potato piles may be maintained without significantly increasing the threat of disease; and [PL 2007, c. 570, §1 (NEW).]

C. The best management practices prescribed for maintaining cull potato piles when these practices are found inadequate to protect against an imminent threat. [PL 2007, c. 570, §1 (NEW).]

Except in an emergency, the commissioner shall consult with the Maine Potato Board prior to adopting rules under this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2007, c. 570, §1 (AMD).]

**4. Department action.** The commissioner may take action to properly dispose of or manage cull potatoes and cull potato piles that violate the requirements of this section or any rules of the commissioner adopted to implement this section. The commissioner or the commissioner's designee is authorized to enter any property to inspect cull potato piles and to take any action required to secure their proper disposal or management. Designated representatives of the commissioner may, without search warrant, enter at reasonable times any real property, other than a building, where potatoes are grown, stored, packed, loaded for shipment or handled, and may enter any building, either with the consent of the owner, lessee, occupant or agent or pursuant to an administrative search warrant. Notwithstanding the Maine Rules of Civil Procedure, Rule 80E, paragraph (b), the commissioner or the commissioner's designee may obtain an administrative search warrant pursuant to this section by describing the premises to be entered and the purpose of the inspection or other authorized action and by demonstrating that the entry is necessary in order to inspect potato cull piles or otherwise carry out the requirements of this section. This demonstration is deemed to be a demonstration of probable cause.

The costs incurred by the department in removing and properly disposing of or managing cull potatoes and cull potato piles must be reimbursed by the responsible party or parties, each of whom is jointly and severally liable for those costs to the department. The department, its employees and agents and any person acting on behalf of the department are not liable for any action taken pursuant to this section.
[PL 2007, c. 570, §1 (AMD).]

**5. Potato Cull Removal Fund.** The Potato Cull Removal Fund is established to be used by the department to administer and enforce the provisions of this section and to pay any expenses of cull potato management, removal or disposal. The commissioner may receive funds from any source to be deposited into this fund, which does not lapse. If at any time the balance of the fund falls below $15,000, any penalties collected under this section must be deposited into the fund. Otherwise, penalties collected must be deposited into the General Fund.
[PL 2007, c. 570, §1 (AMD).]

**6. Civil penalties.** Any person who violates any of the requirements of this section or any rules adopted under this section commits a civil violation for which a fine of not more than $1,000 for each violation, together with not more than $1,000 for each succeeding day of a continuing violation, may be adjudged.
[PL 2005, c. 512, §43 (AMD).]

SECTION HISTORY

PL 1995, c. 261, §2 (NEW). PL 1997, c. 538, §1 (RPR). PL 2005, c. 512, §43 (AMD). PL 2007, c. 570, §1 (AMD).

## ARTICLE 2-A

## MAINE POTATO PRICES

**§1008. Purpose**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 582, §1 (NEW). PL 1983, c. 582, §4 (RP). PL 1983, c. 829, §2 (AMD). PL 1985, c. 450 (AMD). PL 1999, c. 668, §74 (RP).

**§1008-A. Definitions**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 582, §1 (NEW). PL 1983, c. 582, §4 (RP). PL 1983, c. 829, §§3,4 (AMD). PL 1985, c. 450 (AMD). PL 1987, c. 434, §1 (AMD). PL 1999, c. 668, §75 (RP).

**§1008-B. Maine Marketing Advisory Board**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 582, §1 (NEW). PL 1983, c. 582, §4 (RP). PL 1983, c. 829, §§5-7 (AMD). PL 1985, c. 295, §§24,25 (AMD). PL 1985, c. 450 (AMD). PL 1987, c. 434, §§2,3 (AMD). RR 1997, c. 2, §27 (COR). PL 1999, c. 668, §76 (RP).

**§1008-C. Duties of the commissioner**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 582, §1 (NEW). PL 1983, c. 582, §4 (RP). PL 1983, c. 829, §§8-11 (AMD). PL 1983, c. 862, §§27,28 (AMD). PL 1985, c. 450 (AMD). PL 1999, c. 668, §77 (RP).

**§1008-D. Enforcement of mandatory minimum price**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 582, §1 (NEW). PL 1983, c. 582, §4 (RP). PL 1983, c. 829, §12 (RP). PL 1985, c. 450 (AMD).

**§1008-E. Contracts exempted**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 582, §1 (NEW). PL 1983, c. 582, §4 (RP). PL 1983, c. 829, §12 (RP). PL 1985, c. 450 (AMD).

**§1008-F. Budget**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 582, §1 (NEW). PL 1983, c. 582, §4 (RP). PL 1983, c. 829, §13 (AMD). PL 1985, c. 450 (AMD). PL 1999, c. 668, §77 (RP).

**§1008-G. Personal liability of board member**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 582, §1 (NEW). PL 1983, c. 582, §4 (RP). PL 1985, c. 450 (AMD). PL 1987, c. 434, §4 (AMD). PL 1999, c. 668, §78 (RP).

**§1008-H. Penalties**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 582, §1 (NEW). PL 1983, c. 582, §4 (RP). PL 1983, c. 829, §14 (RP). PL 1985, c. 450 (AMD).

**§1008-I. Barrel replaced by hundredweight as a measure**

**(REPEALED)**

SECTION HISTORY

PL 1989, c. 181 (NEW). PL 1999, c. 668, §79 (RP).

## ARTICLE 3

## LICENSING

**§1011. Purpose**

The Legislature finds that the potato industry has a substantial and unique effect on the economy of the entire State and Aroostook County in particular. Large numbers of the people in the State are directly or indirectly dependent on the industry. Over the years the industry has experienced wide fluctuations in prices and quality of product. Such fluctuations have caused commensurate instability in the economy of a large portion of the State. To a great extent the well-being of the industry is dependent upon those persons engaged in the marketing of the potatoes and rotation crops grown by others and the manner in which their services are performed. The entire manner of marketing potatoes and rotation crops is unique and requires special consideration. [PL 1997, c. 606, §1 (AMD).]

The Legislature intends through this legislation to exercise the police power of the State in order to protect and promote the general welfare of the potato industry and the people of the State and maintain and encourage fair and equitable practices in the handling, sale and storage of potatoes and rotation crops. Such stabilization of the potato industry will have the beneficial effect of improving the economy of the entire State. [PL 1997, c. 606, §1 (AMD).]

SECTION HISTORY

PL 1971, c. 366 (NEW). PL 1997, c. 606, §1 (AMD).

**§1012. Definitions**

As used in this Article, in addition to the meanings given to the terms set forth in section 993 which meanings are applicable to such terms when used in this Article, the following terms shall have the following meanings: [PL 1971, c. 366 (NEW).]

**1. Agent.** "Agent" means any person who sells or distributes potatoes or rotation crops in commerce for or on behalf of producers or others and whose operations may include the planting, cultivating, harvesting, grading, packing and furnishing containers, supplies or other services.
[PL 1997, c. 606, §2 (AMD).]

**2. Applicant.** "Applicant" means any person applying for a license under this Article.
[PL 1971, c. 366 (NEW).]

**3. Broker.** "Broker" means any person engaged in the business of negotiating sales of potatoes in commerce for or on behalf of the seller or the purchaser, respectively. The term "broker" shall apply to nonresidents of this State who carry on such business in this State, whether such "broker" is licensed in the state of his residence or not.
[PL 1981, c. 513, §8 (AMD).]

**4. Buyer.** "Buyer" means any person other than a consumer who purchases or contracts to purchase potatoes or rotation crops.
[PL 1997, c. 606, §2 (AMD).]

**5. Dealer.** "Dealer" means any person engaged in the business of buying or selling potatoes or rotation crops in wholesale or jobbing quantities in commerce and includes:

A. Jobbers, distributors and other wholesalers; [PL 1997, c. 606, §3 (AMD).]

B. Producers who buy and resell potatoes or rotation crops grown by others in wholesale or jobbing quantities; and [PL 1997, c. 606, §3 (AMD).]

C. Nonresidents of this State who carry on the business of buying and selling potatoes or rotation crops in this State, whether such dealer is licensed in that dealer's state of residence or not. [PL 1997, c. 606, §3 (AMD).]

The term "dealer" does not include persons buying potatoes or rotation crops for canning or processing, or both, within this State and persons buying potatoes or rotation crops for sale primarily to consumers.
[PL 1997, c. 606, §3 (AMD).]

**6. Licensed federal-state potato inspector.** "Licensed federal-state potato inspector" means an authorized representative of the Federal-State Inspection Service.
[PL 1971, c. 366 (NEW).]

**7. Licensee.** "Licensee" means any person who holds an unrevoked and valid unsuspended license issued under this Article.
[PL 1971, c. 366 (NEW).]

**8. Maine Potato Council.**

[PL 1991, c. 837, Pt. A, §18 (RP).]

**9. Retailer.** "Retailer" means a person engaged in the business of buying potatoes or rotation crops in wholesale or jobbing quantities and reselling the potatoes or rotation crops bought primarily to consumers through at least 5 retail outlets located within or without the State.
[PL 1997, c. 606, §4 (AMD).]

**9-A. Rotation crop.** "Rotation crop" means small grain, soybean or flax grown in rotation with potatoes.
[PL 1997, c. 606, §5 (NEW).]

**10. Sale.** "Sale" includes every contract of purchase or sale, contract to purchase or sell, purchase, sale and disposition of potatoes or rotation crops for value.
[PL 1997, c. 606, §6 (AMD).]

**11. Seller.** "Seller" means any person who sells or contracts to sell potatoes or rotation crops in the regular course of business.
[PL 1997, c. 606, §6 (AMD).]

**12. Verified complaint.** "Verified complaint" means a writing signed by a person, who, under oath, swears that the person has reason to believe that a person required to be licensed under this Article has violated one or more of the provisions of this Article or of the rules and regulations promulgated thereunder, setting forth a short and plain statement of the allegations that are the basis for such belief.
[RR 2021, c. 1, Pt. B, §116 (COR).]

**13. Wholesale or jobbing quantities.** "Wholesale or jobbing quantities" means aggregate quantities of potatoes totalling 25 tons, that is, 50,000 pounds, or more in weight purchased or contracted to be purchased in any calendar month.
[PL 1979, c. 541, Pt. A, §63 (AMD).]

**14. Processor.** "Processor" means any person other than a consumer who purchases or contracts to purchase potatoes or rotation crops primarily for manufacture into articles of food or starch by operations that change the physical form the potatoes or rotation crops possessed when harvested. The effects of the following operations are considered as changing the physical form possessed by potatoes or rotation crops when harvested: Chopping, slicing, cutting, dicing, mashing, removal of skin or peel, frying or otherwise cooking, freezing, canning, dehydrating or comparable methods of preparation for marketing in what is generally considered to be a processed form.
[PL 1997, c. 606, §7 (AMD).]

SECTION HISTORY

PL 1971, c. 366 (NEW). PL 1971, c. 600, §§2-4 (AMD). PL 1975, c. 555, §1 (AMD). PL 1979, c. 541, §A63 (AMD). PL 1981, c. 513, §§8,9 (AMD). PL 1991, c. 837, §A18 (AMD). PL 1997, c. 606, §§2-7 (AMD). RR 2021, c. 1, Pt. B, §116 (COR).

**§1013. Rules and regulations**

The commissioner shall, in a manner consistent with the Maine Administrative Procedure Act, make uniform rules and regulations for carrying out this Article. [PL 1977, c. 694, §100 (AMD).]

SECTION HISTORY

PL 1971, c. 366 (NEW). PL 1977, c. 694, §100 (AMD).

**§1014. Licensing; agents**

No person shall act as a dealer, processor, broker, agent or retailer unless duly licensed as provided in this Article. Every person, before acting as a dealer, processor, broker, agent or retailer, shall file an application with the commissioner for a license to transact the business of a dealer, processor, broker, agent or retailer and such application shall be accompanied by the license fee provided in this Article.
[PL 1975, c. 555, §2 (AMD).]

A person may not buy, solicit or negotiate the sale of any potatoes or rotation crops in this State as a representative of any dealer, processor, broker or retailer, unless such a representative has been so authorized by a duly licensed dealer, processor, broker or retailer in writing, and a copy of such authorization is filed with the commissioner, except where such representative conducts business in the office of the dealer, processor, broker or retailer. The commissioner must be notified in writing by the dealer, processor, broker or retailer immediately upon the termination of such authorization. [PL 1997, c. 606, §8 (AMD).]

SECTION HISTORY

PL 1971, c. 366 (NEW). PL 1971, c. 600, §5 (AMD). PL 1975, c. 555, §2 (AMD). PL 1997, c. 606, §8 (AMD).

**§1015. Application and renewal for license**

The applicant shall file an application for a license or renewal of a license on forms as prescribed and furnished by the commissioner, which must contain the full name of the person applying for the license and, if the applicant is a corporation, partnership, association, exchange or legal representative, officer, director, partner or member of a corporation, partnership, association or exchange, all such names and positions. If the applicant is a foreign corporation, it shall certify that it is authorized to transact business in the State under former Title 13-A, chapter 12 or Title 13-C, chapter 15, and further state the principal business address of the applicant in the State or elsewhere, the address of all places of business in the State, and the name or names of the person or persons authorized to receive and accept service of lawful process upon the applicant within the State. All questions required to be answered in the application for licenses must be sworn to, and intentionally untruthful answers constitute the crime of perjury. [PL 2005, c. 333, §1 (AMD).]

Upon receipt of an initial application, the commissioner immediately shall cause notice of the application to be provided in a manner consistent with the provisions of the Maine Administrative Procedure Act as to adjudicatory proceedings and shall, in any case, cause a copy of the notice to be served upon the Maine Potato Board. Any interested person has 30 days in which to file comments as to the applicant's qualifications, to request a hearing or to file a verified complaint with the commissioner as provided by this Article. [PL 2005, c. 333, §1 (AMD).]

This applicant shall satisfy the commissioner of that applicant's character, financial responsibility and good faith in seeking to engage in the business. The commissioner shall, after notice and opportunity for a hearing has been provided in a manner consistent with the Maine Administrative Procedure Act as to adjudicatory proceedings, issue a license to an applicant if the commissioner is satisfied as to the applicant's qualifications, such license entitling the applicant to act in the capacity described in the license for a period of one year from the date of issuance. A license may not be granted to any applicant if such person or officer, director, partner, or member thereof, has been convicted in any state or federal court of any felony within 5 years of the date of the application. [PL 2005, c. 333, §1 (AMD).]

In order to insure the licensee's financial responsibility and to protect potato and rotation crop producers, the commissioner shall require the licensee to file a bond as a prerequisite to the issuance of a license. The bond must be in a form and amount satisfactory to the commissioner, but not less than $50,000 nor more than $300,000 in the case of dealers and brokers engaged in buying or selling either potatoes or rotation crops, but not both, not less than $50,000 nor more than $400,000 in the case of dealers and brokers engaged in buying and selling both potatoes and rotation crops, or not less than $100,000 nor more than $500,000 in the case of processors, payable to the commissioner in the commissioner's official capacity and conditioned on the full and prompt payment for all potatoes or rotation crops received or purchased from producers or other licensees during the effective period of the license. In the case of processors, the amount of bond required must be based on the licensee's anticipated monthly volume of purchases, but may be adjusted to reflect other federal escrow accounts or bond requirements met by the licensee that satisfy the purposes of this section. [PL 2005, c. 333, §1 (AMD).]

Each license must plainly state the name and business address or addresses of the licensee and must be posted in a conspicuous place in each office where the business is transacted. The fee for each license is $100 annually. Such license may be renewed for successive periods of one year each upon payment of the renewal fee and the submission of an application demonstrating that the applicant continues to meet the requirements for licensing, including filing proof of financial responsibility. A license or license renewal issued expires on the 30th day of June following the date of issuance. The department is not required to provide notice and opportunity for a hearing as provided in the Maine Administrative Procedure Act when granting a license renewal. If the licensee desires to carry on business in more than one place within the State, the licensee shall procure additional copies of the license, certified by the

commissioner, for each place where the business is to be conducted. The fee for each such additional certification is $100. In the event a person required to be licensed under this section fails to renew that person's license or submit the annual proof of financial responsibility, the department shall promptly provide notice to members of the potato producing industry through the Maine Potato Board and an agricultural bargaining council. [PL 2005, c. 333, §1 (AMD).]

All fees collected under this Article must be paid to the Treasurer of State and credited to the Department of Agriculture, Conservation and Forestry for the administration of this Article and other expenses incident to the administration of the department, and must be expended by the commissioner for the purposes for which the department is created. If any of such fees are not expended during the year in which they are collected, the unexpended balance does not lapse, but must be carried as a continuing account and available for the purposes specified until expended. [PL 2005, c. 333, §1 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

PL 1971, c. 366 (NEW). PL 1971, c. 600, §6 (AMD). PL 1971, c. 622, §21 (AMD). PL 1975, c. 713, §1 (AMD). PL 1977, c. 694, §§101,102 (AMD). PL 1979, c. 127, §45 (AMD). PL 1979, c. 672, §A24 (AMD). PL 1983, c. 465, §1 (AMD). PL 1991, c. 837, §A19 (AMD). PL 1997, c. 388, §4 (AMD). PL 1997, c. 606, §9 (AMD). PL 2003, c. 344, §D1 (AMD). PL 2005, c. 333, §1 (AMD). PL 2011, c. 657, Pt. W, §5 (REV).

**§1016. Verified complaints; investigation**

The commissioner or his duly authorized agent shall have full authority to investigate upon the verified complaint of any interested person, or on his own motion, the conduct and activities of any person applying for or holding a license as dealer, processor, broker, agent or retailer and for such purpose may examine the books and papers of any such person and may take testimony and affidavits thereon under oath. Any interested person who has filed a verified complaint may be a party of record to all proceedings had with regard thereto. [PL 1975, c. 555, §3 (AMD).]

SECTION HISTORY

PL 1971, c. 366 (NEW). PL 1975, c. 555, §3 (AMD).

**§1017. Violations**

**1. Acts enumerated.** The commissioner or the commissioner's duly authorized agent may refuse to grant or renew a license, after notice and opportunity for a hearing is provided in a manner consistent with the Maine Administrative Procedure Act as to adjudicatory proceedings, upon a finding that any of the following acts have existed within 2 years of the date of the filing of an application for license:

A. That fraudulent charges or returns have been made by the applicant or licensee for the handling, sale or storage of potatoes or rotation crops, or for the rendering of any service in connection with the handling, sale or storage of potatoes or rotation crops; [PL 1997, c. 606, §10 (AMD).]

B. That the applicant or licensee has failed or refused to render a true account of sales, or to make a settlement thereon, within the time and in the manner required by this Article, or has failed or refused to pay for potatoes or rotation crops purchased by the applicant or licensee within 30 calendar days after acceptance of the potatoes or rotation crops; [PL 1997, c. 606, §10 (AMD).]

C. That the applicant or licensee has knowingly made any false material statement as to the condition, quality or quantity of potatoes or rotation crops received, handled, sold, purchased or stored by the applicant or licensee; [PL 1997, c. 606, §10 (AMD).]

D. That the applicant or licensee directly or indirectly has purchased for that applicant's or licensee's own account, potatoes or rotation crops received by the applicant or licensee upon consignment without prior authorization from consignor together with price fixed by consignor or without promptly notifying the consignor of such purchase. This does not prevent any dealer,

processor, broker, agent or retailer, in order to close the day's business, from taking into account in the record of sales miscellaneous lots or parcels of potatoes or rotation crops remaining unsold, if such dealer, processor, broker, agent or retailer on the business day next following properly enters any such transaction in that applicant's or licensee's accounts; [PL 1997, c. 606, §10 (AMD).]

E. That the applicant or licensee has made any substantial misrepresentation as to the conditions of the market for potatoes or rotation crops; [PL 1997, c. 606, §10 (AMD).]

F. That the applicant or licensee has made fictitious sales or has defrauded or attempted to defraud a producer; [PL 1997, c. 606, §10 (AMD).]

G. That a dealer, processor, broker, agent or retailer to whom any consignment is made has reconsigned such consignment to another dealer, processor, broker, agent or retailer and has received, collected or charged by such means more than one commission for making the sale therefor for the consignor without written consent of such consignor; [PL 1975, c. 555, §5 (AMD).]

H. That the licensee knowingly made any false material statements in the procurement of such license; [PL 1971, c. 366 (NEW).]

I. That the applicant or licensee has not accounted promptly and properly to the producer with regard to any claim settled or collected by the applicant or licensee for such producer; [PL 1997, c. 606, §10 (AMD).]

J. That the applicant or licensee has failed or refused, upon demand, to permit the commissioner or the commissioner's agents to make the investigations, examinations or audits as provided in this Article or that the applicant or licensee has removed or sequestered any books, records or papers necessary to any such investigations, examinations or audits, or has otherwise obstructed the same; [PL 1997, c. 606, §10 (AMD).]

K. That the licensee has failed or refused to keep and maintain the records as required by this Article; [PL 1971, c. 366 (NEW).]

L. That the applicant or licensee has committed any act or conduct with regard to the handling, sale or storage of potatoes or rotation crops whether of the same or different character than specified in this subsection, which constitutes or demonstrates bad faith, incompetency or untrustworthiness, or dishonest, fraudulent or improper dealings; [PL 2005, c. 333, §2 (AMD).]

M. That the applicant or licensee has failed to deliver to the seller the confirmation required by section 1022 within the time specified; or [PL 2005, c. 333, §2 (AMD).]

N. That the applicant or licensee has failed to maintain a bond to ensure financial responsibility to producers or other licensees as required under section 1015. [PL 2005, c. 333, §2 (NEW).]

The District Court may, in a manner consistent with the Maine Administrative Procedure Act, suspend or revoke a license upon finding any of the enumerated violations within 2 years of the date of the filing of a complaint.
[PL 2005, c. 333, §2 (AMD).]

**1-A. Mandatory nonrenewal.**
[PL 1983, c. 829, §15 (RP).]

**2. Conditional.** Any order revoking or suspending a license may, within the discretion of the District Court be made conditional upon the settlement, adjustment or satisfaction of the consequence of the violation or violations as specified, and the operation of such an order may be deferred for such purpose. Any such order may contain provisions for modification or dismissal thereof upon presentation to the District Court of evidence that the matter of complaint has been settled, adjusted or withdrawn at any time before such order becomes final.

[PL 1977, c. 694, §105 (AMD); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

**3. Effective date.** The commission of the acts enumerated in this section after September 23, 1971 constitutes a violation of this Article.
[PL 1975, c. 555, §§4, 5 (AMD).]

**4. Notification of insufficient or no payment.** Producers may notify the Department of Agriculture, Conservation and Forestry of insufficient or no payment for potatoes or rotation crops after acceptance by any processor, dealer, broker, agent or retailer in the State in violation of subsection 1, paragraph B.

A. The Commissioner of Agriculture, Conservation and Forestry or the commissioner's agent, upon notification by producers of insufficient or no payment, shall immediately investigate the complaint and shall, in a manner consistent with the provisions of the Maine Administrative Procedure Act as to adjudicatory proceedings, hold a hearing, unless such hearing is waived by the processor, dealer, broker, agent or retailer against whom the charge has been made. The processor, dealer, broker, agent or retailer accused of nonpayment shall provide the commissioner with a copy of the contract, if any, and all other materials and information to enable the commissioner to carry out the provisions of this section. Upon finding after investigation that the processor, dealer, broker, agent or retailer has violated the contract, express or implied, the commissioner may recover the proceeds of the bond required by section 1015 and apply those proceeds against the amounts owed producers. In the event the bond proceeds are inadequate to cover the debts owed producers, the commissioner shall require the processor, dealer, broker, agent or retailer to post an additional bond sufficient to cover the remaining debt owed to the producer or producers.

(1) The commissioner, after determination upon a hearing of insufficient payment or nonpayment of debts owed to a producer, may require the licensee to formulate a schedule of payments to the producer that is satisfactory to the commissioner. The schedule of payments may not exceed a 30-day period.

(2) The licensee, who after a hearing is determined to be in default of payment to a producer, shall submit a payment schedule to the commissioner within one week from the commissioner's request for a payment schedule. In the event that the schedule of payment is not satisfactory to the commissioner, the commissioner shall establish the schedule of payment not to exceed a 30-day period.

(3) The commissioner shall file a complaint with the District Court seeking to suspend the license of any licensee who fails to conform to the payment schedule established in this section until the producer is paid the total claim to which the producer is entitled.

(4) Upon the filing of a complaint by the commissioner in the District Court, the licensee shall post a bond sufficient to cover the total claim owed the producer on the date on which the complaint is filed. The bond required for an appeal procedure may be waived by the District Court in the event that the bond required by the commissioner under section 1015 or this paragraph is valid and sufficient to cover the total claim owed the producer.

(5) Nothing in this section may be construed to prohibit a producer from seeking redress for insufficient payment or nonpayment from licensees in any court or in accordance with any federal procedure established to obtain redress. [PL 2011, c. 657, Pt. W, §6 (REV); PL 2011, c. 691, Pt. D, §2 (AMD).]

[PL 2011, c. 657, Pt. W, §§5, 6 (REV); PL 2011, c. 691, Pt. D, §2 (AMD).]

SECTION HISTORY

PL 1971, c. 366 (NEW). PL 1971, c. 622, §22 (AMD). PL 1975, c. 555, §§4,5 (AMD). PL 1975, c. 713, §2 (AMD). PL 1977, c. 694, §§103-108 (AMD). PL 1983, c. 336, §§1,2 (AMD). PL

1983, c. 582, §§2,4 (AMD). PL 1983, c. 829, §15 (AMD). PL 1991, c. 837, §A20 (AMD). PL 1997, c. 606, §§10,11 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2005, c. 333, §§2,3 (AMD). PL 2007, c. 499, §1 (AMD). PL 2011, c. 657, Pt. W, §§5, 6 (REV). PL 2011, c. 691, Pt. D, §2 (AMD).

**§1018. Hearings**

The commissioner shall conduct hearings pursuant to this Article in a manner consistent with the Maine Administrative Procedure Act and has full power to subpoena such witnesses and documents as the commissioner considers necessary. The Superior Court, on the petition of the commissioner, may issue summary process to enforce the lawful orders of the commissioner in these actions. [RR 2021, c. 1, Pt. B, §117 (COR).]

SECTION HISTORY

PL 1971, c. 366 (NEW). PL 1977, c. 694, §109 (RPR). RR 2021, c. 1, Pt. B, §117 (COR).

**§1019. Notice of hearing**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 366 (NEW). PL 1977, c. 694, §110 (RP).

**§1020. Decisions**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 366 (NEW). PL 1977, c. 694, §111 (RP).

**§1021. Appeals**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 366 (NEW). PL 1977, c. 694, §112 (RP).

**§1022. Records of transactions**

**1. Broker and dealer records.** Every dealer and broker required to be licensed under this Article, upon having negotiated a sale of potatoes or rotation crops for others or upon having purchased potatoes or rotation crops from the producer, shall cause a record of that transaction to be made, and deliver a copy to the seller by depositing a record of transaction in the United States mail, postage paid, within 2 working days of negotiation of the sale, setting forth the following with reference to the handling, sale and storage of those potatoes or rotation crops:

A. Date of sale; [PL 1985, c. 506, Pt. A, §7 (RPR).]

B. Name and address of producer; [PL 1985, c. 506, Pt. A, §7 (RPR).]

C. Name and address of seller; [PL 1985, c. 506, Pt. A, §7 (RPR).]

D. Name and address of buyer; [PL 1985, c. 506, Pt. A, §7 (RPR).]

E. Name and address of broker, if any; [PL 1985, c. 506, Pt. A, §7 (RPR).]

F. Name and address of handler, if any; [PL 1985, c. 506, Pt. A, §7 (RPR).]

G. Name and address of any person designated as a secured party on a financing statement naming the seller as debtor filed in accordance with Title 11, section 9-1501, covering the potatoes or rotation crops, if any; [PL 1999, c. 699, Pt. D, §1 (AMD); PL 1999, c. 699, Pt. D, §30 (AFF).]

H. Mode of transportation of shipment, if known; if unknown, this information must be provided to the seller prior to shipment; [PL 1997, c. 606, §12 (AMD).]

I. Name of carrier, if known; if unknown, this information must be provided to the seller prior to shipment; [PL 1997, c. 606, §12 (AMD).]

J. If there is a broker or a retailer involved in a transaction, point of final destination; [PL 1985, c. 506, Pt. A, §7 (RPR).]

K. Date of shipment; [PL 1985, c. 506, Pt. A, §7 (RPR).]

L. If there is a broker or a retailer involved in the transaction, contemplated date of arrival at final destination; [PL 1985, c. 506, Pt. A, §7 (RPR).]

M. Grade, size, weight and amount and other specifications; [PL 1985, c. 506, Pt. A, §7 (RPR).]

N. Price for the potatoes or rotation crops, per unit and total; [PL 1997, c. 606, §12 (AMD).]

O. Any deductions to be made from the proceeds for expenses to be borne by the seller or handler; [PL 1985, c. 506, Pt. A, §7 (RPR).]

P. All other essential details of the purchase or sale; and [PL 1985, c. 506, Pt. A, §7 (RPR).]

Q. If there is a broker involved in the transaction, an itemized accounting that separately sets forth all charges in connection with the sale, including the brokerage fee, if any. [PL 1997, c. 606, §12 (AMD).]

[PL 1999, c. 699, Pt. D, §1 (AMD); PL 1999, c. 699, Pt. D, §30 (AFF).]

**1-A. Processor records.** Every processor licensed under this Article, upon having purchased potatoes or rotation crops from the producer, shall cause a record of the transaction to be made, and deliver promptly to the seller a copy of that record setting forth the following with reference to the handling, sale and storage of those potatoes or rotation crops:

A. Date of sale; [PL 1983, c. 465, §3 (NEW).]

B. Name and address of producer; [PL 1983, c. 465, §3 (NEW).]

C. Name and address of buyer; and [PL 1983, c. 465, §3 (NEW).]

D. Grade, size, weight and amount and other specifications. [PL 1983, c. 465, §3 (NEW).]

In addition, the processor shall, for each transaction, specify the price for the potatoes or rotation crops, per unit and total, and deliver that information to the producer within 10 business days of delivery and acceptance of the potatoes or rotation crops.

[PL 1997, c. 606, §13 (AMD).]

**2. Guarantees.** In any sale in which the buyer of such potatoes is a person required to be licensed by this article and has a place of business in this State except a retailer, any guarantees with regard to grade, size, weight or other specifications, made by the producer shall be deemed satisfied when the grade, size, weight or specifications, as certified by a licensed federal-state potato inspector, or seed potato inspector, after the potatoes have been or while they are being loaded for transit, equals or exceeds the grade, size, weight or other specifications of the potatoes stated in the record of transaction. Any producer making any such guarantees shall at all times prior to shipment have the option to determine whether or not the potatoes shall be inspected in accordance with this subsection. Any attempt by a dealer to coerce or influence a producer to forego an inspection shall be a civil violation subject to section 1028. Any agreement the effect of which is to deny the producer the right to satisfy the producer's guarantee obligations and any agreement conflicting with this subsection are void; provided that a producer waives any rights under this subsection or may sell potatoes under an agreement conflicting with this subsection when the record of transaction required by this article contains the following additional information:

A. Name and address of the person to whom the dealer resold the potatoes and any other person to whom the producer is obligated, directly or indirectly, by making any guarantees with regard to grade, size, weight or other specifications; [PL 1971, c. 600, §7 (NEW).]

B. Point of final destination for the shipment of potatoes; and [PL 1989, c. 319 (AMD).]

C. Price for the potatoes, per unit at final destination. [PL 1989, c. 319 (NEW).]

A buyer or dealer who attempts to enforce or hold a producer liable under a guarantee obligation, when the potatoes have been inspected in accordance with this subsection, without supplying the information in paragraphs A, B and C commits a civil violation and shall be subject to section 1028.
[PL 1989, c. 319 (AMD).]

**3. Waiver.** In any sale by a producer in which the making of a record of such transaction is required by this Article and the name and address of the buyer are not set forth on such record, or if no such record of transaction is made or if a copy of the record of transaction is not delivered by depositing the copy in the United States mail, postage prepaid, addressed to the producer, prior to delivery of the potatoes or rotation crops at the point of final destination, the producer is deemed not to have made any guarantees with regard to grade, size, weight or other specifications, and such omission by the buyer or broker or agent constitutes a waiver of any and all claims against the producer for breach of warranty, expressed or implied.
[PL 1997, c. 606, §14 (AMD).]

**4. Copies of documentation.** Before any change may be made in the agreed upon price, there shall be mutual agreement between the parties. The agreement must be verified in writing and, along with available documentation as to quality defects mailed to the seller within 2 working days of the availability of the documentation.
[PL 1983, c. 336, §4 (NEW).]

SECTION HISTORY

PL 1971, c. 366 (NEW). PL 1971, c. 600, §§7,8 (AMD). PL 1979, c. 541, §A64 (AMD). PL 1983, c. 336, §§3,4 (AMD). PL 1983, c. 465, §§2,3 (AMD). PL 1985, c. 506, §A7 (AMD). PL 1989, c. 319 (AMD). PL 1997, c. 606, §§12-14 (AMD). PL 1999, c. 699, §D1 (AMD). PL 1999, c. 699, §D30 (AFF).

**§1023. Brokers and agents**

**1. Brokerage fee.** The brokerage fee, if any, shall be an agreed upon percentage of the gross proceeds from the sale, exclusive of the costs of transportation, and shall be charged the seller only upon receipt of payment in full of said gross proceeds from the buyer.
[PL 1971, c. 366 (NEW).]

**2. Duties of brokers.** In addition to all the duties of the broker otherwise imposed by law or by agreement, the broker has the following duties.

A. The broker shall invoice the buyer, shall collect and remit to the seller and any secured party noted on the record of the transaction any and all sums due on account of the sale, and shall render an itemized accounting to the seller promptly upon receipt of payment, showing the true gross selling price, all brokerage fees deducted, and any other charges or expenses incurred in connection with the sale of the potatoes or rotation crops. Agreement to collect from the buyer and remit to the seller is not a guarantee by the broker that the buyer will pay for the potatoes or rotation crops purchased, unless there is a specific agreement by the broker that the broker will pay if the buyer does not pay. [PL 1997, c. 606, §15 (AMD).]

B. The broker shall, to the best of the broker's ability, make all necessary arrangements to effect the transportation of said shipment to the buyer, but the broker, in the absence of a specific

agreement, does not guarantee the carrier payment of carrier charges. [PL 1997, c. 606, §15 (AMD).]

C. The broker shall prepare, file and fully process with the carrier any and all claims for the seller of the potatoes or rotation crops, including taking all necessary action to bring the matter to a conclusion. [PL 1997, c. 606, §15 (AMD).]

[PL 1997, c. 606, §15 (AMD).]

**3. Agents contracts.** A person required to be licensed by this Article may not act as an agent for any grower without first having an agreement with the grower reduced to a written contract clearly defining the duties and responsibilities of both parties, the extent of the agent's authority in distributing the potatoes or rotation crops, and the agent's fee or selling charge, if any.

[PL 1997, c. 606, §16 (AMD).]

**4. Agent's fees.** The agent's fee or selling charge shall be charged the seller only upon receipt from the buyer of payment in full of the gross proceeds from the sale.

[PL 1971, c. 600, §9 (NEW).]

**5. Duties of agents.** In addition to all the duties of the agent of any grower otherwise imposed by law, rule or regulation, or by agreement, the agent has the same duties as are imposed upon the broker by subsection 2, paragraphs A, B and C.

[PL 1997, c. 606, §16 (AMD).]

SECTION HISTORY

PL 1971, c. 366 (NEW). PL 1971, c. 600, §9 (AMD). PL 1997, c. 606, §§15,16 (AMD).

**§1024. Exemptions**

**1. Producers.** Producers are exempt from this Article when selling potatoes or rotation crops that they have grown, that they are presently growing or that they intend to grow, except when acting as an agent.

[PL 1997, c. 606, §17 (AMD).]

**2. Processors.**

[PL 1975, c. 555, §6 (RP).]

**3. Retailers.** Retailers are exempt from this Article.

[PL 1971, c. 600, §10 (NEW).]

SECTION HISTORY

PL 1971, c. 366 (NEW). PL 1971, c. 600, §10 (AMD). PL 1975, c. 555, §6 (AMD). PL 1997, c. 606, §17 (AMD).

**§1025. Forfeiture of bond; recovery on bond**

If any licensee fails to make such payment as provided in section 1017, subsection 1, paragraph B, such licensee, by reason of such nonpayment is in default as to all producers or licensees whose accounts remain unpaid, and the bond provided for is forfeited to the extent of all sums then due from such licensee to those producers or licensees, and by nature of such default, the conditions of such bond are deemed to be broken, and any such producer or licensee may bring an action on the defaulted bond in the name of the commissioner for the benefit of the producer or licensee. A producer or a licensee bringing an action against the bond must provide the department with notice of intent to file a claim within 30 days of the payment due date. A formal verified complaint and supporting documentation must be filed with the department within 90 days of the payment due date. [PL 2005, c. 333, §4 (AMD).]

The right of a producer or a licensee to bring an action against the bond is subject to the department's right to apply the proceeds of the bond against the producer's or licensee's debts in accordance with section 1017. [PL 2005, c. 333, §4 (NEW).]

SECTION HISTORY

PL 1971, c. 366 (NEW). PL 1977, c. 696, §358 (AMD). PL 2005, c. 333, §4 (AMD).

**§1026. Enforcement**

The commissioner may recover the penalties imposed for violations of this Article and any rules and regulations promulgated thereunder in a civil action brought in the commissioner's own name, the venue to be as in other civil actions and, if the commissioner prevails in that action, the commissioner may recover full costs, including, but not limited to, attorney's fees. The commissioner is entitled to the assistance of the Attorney General and of the several district attorneys. [PL 2005, c. 333, §5 (AMD).]

SECTION HISTORY

PL 1971, c. 366 (NEW). PL 1977, c. 696, §84 (RPR). PL 2005, c. 333, §5 (AMD).

**§1027. Jurisdiction and disposal of forfeitures**

The District Court and the Superior Court shall have concurrent jurisdiction of actions brought for violation of this Article or the rules and regulations promulgated thereunder. All penalties received under this Article by county treasurers shall be paid by them to the Treasurer of State for deposit in the General Fund. [PL 1977, c. 696, §85 (RPR).]

SECTION HISTORY

PL 1971, c. 366 (NEW). PL 1977, c. 696, §85 (RPR).

**§1028. Violations**

Any person who shall violate any of the provisions of this Article, except section 1017, subsection 1, paragraph B, or shall neglect or refuse to comply with the provisions thereof or any rule or regulation promulgated hereunder shall be subject to the following civil penalties payable to the State to be recovered in a civil action: [PL 1977, c. 696, §86 (RPR).]

**1. First violation.** For the first violation, a civil penalty not to exceed $1,000; and
[PL 1977, c. 696, §86 (NEW).]

**2. Subsequent violation.** For each subsequent violation, a civil penalty not to exceed $2,000.
[PL 1977, c. 696, §86 (NEW).]

Each day a violation under this section remains uncorrected may be counted as a separate offense. Penalties may be imposed for each violation. [PL 2005, c. 333, §6 (NEW).]

SECTION HISTORY

PL 1971, c. 366 (NEW). PL 1977, c. 696, §86 (RPR). PL 2005, c. 333, §6 (AMD).

## ARTICLE 3-A

## LICENSING FIRST HANDLERS

## (REPEALED)

**§1029. Purpose**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 582, §3 (NEW). PL 1983, c. 582, §4 (RP). PL 1983, c. 583, §4 (AMD). PL 1983, c. 829, §16 (RP). PL 1985, c. 450 (AMD).

**§1029-A. Definitions**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 582, §3 (NEW). PL 1983, c. 582, §4 (RP). PL 1983, c. 829, §16 (RP). PL 1985, c. 450 (AMD).

**§1029-B. Authority of the commissioner**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 582, §3 (NEW). PL 1983, c. 582, §4 (RP). PL 1983, c. 829, §16 (RP). PL 1985, c. 450 (AMD).

**§1029-C. Licensing first handlers**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 582, §3 (NEW). PL 1983, c. 582, §4 (RP). PL 1983, c. 583, §5 (AMD). PL 1983, c. 829, §16 (RP). PL 1985, c. 450 (AMD).

**§1029-D. Violations**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 582, §3 (NEW). PL 1983, c. 582, §4 (RP). PL 1983, c. 829, §16 (RP). PL 1985, c. 450 (AMD).

## ARTICLE 4

## MAINE POTATO QUALITY CONTROL

**§1031. Purpose**

**(REPEALED)**

SECTION HISTORY

PL 1981, c. 513, §§10,12 (NEW). PL 1987, c. 99, §1 (AMD). PL 2005, c. 294, §15 (RP). PL 2005, c. 382, §A6 (RP).

**§1032. Definitions**

As used in this Article, unless the context otherwise indicates, the following terms have the following meanings. [PL 1981, c. 513, §167 (NEW).]

**1. Board.**

[PL 1987, c. 99, §2 (RP).]

**2. Consumer pack.** "Consumer pack" means a unit of 50 pounds or less net weight of potatoes contained in a bag or other type of container. Consumer pack shall not mean a master container.

[PL 1981, c. 540, §2 (AMD).]

**2-A. Identification marks of bag manufacturers and bag distributors.**

[PL 1987, c. 99, §3 (RP).]

**3. Maine bag.** "Maine bag" means any consumer pack for potatoes on which appears the word Maine in letters larger than 1/4 inch or a pictorial representation of the outline of the shape of the state.
[PL 1981, c. 698, §15 (AMD).]

**4. Maine bag grade.** "Maine bag grade" means any of the officially established grades of potatoes as adopted by the commissioner.
[PL 1987, c. 99, §4 (AMD).]

**5. Other than Maine bag.**

[PL 1987, c. 99, §5 (RP).]

SECTION HISTORY

PL 1981, c. 513, §§10,12 (NEW). PL 1981, c. 540, §§2-5 (AMD). PL 1981, c. 698, §§14,15 (AMD). PL 1987, c. 99, §§2-5 (AMD).

**§1033. Maine Potato Quality Control Board**

**(REPEALED)**

SECTION HISTORY

PL 1981, c. 513, §§10,12 (NEW). PL 1983, c. 780, §§1,2 (AMD). PL 1983, c. 812, §§48,49 (AMD). PL 1987, c. 99, §§6-12 (AMD). PL 1989, c. 459, §§1,2 (AMD). PL 1989, c. 503, §B44 (AMD). PL 1991, c. 506, §3 (AMD). PL 1991, c. 837, §§A21,22 (AMD). PL 1999, c. 127, §A15 (AMD). PL 2001, c. 164, §1 (AMD). PL 2005, c. 294, §16 (RP).

**§1033-A. Duties of the commissioner**

**1. Inspection fee.** After considering the recommendations of the Maine Potato Board, and after considering available money appropriated from the General Fund, the commissioner shall set the inspection fee for potatoes packed in Maine bags pursuant to rules adopted pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.
[PL 2005, c. 294, §17 (AMD).]

**2. Statement of basis for fee.** Upon request of the Maine Potato Board, the commissioner shall provide to the board and other interested parties a written statement of the basis for the fee established under this section.
[PL 2005, c. 294, §17 (AMD).]

**3. Maine bag grades.** Pursuant to the rule-making provisions of the Maine Administrative Procedure Act, the commissioner shall adopt the official grade or grades for potatoes to be packed in Maine bags. The commissioner shall prepare proposed rules. These rules as finally adopted become effective on August 1st, 1988 and may be amended only annually thereafter, with amendments becoming effective on August 1st of the year in which adopted. A Maine bag grade may not be less than United States No. 1.
[PL 2005, c. 294, §17 (AMD).]

SECTION HISTORY

PL 1983, c. 780, §3 (NEW). PL 1987, c. 99, §§13,14 (AMD). RR 1997, c. 2, §28 (COR). PL 2005, c. 294, §17 (AMD).

**§1034. Inspection**

The Maine Potato Board may employ inspectors and may require payments for inspection at a rate and schedule to be established by rule by the commissioner. The commissioner shall develop proposed rules. [PL 2005, c. 683, Pt. A, §11 (AMD).]

SECTION HISTORY

PL 1981, c. 513, §§10,12 (NEW). PL 1987, c. 99, §15 (AMD). PL 2005, c. 294, §18 (AMD). PL 2005, c. 683, §A11 (AMD).

**§1034-A. Variety labeling**

There is established a voluntary potato variety labeling program to provide consumers with accurate information on the varieties of potatoes that are available and to assist the industry in establishing markets for new varieties. [PL 1989, c. 459, §3 (NEW).]

**1. Rules.** The commissioner shall adopt rules in accordance with Title 5, chapter 375 concerning the program, including, but not limited to, program participation, identification of the varieties of potatoes eligible for inclusion in the potato variety labeling program, requirements of the inspection of potatoes in the program and appropriate methods of labeling. A rule may not be adopted that requires the inspection of potatoes labeled by variety when the packer is not a participant in the potato variety labeling program.
[PL 2003, c. 452, Pt. B, §13 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

**2. Fees.** The commissioner shall establish inspection fees for potatoes packed in bags labeled in accordance with the potato variety labeling program at a level 3¢ below the inspection fees established pursuant to sections 1033-A and 1034.
[PL 1989, c. 459, §3 (NEW).]

**3. Violation.** A participant in the potato variety labeling program may not pack potatoes in a bag labeled with the name of a different potato variety. For the purposes of this subsection, each load of potatoes constitutes a separate violation.
[PL 2003, c. 452, Pt. B, §14 (RPR); PL 2003, c. 452, Pt. X, §2 (AFF).]

**4. Sunset.**

[PL 1991, c. 506, §4 (RP).]

**5. Penalties.** The following penalties apply to violations of this section.

A. A person who violates subsection 3 commits a civil violation for which a fine of not more than $1,000 may be adjudged. [PL 2003, c. 452, Pt. B, §15 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who violates subsection 3 after having previously violated subsection 3 commits a civil violation for which a fine of not more than $2,000 may be adjudged. [PL 2003, c. 452, Pt. B, §15 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. B, §15 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1989, c. 459, §3 (NEW). PL 1991, c. 506, §4 (AMD). PL 2003, c. 452, §§B13-15 (AMD). PL 2003, c. 452, §X2 (AFF).

**§1035. Maine bag logo**

**(REPEALED)**

SECTION HISTORY

PL 1981, c. 513, §§10,12 (NEW). PL 1981, c. 540, §6 (AMD). PL 1987, c. 99, §16 (RPR). PL 2005, c. 294, §19 (RP).

**§1036. Packing and inspection; shipping penalty; enforcement**

**1. Packing and inspection.** A person may not pack potatoes in a Maine bag, unless the person has given notice of intent to pack to the department, in such form as the department may require.
[RR 2021, c. 1, Pt. B, §118 (COR).]

**2. Shipping.** No packer, shipper, dealer or broker shall prepare for market, send to market or arrange for the sale of, or have possession or control of any potatoes in a Maine bag which have not been determined at point of origin by a duly authorized inspector to have met the standards required by this article. For the purposes of this subsection, the production of an unrestricted, original certificate of inspection covering the entire manifest, or an original or copy of a certificate of inspection positively identifying the actual bags or containers in question shall be deemed to satisfy the requirements of this subsection. The commissioner may promulgate rules consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, to designate other circumstances which will be deemed to satisfy the requirements of this subsection.
[PL 1987, c. 754, §4 (RPR).]

**2-A. Other than Maine bag.** No person may pack potatoes in any consumer pack on which the word "Maine" appears unless the pack is a Maine bag, except that the word "Maine" may appear on any consumer pack if it is the name and address of a producer, packer or any other person at the bottom of the pack and in letters not taller than 1/4 inch.
[PL 1987, c. 99, §18 (NEW).]

**3. Penalty.** Any person who violates subsection 1 or 2-A is subject to section 957 and any person who violates subsection 2 is subject to the following civil penalties and administrative action:

A. For the first violation, a forfeiture of $500; [PL 1987, c. 754, §5 (NEW).]

B. For the 2nd violation, a forfeiture of $1,000; and [PL 1987, c. 754, §5 (NEW).]

C. For the 3rd and subsequent violations, no less than $1,500. [PL 1993, c. 699, §6 (AMD).]

After notice and an opportunity for hearing in an adjudicatory proceeding in accordance with the Maine Administrative Procedure Act, the commissioner may order a person the commissioner finds has violated subsection 2 3 or more times in a shipping season to undergo mandatory inspection in the manner provided in section 446 for a period of one year from the date of the final administrative determination. If the inspection order is stayed during appeal of the administrative determination, the period of the stay is not counted in calculating the one-year period. A person subject to mandatory inspection under this subsection may not ship potatoes packed in consumer packs unless the packs are accompanied by an unrestricted, original certificate of inspection covering the entire manifest, or an original or a copy of a certificate of inspection positively identifying the actual bags or containers in the shipment. Shipment of potatoes without the certificate required by this subsection is a separate violation subject to the penalties provided by this subsection.
[PL 1993, c. 699, §6 (AMD).]

SECTION HISTORY

PL 1981, c. 513, §§10,12 (NEW). PL 1987, c. 99, §§17,18 (AMD). PL 1987, c. 754, §§4,5 (AMD). PL 1993, c. 699, §6 (AMD). RR 2021, c. 1, Pt. B, §118 (COR).

**§1036-A. Exemption**

The requirements of this article do not apply to identification marks of bag manufacturers and bag distributors. [PL 1987, c. 99, §19 (NEW).]

SECTION HISTORY

PL 1987, c. 99, §19 (NEW).

**§1037. Inspector licensing**

**1. License.** The commissioner may establish standards for licensing potato inspectors for the purposes of this subchapter, conduct examinations to license and license successful applicants; except that the commissioner may determine not to license such private inspectors if the commissioner finds that the volume of potatoes inspected by the federal-state inspection service is insufficient to reasonably and efficiently sustain the availability at the federal-state inspection service in the State. The commissioner shall charge a fee of $10 for taking the examination and $15 for a license. A license is for 2 years and may be renewed.
[RR 2021, c. 1, Pt. B, §119 (COR).]

**2. Fees.** All fees collected under this section shall be paid immediately to the Treasurer of State and credited to the department for the administration of this section and other expenses incident to the administration of this subchapter. If any fees are not spent during the year in which they are collected, the unexpended balance shall not lapse, but shall be carried as a continuing account and available for the purpose specified until spent.
[PL 1981, c. 513, §§10, 12 (NEW).]

**3. Revocation.** The commissioner may refuse to renew and the District Court may revoke the license of an inspector upon finding that the inspector has knowingly falsified information relating to inspections or his application for a license.
[PL 1981, c. 513, §§10, 12 (NEW); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

SECTION HISTORY

PL 1981, c. 513, §§10,12 (NEW). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). RR 2021, c. 1, Pt. B, §119 (COR).

## SUBCHAPTER 11

## SEEDS

### §1041. Title

This subchapter shall be known and may be cited as the "Maine Seed Law."

### §1042. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms shall have the following meanings. [PL 1979, c. 541, Pt. A, §65 (AMD).]

**1. Advertisement.** "Advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the meaning of this subchapter.

**2. Agricultural seeds.** "Agricultural seeds" shall include the seeds of grass, forage, cereal and fiber crops and any other kinds of seeds commonly recognized within this State as agricultural or field seeds, and mixtures of such seeds, except seeds of cereals grown in Maine and sold directly from grower to grower and not labeled as seed.

**3. Labeling.** "Labeling" includes all labels and other written, printed or graphic representations, in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in containers, and includes invoices.

**4. Noxious-weed seeds.** "Noxious-weed seeds" must be divided into 2 classes, primary noxious-weed seeds and secondary noxious-weed seeds. The commissioner may, through promulgation of regulations, add to or subtract from the list of seeds included under either definition whenever the commissioner finds, after public hearing, that such additions or subtractions are within the respective definitions.

[RR 2021, c. 1, Pt. B, §120 (COR).]

**5. Person.** "Person" shall include any individual, partnership, corporation, company, society or association.

**6. Primary noxious-weed seeds.** "Primary noxious-weed seeds" are the seeds of perennial weeds such as not only reproduce by seed, but also spread by underground roots or stems, and which, when established, are highly destructive and difficult to control by ordinary good cultural practice. In this State they are the seeds of Bindweed (Convolvulus arvensis), Quackgrass (Agropyron repens), Canada Thistle (Cirsium arvense), Nut Grass (Cyperus esculentus) and Wound Wort (Stachys polustris).

**7. Secondary noxious-weed seeds.** "Secondary noxious-weed seeds" are the seeds of such weeds as are very objectionable in fields, lawns or gardens, but can be controlled by good cultural practice. In this State they are the seeds of Dodder (Cuscuta spp.), Horsenettle (Solanum carolinense), Wild Mustard (Brassica spp.), Wild Garlic (Allium vineale), Wild Onion (Allium canadense), Wild Radish (Raphanus raphanistrum), Perennial Sowthistle (Sonchus arvensis), Corncockle (Agrostemma githago), Buckhorn Plantain (Plantago lanceolata) and Yellow Rocket (Barbarea vulgaris).

**7-A. Tree and shrub seeds.** "Tree and shrub seeds" shall include the seeds of woody plants commonly known and sold as tree and shrub seeds in this State.
[PL 1969, c. 42, §2 (NEW).]

**8. Vegetable seeds.** "Vegetable seeds" shall include the seeds of those crops which are grown in gardens or on truck farms and are generally known and sold under the name of vegetable seeds in this State.

**9. Weed seeds.** "Weed seeds" shall include the seeds of all plants other than other crop seed and pure seed and shall include noxious-weed seeds.

SECTION HISTORY

PL 1969, c. 42, §2 (AMD). PL 1979, c. 541, §A65 (AMD). RR 2021, c. 1, Pt. B, §120 (COR).

**§1043. Label requirements**

Each container of agricultural, vegetable or tree and shrub seeds which is sold, offered for sale or exposed for sale within the State for sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information: [PL 1969, c. 42, §3 (AMD).]

**1. Agricultural seeds.** For agricultural seeds:

A. Commonly accepted name of kind or kind and variety of each agricultural seed component in excess of 5% of the whole and the percentage by weight of each in the order of its predominance. Where more than one component is required to be named, the word "mixture" or "mixed" shall be shown conspicuously on the label;

B. Lot number or other lot identification;

C. Origin, if known, of alfalfa, red clover and field corn, except hybrid corn. If the origin is unknown, that fact shall be stated;

D. Percentage by weight of all weed seeds;

E. The name and approximate number of each kind of secondary noxious-weed seed:

(1) Per ounce in Agrostis spp., Poa spp., Rhodes grass, Bermuda grass, timothy, orchard grass, fescues, alsike and white clover, reed canary grass, Dallis grass, ryegrass, foxtail millet, alfalfa, red clover, sweetclovers, lespedezas, smooth brome, crimson clover, Brassica spp., flax, Agropyron spp. and other agricultural seeds of similar size and weight or mixtures within this group; and

(2) Per pound in proso, Sudan grass, wheat, oats, rye, barley, buckwheat, sorghums, vetches and other agricultural seeds of a size and weight similar to or greater than those within this group or any mixtures within this group.

All determinations of noxious-weed seeds shall be subject to tolerances and methods of determination prescribed in the rules and regulations promulgated by the commissioner under this subchapter;

F. Percentage by weight of agricultural seeds, which may be designated as "crop seeds," other than those required to be named on the label;

G. Percentage by weight of inert matter;

H. For each named agricultural seed:

(1) Percentage of germination, exclusive of hard seed;

(2) Percentage of hard seed, if present;

(3) "Total germination and hard seed" may be stated as such, if desired;

(4) The calendar month and year the test was completed to determine such percentages;

I. Name and address of the person who labeled said seed or who sells, offers or exposes said seed for sale within this State.

**2. Vegetable seeds.** For vegetable seeds:

A. Name of kind and variety of seed;

B. For seeds which germinate less than the standard last established by the commissioner:

(1) Percentage of germination, exclusive of hard seed;

(2) Percentage of hard seed, if present;

(3) The calendar month and year the test was completed to determine such percentages;

(4) The words "Below Standard" in not less than 8-point type.

C. Name and address of the person who labeled said seed or who sells, offers or exposes said seed for sale within this State.

**3. Tree and shrub seeds.** For tree and shrub seeds:

A. Name of kind and variety; [PL 1969, c. 42, §4 (NEW).]

B. The percentage by weight of pure seed; [PL 1969, c. 42, §4 (NEW).]

C. The percentage of germination; [PL 1969, c. 42, §4 (NEW).]

D. The year of collection of such seed; [PL 1969, c. 42, §4 (NEW).]

E. The specific locality, state and county in the United States or nearest equivalent political unit in the case of foreign countries, in which the seed was collected. [PL 1969, c. 42, §4 (NEW).]

F. Name and address of the person who labeled said seed, or who sells, offers or exposes said seed for sale within this State. [PL 1969, c. 42, §4 (NEW).]

[PL 1969, c. 42, §4 (NEW).]

SECTION HISTORY

PL 1969, c. 42, §§3,4 (AMD).

**§1044. Prohibitions**

**1. Test for germination; labels; ads; noxious weeds.** It shall be unlawful for any person to sell, offer for sale or expose for sale any agricultural, vegetable or tree and shrub seeds within this State:

A. Unless the test to determine the percentage of germination required by section 1043 has been completed within a 9-month period, exclusive of the calendar month in which the test was completed, immediately prior to sale, exposure for sale or offering for sale or transportation except that, with regard to cool-weather lawn and turf seed, that test must have been completed within a 15-month period pursuant to this paragraph. As used in this paragraph, "cool-weather lawn and turf seed" includes Kentucky bluegrass, red fescue, Chewing's fescue, hard fescue, tall fescue, perennial ryegrass, intermediate ryegrass, annual ryegrass, colonial bentgrass and creeping bentgrass; [PL 2017, c. 57, §1 (AMD).]

B. Not labeled in accordance with this subchapter, or having a false or misleading label;

C. Pertaining to which there has been a false or misleading advertisement;

D. Containing primary noxious-weed seeds not in accordance with tolerances and methods of determination prescribed in the rules and regulations promulgated by the commissioner;

E. If noxious-weed seeds are present singularly or collectively in excess of 500 per pound.
[PL 2017, c. 57, §1 (AMD).]

**2. Misuse of labels; false ads; obstructions; stop-sales.** It shall be unlawful for any person within this State:

A. To detach, alter, deface or destroy any label provided for in this subchapter, or the rules and regulations promulgated by the commissioner thereunder, or to alter or substitute seed in any manner that may defeat the purposes of said subchapter;

B. To disseminate any false or misleading advertisement concerning agricultural, vegetable or tree and shrub seeds in any manner or by any means; [PL 1969, c. 42, §6 (AMD).]

C. To hinder or obstruct in any way any authorized person in the performance of his duties under this subchapter;

D. To fail to comply with a "stop-sale" order.
[PL 1969, c. 42, §6 (AMD).]

SECTION HISTORY

PL 1969, c. 42, §§5,6 (AMD). PL 2017, c. 57, §1 (AMD).

**§1044-A. Licensing requirements**

For the purpose of providing revenues to defray the expense of the inspection and analysis prescribed in this subchapter, the commissioner shall license seed labelers. The commissioner shall prescribe the license application form. License fees established under this subchapter may be collected on other than an annual basis if the license required in this section is issued in conjunction with a nursery operator's license issued under section 2171. [PL 1999, c. 84, §2 (AMD).]

**1. Retail dealer's license.**

[PL 1995, c. 435, §2 (RP); PL 1995, c. 435, §3 (AFF).]

**2. Seed labeling license.** A person, firm or corporation may not label agricultural, vegetable and tree and shrub seeds, except seed potatoes, for planting purposes for distribution or sale in this State without having obtained a seed labeling license. The seed labeling licensee is responsible for the accuracy of the seed contents of all packages, boxes and bags of seeds labeled by the licensee. The fee for a seed labeling license is $50 annually. A license may be issued for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee.
[PL 2005, c. 12, Pt. EEE, §2 (AMD).]

**3. Disposition of fees.** Fees received for licenses established under this section shall be paid to the Treasurer of State for deposit in the General Fund.
[PL 1979, c. 672, Pt. A, §25 (NEW).]

SECTION HISTORY

PL 1979, c. 672, §A25 (NEW). PL 1995, c. 435, §§1,2 (AMD). PL 1995, c. 435, §3 (AFF). PL 1997, c. 454, §3 (AMD). PL 1999, c. 84, §2 (AMD). PL 2005, c. 12, §EEE2 (AMD).

**§1045. Exemptions and violations**

Sections 1043 and 1044 shall not apply to seed or grain not intended for sowing purposes, nor to seed in storage in, or consigned to, a seed cleaning or processing establishment for cleaning or processing. Any labeling or other representation which may be made with respect to the uncleaned or unprocessed seed shall be subject to this subchapter. [PL 1977, c. 696, §87 (RPR).]

A person is not in violation of this subchapter for having sold or offered or exposed for sale in this State any agricultural vegetable or tree and shrub seed that were incorrectly labeled or represented as to kind, variety, type or origin, which seeds cannot be identified by examination thereof, unless the person has failed to obtain an invoice or grower's declaration giving kind, or kind and variety, or kind and type, and origin if required, and to take such other precautions as may be necessary to ensure the identity to be that stated. [RR 2021, c. 1, Pt. B, §121 (COR).]

Violation of this subchapter is a civil violation for which the following forfeitures may be adjudged.
[PL 1977, c. 696, §87 (RPR).]

**1. First violation.** For the first violation, a forfeiture not to exceed $100; and
[PL 1977, c. 696, §87 (NEW).]

**2. Subsequent violation.** For each subsequent similar violation, a forfeiture not to exceed $250.
[PL 1977, c. 696, §87 (NEW).]

SECTION HISTORY

PL 1969, c. 42, §7 (AMD). PL 1977, c. 696, §87 (RPR). RR 2021, c. 1, Pt. B, §121 (COR).

**§1046. Duties of commissioner**

It is the duty of the commissioner, who may act through the commissioner's authorized agents:
[RR 2021, c. 1, Pt. B, §122 (COR).]

**1. Inspection.** To sample, inspect or cause to be analyzed or tested agricultural, vegetable or tree and shrub seeds transported, sold or offered or exposed for sale within this State for sowing purposes, at such time and place and to such extent as the commissioner considers necessary to determine whether the agricultural, vegetable or tree and shrub seeds are in compliance with this subchapter, and to notify promptly of any violation the person who transported, sold or offered or exposed the seed for sale; and
[RR 2021, c. 2, Pt. A, §11 (COR).]

**2. Rules and regulations.** To prescribe and, in a manner consistent with the Maine Administrative Procedure Act, to adopt rules and regulations governing the methods of sampling, inspecting, analysis, test and examination of agricultural, vegetable or tree and shrub seeds, and the tolerances to be followed, which must be in general accord with officially prescribed practice in interstate commerce, and such other rules and regulations as may be necessary to secure the efficient enforcement of this subchapter.
[RR 2021, c. 1, Pt. B, §122 (COR).]

SECTION HISTORY

PL 1969, c. 42, §8 (AMD). PL 1977, c. 694, §113 (AMD). RR 2021, c. 1, Pt. B, §122 (COR). RR 2021, c. 2, Pt. A, §11 (COR).

### §1047. Powers

For the purpose of carrying out this subchapter, the commissioner or the commissioner's duly authorized agents have authority: [RR 2021, c. 1, Pt. B, §123 (COR).]

**1. Stop-sale orders.** To issue and enforce a written or printed "stop-sale" order to the owner or custodian of any lot of agricultural, vegetable or tree and shrub seeds which the commissioner finds is in violation of any of the provisions of this subchapter, which order shall prohibit further sale of such seed until such officer has evidence that the law has been complied with. The issuance of such an order shall not be considered licensing or an adjudicatory proceeding, as defined by the Maine Administrative Procedure Act. No "stop-sale" order shall be issued or attached to any lot of seed without first giving the owner or custodian of such seed an opportunity to comply with the law. The owner or custodian of seeds which have been denied sale by a "stop-sale" order shall have the right to appeal from such order to a court of competent jurisdiction in the locality in which the seeds are found, praying for a judgment as to the justification of said order and for the discharge of such seed from the order. This subsection shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions of this subchapter.
[PL 1977, c. 694, §114 (AMD).]

**2. Employ qualified persons.** To employ qualified persons under the Civil Service Law and to incur such expenses as may be necessary to carry out this subchapter; and
[PL 1985, c. 785, Pt. B, §44 (AMD).]

**3. Cooperate with Federal Government.** To cooperate with the Federal Government in seed law enforcement.

SECTION HISTORY

PL 1969, c. 42, §9 (AMD). PL 1977, c. 694, §114 (AMD). PL 1985, c. 785, §B44 (AMD). RR 2021, c. 1, Pt. B, §123 (COR).

### §1048. Seizure

Any lot of agricultural, vegetable or tree and shrub seeds not in compliance with this subchapter shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the locality in which the seed is located. In the event that the court finds the seed to be in violation of this subchapter, and orders the condemnation of said seed, it shall be denatured, processed, destroyed, relabeled or otherwise disposed of as provided in this subchapter. In no instance shall the court order such disposition of seed without first having given the claimant an opportunity to apply to the court for the release of said seed or permission to process or relabel it to bring it into compliance with this subchapter. [PL 1969, c. 42, §10 (AMD).]

SECTION HISTORY

PL 1969, c. 42, §10 (AMD).

## SUBCHAPTER 11-A

## GENETICALLY ENGINEERED PLANTS AND SEEDS

### §1051. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2001, c. 330, §1 (NEW).]

**1. Cross-contamination.** "Cross-contamination" means the unintentional transfer and incorporation of genetic material between a genetically engineered crop, by cross-pollination or other means, and a nongenetically engineered crop or a wild plant population.
[PL 2001, c. 330, §1 (NEW).]

**2. Genetically engineered.** "Genetically engineered" means the application of in vitro nucleic acid techniques, including recombinant deoxyribonucleic acid and direct injection of nucleic acid into cells or organelles, or the fusion of cells beyond the taxonomic family, that overcome natural physiological reproductive or recombinant barriers and that are not techniques used in traditional breeding and selection.
[PL 2007, c. 602, §1 (AMD).]

**3. Seed dealer.** "Seed dealer" means a person who cleans, processes, sells or offers for sale a genetically engineered plant part, seed or plant in the State.
[PL 2007, c. 602, §2 (AMD).]

**4. Manufacturer.** "Manufacturer" means a person that produces or commercializes a genetically engineered plant part, seed or plant, not including a farm operation as defined in section 152, subsection 6.
[PL 2009, c. 323, §1 (AMD).]

**4-A. Pharmaceutical or industrial crop.** "Pharmaceutical or industrial crop" means a plant that has been genetically engineered to produce a medical or industrial product, including a human or veterinary drug, a biologic, industrial or research chemical, enzymes, vaccines, human antibodies and human blood proteins.
[PL 2009, c. 388, §1 (NEW).]

**5. Technology use agreement.** "Technology use agreement" means an agreement between a manufacturer and a farmer that controls the right to plant a given genetically engineered plant part, seed or plant on a specific area of land for a certain period of time.
[PL 2007, c. 602, §4 (NEW).]

SECTION HISTORY

PL 2001, c. 330, §1 (NEW). PL 2007, c. 602, §§1-4 (AMD). PL 2009, c. 323, §1 (AMD). PL 2009, c. 388, §1 (AMD).

**§1052. Responsibilities of manufacturer**

A manufacturer of genetically engineered plants, planting stock or seeds that present a risk of cross-contamination and are sold or distributed in this State is subject to the provisions of this subchapter.
[PL 2001, c. 330, §1 (NEW).]

**1. Instructions.** The manufacturer or seed dealer of the genetically engineered plants, plant parts or seeds shall provide written instructions to all growers on how to plant the plant parts, seeds or plants and how to grow and harvest the crop to minimize potential cross-contamination. These instructions must be at least as inclusive as guidelines issued by the United States Department of Agriculture relative to the establishment of buffer zones between genetically engineered plants and wild or cultivated plants subject to the risk of cross-contamination. The manufacturer or seed dealer shall file a copy of these instructions with the commissioner at least 20 days in advance of any sale of the genetically engineered plants, plant parts or seeds in this State.
[PL 2001, c. 330, §1 (NEW).]

**2. Record keeping.** The manufacturer or seed dealer shall identify and maintain, for at least 2 years after the date of sale, a list of the names and addresses of all growers of its genetically engineered plants, plant parts or seeds in this State. The list is not a public record as defined in Title 1, section 402, subsection 3. A manufacturer or seed dealer shall permit the commissioner to inspect the list when

requested to facilitate an investigation into a claim of cross-contamination. A manufacturer or seed dealer is not required to keep records on seeds sold at the retail level in packets weighing less than one pound.

A manufacturer of genetically engineered seeds is not required to keep records under this subsection when the required records are being kept by a seed dealer.
[PL 2001, c. 330, §1 (NEW).]

**2-A. Reporting.** A manufacturer selling genetically engineered plant parts, plants or seeds in the State shall annually report to the commissioner the total potential acreage at a given planting density of genetically modified crops that could be grown based on the amount of each genetically engineered product sold in the State. Individual manufacturer data received under this subsection is confidential and may not be made public. The commissioner shall make public aggregate data that does not reveal the sales activities of an individual manufacturer. The commissioner shall provide aggregate data on sales of genetically engineered trees, tree seedlings, tree seeds, tree scions and other propagative materials to the Department of Agriculture, Conservation and Forestry, Bureau of Forestry.
[PL 2009, c. 323, §2 (NEW); PL 2011, c. 657, Pt. W, §§5, 7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

**3. Violation; penalty.** Failure to comply with this subchapter is a civil violation for which a penalty of not more than $1,500 may be adjudged. In accordance with Title 5, chapter 375, the commissioner may suspend or revoke a license issued under section 1044-A if the holder of the license fails to comply with this subchapter.
[PL 2001, c. 330, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 330, §1 (NEW). PL 2009, c. 323, §2 (AMD). PL 2011, c. 657, Pt. W, §§5, 7 (REV). PL 2013, c. 405, Pt. A, §23 (REV).

**§1053. De minimus possession and venue**

**1. De minimus possession.** If a genetically engineered product in which a manufacturer has rights is possessed by a farmer or found on the property owned or occupied by the farmer and the presence of the product is either de minimus or not intended by the farmer, the farmer is not liable for breach of a seed contract nor for any damages claimed by the manufacturer.
[PL 2007, c. 602, §5 (NEW).]

**2. Venue.** An infringement case brought against a grower who does not have a current technology use agreement with a manufacturer must be brought in a venue where the farmer resides or where the disputed crop was grown.
[PL 2007, c. 602, §5 (NEW).]

SECTION HISTORY

PL 2007, c. 602, §5 (NEW).

**§1054. Rulemaking**

The commissioner shall adopt rules to establish best management practices to maintain the integrity of crops and minimize potential conflict between farmers. Rules adopted under this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2007, c. 602, §6 (NEW).]

SECTION HISTORY

PL 2007, c. 602, §6 (NEW).

**§1055. Restrictions on the production of pharmaceutical or industrial crops**

**(REPEALED)**

SECTION HISTORY

PL 2009, c. 388, §2 (NEW). MRSA T. 7 §1055, sub-§4 (RP).

## SUBCHAPTER 12

## VINEGAR

## (REPEALED)

### §1081. Definitions

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 541, §A66 (AMD). PL 1979, c. 672, §A21 (RP).

### §1082. Sales of adulterated or misbranded vinegar prohibited

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A21 (RP).

### §1083. Adulteration

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A21 (RP).

### §1084. Misbranding

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A21 (RP).

### §1085. Common carriers

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 251, §2 (AMD). PL 1979, c. 672, §A21 (RP).

## CHAPTER 105

## PAYMENT OF DUES

### §1090. Findings and purpose

The Legislature finds and declares that the agricultural industry as a whole is of significant economic and social importance to the State of Maine. The Legislature further finds and declares that the agricultural industry is subject to unique financial difficulties. Such difficulties include instability of prices, the general inflexibility of demand for farm products, rising costs to producers, dealers and processors, and the vagaries of nature. [PL 1971, c. 428 (NEW).]

Such financial difficulties have a direct effect on a significant portion of the people of the State who are not directly involved in agricultural activities or industries. [PL 1971, c. 428 (NEW).]

The Legislature further finds and declares that the relationships between agricultural producers and dealers or processors are also unique. The normal labor relationship of employer and employee does not ordinarily apply in the agricultural industry. In view of these facts, the Legislature has determined that it is in the best interests of those engaged in agriculture and agriculturally related industry, and of the people of the entire State to regulate the relationship of producers to dealers and processors by encouraging and facilitating the formation and operation of cooperative agricultural marketing associations. The Legislature in enacting this legislation intends to exercise the police power of the State to benefit the health and welfare of the agricultural industry and the people of the State. [PL 1971, c. 544, §18-A (AMD).]

SECTION HISTORY

PL 1971, c. 438 (NEW). PL 1971, c. 544, §§18-A (AMD).

**§1091. Dues**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 438 (NEW). PL 1987, c. 384, §1 (AMD). PL 2003, c. 329, §1 (RP).

**§1091-A. Dues and fair share fees**

**1. Definitions.** As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Association" has the same meaning as in Title 13, section 1774, subsection 3. [PL 2003, c. 329, §2 (NEW).]

B. "Fair share fee" means a fee deducted by a dealer or processor from a producer who is not an association member. [PL 2003, c. 329, §2 (NEW).]

[PL 2003, c. 329, §2 (NEW).]

**2. Association dues.** When a member of an association makes a written assignment of dues to that association, those dues must be paid out of funds due or to become due to that member for any farm product produced or to be produced by that member or for any services performed or to be performed by that member in the production of farm products. A person who accepts or receives the product or services from the member is bound by that assignment after receiving written notice from the association or from the member, and that person shall withhold the assigned dues from amounts payable by that person to the member thereafter during the period of the assessment.
[PL 2003, c. 329, §2 (NEW).]

**3. Fair share fees for contracts entered into after the association agreement.** A nonmember producer who supplies farm products to a dealer or processor subject to collective bargaining and who enters into a preseason contract with the dealer or processor after the association has signed an agreement with that dealer or processor must be assessed a fair share fee equal to 50% of the amount charged to association members as dues. The dealer or processor shall withhold the fair share from the nonmember in the same manner as member dues are withheld. The nonmember shall make a written assignment directing the dealer or processor to have the fair share fee:

A. Remitted to the association and used to defray the costs incurred by the association as the recognized collective bargaining unit in fulfilling its duty to represent producers in their relations with the dealer or processor; or [PL 2003, c. 329, §2 (NEW).]

B. Deposited in a fund established by the dealer or processor for awarding educational scholarships to contributing nonmembers and association producers. [PL 2003, c. 329, §2 (NEW).]

[PL 2003, c. 329, §2 (NEW).]

**4. Fair share fees for contracts entered into before the association agreement.** Except as provided in subsection 5, a dealer or processor subject to collective bargaining may not assess or withhold a fair share fee from a nonmember producer who enters into a preseason contract to supply farm products to that dealer or processor before the association has signed an agreement with that dealer or processor unless the nonmember producer directs the processor or dealer to do so in accordance with this subsection.

A nonmember producer may make a written assignment directing the dealer or processor to withhold a fair share fee equal to 50% of the amount charged to association members as dues for deposit in a fund established by the dealer or processor for awarding educational scholarships to contributing nonmembers and association producers.
[PL 2003, c. 329, §2 (NEW).]

**5. Changes in nonmember contract.** The dealer or processor shall withhold a fair share fee from a nonmember in accordance with subsection 3 when:

A. The nonmember entered into a preseason contract to supply farm products to a dealer or processor before the association signed an agreement with that dealer or processor; and [PL 2003, c. 329, §2 (NEW).]

B. The nonmember consents to a change or changes in that nonmember's contract after the association has signed an agreement with that dealer or processor and the change or changes provide an increase in contract value. [PL 2003, c. 329, §2 (NEW).]

[PL 2003, c. 329, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 329, §2 (NEW).

**§1092. Assignment**

No provision that is inserted in any contract or other instrument that is prepared by a dealer or processor that makes an assignment of the dues or fair share fees described in section 1091-A ineffective is valid. [PL 2003, c. 329, §3 (AMD).]

An assignment of dues or fair share fees may not exceed 1% of the total value of the product or services delivered by the member to the dealer or processor. [PL 2003, c. 329, §3 (AMD).]

SECTION HISTORY

PL 1971, c. 438 (NEW). PL 1987, c. 384, §2 (AMD). PL 2003, c. 329, §3 (AMD).

**§1093. Remittance of dues and fair share fees; accounting**

**1. Sale of farm products.** Subject to subsection 3, a dealer or processor shall, on or before the 15th day of each month, pay to an association all dues and fair share fees assigned to the association pursuant to section 1091-A with respect to farm products received from members and nonmembers by the dealer or processor during the preceding calendar month. At the time of each monthly payment of dues and fair share fees, the dealer or processor shall provide to the association a summary statement showing, for each member and nonmember, the quantity of farm products received, the payment due to the member and nonmember for those farm products prior to the deduction of dues or fair share fees and the amount of dues or fair share fees deducted therefrom pursuant to the assignment.
[PL 2003, c. 329, §4 (AMD).]

**2. Performance of farm services.** Subject to subsection 3, a dealer or processor shall, on or before the 15th day of each month, pay to an association all dues and fair share fees assigned to the association pursuant to section 1091-A with respect to services performed by members and nonmembers in the production of farm products that were received by the dealer or processor during the preceding calendar

month. At the time of each monthly payment of dues and fair share fees, the dealer or processor shall provide to the association a summary statement showing, for each member and nonmember, the quantity of farm products for which services were performed and the amount of dues or fair share fees deducted therefrom pursuant to the assignment.
[PL 2003, c. 329, §4 (AMD).]

**3. Flat rate dues and fair share fees deductions.** In the event that the dues and fair share fees assigned to the association pursuant to section 1091-A are not calculated on the quantity of farm products sold or tendered by members and nonmembers to the dealer or processor, the dealer or processor shall pay the dues and fair share fees to the association according to the payment schedule contained in the assignment. No payment schedule may require the payment of assigned dues and fair share fees more frequently than once a month.
[PL 2003, c. 329, §4 (AMD).]

SECTION HISTORY

PL 1971, c. 438 (NEW). PL 1987, c. 384, §3 (RPR). PL 2003, c. 329, §4 (AMD).

**§1094. -- liability**

Any dealer or processor who pays any dues to an association pursuant to the assignment of dues governed by this chapter shall not be liable for such sums upon any seed lien, farm laborer's lien or any other lien or encumbrance which has priority by law upon the proceeds of the farm crop or product. Any lienholder who has priority upon the proceeds from such farm crop or product whose lien remains unsatisfied shall have the right to receive all sums paid to any association pursuant to the assignment of dues. Such association shall remit all dues paid pursuant to the assignment to the priority lienholder upon the receipt of notice and proof that a valid prior lien exists against such farm crop or product. [PL 1971, c. 438 (NEW).]

SECTION HISTORY

PL 1971, c. 438 (NEW).

**§1095. -- deduction**

Any dealer or processor may deduct a sum not to exceed 2% of the total dues to be paid to an association for administrative expenses incurred by the payment of such dues under the assignment. [PL 1971, c. 438 (NEW).]

SECTION HISTORY

PL 1971, c. 438 (NEW).

**§1096. Violation; penalties**

**1. Civil violation.** Failure of a dealer or processor to pay assigned dues to an association within the time required by section 1093 is a civil violation for which a forfeiture of double the amount of the assigned dues that were not timely paid to the association shall be adjudged. The court shall order payment of the forfeiture to the association. In the event of a willful violation, the dealer or processor shall be subject to an additional civil penalty, payable to the State, of not more than $1,000 for a first violation and not more than $2,000 for each subsequent violation. The forfeiture and civil penalty created by this subsection are recoverable by the commissioner in a civil action.
[PL 1987, c. 384, §4 (NEW).]

**2. Private action.** Any dealer or processor that fails to pay assigned dues to an association within the time required by section 1093 is liable to that association in a civil action for double the amount of the assigned dues that were not timely paid to the association, plus reasonable attorneys fees, provided that the filing of a civil violation action, pursuant to subsection 1, shall bar the filing of a private action under this subsection arising from the same events of nonpayment.

[PL 1987, c. 384, §4 (NEW).]

SECTION HISTORY

PL 1987, c. 384, §4 (NEW).

## PART 3

## LICENSING OF DEALERS; AUCTIONS

## CHAPTER 201

## LIVESTOCK AND POULTRY

### §1301. Purpose

The purposes of this chapter are to maintain fair and equitable practices in the buying and selling of livestock and poultry within this State, and to encourage practices that promote the sale of healthy livestock and poultry. In respect to dealers in livestock and poultry this chapter supplements and does not supersede other provisions of the laws relating to the control of livestock and poultry diseases under this Title. [PL 2001, c. 572, §1 (AMD).]

SECTION HISTORY

PL 1967, c. 227, §1 (AMD). PL 2001, c. 572, §1 (AMD).

### §1302. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings. [PL 1979, c. 541, Pt. A, §67 (AMD).]

**1. Agent.** "Agent" means any person acting for or in behalf of another in any of the transactions which constitute being a dealer.

**1-A. Commissioner.** "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry or the commissioner's duly authorized agent.
[PL 2001, c. 572, §2 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

**2. Dealer.** "Dealer" means any person or entity engaged in the business of buying livestock or poultry primarily for resale, whether the purchase or sale is completed by cash, delayed payment, transfer, exchange, barter or shipment on commission. A person who receives livestock and poultry exclusively for slaughter on the person's own premises is not a dealer.
[PL 2001, c. 572, §3 (RPR).]

**3. Livestock and poultry.** "Livestock and poultry" includes all cattle, sheep, goats, swine, equines, members of the genus lama, bison, ratites, poultry, domesticated cervids and other animals raised for food or fiber.
[PL 2003, c. 334, §1 (AMD).]

SECTION HISTORY

PL 1967, c. 227, §1 (AMD). PL 1979, c. 541, §A67 (AMD). PL 2001, c. 572, §§2-4 (AMD). PL 2003, c. 334, §1 (AMD). PL 2011, c. 657, Pt. W, §6 (REV).

### §1303. Rules and regulations

The commissioner shall, in a manner consistent with the Maine Administrative Procedure Act, make uniform rules and regulations for carrying out this chapter, which shall be consistent with the

rules and regulations for livestock and poultry disease control provided for under this Title. [PL 1977, c. 694, §115 (AMD).]

SECTION HISTORY

PL 1967, c. 227, §1 (AMD). PL 1977, c. 694, §115 (AMD).

**§1304. License; agents**

A person, firm, partnership or corporation may not act as a dealer of livestock and poultry unless licensed by the department. An agent may not act for any dealer unless that agent and the dealer are licensed by the department and the dealer has designated such agent to act in the dealer's behalf. A dealer is accountable and responsible for acts of the dealer's agents. [PL 2001, c. 572, §5 (AMD).]

SECTION HISTORY

PL 1967, c. 227, §1 (AMD). PL 2001, c. 572, §5 (AMD).

**§1305. Application for license**

Application for a license as a dealer or as an agent must be made upon a form prescribed by the commissioner. The commissioner, if satisfied with the applicant's qualifications, shall issue a license entitling the applicant to act as a dealer or as an agent. An initial license may be issued for a period of less than one year or more than one year but not more than 2 years. All licenses expire on July 1st. All license renewals are for a period of one year. The annual license fee for a dealer is $25 and for each agent, $10. The fee for an initial license is prorated based on the number of months for which the license is valid. The commissioner shall issue a certificate of licensure to each licensed dealer and agent. The certificate must be carried in the motor vehicle used by the licensed dealer or agent when acting as a dealer or agent. The commissioner shall issue dealer plates to be attached to each motor vehicle or trailer used by a dealer for transporting livestock or poultry. Upon renewal of a license, the commissioner shall issue stickers bearing the year of licensure to be attached to the dealer plates. [PL 2001, c. 572, §6 (RPR).]

SECTION HISTORY

PL 1967, c. 227, §2 (AMD). PL 2001, c. 572, §6 (RPR).

**§1306. Revocation and suspension of licenses**

Any license issued under this chapter may be suspended or revoked by the commissioner in a manner consistent with the Maine Administrative Procedure Act. [PL 2001, c. 572, §7 (AMD).]

SECTION HISTORY

PL 1977, c. 694, §116 (RPR). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2001, c. 572, §7 (AMD).

**§1307. Records**

The commissioner may require licensed livestock and poultry dealers to keep certain records of transactions in any or all classes of livestock and poultry. The department may establish by rule the length of time that records kept by persons engaging in dealing livestock and poultry must be retained. [PL 2001, c. 572, §8 (AMD).]

SECTION HISTORY

PL 1967, c. 227, §3 (AMD). PL 2001, c. 572, §8 (AMD).

**§1308. Violations**

Any person or entity who violates any of the provisions of this chapter or any rule adopted under section 1303 commits a civil violation for which a forfeiture not to exceed $100 per day for each

violation may be adjudged, except that the total of the forfeitures may not exceed $25,000. [PL 2001, c. 572, §9 (RPR).]

SECTION HISTORY

PL 1965, c. 47 (AMD). PL 1967, c. 227, §3 (AMD). PL 1977, c. 696, §88 (RPR). PL 1979, c. 541, §A68 (AMD). PL 2001, c. 572, §9 (RPR).

**§1309. Maine cattle health assurance program**

The commissioner shall develop a Maine cattle health assurance program to ensure the highest quality of products by encouraging all livestock producers in this State to use best management practices. The department shall develop a farm assessment plan that provides for on-site evaluations of farms to assess and suggest ways to improve the health of herds, protect the health and safety of herds from disease and protect farms from environmental liability. [PL 2003, c. 386, §2 (NEW).]

The commissioner in consultation with the University of Maine Cooperative Extension, state and federal veterinarians and livestock producers in this State shall adopt rules for the administration of this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2003, c. 386, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 386, §2 (NEW).

**§1310. Cattle Health Assurance Program Fund**

The Treasurer of State shall establish a separate account known as the Cattle Health Assurance Program Fund. This fund does not lapse but must be carried forward. Funds from this account may be used to pay for administrative costs associated with section 1309. [PL 2003, c. 386, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 386, §2 (NEW).

## CHAPTER 202

## CERVIDS

**§1331. Propagation and sale**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 685, §1 (NEW). PL 1989, c. 502, §B7 (AMD). PL 1989, c. 649, §§1,2 (AMD). PL 1999, c. 765, §1 (AMD). PL 2001, c. 572, §§10,11 (AMD). PL 2003, c. 386, §4 (RP).

**§1332. Animal Industry Fund**

The Treasurer of State shall establish a separate account known as the Animal Industry Fund. This fund does not lapse but must be carried forward. Except as provided in section 1346, license fees collected under section 1333, subsection 3 and license and tagging fees collected under section 1342, subsections 3 and 4 and section 1342-A must be deposited in the account. Funds from this account may be used to pay for administrative costs associated with licenses issued under sections 1333, 1342 and 1342-A, tags issued under section 1342 and other costs associated with administration and enforcement of this chapter and chapter 202-A. [PL 2009, c. 249, §1 (AMD).]

SECTION HISTORY

PL 1999, c. 765, §2 (NEW). PL 2003, c. 386, §5 (AMD). PL 2009, c. 249, §1 (AMD).

**§1333. Propagation and possession of cervids**

**1. Definitions.** As used in this Title, unless the context indicates otherwise, the following terms have the following meanings.

A. "Cervid" means a member of the cervidae family and hybrids, including deer, elk, caribou, reindeer and related species, specified by the commissioner by rule with the written concurrence of the Commissioner of Inland Fisheries and Wildlife. [PL 2005, c. 382, Pt. D, §1 (AMD).]

B. "Discrepancy" means an instance in which a holder of a license under subsection 2 has failed to comply with a requirement under this Part. [PL 2003, c. 688, Pt. A, §5 (AMD).]

[PL 2005, c. 382, Pt. D, §1 (AMD).]

**2. License.** The commissioner may issue a license for the propagation, possession, purchase or sale of cervids. A holder of a license issued pursuant to this subsection may raise cervids at any season of the year. The fee for a license is $20 a year. Except as provided in section 1346, a license fee must be deposited in the Animal Industry Fund established in section 1332.

[PL 2003, c. 386, §6 (NEW).]

**3. Inspection.** The commissioner or commissioner's designee shall conduct an inspection of an applicant's premises before the initial issuance or renewal of a license under subsection 2 or at any time during the pendency of a license under subsection 2 if the department believes the license holder is not in compliance with the provisions of this Part.

[PL 2003, c. 688, Pt. A, §6 (AMD).]

**4. Renewal.** If an inspection for a renewal of a license under subsection 2 reveals a discrepancy, the inspector shall note the discrepancy on an inspection form. The commissioner may issue a temporary license under subsection 2 and give the license holder a reasonable amount of time to correct the discrepancy. Upon a subsequent inspection of the premises of a temporary license holder under this subsection, the commissioner shall renew the license under subsection 2 if the license holder has corrected all of the discrepancies noted on the inspection form from the prior inspection.

[PL 2003, c. 688, Pt. A, §6 (AMD).]

**5. Penalties.** Any person engaged in the business of propagating, possessing, buying or selling cervids without a license under subsection 2 commits a civil violation for which a fine not to exceed $100 per day for each violation may be adjudged, except that the total of the fines may not exceed $25,000.

[PL 2003, c. 688, Pt. A, §6 (AMD).]

**6. Records.** A holder of a license issued pursuant to subsection 2 shall maintain records that include the date and location of birth and the date of death or departure of each cervid in the license holder's herd.

[PL 2003, c. 688, Pt. A, §6 (AMD).]

**7. Revocation.** A license issued under this chapter may be suspended or revoked in a manner consistent with Title 5, chapter 375, subchapter 5 for a violation of this chapter. Upon revocation, a similar license may not be reissued to that person for a minimum of 5 years.

[PL 2003, c. 386, §6 (NEW).]

**8. Rules.** The commissioner, in consultation with the Commissioner of Inland Fisheries and Wildlife, may adopt rules necessary for the administration of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2003, c. 386, §6 (NEW).]

SECTION HISTORY

PL 2003, c. 386, §6 (NEW). PL 2003, c. 688, §§A5,6 (AMD). PL 2005, c. 382, §D1 (AMD).

## CHAPTER 202-A

## COMMERCIAL LARGE GAME SHOOTING AREAS

### §1341. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1999, c. 765, §3 (NEW).]

**1. Commercial large game shooting area.** "Commercial large game shooting area" means an enclosed area in which large game are kept and a fee is charged to pursue and kill or pursue and attempt to kill large game.
[PL 1999, c. 765, §3 (NEW).]

**2. Domesticated bison.** "Domesticated bison" means the genus and species Bison bison.
[PL 1999, c. 765, §3 (NEW).]

**3. Domesticated boar.** "Domesticated boar" means a member of a species of Sus scrofa commonly known as the Eurasian boar or Wild Russian boar. "Domesticated boar" does not include members or varieties of the family Suidae or the species Sus scrofa that are commonly raised for commercial meat production.
[PL 1999, c. 765, §3 (NEW).]

**4. Domesticated deer.**

[PL 2003, c. 386, §7 (RP).]

**4-A. Domesticated cervid.** "Domesticated cervid" has the same meaning as "cervid" in section 1333, subsection 1, paragraph A.
[PL 2005, c. 382, Pt. D, §2 (AMD).]

**5. Large game.** "Large game" means domesticated cervids, domesticated boar and domesticated bison.
[PL 2003, c. 386, §9 (AMD).]

**6. Parcel.** "Parcel" means a contiguous tract of land. Land that is separated by a road that contains frontage along a common portion of that road is considered a contiguous tract.
[PL 1999, c. 765, §3 (NEW).]

**7. Person.** "Person" means an individual, partnership, corporation or other legal entity.
[PL 1999, c. 765, §3 (NEW).]

**8. Shooting zone.** "Shooting zone" means an area within a parcel that is enclosed to contain one or more species of large game.
[PL 1999, c. 765, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 765, §3 (NEW). PL 2003, c. 386, §§7-9 (AMD). PL 2005, c. 382, §D2 (AMD).

### §1342. Commercial large game shooting area license

Beginning October 1, 2000, a person may not establish or operate a commercial large game shooting area unless that person has a valid license issued in accordance with this section or section 1342-A. [PL 2009, c. 249, §2 (AMD).]

Except as provided in section 1342-A, the commissioner may issue a license under this chapter only to a person who operated a commercial large game shooting area during the period beginning October 1, 1999 and ending March 15, 2000. [PL 2009, c. 249, §3 (AMD).]

**1. Application.** An applicant for a commercial large game shooting area license must submit an application on a form provided by the commissioner along with the required license fee as provided under subsection 3. An application under this subsection must be submitted for a specific parcel of land, and the applicant must demonstrate in accordance with subsection 9 that the applicant has operated a commercial large game shooting area on that parcel of land between October 1, 1999 and March 15, 2000. The application must include the name and address of the person applying for the license and a map locating the proposed site in relation to known or easily identifiable terrain features, such as a road junction or a stream and road junction. The map must be a copy of a 7.5 or 15 minute series topographical map produced by the United States Geological Survey or a map of equivalent or superior detail in the location of roads.
[PL 2009, c. 249, §4 (AMD).]

**2. Land and facility requirements.** To qualify for a license under this section, an applicant must demonstrate that the shooting area meets the following.

A. Each shooting zone in which domesticated cervids are enclosed is a minimum of 50 acres. [PL 2003, c. 386, §10 (AMD).]

B. Each shooting zone in which large game other than domesticated cervids are enclosed is a minimum of 200 acres. [PL 2003, c. 386, §10 (AMD).]

C. The total area of land enclosed for operation as a commercial large game shooting area does not exceed 400 acres. [PL 1999, c. 765, §3 (NEW).]

D. A shooting zone is encompassed by fencing or other barriers sufficient to contain the species of large game contained in that shooting area. [PL 1999, c. 765, §3 (NEW).]

E. The applicant owns or leases all of the land to be used as a commercial large game shooting area. [PL 1999, c. 765, §3 (NEW).]
[PL 2003, c. 386, §10 (AMD).]

**3. Fees.** The annual fee for a commercial large game shooting area is $1,000, except that the annual fee for a commercial large game shooting area is $500 for an operation that is licensed to possess domesticated cervids under chapter 202 and harvests only domesticated cervids raised on that farm. Except as provided in section 1346, all fees paid for a license issued under this section must be deposited in the Animal Industry Fund established under section 1332.
[PL 2003, c. 386, §10 (AMD).]

**4. Issuance of license.** Upon receipt of a complete application and the license fee, the commissioner shall issue an annual license after determination that the land and facility requirements are met. The commissioner may require inspection of an operation prior to issuing a license to determine compliance with this chapter and rules adopted pursuant to subsection 8. The commissioner may not issue more than one license to a person. Upon issuing a license, the commissioner shall provide the licensee with transport tags to identify an animal killed on the premises of that license holder at a cost of $25 for each tag. Except as provided in section 1346, transport tag fees must be deposited in the Animal Industry Fund.
[PL 1999, c. 765, §3 (NEW).]

**5. Transfer of license.**
[PL 2025, c. 29, §1 (RP).]

**5-A. Transfer of license.** A person may not transfer a commercial large game shooting area license without obtaining approval of the commissioner for the transfer. Department approval must be obtained prior to the transfer of the license. The department, at its discretion, may require that the proposed new licensee apply for a new license or may approve the transfer of the existing license upon a satisfactory showing that the proposed new licensee can abide by the license terms and conditions and comply with subsection 2.

[PL 2025, c. 29, §2 (NEW).]

**6. Restrictions.** Large game may not be tethered in a shooting area and must be free to roam. A person may shoot or attempt to shoot large game within a shooting area only when that person is in a tree stand or accompanied by the license holder or an employee of the license holder. Shooting is limited to the time period from 1/2 hour before sunrise as defined in Title 12, section 10001 to 1/2 hour after sunset as defined in Title 12, section 10001. A person who kills or attempts to kill large game in a commercial large game shooting area may use only the following weapons:

A. Firearms of any type permitted for hunting under Title 12, Part 13; and [PL 2003, c. 414, Pt. B, §12 (AMD); PL 2003, c. 614, §9 (AFF).]

B. Archery equipment of any type permitted for hunting under Title 12, Part 13. [PL 2003, c. 414, Pt. B, §12 (AMD); PL 2003, c. 614, §9 (AFF).]

[PL 2003, c. 414, Pt. B, §12 (AMD); PL 2003, c. 614, §9 (AFF).]

**7. Inspection.** The commissioner or a veterinarian or other person employed by the State may enter at the direction of the commissioner, at any reasonable time, a commercial large game shooting area to make examinations of or conduct tests on large game for the existence of contagious or infectious diseases and to review records and make observations to determine compliance with this chapter and rules adopted pursuant to subsection 8. When the commissioner requires or conducts tests on large game for the existence of contagious or infectious diseases, the license holder is responsible for costs associated with the tests.

[PL 1999, c. 765, §3 (NEW).]

**8. Rulemaking.** The commissioner shall adopt rules in accordance with Title 5, chapter 375 to implement the provisions of this chapter. The initial rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. Subsequent amendments to those rules are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

[PL 1999, c. 765, §3 (NEW).]

**9. Verification of existing commercial large game shooting areas.** Prior to issuing a license, the commissioner must verify that the applicant operated a commercial large game shooting area during the period beginning October 1, 1999 and ending March 15, 2000. An applicant may demonstrate compliance with this requirement:

A. By submitting a copy of a published advertisement describing the large game shooting experience offered. The copy must include the name of the publication and the date of the issue in which the advertisement appeared; [PL 1999, c. 765, §3 (NEW).]

B. By submitting a dated receipt for services that includes the name and address of the person who paid for a large game shooting experience and supporting financial records; or [PL 1999, c. 765, §3 (NEW).]

C. By submitting other acceptable verification as determined by the commissioner, including such information required by the commissioner to establish the type of large game harvested or offered for harvesting in that shooting area between October 1, 1999 and March 15, 2000. [PL 1999, c. 765, §3 (NEW).]

[PL 1999, c. 765, §3 (NEW).]

**10. Expansion of licenses.** A person issued a license under this section shall notify the commissioner prior to offering a genus or species of large game for harvesting that was not offered for harvesting at the time the initial license was issued. The notification must state the additional genus or species that the license holder is proposing to offer. Upon determining that the license holder can meet the requirements of subsection 2, the commissioner shall issue a revised license.

[PL 2009, c. 249, §5 (NEW).]

SECTION HISTORY

PL 1999, c. 765, §3 (NEW). PL 2003, c. 386, §10 (AMD). PL 2003, c. 414, §B12 (AMD). PL 2003, c. 414, §D7 (AFF). PL 2003, c. 614, §9 (AFF). PL 2009, c. 249, §§2-5 (AMD). PL 2025, c. 29, §§1, 2 (AMD).

**§1342-A. Issuance of initial licenses after April 1, 2009**

The commissioner may issue a license in accordance with this section and section 1342-B to applicants who do not qualify for a license under section 1342. [PL 2009, c. 249, §6 (NEW).]

**1. Application.** To apply for a license under this section, a person must submit an application on a form provided by the commissioner along with the license fee established under section 1342, subsection 3. The application must include:

A. The name and mailing address of the person applying for the license; [PL 2009, c. 249, §6 (NEW).]

B. A map locating the proposed site in relation to known or easily identifiable terrain features, such as a road junction or a stream and road junction. The map must be a copy of a 7.5 or 15 minute series topographical map produced by the United States Geological Survey or a map of equivalent or superior detail in the location of roads; [PL 2009, c. 249, §6 (NEW).]

C. A statement of the types of large game the applicant is proposing to offer for harvest; and [PL 2009, c. 249, §6 (NEW).]

D. Information sufficient to demonstrate that the land and facilities requirements under section 1342, subsection 2 can be met. [PL 2009, c. 249, §6 (NEW).]

[PL 2009, c. 249, §6 (NEW).]

**2. Criteria for reviewing applications.** Upon receipt of a complete application under subsection 1, the commissioner shall review all materials submitted to determine the proximity of the proposed commercial large game shooting area to other licensed commercial large game shooting areas. If more than 2 applicants qualify for a license under this section, the commissioner shall give preference to a proposal to establish a commercial large game shooting area in Piscataquis County and to other proposals that advance geographic distribution of commercial large game shooting areas. The commissioner may establish additional criteria for rating applications in rules adopted under section 1342, subsection 8. The commissioner may require inspection of the proposed site prior to issuing a license under this section.

[PL 2009, c. 249, §6 (NEW).]

**3. Issuance of license; restrictions and requirements.** The commissioner may not issue more than one license under this section to a person. The commissioner may not issue a license under this section to a person who received a license under section 1342 whether that license is valid or expired.

A license issued under this section is for a specific parcel of land and only for the genus and species of large game specified in the license. The requirements and restrictions under section 1342, subsections 3, 4, 5-A, 6 and 7 and rules adopted under subsection 8 apply to licenses issued under this section. A person issued a license under this section shall establish and maintain the licensed commercial large game shooting area in accordance with section 1342, subsection 2, paragraphs A to E.

[PL 2025, c. 29, §3 (AMD).]

**4. Acceptance of license applications.** The commissioner may establish a deadline for accepting applications for commercial large game shooting area licenses under this section and may postpone action on applications received until that deadline has passed.

[PL 2009, c. 249, §6 (NEW).]

SECTION HISTORY

PL 2009, c. 249, §6 (NEW). PL 2025, c. 29, §3 (AMD).

**§1342-B. Limitation on the number of commercial large game shooting areas**

The number of commercial large game shooting areas in the State may not exceed 11. The commissioner may not issue a license under section 1342-A if the total number of valid licenses issued under sections 1342 and 1342-A is 11. For purposes of this section, "valid license" means a license that has not expired whether or not the person holding the license has continued to operate a commercial large game shooting area. [PL 2009, c. 249, §7 (NEW).]

SECTION HISTORY

PL 2009, c. 249, §7 (NEW).

**§1342-C. Change of location of licensed commercial large game shooting area**

A person holding a license for a commercial large game shooting area under section 1342 or 1342-A may apply to the commissioner for permission to change the location of the licensed area. The commissioner shall approve the change in location if the applicant demonstrates that the old location of the commercial large game shooting area will be discontinued and that the new location meets all of the applicable requirements of the section of law under which the original license was approved. [PL 2011, c. 557, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 557, §1 (NEW).

**§1343. Transport tags**

The owner or operator of a commercial large game shooting area must provide a transport tag for each large game animal killed in that area. A person transporting large game killed at a commercial large game shooting area must have a transport tag secured to the body of the animal that clearly identifies the name and location of the commercial large game shooting area, the species of the animal and the date of the death. [PL 1999, c. 765, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 765, §3 (NEW).

**§1344. Violation; penalties**

**1. Operating commercial large game shooting area without license.** A person who operates a commercial large game shooting area without a license issued under section 1342 or section 1342-A is guilty of a Class E crime.
[PL 2009, c. 249, §8 (AMD).]

**1-A. Remote-control hunting.** A person who owns or operates a commercial large game shooting area that uses remote-control hunting in violation of section 1347 commits a Class E crime.
[PL 2005, c. 81, §1 (NEW).]

**2. Civil violations.** Except for operating a commercial large game shooting area without a license or using remote-control hunting as provided in subsections 1 and 1-A, a person who violates any provision of this chapter or any rule adopted pursuant to this chapter commits a civil violation for which a forfeiture not to exceed $500 for a first violation and not to exceed $1,000 for a 2nd violation may be adjudged.
[PL 2005, c. 81, §1 (AMD).]

**3. Revocation of license.** The commissioner may revoke a license issued under section 1342 or under section 1342-A for any violation of this chapter or rule adopted pursuant to this chapter or any violation of chapter 739 or Title 17, chapter 42, subchapter 3.
[PL 2009, c. 249, §9 (AMD).]

SECTION HISTORY

PL 1999, c. 765, §3 (NEW). PL 2005, c. 81, §1 (AMD). PL 2009, c. 249, §§8, 9 (AMD).

**§1345. Applicability of other laws**

**1. Cruelty to animals.** This chapter does not exempt a person from the provisions of chapter 739 or Title 17, chapter 42, subchapter III.
[PL 1999, c. 765, §3 (NEW).]

**2. Control of disease.** The commissioner shall apply and enforce the provisions of chapter 303 and chapter 305 and rules adopted in accordance with those chapters with regard to large game as the commissioner determines necessary to control disease.
[PL 1999, c. 765, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 765, §3 (NEW).

**§1346. License fees deposited in General Fund**

Notwithstanding section 1332, section 1333, subsection 3 and section 1342, subsections 3 and 4, the first $1,120 collected each year under those sections and under section 1342-A for license fees for domesticated cervid farms and commercial large game shooting areas and transport tag fees must be deposited in the General Fund. [PL 2009, c. 249, §10 (AMD).]

SECTION HISTORY

PL 1999, c. 765, §3 (NEW). PL 2003, c. 386, §11 (AMD). PL 2009, c. 249, §10 (AMD).

**§1347. Remote-control hunting**

An owner or operator of a commercial large game shooting area may not use a website or a service or business via any other means that permits a person to shoot or attempt to shoot any large game that is located in this State through the use of a computer-controlled gun, shooting apparatus or any other remote-control device when the person using the website, service or business is physically removed from the immediate vicinity of the large game animal. [PL 2005, c. 81, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 81, §2 (NEW).

## CHAPTER 203

## MINK

**§1351. Breeding and raising mink**

Mink that have been propagated in captivity for 2 or more generations are considered domesticated animals subject to this Title. Such domesticated mink or the pelts or products thereof are considered agricultural products and the breeding, raising, producing in captivity and marketing of mink is an agricultural pursuit. Any person, firm or corporation engaged in breeding and raising mink shall comply with the permitting requirements for importation and possession of wildlife under Title 12, chapter 915, subchapter 15. [PL 2005, c. 382, Pt. D, §3 (AMD).]

SECTION HISTORY

PL 2005, c. 382, §D3 (AMD).

## CHAPTER 205

## POULTRY

## (REPEALED)

**§1401. License for buyers and sellers of poultry**

**(REPEALED)**

SECTION HISTORY

PL 1967, c. 227, §4 (RP).

**§1402. Transportation of poultry**

**(REPEALED)**

SECTION HISTORY

PL 1967, c. 227, §4 (RP).

**§1403. Bills of lading**

**(REPEALED)**

SECTION HISTORY

PL 1967, c. 227, §4 (RP).

**§1404. Records**

**(REPEALED)**

SECTION HISTORY

PL 1967, c. 227, §4 (RP).

**§1405. Application of other provisions**

**(REPEALED)**

SECTION HISTORY

PL 1967, c. 227, §4 (RP).

**§1406. Penalties**

**(REPEALED)**

SECTION HISTORY

PL 1967, c. 227, §4 (RP).

## CHAPTER 207

## AUCTIONS

**§1451. Purpose**

**(REPEALED)**

SECTION HISTORY

PL 2001, c. 572, §13 (RP).

**§1452. Definitions**

As used in this chapter, unless the context otherwise indicates, "auction" means the offering of cattle, sheep, swine, goats, equines, domesticated cervids, poultry and other animals raised for food or fiber for sale by means of exchanges between an auctioneer and bidders. [PL 2003, c. 386, §12 (AMD).]

SECTION HISTORY

PL 2001, c. 572, §14 (RPR). PL 2003, c. 386, §12 (AMD).

**§1453. Rules**

The commissioner shall, in a manner consistent with the Maine Administrative Procedure Act, make rules necessary to protect the health and welfare of animals going through auction, which have the power of law as outlined under section 1752. [PL 2001, c. 572, §15 (AMD).]

SECTION HISTORY

PL 1977, c. 694, §117 (AMD). PL 2001, c. 572, §15 (AMD).

**§1454. Permit**

A person, partnership, association or corporation may not hold or conduct an auction without obtaining a permit from the commissioner a minimum of 2 weeks prior to the scheduled date of the auction. A person intending to hold auctions on a regular basis may apply for and be issued a permit valid for multiple dates at the location specified in the permit. [PL 2001, c. 572, §16 (RPR).]

SECTION HISTORY

PL 2001, c. 572, §16 (RPR).

**§1455. Records**

The operator shall keep complete records of all sales transactions, which must be available for inspection by the commissioner. The department may establish, by rule, the length of time that a person who conducts an auction must retain these records. These records must indicate the origins of the animals sold, the name and address of the person purchasing the animals and the destination of those animals. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [PL 2001, c. 572, §17 (AMD).]

SECTION HISTORY

PL 2001, c. 572, §17 (AMD).

**§1456. Cancellation of permit**

The permit to operate an auction may be suspended in a manner consistent with the Maine Administrative Procedure Act. [PL 2001, c. 572, §18 (RPR).]

SECTION HISTORY

PL 1977, c. 694, §118 (RPR). PL 1999, c. 547, §B20 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2001, c. 572, §18 (RPR).

**§1457. Violations**

Any person who violates the provisions of this chapter or rules adopted pursuant to this chapter commits a civil violation for which a forfeiture not to exceed $100 per day for each violation may be adjudged, except that the total of the forfeitures may not exceed $25,000. [PL 2001, c. 572, §19 (NEW).]

SECTION HISTORY

PL 2001, c. 572, §19 (NEW).

## CHAPTER 209

## LAND-BASED AQUACULTURE

## (REPEALED)

### §1501. Land-based aquaculture license

**(REPEALED)**

SECTION HISTORY

PL 2017, c. 94, §3 (NEW). PL 2019, c. 310, §3 (RP).

# PART 4

# LIVESTOCK DISEASE CONTROL

## CHAPTER 301

## GENERAL PROVISIONS

### §1701. Animal husbandry expert

The commissioner is authorized to employ an animal husbandry expert. The commissioner may employ such assistants as the commissioner considers necessary, subject to the Civil Service Law. Such expenses in connection therewith must be paid as the commissioner may approve. [RR 2021, c. 1, Pt. B, §124 (COR).]

SECTION HISTORY

PL 1985, c. 785, §B45 (AMD). RR 2021, c. 1, Pt. B, §124 (COR).

### §1702. Certificate

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.

### §1703. Prosecution by district attorney

The several district attorneys shall prosecute all violations of chapters 201, 207, 301, 303 and 305 which shall be brought to their notice or knowledge by any person making the complaint under oath. The District Court and the Superior Court shall have concurrent jurisdiction in all prosecutions under said chapters. [PL 1977, c. 78, §26 (AMD).]

SECTION HISTORY

PL 1977, c. 78, §26 (AMD).

### §1704. Agents

The commissioner may employ veterinarians licensed in this State and other agents and employees as may be necessary to enforce chapters 201, 207, 301, 303 and 305, subject to the Civil Service Law. [PL 2001, c. 572, §20 (AMD).]

SECTION HISTORY

PL 1977, c. 78, §27 (AMD). PL 1985, c. 785, §B46 (AMD). PL 2001, c. 572, §20 (AMD).

**§1705. Expenses**

The actual and necessary traveling expenses of the commissioner and the commissioner's employees, any and all expense of prevention, control and eradication of disease, destroying diseased animals and those exposed to disease, and paying for the same, and all other expenses necessary to properly carry out chapters 201, 207, 301, 303 and 305 must be paid out of such amounts as the Legislature may appropriate. [RR 2021, c. 1, Pt. B, §125 (COR).]

SECTION HISTORY

PL 1977, c. 78, §28 (AMD). RR 2021, c. 1, Pt. B, §125 (COR).

**§1706. Penalties**

**1. Violation.** Except as provided in section 1707 or unless another specific penalty or forfeiture is provided, a person commits a civil violation if that person violates a provision of or a rule or regulation adopted pursuant to:

A. This chapter; [PL 2003, c. 452, Pt. B, §16 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. Chapter 207; [PL 2003, c. 452, Pt. B, §16 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. Chapter 303; or [PL 2003, c. 452, Pt. B, §16 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

D. Chapter 305. [PL 2003, c. 452, Pt. B, §16 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
[PL 2003, c. 452, Pt. B, §16 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**2. Penalty.** A person who violates this section commits a civil violation for which a fine of not more than $500 per day for each violation may be adjudged, except that the total of the fines may not exceed $50,000.
[PL 2003, c. 452, Pt. B, §16 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1977, c. 696, §89 (RPR). PL 2001, c. 572, §21 (RPR). PL 2003, c. 452, §B16 (RPR). PL 2003, c. 452, §X2 (AFF).

**§1707. Intentional, knowing or reckless introduction of a disease or pathogen**

A person who intentionally, knowingly or recklessly introduces or takes a substantial step or action that could introduce a disease or pathogen to livestock or poultry commits a Class D crime. [PL 2001, c. 572, §22 (NEW).]

SECTION HISTORY

PL 2001, c. 572, §22 (NEW).

**§1708. National animal identification system**

**(REPEALED)**

SECTION HISTORY

PL 2009, c. 544, §1 (NEW). MRSA T. 7 §1708, sub-§6 (RP).

## CHAPTER 303

## CONTROL OF DISEASES

**§1751. Definitions**

As used in this chapter and chapters 201, 202, 202-A, 207, 301 and 305, unless the context otherwise indicates, the following words have the following meanings. [PL 2005, c. 146, §1 (AMD).]

**1. Commissioner.** "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry or the commissioner's duly authorized agent.
[RR 2021, c. 1, Pt. B, §126 (COR).]

**2. Domestic animals.** "Domestic animals" means cattle, equines, goats, sheep, swine, cats, dogs, domesticated cervids or other domesticated animals; large game as defined in section 1341, subsection 5; and poultry.
[PL 2003, c. 386, §13 (AMD).]

**3. Authorized agent.** "Authorized agent" means employees of the department, veterinarians licensed by the State to practice veterinary medicine while performing official duties for the department, employees of the Animal and Plant Health Inspection Service of the United States Department of Agriculture, or other persons designated by the commissioner.
[PL 2001, c. 572, §24 (AMD).]

**4. Person.** "Person" shall mean the State, any municipality, political subdivision, institution, public or private corporation, individual, partnership or other entity.

**5. Poultry.** "Poultry" means all domesticated birds.

SECTION HISTORY

PL 1971, c. 594, §5 (AMD). PL 1977, c. 78, §29 (AMD). PL 1999, c. 765, §4 (AMD). PL 2001, c. 572, §§23,24 (AMD). PL 2003, c. 386, §13 (AMD). PL 2005, c. 146, §1 (AMD). PL 2011, c. 657, Pt. W, §6 (REV). RR 2021, c. 1, Pt. B, §126 (COR).

**§1752. Rules**

The commissioner shall adopt rules that are necessary for the enforcement of chapters 201, 202, 202-A, 207, 301, 303 and 305. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2003, c. 386, §14 (AMD).]

SECTION HISTORY

PL 1973, c. 625, §39 (AMD). PL 1977, c. 78, §30 (AMD). PL 1977, c. 694, §119 (RPR). PL 2001, c. 572, §25 (AMD). PL 2003, c. 386, §14 (AMD).

**§1753. Duties of commissioner**

The commissioner shall, so far as possible, prevent the introduction and spread of contagious, infectious and parasitic diseases, and exposure to such diseases, among domestic animals in the State, especially those diseases transmitted to humans, either directly or indirectly, and those of greatest economic importance. [RR 2025, c. 2, Pt. A, §22 (COR).]

The commissioner shall cause investigation and diagnosis to be made by approved methods as to the existence of contagious, infectious and parasitic diseases among domestic animals in the State, and the commissioner may enter any premises, buildings or places, including stockyards, cars, trucks, planes and vessels within any county or part of the State in or at which the commissioner has reason to believe there exists any such disease, and make such investigation, diagnosis or diagnostic tests as to the existence of disease that the commissioner may consider necessary. [PL 2001, c. 572, §26 (AMD).]

The commissioner shall formulate and apply programs for the control or eradication of any diseases or pathogens as required by the United States Department of Agriculture and any other diseases or pathogens the commissioner considers necessary or practicable to control or eradicate so far as funds are available. [PL 2001, c. 572, §26 (AMD).]

SECTION HISTORY

PL 1999, c. 765, §5 (AMD). PL 2001, c. 572, §26 (AMD). RR 2025, c. 2, Pt. A, §22 (COR).

**§1754. Responsibility of division chief**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 513, §10 (AMD). PL 1971, c. 594, §6 (RP).

**§1755. Quarantine**

The commissioner may, upon discovery or upon suspicion of the existence of any disease or pathogen among domestic animals or poultry in the State, take whatever action the commissioner considers necessary to prevent possible spread and to control or eradicate the disease or pathogen. Such action may include quarantine of domestic animals, birds, wild animals in captivity and products derived from them, including the quarantine of articles, materials and premises, equipment or areas, for a time and under conditions as the commissioner considers necessary to eradicate or control the disease or pathogen. This quarantine may not be considered licensing or an adjudicatory proceeding, as defined by the Maine Administrative Procedure Act. [PL 2001, c. 572, §27 (AMD).]

Any positive diagnosis of a disease made by recognized procedures by recognized diagnostic laboratories, or by recognized qualified persons, must be considered as official diagnosis until proved otherwise. [PL 2001, c. 572, §27 (AMD).]

Quarantine may be made by registered mail or in person by an authorized agent of the commissioner, or by any other person authorized to do so.

The commissioner may use placards or any other methods considered necessary to give notice or warning of the quarantine. [PL 2001, c. 572, §27 (AMD).]

It is illegal to violate any quarantine by any person, and such violation is punishable by penalties as outlined in section 1706. [PL 2001, c. 572, §27 (AMD).]

SECTION HISTORY

PL 1977, c. 694, §120 (AMD). PL 2001, c. 572, §27 (AMD).

**§1756. Appraisal, destruction and indemnity**

Upon discovery of any contagious or infectious disease or pathogen among domestic animals, the commissioner may cause the affected or exposed animals to be appraised and destroyed, and a proper disposition of the carcasses made in accordance with rules and adopted by the commissioner in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375. The commissioner shall appraise each domestic animal at its true market value at the time it is condemned, provided that no indemnity may be paid except as established in section 1757 or in state-federal cooperative eradication programs for domestic animals and in those amounts as set by those agreements. In no case may the combined amount received from salvage and state and federal indemnity exceed the amount of appraisal. [PL 2001, c. 572, §28 (AMD).]

Indemnity may not be paid on any domestic animals imported into the State if the importation was in violation of the laws of the State or rules in effect at the time of importation. [PL 2001, c. 572, §28 (AMD).]

SECTION HISTORY

PL 1973, c. 41 (AMD). PL 1977, c. 36 (RPR). PL 1977, c. 694, §121 (AMD). PL 1983, c. 747, §1 (AMD). PL 2001, c. 572, §28 (AMD).

**§1757. Poultry Disease Control Fund**

The commissioner shall establish a Poultry Disease Control Fund to be used to detect, prevent, control or eradicate any contagious or infectious poultry disease or pathogen within the State, which may be funded through a legislative appropriation or through money received from other public and

private sources, including an assessment on commercial poultry owners. [PL 2001, c. 572, §29 (AMD).]

**1. Authority of the commissioner.** Whenever the commissioner has sufficient reason to believe that a contagious or infectious poultry disease or pathogen has been or may be introduced into the State, the commissioner may:

A. Inspect, cause to be disinfected or require evidence of disinfection of:

(1) All incoming or outgoing vehicles being used to convey poultry, poultry products or materials related to the poultry industry; and

(2) All incoming vehicles that, while carrying other domestic animals during the 30 days immediately prior to their arrival in Maine, stopped within or passed through an area declared quarantined by the United States Department of Agriculture, Animal and Plant Health Inspection Service, due to the outbreak of a contagious or infectious poultry disease or pathogen.

Incoming vehicles may be refused entry into the State and outgoing vehicles may be detained within the State until any necessary inspection or disinfection has been performed or any required evidence of inspection or disinfection has been received. [PL 2001, c. 572, §30 (AMD).]

B. Immediately eradicate poultry flocks in which disease or pathogen is found to exist; and [PL 2001, c. 572, §30 (AMD).]

C. After consultation with appropriate industry organizations, indemnify owners of poultry destroyed under paragraph B. The amount of the indemnity must be established by rule adopted in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, provided that the amount of any federal indemnity for the same flock is considered in setting the amount of indemnity under this paragraph. [PL 2001, c. 572, §30 (AMD).]

[PL 2001, c. 572, §30 (AMD).]

**2. Assessment.** The commissioner may, when necessary to carry out the purposes of this section and after consultation with appropriate industry organizations, levy an assessment upon owners of commercial poultry flocks located within the State. The levy shall be made and the amount of the assessment shall be established by rule, adopted in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375. In determining the amount of the assessment, the commissioner shall consider flock size, age and type of bird and the financial requirements of the fund provided that the total assessment levied upon the industry shall not exceed $100,000, and further provided that the assessment levied upon any single owner shall not exceed 25% of the total industry assessment or $25,000, whichever is smaller.

[PL 1983, c. 747, §2 (NEW).]

**3. Use of fund.** All moneys appropriated and otherwise received under this section shall be credited to the Poultry Disease Control Fund account and shall be nonlapsing. Moneys in the fund may be used for the purposes contained in subsection 1.

[PL 1983, c. 747, §2 (NEW).]

**4. Reversion.** When, in the judgment of the commissioner, the immediate threat of the introduction of a contagious or infectious poultry disease into the State no longer exists and no federal poultry quarantine is in effect in the State, the commissioner may direct that money remaining in the Poultry Disease Control Fund revert to contributors on a pro rata basis according to the amount of contributions made since the establishment of the fund or since the most recent reversion of the fund, whichever has last occurred.

[RR 2021, c. 1, Pt. B, §127 (COR).]

**5. Penalties.** Assessments authorized under subsection 2 may be recovered in a civil action. Any person who violates any provision or any rules adopted under this section shall be subject to a civil penalty not to exceed $1,000 to be recovered in a civil action.
[PL 1983, c. 747, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 747, §2 (NEW). PL 2001, c. 572, §§29,30 (AMD). RR 2021, c. 1, Pt. B, §127 (COR).

**§1758. Salmonella enteritidis risk reduction and surveillance program**

The commissioner, in cooperation with the University of Maine Cooperative Extension Service, shall develop a Salmonella enteritidis risk reduction and surveillance program for poultry. The commissioner shall adopt rules to implement the program. The rules must define the term "commercial egg producer" and establish requirements for participating in the program and a process for monitoring compliance with the program. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A. [PL 2001, c. 91, §1 (NEW).]

Upon final adoption of the rules, participation in the program is mandatory for all commercial egg producers in the State. A commercial egg producer who fails to comply with the requirements of this section and rules adopted pursuant to this section commits a civil violation for which a forfeiture of no more than $1,000 may be adjudged. [PL 2001, c. 91, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 91, §1 (NEW).

**§1759. Vehicle detainment and inspection**

If the commissioner has sufficient reason to believe that a contagious or infectious animal disease that is classified as reportable under section 1801 or a pathogen that is classified as reportable under section 1801 has been or may be introduced into the State, the commissioner may stop and inspect vehicles transporting domestic animals or poultry to ensure that biosecurity procedures, including cleaning and disinfection, outlined by the United States Department of Agriculture have been adhered to and that importation certification documents are in order. [PL 2001, c. 572, §31 (NEW).]

An incoming vehicle may be refused entry into the State and an outgoing vehicle may be detained within the State until any necessary inspection or disinfection has been performed or any required evidence of inspection or disinfection has been received by the commissioner. [PL 2001, c. 572, §31 (NEW).]

SECTION HISTORY

PL 2001, c. 572, §31 (NEW).

## CHAPTER 305

## ERADICATION OF DISEASES

**§1801. Reportable diseases**

The commissioner shall, by rule adopted in a manner consistent with the Maine Administrative Procedure Act, determine which diseases or pathogens must be classified as "reportable." The form of transmissible spongiform encephalopathy known as chronic wasting disease is reportable. It is a violation of this chapter for any owner, agent of any owner, veterinarian or other person having knowledge of the existence of such disease or pathogen or the exposure of domestic animals to such disease or pathogen not to properly report the existence of such disease or pathogen or exposure of

domestic animals to the department immediately after knowledge of such disease or pathogen or exposure of domestic animals to such disease or pathogen. [PL 2001, c. 572, §32 (RPR).]

It is a violation of this chapter for any person to cause a domestic animal to be driven, trucked or otherwise moved intrastate or interstate when that person has knowledge that the animal is infected with or has been exposed to a reportable disease or pathogen. It is a violation of this chapter for any person to cause a domestic animal to be driven, trucked or otherwise moved intrastate or interstate when that person has knowledge that the animal has been treated with a vaccine or other substance that might make that animal capable of spreading a reportable disease or pathogen among susceptible domestic animals. A domestic animal infected with or exposed to a reportable disease or pathogen may be moved only under the direction of the commissioner. [PL 2001, c. 572, §32 (RPR).]

SECTION HISTORY

PL 1971, c. 594, §7 (AMD). PL 1977, c. 694, §122 (AMD). PL 1999, c. 765, §6 (AMD). PL 2001, c. 572, §32 (RPR).

**§1802. Condemnation of diseased animals**

The commissioner may, when the commissioner considers it necessary, condemn and take possession of diseased or exposed domestic animals, or domestic animals suspected of being diseased or exposed, for diagnostic purposes, and may pay the owner for the same, health, condition and market value being considered. This condemnation may not be considered licensing or an adjudicatory proceeding, as defined by the Maine Administrative Procedure Act. [RR 2021, c. 1, Pt. B, §128 (COR).]

SECTION HISTORY

PL 1977, c. 694, §123 (AMD). RR 2021, c. 1, Pt. B, §128 (COR).

**§1803. Transportation of diseased animals**

It is a violation of this chapter for a person to cause a domestic animal to be driven, trucked or otherwise moved into the State when that person has knowledge that the animal is infected with or has been exposed to any contagious disease or to a pathogen that is classified as a reportable pathogen under section 1801. [PL 2001, c. 572, §33 (RPR).]

SECTION HISTORY

PL 2001, c. 572, §33 (RPR).

**§1804. Transportation of certain poultry prohibited**

**(REPEALED)**

SECTION HISTORY

PL 1969, c. 33 (AMD).

**§1805. Securing animals for treatment**

It is a violation of this chapter for an owner of domestic animals or that owner's agent to refuse or neglect to secure and restrain domestic animals to be tested, vaccinated, branded or tattooed to indicate vaccination or infection status, or otherwise treated as the commissioner may direct. [PL 2001, c. 572, §34 (AMD).]

The commissioner may require proper disinfecting by the owner of stables and premises where condemned diseased domestic animals are found and may withhold indemnity until satisfied that proper cleaning and disinfecting of premises have been completed. [PL 2001, c. 572, §34 (AMD).]

SECTION HISTORY

PL 2001, c. 572, §34 (AMD).

**§1806. Disease control notifications**

It is a violation of this chapter to tamper with, remove or alter eartags, labels, placards or notices affixed or posted by the commissioner to notify of and assist in the control of disease. [PL 2001, c. 572, §34 (AMD).]

SECTION HISTORY

PL 2001, c. 572, §34 (AMD).

**§1806-A. Restrictions of sales**

The commissioner may restrict the sale of milk or milk products in the State from any herd of any species having any reportable disease or exposed to a reportable pathogen that may be transmitted in milk or milk products. A livestock product or byproduct may not be sold or offered for sale from any herd having a reportable disease or exposed to a reportable pathogen that may be transmitted in those products. [PL 2001, c. 572, §35 (NEW).]

SECTION HISTORY

PL 2001, c. 572, §35 (NEW).

**§1807. Illegal vaccinations**

**1. Brucellosis vaccine.** A person other than a licensed veterinarian may not vaccinate cattle with brucellosis vaccine. A licensed veterinarian may not vaccinate cattle with brucellosis vaccine unless:

A. The vaccine used has been approved by the commissioner; and [PL 2001, c. 572, §36 (NEW).]

B. The vaccine is administered to the animal at the age recommended by the manufacturer of the vaccine or determined by the commissioner. [PL 2001, c. 572, §36 (NEW).]

[PL 2001, c. 572, §36 (NEW).]

**2. Prohibition on certain vaccines.** The commissioner may prohibit a vaccination because the use of the vaccine being administered might cause the presumption that an actual disease or pathogen is present in the State.

[PL 2001, c. 572, §36 (NEW).]

**3. Commissioner's discretion to vaccinate.** Notwithstanding subsection 2, the commissioner may authorize any vaccination necessary to control an outbreak of a disease or to diminish the threat of an outbreak of a disease.

[PL 2001, c. 572, §36 (NEW).]

SECTION HISTORY

PL 1973, c. 42, §1 (AMD). PL 1981, c. 197, §1 (AMD). PL 2001, c. 572, §36 (RPR).

**§1808. Sale, distribution and use of certain biologics**

A biological product capable of eliciting an immunological response offered for use in the treatment or prevention of diseases of domestic animals may not be produced, sold, distributed, imported or used within the State, or imported into the State for sale, distribution or use unless approval and written permission has first been obtained from the commissioner. The commissioner has the right to refuse permission for distribution, sale, importation or use of any such product within the State, and may require reporting of sale, distribution, importation or use of any such product within the State, if permission is granted. [PL 2001, c. 572, §37 (AMD).]

An antigen used for diagnostic purposes in domestic animals may not be produced in or shipped into the State without the approval of the commissioner. [PL 2001, c. 572, §37 (AMD).]

A person except a licensed veterinarian may not offer for sale or distribution, within the State, any biological product containing living organisms or viruses offered for use in the treatment or prevention of diseases of domestic animals, without first obtaining a permit to act as a salesperson or distributor from the department. [PL 2001, c. 572, §37 (AMD).]

The commissioner shall, in a manner consistent with the Maine Administrative Procedure Act, adopt rules as to refrigeration, handling, shipping, disposing of outdated material and sale of such products. [PL 2001, c. 572, §37 (AMD).]

Failure to comply with this section or section 1807, or the rules adopted pursuant thereto, is grounds for revocation of any permit granted pursuant to these sections. [PL 2003, c. 510, Pt. A, §4 (AMD).]

SECTION HISTORY

PL 1967, c. 204 (AMD). PL 1971, c. 594, §8 (AMD). PL 1977, c. 694, §§124,125 (AMD). PL 1993, c. 367, §1 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2001, c. 572, §37 (AMD). PL 2003, c. 510, §A4 (AMD).

**§1808-A. Direct purchase of rabies vaccine**

A veterinarian licensed in this State may sell rabies vaccine to a person who owns cattle, sheep, goats or cervids as defined in section 1333. A veterinarian who sells rabies vaccine in accordance with this section is not, as a result of selling the vaccine, liable for claims arising from the administration of the vaccine by the purchaser. [PL 2003, c. 386, §15 (AMD).]

An animal vaccinated against rabies by a person who is not a licensed veterinarian, a certified rabies vaccinator appointed and certified pursuant to section 3920 or a licensed veterinary technician under the direct supervision or indirect supervision of a licensed veterinarian may not be certified as vaccinated against rabies and must be treated as an unvaccinated animal under Title 22, chapter 251, subchapter 5 and rules adopted pursuant to that chapter. For purposes of this section, "direct supervision" has the same meaning as in Title 32, section 4853, subsection 4-A; "indirect supervision" has the same meaning as in Title 32, section 4853, subsection 4-B; "licensed veterinarian" has the same meaning as in Title 32, section 4853, subsection 5; and "licensed veterinary technician" has the same meaning as in Title 32, section 4853, subsection 11. [RR 2025, c. 1, Pt. A, §13 (COR).]

SECTION HISTORY

PL 2001, c. 308, §1 (NEW). PL 2003, c. 386, §15 (AMD). PL 2025, c. 141, §1 (AMD). RR 2025, c. 1, Pt. A, §13 (COR).

**§1809. Permits for state entry**

**1. Permit required.** The commissioner may require a person who imports animals or avian hatching eggs into the State to obtain a permit before the time of entry. When a permit is required, the permit or permit number must accompany the shipment. The commissioner may refuse to grant a permit or may issue one subject to quarantine at destination if the animals or avian hatching eggs do not meet importation requirements or do not comply with the inland fisheries and wildlife laws and rules adopted by the Commissioner of Inland Fisheries and Wildlife under Title 12, chapter 915, subchapter 15 or Title 12, section 12102. The commissioner may require the owner to have those animals or avian hatching eggs tested or examined by a veterinarian at the owner's expense. The commissioner may release those animals or avian hatching eggs from quarantine only after the commissioner is satisfied that they are not a disease threat to other animals or humans.

When an animal or avian hatching egg is brought into the State without a required permit, the commissioner or the Commissioner of Inland Fisheries and Wildlife may condemn the animal and order it euthanized without indemnity or condemn the avian hatching egg and order it destroyed without indemnity. For purposes of this section, "avian hatching egg" means an egg of a bird species that is

fertile and handled, transported and stored in a manner that maintains its viability. "Avian hatching egg" does not include fertile eggs marketed for human consumption.
[PL 2017, c. 205, §1 (AMD).]

**2. Rules.** The commissioner shall adopt rules to establish importation requirements necessary to maintain the health of domestic animals. The commissioner, in consultation with the Commissioner of Inland Fisheries and Wildlife, shall maintain a list of animals for which a permit is required and conditions under which a permit is required for avian hatching eggs prior to entering the State. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2007, c. 128, §1 (AMD).]

SECTION HISTORY

PL 1973, c. 121 (RPR). PL 1973, c. 625, §40 (AMD). PL 1975, c. 236, §§1,2 (AMD). PL 1977, c. 694, §126 (AMD). PL 1999, c. 765, §7 (AMD). PL 2001, c. 572, §38 (RPR). PL 2005, c. 397, §B3 (AMD). PL 2007, c. 128, §1 (AMD). PL 2017, c. 205, §1 (AMD).

**§1810. Agreements**

The commissioner is authorized to enter into agreements of cooperation in the name of the State with the United States Department of Agriculture, other states, the Canadian Food Inspection Agency and Canadian provinces for the prevention, control and eradication of diseases among domestic animals. [PL 2001, c. 572, §39 (AMD).]

SECTION HISTORY

PL 2001, c. 572, §39 (AMD).

**§1811. Health requirements for exhibit animals**

All domestic animals that are to be shown or exhibited in any agricultural show within the State must meet the health requirements of the rules of the commissioner. [PL 2001, c. 572, §39 (AMD).]

SECTION HISTORY

PL 2001, c. 572, §39 (AMD).

**§1812. Brucellosis**

The commissioner shall, in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, formulate and implement rules, regulations and methods of procedure generally adopted for the prevention, control and eradication of brucellosis. [PL 1981, c. 197, §2 (AMD).]

Cattle brought into the State may enter pursuant to the provisions of 9 Code of Federal Regulations, Part 78. [PL 2013, c. 17, §1 (AMD).]

For the prevention and control of brucellosis, the commissioner shall continue to conduct recognized tests on all the herds in the State as required to maintain United States Department of Agriculture certification that the State is free of brucellosis. Such tests must be conducted by regularly employed federal or state veterinarians or technicians or authorized veterinarians and tested by the state laboratory. All animals showing a positive reaction to the test must be identified by a "reactor" ear tag and brand and must be slaughtered, except vaccinated animals under 14 months of age. [PL 2001, c. 572, §40 (AMD).]

Officially vaccinated calves, if purebred, must be properly identified by an official ear tag provided by the department or registration papers or tattoo number. Grade animals must be tagged with an official ear tag. All officially vaccinated calves must be tattooed with the official state tattoo mark. Evidence of vaccination must be the official state tattoo mark and either a vaccination ear tag or a tattoo number.
[PL 2001, c. 572, §41 (AMD).]

Any person who tampers, with an intent to change or destroy, with a vaccination identification ear tag, official state tattoo mark, tattoo number or the identification on a registration paper shall be subject to a civil penalty of $5,000 for each incident, payable to the State, to be recovered in a civil action. [PL 1981, c. 197, §2 (NEW).]

For the purpose of this section, the term "officially vaccinated" means a vaccination against brucellosis that complies with the requirements for such vaccination established by the United States Department of Agriculture. [PL 1981, c. 197, §2 (NEW).]

SECTION HISTORY

PL 1973, c. 42, §2 (AMD). PL 1977, c. 694, §127 (AMD). PL 1981, c. 197, §2 (AMD). PL 1985, c. 545 (AMD). PL 1987, c. 446, §§1,2 (AMD). PL 2001, c. 572, §§40-42 (AMD). PL 2013, c. 17, §§1, 2 (AMD).

**§1812-A. Brucellosis in swine**

The commissioner shall, in a manner consistent with the Maine Administrative Procedure Act, formulate and implement rules for the prevention, control and eradication of brucellosis in swine. Where infection has been found, all swine must be quarantined to the premises until all swine in the infected herd are in compliance with rules or may be slaughtered as the commissioner may direct. [PL 2001, c. 572, §43 (RPR).]

SECTION HISTORY

PL 1967, c. 182 (NEW). PL 1977, c. 694, §128 (AMD). PL 2001, c. 572, §43 (RPR).

**§1813. Vesicular exanthema -- Definitions**

As used in sections 1813 to 1815, unless the context otherwise indicates, the following terms shall have the following meanings. [PL 1979, c. 541, Pt. A, §69 (AMD).]

**1. Garbage.** "Garbage" means all waste material derived in whole or in part from the meat of any animal, including fish and poultry, or other animal material and other refuse of any character whatsoever that has been associated with any such material resulting from the handling, preparation, cooking or consumption of food, except that "garbage" does not include waste from ordinary household operations that is fed directly to swine on the same premises where such a household is located. [PL 2001, c. 572, §44 (RPR).]

**2. Person.** "Person" shall mean the State, any municipality, political subdivision, institution, public or private corporation, individual, partnership or other entity.

SECTION HISTORY

PL 1979, c. 541, §A69 (AMD). PL 2001, c. 572, §44 (AMD).

**§1814. -- license to feed garbage**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 541, §A70 (AMD). PL 2001, c. 572, §45 (RP).

**§1814-A. License to feed garbage**

**1. License required.** A person may not feed garbage to swine without first procuring a license from the commissioner. A license may be procured annually for a fee of $25 and must be renewed on the first day of June of each succeeding year. This section does not apply to any person who feeds that person's own household garbage only to swine that are raised for that person's own use. [PL 2001, c. 572, §46 (NEW).]

**2. Processing of garbage.** Regardless of previous processing, garbage must be thoroughly heated to at least 212 degrees Fahrenheit for at least 30 minutes before being fed to swine unless treated in some other manner that must be approved in writing by the commissioner.
[PL 2001, c. 572, §46 (NEW).]

**3. Moratorium authorized.** When a disease condition exists that may be spread by the feeding of garbage, the commissioner may immediately suspend all garbage feeding licenses and place a moratorium on all garbage feeding in the State.
[PL 2001, c. 572, §46 (NEW).]

**3-A. Application.** An individual, organization or institution, including a public school, that donates garbage to a swine producer for use in swine feed is not required to verify that the swine producer has a license under subsection 1. The commissioner shall ensure any guidance about this section issued to individuals, organizations or institutions clearly states that the donating individual, organization or institution is not required to verify that the swine producer has a license under subsection 1 and that the individual, organization or institution cannot be held responsible for the enforcement of this section or for any assessment of penalties under this section.
[PL 2019, c. 39, §1 (NEW).]

**4. Enforcement.** The commissioner may enter at reasonable times any private or public property to investigate conditions relating to the treating or feeding of garbage.
[PL 2001, c. 572, §46 (NEW).]

**5. Penalties.** Feeding garbage to swine without a license is a civil violation for which a forfeiture of not less than $250 nor more than $500 for an initial violation and not less than $500 nor more than $1,000 for a subsequent violation may be adjudged.
[PL 2001, c. 572, §46 (NEW).]

Feeding garbage to swine during a moratorium imposed by the commissioner is a civil violation for which a penalty of not more than $5,000 may be adjudged. [PL 2001, c. 572, §46 (NEW).]

SECTION HISTORY

PL 2001, c. 572, §46 (NEW). PL 2019, c. 39, §1 (AMD).

**§1815. Disposal of infected animals**

Any animal infected with or exposed to foot and mouth disease must be killed, buried, destroyed, rendered, processed or otherwise disposed of under the direct supervision of the commissioner or the commissioner's duly authorized agent. [RR 2021, c. 1, Pt. B, §129 (COR).]

SECTION HISTORY

RR 2021, c. 1, Pt. B, §129 (COR).

**§1816. Tests and equipment**

The commissioner or the commissioner's agent is authorized to conduct approved diagnostic tests, procure necessary animals, personnel, equipment and facilities and take other necessary precautions for the suppression and eradication of any disease among domestic animals. [RR 2021, c. 1, Pt. B, §130 (COR).]

SECTION HISTORY

RR 2021, c. 1, Pt. B, §130 (COR).

**§1817. Disposition of carcasses**

**(REPEALED)**

SECTION HISTORY

PL 2001, c. 572, §47 (RP).

**§1818. Disposal of dead poultry**

The owner, occupant or person in possession of any premises wherein poultry or poultry products are raised for sale or processing shall maintain, or have access to, adequate disposal facilities for the sanitary disposal of dead poultry resulting from such poultry operations, and all poultry dying on such premises shall be disposed of by means of such disposal facilities. Such facilities shall be constructed and maintained in accordance with standards and regulations to be promulgated by the commissioner in a manner consistent with the Maine Administrative Procedure Act. [PL 1977, c. 694, §129 (AMD).]

It shall be illegal to keep or deposit any dead poultry on any premises or places where wild birds or animals have access to them. Public or private dumps are not considered to be proper disposal areas.

SECTION HISTORY

PL 1977, c. 694, §129 (AMD).

**§1819. Equine infectious anemia**

**(REPEALED)**

SECTION HISTORY

PL 1973, c. 74 (NEW). PL 1977, c. 409, §1 (RP).

**§1820. Equine infectious anemia**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 409, §2 (NEW). PL 1981, c. 21, §§1,2 (AMD). PL 2001, c. 572, §48 (RP).

**§1820-A. Equine infectious anemia**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Official test" means any test approved by the commissioner for the detection of equine infectious anemia. "Official test" includes, but is not limited to, the enzyme-linked immunosorbent assay, or ELISA test, and the agar gel immunodiffusion, AGID, or Coggins test. [PL 2001, c. 572, §49 (NEW).]

B. "Quarantine" means to confine an equine to a stable or pasture in a manner that will prevent the spread of equine infectious anemia. [PL 2001, c. 572, §49 (NEW).]

[PL 2001, c. 572, §49 (NEW).]

**2. Duties of commissioner.** The commissioner shall:

A. Require a negative Coggins test, taken within 36 months, on all equines raced on, exhibited at or stabled at racetracks or fairgrounds. The commissioner shall require a negative test from all equines entering this State within 12 months before the date of entry and may require any equines to be tested prior to entering the State. Any equine not tested or required by the commissioner to be tested prior to entering this State must be quarantined until tested at the owner's expense; [PL 2003, c. 386, §16 (AMD).]

B. Require that any equine having a positive test be immediately quarantined and isolated from other equines pending a 2nd test done by a state veterinarian; and [PL 2001, c. 572, §49 (NEW).]

C. Require that all other equines on the premises where an equine has tested positive remain on the premises pending an investigation and testing as the commissioner determines necessary. [PL 2001, c. 572, §49 (NEW).]

[PL 2003, c. 386, §16 (AMD).]

**3. Disposition of reactors.** Any equine that has a positive 2nd test pursuant to subsection 2 must be considered a reactor. A reactor must be:

A. Humanely euthanized within 7 days of the 2nd test. Euthanasia must be performed by a licensed veterinarian or as the commissioner directs. A veterinarian euthanizing a reactor shall report the euthanasia to the commissioner within 2 working days; [PL 2001, c. 572, §49 (NEW).]

B. Freeze branded with a brand with an "11 EIA" no less than 4 inches in height on the left side of the neck and shipped directly to a United States Department of Agriculture slaughter facility under a federal order; or [PL 2001, c. 572, §49 (NEW).]

C. Freeze branded with a brand with an "11 EIA" no less than 4 inches in height on the left side of the neck and permanently quarantined and isolated from all other equines. The reactor must be kept a minimum of 1/4 mile from the nearest paddock, pasture or barn having an equine species or may be kept within 1/4 mile if the reactor is immediately placed and kept at all times in a screened-in enclosure acceptable to the commissioner. [PL 2001, c. 572, §49 (NEW).]

[PL 2001, c. 572, §49 (NEW).]

**4. Surcharge.** A person submitting a sample to the department for an official test for equine infectious anemia shall pay a surcharge of $4 for each sample tested by the department. The commissioner shall collect the surcharge and deposit all money received under this subsection into the animal welfare auxiliary fund established under section 3906-B, subsection 16. All revenue collected pursuant to this subsection must be used for investigating alleged cases of mistreatment or abuse of equines and enhancing enforcement of this Part and Title 17, chapter 42 as these laws pertain to equines and for costs associated with department laboratory services needed to control or eradicate diseases affecting equines.

[PL 2019, c. 343, Pt. T, §1 (AMD).]

SECTION HISTORY

PL 2001, c. 572, §49 (NEW). PL 2003, c. 386, §16 (AMD). PL 2005, c. 281, §2 (AMD). PL 2019, c. 343, Pt. T, §1 (AMD).

**§1821. Maine chronic wasting disease surveillance program**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Chronic wasting disease" means any member of the family of transmissible spongiform encephalopathies to which cervids, as defined in section 1333, are susceptible. [PL 2003, c. 386, §17 (AMD).]

B. "Susceptible animal" means any animal, whether domestic or wild, belonging to a species that is capable or believed to be capable of contracting chronic wasting disease. [PL 1999, c. 765, §8 (NEW).]

[PL 2003, c. 386, §17 (AMD).]

**2. Powers of commissioner.** The commissioner may prohibit the importation of a susceptible animal from a region, state or country where chronic wasting disease has been confirmed.

[PL 2003, c. 386, §17 (AMD).]

**3. Prevention of chronic wasting disease.** The commissioner shall monitor reports of confirmed cases of chronic wasting disease and communicate the contents of those reports to people involved in the production, care or management of susceptible animals. The commissioner shall monitor progress

in the development of diagnostic tests and vaccinations for the disease and communicate the availability of tests and vaccines to people involved in the production, care or management of susceptible animals. [PL 2003, c. 386, §17 (AMD).]

**4. Maine chronic wasting disease surveillance program; rules.** The commissioner shall develop a chronic wasting disease surveillance program. The commissioner, in consultation with the Commissioner of Inland Fisheries and Wildlife, shall adopt rules to establish the requirements for participation in the program. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2003, c. 386, §17 (NEW).]

SECTION HISTORY

PL 1999, c. 765, §8 (NEW). PL 2003, c. 386, §17 (AMD).

## CHAPTER 307

## STATE OF MAINE ANIMAL RESPONSE TEAM

### §1901. State of Maine Animal Response Team

The commissioner shall develop a State of Maine Animal Response Team, referred to in this section as "the team," to support a unifying network that protects human and animal health through preparation, response and recovery for animal emergencies in the State. The team shall facilitate a prompt, coordinated and effective response to a natural or human-made disaster affecting animals; decrease the health and safety threat to humans and animals during animal emergencies; and minimize the economic and environmental impacts of animal emergencies. Response activities include but are not limited to providing adequate care for animals taken into custody by the State. [PL 2023, c. 412, Pt. U, §1 (AMD).]

SECTION HISTORY

PL 2005, c. 146, §2 (NEW). PL 2023, c. 412, Pt. U, §1 (AMD).

### §1902. State of Maine Animal Response Team Fund

The Treasurer of State shall establish a separate account known as the State of Maine Animal Response Team Fund. This fund does not lapse but must be carried forward. The commissioner may accept money from any public or private source for deposit into the fund. The fund may be used to pay costs associated with the administration and activities undertaken by the State of Maine Animal Response Team in accordance with section 1901. [PL 2005, c. 146, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 146, §2 (NEW).

## PART 5

## PLANT INDUSTRY

## CHAPTER 401

## CERTIFIED SEED

### §2101. Definition

The term "certified seed" as used in this Title shall be deemed to mean potato, vegetable, forage crop or grain 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 2103. Authority to make, in a manner consistent with the Maine Administrative Procedure Act, all reasonable rules and regulations is given the said commissioner. [PL 1977, c. 694, §130 (AMD).]

No seed potatoes grown outside the State shall be sold or exposed for sale in the State unless that seed meets the standards of Maine certified seed potatoes as defined by the commissioner. [PL 1979, c. 321 (NEW).]

SECTION HISTORY

PL 1977, c. 694, §130 (AMD). PL 1979, c. 321 (AMD).

**§2102. Certification and inspection fee**

A grower of potato, vegetable, forage crop or grain seeds may make application to the commissioner for inspection and certification of a crop growing or to be grown in this State. The grower shall provide the commissioner with the location and a description of the land on which the crop is grown and any additional information required by the commissioner. The grower shall enter into an agreement to pay inspection and certification fees determined by the commissioner to cover the cost of inspection and certification. Upon entering into an agreement with a grower, the commissioner or an agent of the commissioner shall list that grower's crops to be inspected and shall inspect and certify the crops in accordance with rules adopted pursuant to this chapter. All certification and inspection fees received in accordance with this section must be deposited in the Certified Seed Fund established in section 2107. [PL 2003, c. 578, §5 (RPR).]

SECTION HISTORY

PL 1977, c. 694, §131 (AMD). PL 2003, c. 578, §5 (RPR).

**§2103. Certificates and counterfeits**

The commissioner may issue a certificate or tag that must be attached to each container or package in which certified seed is offered or exposed for sale. Such tag or certificate must 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 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 is offered or exposed for sale, must be so attached thereto that the whole of said certificate or tag is in full view. Any person who knowingly misuses any such tag or certificate or who attaches to any package or container of seed, which has not been duly inspected and certified, any such tag or certificate that has printed thereon the words "certified seed" or that by reason of color, size, shape or otherwise conveys the impression that the seed has been certified by the commissioner, or the commissioner's agents, commits a civil violation for which a fine of $50 may be adjudged for each violation and must be thenceforth denied the privileges of this chapter. [RR 2021, c. 1, Pt. B, §131 (COR).]

SECTION HISTORY

PL 1977, c. 696, §90 (AMD). RR 2021, c. 1, Pt. B, §131 (COR).

**§2103-A. Certification of seed potatoes**

**1. Certification required.** Seed potatoes may not be certified beyond 5 generations of the seed originally acquired from a nuclear seed generation source meeting criteria established by the department's rules. Seed potatoes imported into the State must meet the State's certification standards and all import certificates must designate the imported seed's generation, which must equal and compare to a state certified seed designation. The imported seed must "flush out" at the same rate as the equivalent state seed generation. The commissioner may test, or cause to be tested, a seed lot imported into the State if the commissioner has reason to believe the seed lot is, or may be infected

with a potato disease that poses a risk to the well-being of the State's potato industry. A person importing seed or receiving imported seed that the commissioner indicates must be tested shall submit a sample for testing. A person may not plant seed from an imported seed lot required to be tested under this subsection until the seed sample is tested and meets allowable disease standards for seed potatoes produced in the State.
[PL 1997, c. 538, §2 (AMD).]

**2. Post-harvest tested.** A seed potato that has not been post-harvest tested may not be certified. Seed shipped before post-harvest test results are available must be certified based on field certification.
[PL 2019, c. 229, §1 (AMD).]

**3. Bacterial ring rot.** The commissioner may withhold from certification for in-state sales for that year any seed potatoes grown on a farm on which bacterial ring rot has been detected.
[PL 1987, c. 336 (NEW).]

**4. Release to public.** For the benefit of the Maine potato industry as a whole, only varieties of seed potatoes that have been released to the public, as provided in this subsection, may be certified, except that varieties of seed potatoes that are protected by patent or are otherwise not released to the public may be certified if the applicant for certification demonstrates that the applicant has been authorized to propagate the variety by the patent holder or, if there is no patent, the registered breeder. Notwithstanding Title 1, chapter 13, subchapter I, all records pertaining to patented and nonreleased potato varieties received or kept by the department are confidential and not available for inspection. A grower may authorize in writing the disclosure of records pertaining to patented or nonreleased potato varieties. Pursuant to the rule-making provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, the commissioner shall establish rules for the administration of this subsection, including, without limitation, procedures for demonstrating authorization from a patent holder or registered breeder and the establishment of a registry of bona fide breeders and patent holders of potato varieties. For purposes of this subsection, a potato variety is deemed to have been released to the public upon publication of a description of that variety for purposes of release in the North America Potato Variety Inventory, published by the Potato Association of America, or in the American Potato Journal or another equivalent scientific or technical journal.
[PL 1997, c. 388, §5 (AMD).]

**5. Rules.** The commissioner may adopt rules to provide for exemptions from any of the requirements of this section when the application of the requirements would work a hardship on the Maine potato industry, and seed potato quality would not thereby be jeopardized; provided that the commissioner may not waive the requirements of subsection 4 relating to the certification of seed potatoes of patented or nonreleased potato varieties.
[PL 1987, c. 336 (NEW).]

**6. Repeal.** Subsection 7 is repealed July 1, 1988 and subsection 8 is repealed July 1, 1990.
[PL 1993, c. 125, §1 (AMD).]

**7. Limitation.**
[PL 1987, c. 336 (NEW); MRSA T. 7 §2103-A, sub-§6 (RP).]

**8. Grower's own seed.**
[PL 1987, c. 336 (NEW); MRSA T. 7 §2103-A, sub-§6 (RP).]

SECTION HISTORY

PL 1983, c. 565, §1 (NEW). PL 1983, c. 727 (AMD). PL 1987, c. 336 (RPR). PL 1993, c. 125, §1 (AMD). PL 1997, c. 388, §5 (AMD). PL 1997, c. 538, §2 (AMD). PL 2019, c. 229, §1 (AMD).

**§2103-B. Foundation seed potato production areas**

The commissioner may, upon the request of potato growers in a specified area and in a manner consistent with the Maine Administrative Procedure Act, Title 5, chapter 375, designate "foundation seed potato production areas" and, in consultation with the Seed Potato Board, Cooperative Extensive Service, University of Maine System Agricultural Experiment Station and appropriate industry organizations, establish within these areas such certified seed production practices as the commissioner considers beneficial to the industry. [RR 2021, c. 1, Pt. B, §132 (COR).]

SECTION HISTORY

PL 1983, c. 565, §1 (NEW). PL 1985, c. 779, §36 (AMD). RR 2021, c. 1, Pt. B, §132 (COR).

**§2104. Arrears in payments**

No person who is in arrears as to payment for past services of the department under sections 2101 to 2103 shall be entitled to further services until payment of all such arrears shall have been made.

**§2104-A. Arrears in payments to Seed Potato Board**

A person who on July 15th of any year is in arrears as to full payment for potato seed purchased from the Seed Potato Board is not eligible for listing in the Maine certified seed potatoes book for that year published by the department's division of animal and plant health. [PL 2011, c. 420, Pt. A, §4 (AMD).]

SECTION HISTORY

PL 2009, c. 393, §6 (NEW). PL 2011, c. 420, Pt. A, §4 (AMD).

**§2105. Violations**

Any person who violates any of the provisions of this chapter or any rule promulgated under this chapter is subject to a civil penalty not to exceed $500. [PL 1983, c. 565, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 565, §2 (NEW).

**§2106. Working capital advance**

The State Controller is authorized to advance $300,000 from the General Fund unappropriated surplus to the Certified Seed Fund established in section 2107 during any state fiscal year, if requested in writing by the director of the division of animal and plant health, to be used to provide cash necessary to meet current expenditures of the seed certification program. These funds must be returned to the General Fund unappropriated surplus before the close of the state fiscal year in which the advance was made. The State Controller shall report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs within 30 days of making any working capital advance for this purpose. [PL 2011, c. 420, Pt. A, §5 (AMD).]

SECTION HISTORY

PL 1999, c. 4, §E1 (NEW). PL 2003, c. 578, §6 (AMD). PL 2011, c. 420, Pt. A, §5 (AMD).

**§2107. Certified Seed Fund**

There is established the Certified Seed Fund. The fund receives all certification and inspection fees paid in accordance with section 2102 and all other funds received in support of operating a statewide seed certification program. All money deposited in the fund must be used for the management and operation of the seed certification program. Unexpended balances in the fund do not lapse and must be carried forward to be used for the purposes specified in this section. Any interest earned on the revenue deposited in the fund accrues to the fund. [PL 2003, c. 578, §7 (NEW).]

SECTION HISTORY

PL 2003, c. 578, §7 (NEW).

### §2108. Annual General Fund transfer

On or before July 31st of each fiscal year, the State Controller shall transfer $120,000 from General Fund undedicated revenue to the Certified Seed Fund established in section 2107. [PL 2005, c. 12, Pt. HHH, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 12, §HHH1 (NEW).

## CHAPTER 403

## SEED POTATO BOARD

### §2151. Creation and membership

The Seed Potato Board, established by Title 5, section 12004-H, subsection 5, is overseen by and is the responsibility of the Maine Potato Board, a public instrumentality of the State established in Title 36, section 4603. The Seed Potato Board, referred to in this chapter as "the seed board," consists of the commissioner and 8 members appointed in accordance with subsections 1 and 2. [PL 2009, c. 379, §1 (RPR).]

**1. Appointments by the commissioner.** The commissioner shall appoint 2 members to the seed board as follows:

A. A representative of the potato industry in a county other than Aroostook County; and [PL 2009, c. 379, §1 (NEW).]

B. A person producing potatoes in Aroostook County primarily for processing. [PL 2009, c. 379, §1 (NEW).]
[PL 2009, c. 379, §1 (NEW).]

**2. Appointments by the Maine Potato Board.** The Maine Potato Board as established in Title 36, section 4603 shall appoint 6 members to the seed board representing the potato industry in Aroostook County, including:

A. One producing primarily tablestock potatoes; and [PL 2009, c. 379, §1 (NEW).]

B. One producing potatoes primarily for processing. [PL 2009, c. 379, §1 (NEW).]
[PL 2009, c. 379, §1 (NEW).]

SECTION HISTORY

PL 1971, c. 594, §9 (RPR). PL 1983, c. 565, §3 (AMD). PL 1983, c. 812, §50 (AMD). PL 1989, c. 503, §B45 (AMD). PL 2009, c. 379, §1 (RPR).

### §2152. Terms; vacancies; expenses

Each appointed member of the seed board serves for a term of 2 years or until the member's successor has been appointed and qualified, except that a member may not serve for more than 3 consecutive terms. [PL 2009, c. 379, §2 (AMD).]

Upon the expiration of the term of office of any appointed member of the seed board, the member's successor must be appointed by the member's appointing authority under section 2151. In the case of a vacancy for any reason, the member's appointing authority under section 2151 shall appoint a member to fill the unexpired term. [PL 2009, c. 379, §2 (AMD).]

The members of the seed board are not entitled to compensation, but all their expenses incurred in attending meetings must be paid by the Maine Potato Board as established in Title 36, section 4603 out

of the seed potato account established in accordance with Title 36, section 4604, subsection 4. [PL 2009, c. 379, §2 (AMD).]

SECTION HISTORY

PL 1971, c. 594, §9 (RPR). PL 1983, c. 565, §4 (AMD). PL 2009, c. 379, §2 (AMD).

**§2153. Meetings; quorums**

The Seed Potato Board shall meet annually on such date and at such place as the board may appoint and shall meet at such other times as the board may determine necessary or when called by the chair of the board or any 2 members of the board upon 2 days' notice. [PL 2009, c. 379, §3 (AMD).]

The presence at any meeting of at least 5 members of the board shall be necessary to constitute a quorum, and the concurring votes of not less than a majority of the members present at any meeting shall be necessary to the decision of any question or issue or the authorization of any action. [PL 1983, c. 565, §5 (AMD).]

SECTION HISTORY

PL 1983, c. 565, §5 (AMD). PL 2009, c. 379, §3 (AMD).

**§2154. Powers; responsibilities**

**1. Production, distribution and sales.** The seed board, with the approval of the Maine Potato Board as established in Title 36, section 4603, may produce, or cause to be produced through contract or otherwise, seed potatoes for distribution and sale. The seed board, in consultation with the Maine Potato Board, shall determine the varieties and acreages of each variety to produce. The seed board shall oversee seed production facilities and make recommendations to the Maine Potato Board regarding the production, distribution and sales of seed potatoes. The production program developed by the seed board with approval and oversight by the Maine Potato Board must include, but is not limited to, long-range projections of industry trends and needs, contracting with growers to reproduce nuclear seed stock grown at the seed board's seed potato farm, a determination of the varieties and volume of seed to be grown at seed production facilities and allocation of seed to growers for the benefit of the entire state potato industry.
[PL 2009, c. 379, §4 (NEW).]

**2. Use of funds.** The seed board may not commit funds that exceed the amount of funds approved by the Maine Potato Board as established in Title 36, section 4603. The Maine Potato Board may pay from the seed potato account to the Town of Masardis in lieu of taxes a sum, in the discretion of the Maine Potato Board, that compensates the town in whole or in part for loss of real estate taxes due to tax exempt status of real estate used for seed potato purposes.
[PL 2009, c. 379, §4 (NEW).]

**3. Authority to acquire, hold and convey property.** The seed board, with the approval of the Maine Potato Board as established in Title 36, section 4603, may purchase, own or otherwise acquire farm real estate and farm equipment necessary to produce acreages of seed potatoes or for the testing of seed potatoes. The seed board, with the approval of the Maine Potato Board, may sell or otherwise convey farm real estate and farm equipment no longer required for the purposes of this chapter. Proceeds from the sale must be credited to an operating account for the seed board established in accordance with Title 36, section 4604, subsection 4.
[PL 2009, c. 379, §4 (NEW).]

**4. Cooperation with the University of Maine System.** The seed board is advisory to and may work with and through the Maine Agricultural Experiment Station of the University of Maine System and other public and private agencies to annually conduct a program for the production of seed potatoes. If a program for the standardized testing of new varieties of commercial seed does not exist under the

auspices of the Maine Agricultural Experiment Station, the seed board shall provide the Maine Potato Board as established in Title 36, section 4603 with a recommendation for developing such a program.
[PL 2009, c. 379, §4 (NEW).]

SECTION HISTORY

PL 1971, c. 553 (AMD). PL 1975, c. 283 (AMD). PL 1977, c. 694, §132 (AMD). PL 1979, c. 541, §A71 (AMD). PL 1983, c. 565, §6 (AMD). PL 1985, c. 779, §37 (AMD). PL 1999, c. 16, §N1 (AMD). PL 2009, c. 379, §4 (RPR).

**§2155. Records and proceedings**

**1. Administration.** The seed board shall elect a secretary, who need not be a member of the board. The Maine Potato Board as established in Title 36, section 4603, upon recommendation of the seed board, may employ a managing director and other employees necessary to fulfill the responsibilities and implement all programs authorized under this chapter. The seed board shall keep a record of all of its proceedings. All expenses incurred by the seed board must be paid by the Maine Potato Board from the seed potato account.
[PL 2009, c. 379, §5 (AMD).]

**2. Program plan.** The seed board shall present to the Maine Potato Board established in Title 36, section 4603, at least annually, a program plan for the Maine Potato Board's consideration and specific action. The plan must include an assessment of the seed potato industry, a projection of demand for seed by variety in the various marketing areas, the impact of significant changes in seed potato acreage, the capital needs of the seed board's production facilities, considering current and future technology, proposals to improve the varieties and quality of Maine seed potatoes, recommendations to promote the sale of Maine seed and other such matters the seed board determines appropriate.
[PL 2009, c. 379, §5 (AMD).]

SECTION HISTORY

PL 1971, c. 594, §10 (AMD). PL 1983, c. 565, §7 (RPR). PL 1983, c. 812, §51 (AMD). PL 1985, c. 785, §B47 (AMD). PL 2009, c. 379, §5 (AMD).

**§2156. Appropriation**

**(REPEALED)**

SECTION HISTORY

PL 1973, c. 625, §42 (RP).

**§2157. Potato Variety Development Program**

**1. Promotion.** The Maine Potato Board shall be responsible for developing, each year, a program to promote new potato varieties.
[PL 1987, c. 813, §1 (NEW).]

**2. Breeding.** The Maine Agricultural Experiment Station shall be responsible for breeding and testing of new potato varieties.
[PL 1987, c. 813, §1 (NEW).]

**3. Testing.** The Maine Agricultural Experiment Station shall hire an agronomist to work with the Maine Potato Breeding Program in Presque Isle to test new potato varieties. The agronomist shall be responsible for:

A. Developing the best cultural practices for new varieties; [PL 1987, c. 813, §1 (NEW).]

B. Promoting new varieties of Maine seed potatoes to farmers in Maine and other areas; [PL 1987, c. 813, §1 (NEW).]

C. Establishing field trials of new varieties; and [PL 1987, c. 813, §1 (NEW).]

D. Monitoring the sales and performance of the new varieties. [PL 1987, c. 813, §1 (NEW).]
[PL 1987, c. 813, §1 (NEW).]

**4. Multiplication.** The Seed Potato Board shall be responsible for multiplying seedstocks of advanced selections from breeding programs. The board shall establish an isolated facility at the Porter Farm to produce a sufficient volume of pathogen-free seedstocks of advanced selections from breeding programs, in order to:

A. Provide extensive and rigorous pathogen testing on the seedstocks introduced, cultured and multiplied in the facility; [PL 1987, c. 813, §1 (NEW).]

B. Establish systematic production of pathogen-free seedstocks by meristem culture after heat therapy to free the stocks of any infectious viruses; and [PL 1987, c. 813, §1 (NEW).]

C. Provide limited increase of the pathogen-free seedstocks in the field to produce quality seed potatoes for further evaluation by breeders and growers. [PL 1987, c. 813, §1 (NEW).]
[PL 1987, c. 813, §1 (NEW).]

**5. Challenge grants.** The commissioner shall establish a challenge grant program to help in establishing field trials for new potato varieties. Grant proposals must be approved by the commissioner after review and recommendation by the Potato Plant Breeder at the Maine Agricultural Experiment Station in Presque Isle, the director of the division of animal and plant health, the chair of the seed grower's executive council of the Maine Potato Board and the Director of the Seed Potato Board. Grants may be given to farmers outside of this State. Grants may consist of seed, and assistance in determining cultural practices, and a percentage of the farmer's production costs to be determined by the commissioner. Those receiving grants shall cooperate with the agronomist of the Maine Agricultural Experiment Station in developing the best cultural practices and sharing production and marketing information.
[PL 2011, c. 420, Pt. A, §6 (AMD).]

**6. Reporting.** The agronomist of the Maine Agricultural Experiment Station shall monitor the sales and performance of new potato varieties and shall report annually to the commissioner and the joint standing committee of the Legislature having jurisdiction over agriculture. The report shall summarize the field trial program and address total sales of new seedstock, adoption of new varieties by the State's farmers, yields, quality and other indicators of performance.
[PL 1987, c. 813, §1 (NEW).]

**7. Potato Variety Development Fund.** There is established a nonlapsing Potato Variety Development Fund. The Commissioner of Agriculture, Conservation and Forestry may accept money for this fund from the Federal Government or any public or private source and make expenditures from this fund in order to carry out activities relative to the program. Any General Fund money appropriated for potato variety development shall be deposited into the Potato Variety Development Fund.
[PL 1987, c. 813, §1 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

**8. Rules.** The commissioner shall adopt rules, according to the requirements of the Maine Administrative Procedure Act, Title 5, chapter 375, for the interpretation and implementation of this section.
[PL 1987, c. 813, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 813, §1 (NEW). PL 2011, c. 420, Pt. A, §6 (AMD). PL 2011, c. 657, Pt. W, §6 (REV).

## CHAPTER 404

## ARBORIST LICENSING

## SUBCHAPTER 1

## NURSERY OWNERS AND DEALERS GENERALLY

### §2171. License required; fee; violations

A person, firm or corporation may not engage in or continue in the business of selling or dealing in nursery stock, as defined in section 2211, without first obtaining a license to conduct such business in this State. The State Horticulturist shall prescribe the form of the license. Upon proper application, a license must be issued in the name of the nursery owner or dealer and that license may not be transferred. Each agent and each store acting under a general agent or store must have a license as provided in this section. A license may be issued for a one-year, 2-year or 3-year period and expires on December 31st of the year the period ends. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee. [PL 2001, c. 299, §2 (AMD).]

**1. Fees.**
[PL 1999, c. 790, Pt. A, §4 (AMD); MRSA T. 7 §2171, sub-§1 (RP).]

**1-A. Fees established by rule.** The Commissioner of Agriculture, Conservation and Forestry shall adopt rules in accordance with Title 5, chapter 375 to establish fees for licenses issued under this section. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2013, c. 405, Pt. D, §4 (AMD).]

**2. Violations.** Any person, firm or corporation engaged in the business of selling nursery stock without a license commits a civil violation for which a forfeiture not to exceed $500 may be adjudged. Licenses may be revoked by the District Court, as provided in the Maine Administrative Procedure Act, for failure to comply with the requirements of chapter 405-A.
[PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF); PL 1999, c. 790, Pt. A, §7 (AMD).]

SECTION HISTORY

PL 1999, c. 84, §3 (NEW). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 1999, c. 790, §§A4,5,7 (AMD). PL 1999, c. 790, §A6 (AFF). PL 2001, c. 299, §2 (AMD). PL 2013, c. 405, Pt. D, §4 (AMD).

## SUBCHAPTER 2

## TREE SPECIALISTS

## ARTICLE 1

## GENERAL PROVISIONS

### §2173. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1999, c. 84, §3 (NEW).]

**1. Arborist.** "Arborist" means a person who, for compensation, takes down or fells, diagnoses or evaluates the condition of shade or ornamental trees; solicits, recommends or supervises the treatment of those trees; or in any manner or for any purpose treats or cares for those trees.
[RR 1999, c. 1, §5 (COR).]

**2. Ornamental trees.** "Ornamental trees" means trees of shade, beauty or landscape value, or those trees intended to become ornamental trees.
[PL 1999, c. 84, §3 (NEW).]

**3. Person.** "Person" means an individual, partnership or any group of persons, whether incorporated or not.
[PL 1999, c. 84, §3 (NEW).]

**4. Regular employer.** "Regular employer" means a person doing business in or operating a business in the State.
[PL 1999, c. 84, §3 (NEW).]

**5. Shade trees.** "Shade trees" means trees grown, established or used to screen persons or grounds, structures, walks, pools or other similar objects from wind, sunlight, observation or sound.
[PL 1999, c. 84, §3 (NEW).]

**6. Takes down or fells.** "Takes down or fells" means the cutting for removal of any part of a tree by topping or sections or felling the tree whole.
[PL 1999, c. 84, §3 (NEW).]

**7. Treats or cares for.** "Treats or cares for" means the pruning, trimming and shaping of trees when the care requires the person to leave the ground. "Treats or cares for" also includes installing lightning protections, cabling or bracing of trees.
[PL 1999, c. 84, §3 (NEW).]

SECTION HISTORY

RR 1999, c. 1, §5 (COR). PL 1999, c. 84, §3 (NEW).

**§2174. Exemptions**

This subchapter does not apply to: [PL 1999, c. 84, §3 (NEW).]

**1. Certain property.** Any person with reference to trees on that person's own premises or on the property of that person's regular employer;
[PL 1999, c. 84, §3 (NEW).]

**2. Personnel.** Any individual performing labor or services in connection with trees on a site where a licensed arborist is present;
[PL 1999, c. 84, §3 (NEW).]

**3. Certain employees.** State, county, municipal, quasi-municipal or public utility employees while engaged in their regular line of duty or those individuals contracted during emergencies that result in public hardships;
[PL 1999, c. 84, §3 (NEW).]

**4. Scientific specialists.** Scientific specialists such as plant pathologists, entomologists, botanists, foresters, horticulturists and others who are not arborists but who by academic training are professionally qualified to perform certain services performed by licensed arborists. Services performed by those specialists for a fee are limited to consultation, advisory or expert diagnostic services. Those specialists are prohibited from performing all other activities of practicing arborists without examination; or
[PL 1999, c. 84, §3 (NEW).]

**5. Others.** Highway contractors, subcontractors and their employees who remove trees during the performance of contracts for the construction or maintenance of highways and general contractors who remove interfering shade or ornamental trees or interfering parts of shade or ornamental trees in the conduct of their regular business.
[PL 1999, c. 84, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 84, §3 (NEW).

**§2175. Penalties; injunction**

**1. Penalties.** A person who violates this subchapter commits a civil violation for which a forfeiture of up to $500 a day for each day the violation continues may be adjudged. All penalties collected must be deposited in a nonlapsing account in the department and must be used for the expenses of administering this chapter.
[PL 2001, c. 299, §3 (AMD).]

**2. Injunction.** The State may bring an action in District Court or Superior Court to enjoin any person from violating this chapter, regardless of whether other proceedings have been or may be instituted.
[PL 2001, c. 299, §4 (AMD).]

SECTION HISTORY

PL 1999, c. 84, §3 (NEW). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2001, c. 299, §§3,4 (AMD).

**§2176. Powers**

The department has the following duties and powers, in addition to those otherwise set forth in this chapter. [PL 1999, c. 84, §3 (NEW).]

**1. Licenses; enforcement.** The department shall evaluate the qualifications and supervise the examination of applicants for licensure under this chapter and shall investigate or cause to be investigated all complaints made to it and all cases of noncompliance with this chapter.
[PL 1999, c. 84, §3 (NEW).]

**2. Rules.** The department may, in accordance with procedures established by Title 5, chapter 375, subchapter II, adopt such rules as may be reasonably necessary for the proper performance of its duties and the administration of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.
[PL 1999, c. 84, §3 (NEW).]

**3. Hearings.** Hearings may be conducted by the department to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license or as otherwise considered necessary to fulfill its responsibilities under this chapter.

The department may not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The department shall hold an adjudicatory hearing at the written request of any person who is denied a license for any reason other than failure to pay a required fee, if the request for hearing is received by the department within 30 days of the person's receipt of written notice of the denial, the reasons for the denial and the person's right to request a hearing. Hearings must be conducted in conformity with Title 5, chapter 375, subchapter IV, to the extent applicable. The department may subpoena witnesses, records and documents in any hearing it conducts.
[PL 1999, c. 84, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 84, §3 (NEW).

**§2177. Lists of arborists**

The department shall compile and maintain a complete and up-to-date list of all licenses issued under this chapter. This list must be made available to any person upon request and payment of a fee established by rule by the department. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter II-A. [PL 1999, c. 84, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 84, §3 (NEW).

## ARTICLE 2

## LICENSES

**§2179. License required**

A person may not advertise, consult, solicit, contract or in any way engage for compensation in the business of an arborist, or make representation as being able to do so, without being licensed as an arborist. [PL 2001, c. 299, §5 (AMD).]

SECTION HISTORY

PL 1999, c. 84, §3 (NEW). PL 2001, c. 299, §5 (AMD).

**§2180. Exemptions to licensing requirements for tree removal in municipalities having populations under 2,500 persons**

**(REPEALED)**

SECTION HISTORY

PL 1999, c. 84, §3 (NEW). PL 2001, c. 299, §6 (RP).

**§2181. Qualifications; types of licenses**

A license may not be issued under this subchapter, except to an individual who is 18 years of age or older, who is specifically qualified as defined in this subchapter, who passes an examination and who gives proof of financial responsibility in amounts to be determined under rules of the department. [PL 2003, c. 343, §1 (AMD).]

A regular or restricted license may be issued under this chapter. A regular license allows a licensed individual to engage in all operations in which an arborist is normally involved. A restricted license allows a licensed individual to perform operations only in those areas stated on the license issued. The department may restrict a licensed individual to those operations for which that individual is judged qualified by the department. [PL 1999, c. 84, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 84, §3 (NEW). PL 2003, c. 343, §1 (AMD).

**§2182. Applications**

Applications for examination must be in writing on forms prescribed by the department and must be accompanied by the prescribed fee. The application form may require whatever information the department finds necessary to judge qualifications of an applicant. [PL 1999, c. 84, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 84, §3 (NEW).

**§2183. Nonresidents**

Each nonresident applicant for an original license or a renewal license shall file an irrevocable consent that actions against the applicant may be filed in any appropriate court of any county or district of this State where some part of the transaction occurred out of which the alleged cause of action arose, and that process in any action may be served on the applicant by leaving 2 copies of the process with the department. The consent must stipulate and agree that the service of process must be taken and held to be valid and binding for all purposes. The department shall send a copy of the process to the applicant by registered mail at the address shown in its records. [PL 1999, c. 84, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 84, §3 (NEW).

**§2184. Examinations**

Each license applicant shall take an examination prepared by the department. [PL 1999, c. 84, §3 (NEW).]

Examinations must be given at least once a year at times and places as the department determines. The grading and passing of applicants are the exclusive responsibilities of the department. [PL 1999, c. 84, §3 (NEW).]

Applicants failing the first examination may apply and take the next or a subsequently scheduled examination upon payment of the required fee. [PL 1999, c. 84, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 84, §3 (NEW). PL 2001, c. 299, §7 (AMD).

**§2185. Forms**

Each license issued consists of 2 parts: a certificate that must be displayed at each place of business of the arborist and a license card that must be carried by the arborist when occupied in a business capacity. [PL 1999, c. 84, §3 (NEW).]

When the arborist conducts business at more than one address, additional certificates must be issued. The department may not issue more than one license card to an individual qualified to receive a license, except as provided in section 2187. [PL 1999, c. 84, §3 (NEW).]

A license holder shall display the holder's license to and upon the request, at any time, of any client, other licensed arborist, law enforcement officer or employee of the department. [PL 1999, c. 84, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 84, §3 (NEW).

**§2186. Term**

A license expires on December 31st or at another time designated by the commissioner and becomes invalid on that date unless renewed. [PL 1999, c. 84, §3 (NEW).]

A license may be renewed up to 90 days after the date of expiration upon payment of a late fee of $10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license renewal date is subject to all requirements governing new applicants under this chapter, except that the department may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of the expiration. [PL 1999, c. 84, §3 (NEW).]

Any arborist whose license expires while the arborist is in federal service on active duty with the Armed Forces of the United States or the National Guard, is called into service or training or is in

training or education under the supervision of the Armed Forces of the United States preliminary to induction into the military service may have the license renewed without paying any intervening renewal license fees within one year after termination of that service, training or education other than by dishonorable discharge if the arborist furnishes the department with an affidavit to the effect that the arborist has been so engaged and that the service, training or education has been so terminated. [PL 1999, c. 84, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 84, §3 (NEW).

**§2187. Renewals**

The department shall notify every person licensed under this subchapter of the date of expiration of that person's certificate and the fee required for its annual renewal. The notice must be mailed to the person's last known address at least 30 days in advance of the expiration of the license. An application for a license renewal must contain whatever information is necessary for the department to determine whether the applicant may continue to hold a license and must be accompanied by the required fee, which is returnable if the applicant is denied a renewal license. A licensed arborist must file an application and fee of $5 for replacement of a lost license. [PL 1999, c. 84, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 84, §3 (NEW).

**§2188. Fees**

An application fee and an examination fee may be established by the department in amounts that are reasonable and necessary for their respective purposes. After an applicant is notified of the applicant's eligibility for a license following examination, the applicant shall submit the annual license fee before a license is issued. [PL 1999, c. 84, §3 (NEW).]

The fee for an original or renewal annual license may not exceed $180. [PL 2025, c. 388, Pt. T, §1 (AMD).]

All money, including application fees, examination fees and license fees received pursuant to this section, must be paid to the Treasurer of State and credited to a separate, nonlapsing account in the department. Money received pursuant to this section must be used for the expenses of administering this chapter. [PL 1999, c. 84, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 84, §3 (NEW). PL 2025, c. 388, Pt. T, §1 (AMD).

**§2189. Reciprocity**

If a nonresident applicant for a license holds a valid arborist license from another state or province, examination of the applicant may be waived by the department if the other state or province in which the applicant holds the license has qualification and examination requirements equivalent to those of this subchapter. If the requirements of the other state or province do not meet the standards set forth in this subchapter, the department may decide in which respects they are lacking and what requirements the applicant must meet for waiver of examination. [PL 1999, c. 84, §3 (NEW).]

If a nonresident applicant for a license holds a valid certificate issued by the International Society of Arboriculture, or successor organization, examination of the applicant may also be waived by the department, providing the testing process of the International Society of Arboriculture or a successor organization does not drop below the standards set forth in this subchapter. [PL 2003, c. 343, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 84, §3 (NEW). PL 2003, c. 343, §2 (AMD).

**§2190. Denial of license; suspension or revocation**

The department may suspend or revoke a license pursuant to Title 5, section 10004. In addition, the department may refuse to issue or renew or the District Court may suspend, revoke or refuse to renew a license on any of the following grounds: [PL 1999, c. 84, §3 (NEW); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

**1. Misstatement.** Deliberate misstatement in the application for original license or in the application for any renewal license under this subchapter;
[PL 1999, c. 84, §3 (NEW).]

**2. Violation.** Violating any provision of this chapter or any rule of the department;
[PL 1999, c. 84, §3 (NEW).]

**3. Aiding or abetting.** Willfully aiding or abetting another in the violation of this subchapter or of any rule issued pursuant to this subchapter;
[PL 1999, c. 84, §3 (NEW).]

**4. Unauthorized use of license.** Allowing one's license under this subchapter to be used by an unlicensed person;
[PL 1999, c. 84, §3 (NEW).]

**5. Misrepresentation.** Making substantial misrepresentation or false promises of a character likely to influence, persuade or induce in connection with the business of an arborist;
[PL 1999, c. 84, §3 (NEW).]

**6. False advertising.** Pursuing a continued course of misrepresentation or of making false promises through advertising, sales representatives, agents or otherwise in connection with the business of an arborist;
[PL 2003, c. 343, §3 (AMD).]

**7. Qualifications.** Failure to possess the necessary qualifications or to meet the requirements of this subchapter for the issuance or holding of a license; or
[PL 2003, c. 343, §3 (AMD).]

**8. Continued course of unprofessional conduct.** Pursuing a continued course of conduct that violates the standards of practice for the profession as established by rule and that is demonstrated by repeated verified complaints against a licensed arborist.
[PL 2003, c. 343, §4 (NEW).]

SECTION HISTORY

PL 1999, c. 84, §3 (NEW). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2003, c. 343, §§3,4 (AMD).

**§2191. Advisory council established**

The Maine Arborist Advisory Council, as established in Title 5, section 12004-I, subsection 1-A and referred to in this section as the "council," advises the commissioner on the licensing and enforcement of arborists in the State. [PL 2001, c. 299, §8 (NEW).]

**1. Membership; terms; meetings; removal.** The council consists of 7 members appointed by the commissioner. Of the 7 members, one must be a member representing the public and 6 must be arborists licensed by the State. Of the 6 arborists, one must be a licensed arborist employed by a municipality of the State; one must be an employee of an electrical transmission company; one must be a self-employed arborist; and one must serve on the governing council of a statewide professional organization for licensed arborists. All regions of the State must be represented on the council.

Members serve for a term of 3 years. At the end of a term an outgoing member serves until a successor has been appointed. A member may not serve more than 2 consecutive terms.

The council shall meet at least annually to conduct business and to elect officers. A quorum consists of at least 4 members. The affirmative vote of a majority of the members present is necessary to decide any business brought before the council.

A member may be removed by the commissioner for:

A. Failure to attend council meetings; [PL 2001, c. 299, §8 (NEW).]

B. Failure to maintain a valid arborist license, if required to do so; [PL 2001, c. 299, §8 (NEW).]

C. Moving out of the State; or [PL 2001, c. 299, §8 (NEW).]

D. Cause, as determined by the commissioner. [PL 2001, c. 299, §8 (NEW).]

Members may not be compensated except for expenses incurred in attending meetings. A commercial arborist who is a present or former member of the council may not use membership on the council in the advertising of the arborist's business.
[PL 2001, c. 299, §8 (NEW).]

**2. Duties of council.** The council shall:

A. Consult with the department on matters in which the members have individual or collective expertise; [PL 2001, c. 299, §8 (NEW).]

B. Assist the department in developing and updating arborist exams; [PL 2001, c. 299, §8 (NEW).]

C. Recommend to the department amendments to arborist licensing laws and rules to ensure they properly regulate the activities of licensed arborists in the State; and [PL 2001, c. 299, §8 (NEW).]

D. Assist the department with investigating complaints of unprofessional conduct and recommend a course of action to resolve such complaints. [PL 2001, c. 299, §8 (NEW).]

[PL 2001, c. 299, §8 (NEW).]

SECTION HISTORY

PL 2001, c. 299, §8 (NEW).

## CHAPTER 405

## TREES AND SHRUBS

## (REPEALED)

### §2201. Horticulturist; definitions

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 594, §11 (AMD). PL 1973, c. 655, §§1,2 (AMD). PL 1991, c. 785, §2 (RP).

### §2202. Inspection of nurseries

**(REPEALED)**

SECTION HISTORY

PL 1991, c. 785, §2 (RP).

**§2203. Inspection of orchards, fields and gardens**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 694, §133 (AMD). PL 1977, c. 696, §91 (AMD). PL 1991, c. 785, §2 (RP).

**§2204. Shipments into State to be certified; disposal of infested stock**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 156 (AMD). PL 1977, c. 694, §134 (AMD). PL 1991, c. 785, §2 (RP).

**§2205. Transportation of uninspected stock forbidden**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 696, §92 (AMD). PL 1991, c. 785, §2 (RP).

**§2206. Jurisdiction**

**(REPEALED)**

SECTION HISTORY

PL 1973, c. 788, §30 (AMD). PL 1977, c. 696, §93 (RPR). PL 1991, c. 785, §2 (RP).

## CHAPTER 405-A

## HORTICULTURE

**§2211. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1991, c. 785, §3 (NEW).]

**1. Commissioner.** "Commissioner" includes a designee of the Commissioner of Agriculture, Conservation and Forestry.
[PL 1991, c. 785, §3 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

**2. Greenhouse.** "Greenhouse" means a structure covered with glass, plastic, fiberglass or other transparent material in which plants are cultivated in a controlled environment.
[PL 1991, c. 785, §3 (NEW).]

**3. Nursery.** "Nursery" means a place where nursery stock is produced, stored or offered for sale.
[PL 1991, c. 785, §3 (NEW).]

**4. Nursery stock.** "Nursery stock" means:

A. Woody plants, including ornamental and fruiting trees, shrubs, vines and all viable parts of these plants; [PL 1991, c. 785, §3 (NEW).]

B. Herbaceous plants, including florist stock plants, annuals, perennials, vegetable seedlings, herbs, potted plants and all viable parts of these plants; and [PL 1991, c. 785, §3 (NEW).]

C. Any other plant or plant part designated by the commissioner. [PL 1991, c. 785, §3 (NEW).]

"Nursery stock" does not include cut Christmas trees, wreaths, field crops, seeds, dried herbs and flowers and cut flowers.
[PL 1991, c. 785, §3 (NEW).]

**5. Other materials.** "Other materials" means material not included in the definition of "nursery stock," such as containers, seeds and cut Christmas trees.
[PL 1991, c. 785, §3 (NEW).]

**6. Plant pest.** "Plant pest" means any insect, mite, nematode, fungus, virus, bacteria, slug, snail or other form of aquatic or terrestrial plant or organism that may cause injury to a plant or that the commissioner declares to be a plant pest.
[PL 1991, c. 785, §3 (NEW).]

SECTION HISTORY

PL 1991, c. 785, §3 (NEW). PL 2011, c. 657, Pt. W, §6 (REV).

**§2212. Appointment of State Horticulturist**

The commissioner shall appoint the State Horticulturist within the Department of Agriculture, Conservation and Forestry to carry out the provisions of this chapter. [PL 1991, c. 785, §3 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

PL 1991, c. 785, §3 (NEW). PL 2011, c. 657, Pt. W, §5 (REV).

**§2213. Inspections**

**1. Inspections of nurseries; sales prohibitions.** Inspections of nurseries and sales prohibitions are as follows.

A. The State Horticulturist or an assistant shall inspect nurseries as determined necessary by the State Horticulturist. Nurseries must be accessible at reasonable times for inspection. If plant pests are found at sufficient levels to pose a threat to other horticultural establishments or the general public, the State Horticulturist may issue an order to embargo or detain the nursery stock. Upon issuing an order of embargo or detention, the State Horticulturist shall notify the owner of the nursery stock of that order. Within 10 days of receipt of notification, the owner may request a hearing to be held in accordance with the Maine Administrative Procedure Act.

The State Horticulturist may prescribe measures designed to control the plant pests. The State Horticulturist shall remove the order of embargo or detention if satisfied that the plant pests have been controlled. [PL 1991, c. 785, §3 (NEW).]

B. A person may not offer for sale dead nursery stock or stock stressed by drying, excessive heat, excessive cold or any other condition that prevents the normal growth of the stock. A person may not offer for sale nursery stock that is subject to an order of embargo or detention. [PL 1991, c. 785, §3 (NEW).]
[PL 1991, c. 785, §3 (NEW).]

**2. Inspection of orchards, fields and gardens.** The State Horticulturist or an assistant may inspect any orchard, field, garden or roadside in public or private grounds if there is reasonable cause to believe the area is infested with a plant pest that may be a threat to plants belonging to other property owners or to the health or safety of the general public. The State Horticulturist, after notice and opportunity for a hearing as provided in the Maine Administrative Procedure Act, may order the owner, occupant or person in charge to take any necessary action including the proper treatment or destruction of infested or diseased plants. If the owner of the property or a person having lawful custody of the plants does not comply with the written order, the commissioner may refer the matter to the Attorney General.
[PL 1991, c. 785, §3 (NEW).]

**3. Inspection of other material.** A person may request inspection of other material by the State Horticulturist prior to the movement or sale of that material. The commissioner may assess fees to

cover the costs associated with those inspections. Funds generated from the fees must be deposited in a nonlapsing account and used to conduct the inspections.
[PL 1991, c. 785, §3 (NEW).]

SECTION HISTORY

PL 1991, c. 785, §3 (NEW).

**§2214. Shipments certified**

Nursery stock shipped into this State from any other state, province or country must bear a certificate on each package stating that the contents were inspected by an authorized inspecting officer and that the contents appear to be free from plant pests. The State Horticulturist or an assistant may inspect, at the point of destination, all nursery stock coming into the State. If that nursery stock is infested with any plant pests, the State Horticulturist, after notice and opportunity for a hearing as provided in the Maine Administrative Procedure Act, may order the stock destroyed or returned to the consignor at the consignor's expense. [PL 1991, c. 785, §3 (NEW).]

SECTION HISTORY

PL 1991, c. 785, §3 (NEW).

**§2215. Transportation of uninspected stock**

A person, firm or corporation who owns, sells or transports nursery stock may not bring nursery stock into this State unless each package bears an unexpired official certificate of inspection that meets the requirements of section 2214. [PL 1991, c. 785, §3 (NEW).]

SECTION HISTORY

PL 1991, c. 785, §3 (NEW).

**§2216. Violations**

Any violation of this chapter or rules adopted pursuant to section 2217 is a civil violation for which a forfeiture of not more than $500 may be adjudged. [PL 1991, c. 785, §3 (NEW).]

SECTION HISTORY

PL 1991, c. 785, §3 (NEW).

**§2217. Powers and rules**

The commissioner may adopt rules to implement this chapter. [PL 1991, c. 785, §3 (NEW).]

SECTION HISTORY

PL 1991, c. 785, §3 (NEW).

## CHAPTER 406

## GINSENG

**§2221. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1993, c. 548, §1 (NEW).]

**1. Ginseng.** "Ginseng" means any part of the plant known as Wild American Ginseng (Panax quinquefolius 1).
[PL 1993, c. 548, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 548, §1 (NEW).

**§2222. Permit and registration**

A person who cultivates ginseng for sale must be licensed by the department and shall pay an annual fee of $10. A person who buys ginseng for resale shall register annually with the department as a ginseng dealer and pay an annual fee of $25. The commissioner may issue a license for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee. [PL 1997, c. 454, §4 (AMD).]

SECTION HISTORY

PL 1993, c. 548, §1 (NEW). PL 1997, c. 454, §4 (AMD).

**§2223. Harvesting and certification**

The department shall establish a procedure for certifying cultivated ginseng for export to other states or countries. The department shall also require that records be maintained by anyone who harvests ginseng for sale or buys ginseng for resale. The department may charge fees to recover costs involved in certifying ginseng for export. [PL 1993, c. 548, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 548, §1 (NEW).

**§2224. Fund**

All fees collected under this chapter must be deposited in a nonlapsing dedicated fund to be used by the department to implement this chapter. [PL 1993, c. 548, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 548, §1 (NEW).

**§2225. Rules**

The department may adopt rules necessary to implement this chapter. [PL 1993, c. 548, §1 (NEW).]

SECTION HISTORY

PL 1993, c. 548, §1 (NEW).

**§2226. Records not public**

**1. Records.** Notwithstanding Title 1, chapter 13, ginseng license applications, the names and addresses of licensees and records required of licensees by the department pertaining to the location of ginseng plantings are confidential and may not be made available for public inspection.
[PL 1995, c. 556, §1 (NEW).]

**2. Termination of confidentiality.** Notwithstanding subsection 1, the confidential status of records designated confidential under subsection 1 terminates when the records are used by the department as evidence for an enforcement action pursuant to this chapter or are subpoenaed in any proceeding to enforce a provision of this chapter, or are used in any prosecution for a criminal violation.
[PL 1995, c. 556, §1 (NEW).]

**3. Records disclosed by licensee.** Notwithstanding subsection 1, a licensee may authorize in writing the disclosure of records designated confidential under subsection 1.
[PL 1995, c. 556, §1 (NEW).]

SECTION HISTORY

PL 1995, c. 556, §1 (NEW).

# CHAPTER 406-A

# HEMP

## §2231. Hemp

**1. Definition.**
[PL 2019, c. 528, §1 (RP).]

**1-A. Definitions.** As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "Certified seed source" means a source of hemp seeds that are certified by a 3rd party as producing hemp having a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis. [PL 2019, c. 528, §1 (NEW).]

B. "Clone" means a hemp plant produced using any part of another hemp plant other than the seeds of that hemp plant. [PL 2019, c. 528, §1 (NEW).]

C. "Grower licensee" means a person licensed pursuant to subsection 4. [PL 2019, c. 528, §1 (NEW).]

D. "Hemp" means the plant Cannabis sativa L. and any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a delta-9-tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis, or as otherwise defined in federal law. "Hemp" includes agricultural commodities and products derived from hemp and topical or ingestible consumer products, including food, food additives and food products derived from hemp, which in their final forms contain a delta-9-tetrahydrocannabinol concentration of not more than 0.3% or as otherwise defined in federal law. "Hemp" does not include cannabis for medical use pursuant to Title 22, chapter 558-C or adult use cannabis pursuant to Title 28-B, chapter 1. [PL 2019, c. 528, §1 (NEW); PL 2021, c. 669, §5 (REV).]

E. "Indoor facility" means a building, greenhouse, cold frame, hoop house, high tunnel, floating row cover or other agricultural or horticultural method of extending the growing season by enclosing the growing area. [PL 2019, c. 528, §1 (NEW).]

F. "Nonintoxicating cannabinoid" means:

(1) Cannabidiol, also known as "CBD";

(2) Tetrahydrocannabivarin, also known as "THCV";

(3) Cannabichromene, also known as "CBC";

(4) Cannabicitran, also known as "CBTC";

(5) Cannabicyclol, also known as "CBL";

(6) Cannabielsoin, also known as "CBE";

(7) Cannabigerol, also known as "CBG";

(8) Cannabidivarin, also known as "CBDV"; and

(9) Cannabinol, also known as "CBN." [PL 2025, c. 416, §1 (NEW).]

G. "Potentially intoxicating cannabinoids" include the following:

(1) Delta-10-tetrahydrocannabinol and its isomers;

(2) Delta-9-tetrahydrocannabinol and its isomers;

(3) Delta-8-tetrahydrocannabinol and its isomers;

(4) Delta-7-tetrahydrocannabinol and its isomers;

(5) Delta-6a,10a-tetrahydrocannabinol and its isomers;

(6) Exo-tetrahydrocannabinol;

(7) Metabolites of tetrahydrocannabinol, including 11-hydroxy-tetrahydrocannabinol, 3'-hydroxy-tetrahydrocannabinol and 7-hydroxy-delta-tetrahydrocannabinol;

(8) Hydrogenated forms of tetrahydrocannabinol, including hexahydrocannabinol, hexahydrocannabiphorol and hexahydrocannabihexol;

(9) Synthetic forms of tetrahydrocannabinol, including dronabinol;

(10) Ester forms of tetrahydrocannabinol, including delta-8-tetrahydrocannabinol-O-acetate, delta-9-tetrahydrocannabinol-O-acetate and hexahydrocannabinol-O-acetate;

(11) Varin forms of tetrahydrocannabinol, including delta-8-tetrahydrocannabivarin but excluding delta-9-tetrahydrocannabivarin; and

(12) Analogs of tetrahydrocannabinols with an alkyl chain of 4 or more carbon atoms, including tetrahydrocannabiphorols, tetrahydrocannabioctyls, tetrahydrocannabihexols and tetrahydrocannabutols. [PL 2025, c. 416, §2 (NEW).]

H. "Potentially intoxicating hemp product" means any products derived from hemp and ingestible consumer products, including food, food additives, food products and beverages derived from hemp, that in their final forms do not contain:

(1) A concentration of less than 0.3% potentially intoxicating cannabinoids; and

(2) A ratio of more than 10:1 of nonintoxicating cannabinoids to potentially intoxicating cannabinoids. [PL 2025, c. 416, §3 (NEW).]

[PL 2025, c. 416, §§1-3 (AMD).]

**2. Growing permitted.** Notwithstanding any provision of law to the contrary, a person may plant, grow, harvest, possess, process, sell and buy hemp if that person holds a license issued pursuant to subsection 4. A grower licensee may plant, grow and harvest only hemp that is grown from seeds saved by the grower licensee as provided in paragraph A, acquired from a certified seed source, grown from a clone that is produced from seeds acquired from a certified seed source or propagated from tissue cultures that are removed from live plants grown from seeds acquired from a certified seed source. A grower licensee may acquire hemp seeds directly from a certified seed source or from a hemp seed distributor licensed in this State distributing hemp seeds pursuant to subsection 2-A.

A. A grower licensee may save seeds from hemp plants that the person has grown and harvested and, after having ensured through testing by an independent 3rd-party tester that the plants that will grow from the seeds will meet the definition of hemp, may use those seeds for breeding and planting hemp. [PL 2019, c. 528, §1 (NEW).]

B. A grower licensee, within 14 days after planting hemp seeds or clones, shall provide to the commissioner a listing of the varieties of seeds or clones planted and a statement that the seeds or clones meet the definition of hemp. [PL 2021, c. 761, §2 (AMD).]

[PL 2021, c. 761, §2 (AMD).]

**2-A. Seed distribution.** The commissioner may issue a license for a hemp seed distributor if the hemp seeds distributed by the hemp seed distributor are from a certified seed source. The commissioner may issue a license under this subsection to a holder of a seed labeling license pursuant to section 1044-A.

[PL 2015, c. 202, §1 (NEW).]

**3. Application.** A person desiring to grow hemp for commercial purposes shall apply to the commissioner for a license on a form prescribed by the commissioner. The application must include the name and address of the applicant, the legal description of the land area or indoor facility to be used for the production of hemp and a map, an aerial photograph or global positioning coordinates sufficient for locating the production fields or the floor plan of any indoor facility.
[PL 2019, c. 528, §1 (AMD).]

**4. License issued.** Upon review and approval of an application, the commissioner shall notify the applicant for a license to grow hemp under subsection 3 of the approval and request that the application fee determined under subsection 7 be submitted. Upon receipt of the appropriate fee, the commissioner shall issue a license, which is valid for a period of one year and only for the site or sites specified in the license.

A person who manufactures, sells, offers for sale or serves ingestible consumer products containing hemp or cannabidiol derived from hemp must be licensed pursuant to section 2901-C; Title 22, chapters 551, 562 or 562-A; or Title 28-A. [PL 2019, c. 528, §1 (NEW).]
[PL 2019, c. 528, §1 (AMD).]

**5. Documentation.**
[PL 2015, c. 202, §1 (RP).]

**5-A. Final location for growing hemp.** A grower licensee shall, within 14 days of planting hemp, provide the commissioner with a final legal description of the land area or indoor facility to be used for the production of hemp and a map, an aerial photograph or global positioning coordinates sufficient for locating each field, site or indoor facility where hemp is growing.
[PL 2019, c. 528, §1 (NEW).]

**6. Rules.** The commissioner shall adopt rules to align the laws governing hemp in this State with 7 United States Code, Section 1639p(a)(2)(A) (2020), 7 Code of Federal Regulations, Part 990 (2020) and any additional federal statutes or regulations.

The rules must establish an application fee, a license fee, per acre or per square foot fees for monitoring, sampling and testing and guidelines for monitoring the growth and harvest of hemp.

The rules must establish a mechanism for conducting criminal background checks on grower licensees and all key participants and require fees to be paid by the grower licensee or key participant.

For purposes of this subsection, "key participant" means a person who, as determined by the commissioner by rule, has a direct or indirect financial interest in an entity producing hemp, such as an owner or partner in a partnership. "Key participant" also includes a person in a corporate entity at an executive level including a chief executive officer, chief operating officer and chief financial officer. "Key participant" does not include other management positions such as farm, field or shift managers.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2021, c. 761, §3 (RPR).]

**6-A. Preliminary program; indoor cultivation.**
[PL 2021, c. 761, §4 (RP).]

**7. Fees.** The commissioner shall establish through rulemaking under subsection 6 an application fee, a license fee and per acre or per square foot fees for monitoring, sampling and testing that are reasonable and necessary to cover the costs of the department. The application fee must be no less than $50 and no more than $100, the license fee must be no less than $100 and no more than $500, and the fees for monitoring, sampling and testing must be no less than $1 per acre and no more than $100 per acre and no more than 25¢ per square foot.

All fees received pursuant to this subsection must be paid to the Treasurer of State and credited to a separate, nonlapsing account in the department. Money received pursuant to this subsection must be used for the expenses of administering this chapter.
[PL 2019, c. 528, §1 (AMD).]

**8. Licensing contingent upon action by Federal Government.**
[PL 2015, c. 202, §1 (RP).]

**9. Confidentiality.**

[PL 2021, c. 761, §5 (RP).]

**10. Hemp not tracked as cannabis.** Notwithstanding any provision of Title 22, chapter 558-C or Title 28-B, chapter 1 to the contrary, hemp and products derived from hemp may not be tracked as part of the medical use of cannabis program under Title 22, chapter 558-C or the regulation of adult use cannabis under Title 28-B, chapter 1.
[PL 2019, c. 528, §1 (NEW); PL 2021, c. 669, §5 (REV).]

**11. Annual report.** No later than April 1st, the commissioner shall submit to the joint standing committee of the Legislature having jurisdiction over agricultural matters an annual report that contains at a minimum:

A. The number of licenses issued under subsection 4; [PL 2019, c. 528, §1 (NEW).]

B. The number of acres of all land areas licensed for the cultivation of hemp and the square footage of indoor facilities licensed for the cultivation of hemp; [RR 2021, c. 2, Pt. A, §12 (COR).]

C. Total amount of harvested hemp, in pounds; [PL 2019, c. 528, §1 (NEW).]

D. The types of commodities or products derived from hemp manufactured or sold within the State; and [PL 2019, c. 528, §1 (NEW).]

E. The types of commodities or products derived from hemp exported outside the State. [PL 2019, c. 528, §1 (NEW).]
[RR 2021, c. 2, Pt. A, §12 (COR).]

**12. Potentially intoxicating hemp products; prohibited sales.** A potentially intoxicating hemp product may not be sold to a person who has not attained 21 years of age.
[PL 2025, c. 416, §4 (NEW).]

**13. Packaging and labeling requirements.** This subsection governs packaging and labeling requirements for hemp products.

A. A potentially intoxicating hemp product that is not a beverage, salve or topical product must be packaged in child-resistant and tamper-evident packaging. [PL 2025, c. 416, §5 (NEW).]

B. A hemp product may not be labeled or packaged in violation of a federal trademark law or regulation or in a manner that would cause a reasonable consumer confusion as to whether the item was a different trademarked product. [PL 2025, c. 416, §5 (NEW).]
[PL 2025, c. 416, §5 (NEW).]

SECTION HISTORY

PL 2009, c. 320, §1 (NEW). PL 2015, c. 202, §1 (AMD). PL 2019, c. 12, Pt. B, §1 (AMD). PL 2019, c. 115, §1 (AMD). PL 2019, c. 528, §1 (AMD). PL 2021, c. 669, §5 (REV). PL 2021, c. 761, §§2-5 (AMD). RR 2021, c. 2, Pt. A, §12 (COR). PL 2025, c. 416, §§1-5 (AMD).

## CHAPTER 407

## EUROPEAN CORN BORER

**(REPEALED)**

**§2251. Public nuisance**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 2, §1 (RP).

**§2252. Establishment of districts; quarantine**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 2, §1 (RP).

**§2253. Disposal of stubble and fodder**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 2, §1 (RP).

**§2254. Penalties and jurisdiction**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 2, §1 (RP).

## CHAPTER 409

## QUARANTINES

**§2301. Authority**

The commissioner, when the commissioner finds that there exists within the State, or in any other state, territory, district or part thereof any dangerous plant disease or insect infestation with reference to which the Secretary of Agriculture of the United States has not determined that a quarantine is necessary and has not established such quarantine, is authorized to promulgate and to enforce by appropriate rules and regulations, adopted in a manner consistent with the Maine Administrative Procedure Act, a quarantine prohibiting or restricting the transportation within, into or through the State, or any portion thereof, of any class of nursery stock, plant, fruit, seed or other article of any character whatsoever, capable of carrying such plant disease or insect infestation. The commissioner is authorized to make, in a manner consistent with the Maine Administrative Procedure Act, rules and regulations for the seizure, inspection, disinfection, destruction, or other disposition of any nursery stock, plant, fruit, seed or other article of any character whatsoever, capable of carrying any plant disease or insect infestation, a quarantine with respect to which has been established by the Secretary of Agriculture of the United States or the commissioner, and that exists within, or has been transported to, into or, through this State in violation of such quarantine. [RR 2021, c. 1, Pt. B, §133 (COR).]

SECTION HISTORY

PL 1977, c. 694, §135 (AMD). PL 1979, c. 731, §13 (AMD). RR 2021, c. 1, Pt. B, §133 (COR).

**§2302. Notice**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 694, §136 (RP).

**§2303. Penalties**

**1. Civil violation.** A person who violates a rule adopted pursuant to section 2301 commits a civil violation.
[PL 2019, c. 595, §1 (NEW).]

**2. Penalty.** Except as provided in subsection 3, the following penalties apply to violations of this section.

A. A person who violates this section commits a civil violation for which a fine of not less than $100 and not more than $1,000 may be adjudged for each day of that violation. [PL 2019, c. 595, §1 (NEW).]

B. A person who violates this section after having been adjudicated of a violation of this section within the previous 5-year period commits a civil violation for which a fine of not less than $1,000 and not more than $2,000 may be adjudged for each day of that violation. [PL 2019, c. 595, §1 (NEW).]
[PL 2019, c. 595, §1 (NEW).]

**3. Economic benefit.** If the economic benefit resulting from a violation under subsection 1 exceeds the applicable penalties under subsection 2, the maximum fines may be increased. The maximum fine may not exceed an amount equal to twice the economic benefit resulting from the violation. The court shall consider as economic benefit, without limitation, the costs avoided or the enhanced value accrued at the time of the violation by the violator as a result of not complying with the applicable legal requirements.
[PL 2019, c. 595, §1 (NEW).]

**4. Costs permitted.** In any action or proceeding brought by the Attorney General under this section, the court may award litigation costs, including court costs, reasonable attorney's fees and reasonable expert witness fees, to be deposited in the General Fund if the State or any of its officers or agencies is a prevailing party in the action or proceeding and the defendant's defense was not substantially justified. For the purposes of this subsection, a defense is substantially justified if the defense had a reasonable basis in law or fact at the time it was raised.
[PL 2019, c. 595, §1 (NEW).]

SECTION HISTORY

PL 1977, c. 696, §94 (RPR). PL 2019, c. 595, §1 (RPR).

## CHAPTER 410

## PEST CONTROL COMPACT

**§2311. Pest Control Compact**

The Pest Control Compact is enacted into law and entered into with all other jurisdictions legally joining the compact in the form substantially as provided in this chapter. [PL 2005, c. 147, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 147, §1 (NEW).

**§2312. Findings -- Article I**

The party states find that in the absence of the higher degree of cooperation among them possible under this compact, the annual loss of approximately $137,000,000,000 from the depredations of pests is virtually certain to continue, if not to increase. [PL 2005, c. 147, §1 (NEW).]

Because of varying climatic, geographic and economic factors, each state may be affected differently by particular species of pests, but all states share the inability to protect themselves fully against those pests that present serious dangers to them. [PL 2005, c. 147, §1 (NEW).]

The migratory character of pest infestations makes it necessary for states, both adjacent to and distant from one another, to complement each other's activities when faced with conditions of infestation and reinfestation. [PL 2005, c. 147, §1 (NEW).]

While every state is seriously affected by a substantial number of pests and every state is susceptible to infestation by many species of pests not now causing damage to its crop and plant life and products, the fact that relatively few species of pests present equal danger to or are of interest to all states makes the establishment and operation of an insurance fund from which individual states may obtain financial support for pest control programs of benefit to them in other states and to which they may contribute in accordance with their relative interests the most equitable means of financing cooperative pest eradication and control programs. [PL 2005, c. 147, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 147, §1 (NEW).

**§2313. Definitions -- Article II**

As used in this compact, unless the context otherwise indicates, the following terms have the following meanings. [PL 2005, c. 147, §1 (NEW).]

**1. Executive committee.** "Executive committee" means the committee established pursuant to section 2316, subsection 5.
[PL 2005, c. 147, §1 (NEW).]

**2. Governing board.** "Governing board" means the administrators of this compact representing all of the party states when the administrators are acting as a body in pursuance of authority vested in them by this compact.
[PL 2005, c. 147, §1 (NEW).]

**3. Insurance fund.** "Insurance fund" means the Pest Control Insurance Fund established pursuant to this compact.
[PL 2005, c. 147, §1 (NEW).]

**4. Pest.** "Pest" means any invertebrate animal, pathogen, parasitic plant or similar or allied organism that can cause disease or damage in any crops, trees, shrubs, grasses or other plants of substantial value.
[PL 2005, c. 147, §1 (NEW).]

**5. Requesting state.** "Requesting state" means a state that invokes the procedures of the compact to secure the undertaking or intensification of measures to control or eradicate one or more pests within one or more other states.
[PL 2005, c. 147, §1 (NEW).]

**6. Responding state.** "Responding state" means a state requested to undertake or intensify the measures referred to in subsection 5.
[PL 2005, c. 147, §1 (NEW).]

**7. State.** "State" means a state, territory or possession of the United States, the District of Columbia and the Commonwealth of Puerto Rico.
[PL 2005, c. 147, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 147, §1 (NEW).

**§2314. The insurance fund -- Article III**

The Pest Control Insurance Fund is established for the purpose of financing other than normal pest control operations that the states may be called upon to engage in pursuant to this compact. The insurance fund contains money appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except as conditioned by the rights and obligations of party states expressly set forth in this compact, are unconditional and may not be restricted by the appropriating state to use in the control of any specified pest or pests. Donations and grants may be conditional or unconditional, except that the insurance fund may not accept any donation or grant whose terms are inconsistent with any provision of this compact. [PL 2005, c. 147, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 147, §1 (NEW).

**§2315. The insurance fund; internal operations and management -- Article IV**

**1. Governing board.** The insurance fund is administered by a governing board and an executive committee as provided. The actions of the governing board and the executive committee pursuant to this compact are deemed the actions of the insurance fund.
[PL 2005, c. 147, §1 (NEW).]

**2. Votes.** The members of the governing board are entitled to one vote each on the board. Actions of the governing board are not binding unless taken at a meeting at which a majority of the total number of votes of the governing board are cast in favor thereof. Action of the governing board may be taken only at a meeting at which a majority of the members are present.
[PL 2005, c. 147, §1 (NEW).]

**3. Seal.** The insurance fund has a seal that may be employed as an official symbol and that may be affixed to documents and otherwise used as the governing board provides.
[PL 2005, c. 147, §1 (NEW).]

**4. Officers.** The governing board shall elect annually, from among its members, a chair, a vice-chair, a secretary and a treasurer. The chair may not hold successive terms. The governing board may appoint an executive director and fix the executive director's duties and compensation, if any. The executive director serves at the pleasure of the governing board. The governing board shall make provision for the bonding of the officers and employees of the insurance fund as appropriate.
[PL 2005, c. 147, §1 (NEW).]

**5. Personnel.** Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director or, if there is no executive director, the chair, in accordance with such procedures as the bylaws may provide, shall appoint, remove or discharge personnel as is necessary for the performance of the functions of the insurance fund and shall fix the duties and compensation of such personnel. The governing board, in its bylaws, shall provide for the personnel policies and programs of the insurance fund.
[PL 2005, c. 147, §1 (NEW).]

**6. Other personnel.** The governing board may borrow, accept or contract for the services of personnel from any state, the United States or any other governmental agency, or from any person, firm, association or corporation.
[PL 2005, c. 147, §1 (NEW).]

**7. Grants and donations.** The governing board may accept, for any of its purposes and functions under this compact, any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States or any other governmental agency,

or from any person, firm, association or corporation, and may receive, utilize and dispose of the same. Any donation, gift or grant accepted by the governing board pursuant to this subsection or services borrowed pursuant to subsection 6 must be reported in the annual report of the insurance fund. The annual report must include the nature, amount and any conditions of the donation, gift, grant or services borrowed and the identity of the donor or lender.
[PL 2005, c. 147, §1 (NEW).]

**8. Bylaws.** The governing board shall adopt bylaws for the conduct of the business of the insurance fund and has the power to amend and rescind those bylaws. The governing board shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.
[PL 2005, c. 147, §1 (NEW).]

**9. Report.** The governing board annually shall make to the governor and legislature of each party state a report covering the activities of the insurance fund for the preceding year. The governing board may make additional reports it considers desirable.
[PL 2005, c. 147, §1 (NEW).]

**10. Other powers.** In addition to the powers and duties specifically authorized and imposed, the governing board may do other things necessary and incidental to the conduct of its affairs pursuant to this compact.
[PL 2005, c. 147, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 147, §1 (NEW).

**§2316. Compact and insurance fund administration -- Article V**

**1. Administration.** In each party state there is a compact administrator who is selected and serves in such a manner as the laws of the administrator's state provide and who shall:

A. Assist in the coordination of activities pursuant to the compact in the administrator's state; and [PL 2005, c. 147, §1 (NEW).]

B. Represent the administrator's state on the governing board of the insurance fund. [PL 2005, c. 147, §1 (NEW).]
[PL 2005, c. 147, §1 (NEW).]

**2. United States representatives.** If the laws of the United States specifically so provide, or if administrative provision is made therefor within the Federal Government, the United States may be represented on the governing board of the insurance fund by up to 3 representatives. Any such representative or representatives of the United States must be appointed and shall serve in a manner provided by or pursuant to federal law, but no such representative has a vote on the governing board or on the executive committee.
[PL 2005, c. 147, §1 (NEW).]

**3. Meetings.** The governing board shall meet at least once each year for the purpose of determining policies and procedures in the administration of the insurance fund and, consistent with the compact, supervising and giving direction to the expenditure of money from the insurance fund. Additional meetings of the governing board must be held on call of the chair, the executive committee or a majority of the membership of the governing board.
[PL 2005, c. 147, §1 (NEW).]

**4. Applications.** When in session, the governing board shall decide upon applications for assistance from the insurance fund and authorize disbursements therefrom. When the governing board is not in session, the executive committee shall act as agent of the governing board with full authority to act for it in deciding upon such applications.

[PL 2005, c. 147, §1 (NEW).]

**5. Executive committee.** The executive committee is composed of the chair of the governing board and 4 additional members of the governing board chosen by the governing board so that there is one member representing each of 4 geographic groupings of party states. The governing board shall make those geographic groupings. If there is representation of the United States on the governing board, one representative may meet with the executive committee. The chair of the governing board is chair of the executive committee. An action of the executive committee is not binding unless taken at a meeting at which at least 4 members of the committee are present and vote in favor thereof. Necessary expenses of each of the 5 members of the executive committee incurred in attending meetings of the committee, when not held at the same time and place as a meeting of the governing board, are charges against the insurance fund.
[RR 2021, c. 1, Pt. B, §134 (COR).]

SECTION HISTORY

PL 2005, c. 147, §1 (NEW). RR 2021, c. 1, Pt. B, §134 (COR).

**§2317. Assistance and reimbursement -- Article VI**

**1. Efforts.** Each party state pledges to each other party state that it will employ its best efforts to eradicate or control, within the strictest practicable limits, any and all pests. It is recognized that performance of this responsibility involves:

A. Maintaining pest control and eradication activities of interstate significance by a party state at a level that would be reasonable for its own protection in the absence of this compact; and [PL 2005, c. 147, §1 (NEW).]

B. Meeting emergency outbreaks or infestations of interstate significance to no less an extent than would have been done in the absence of this compact. [PL 2005, c. 147, §1 (NEW).]
[PL 2005, c. 147, §1 (NEW).]

**2. Requests.** Whenever a party state is threatened by a pest not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pests and finds that such activities are or would be impracticable or substantially more difficult because of the failure of another party state to cope with infestation or threatened infestation, that state may request the governing board to authorize expenditures from the insurance fund for eradication or control measures to be taken by one or more of the other party states at a level sufficient to prevent or to reduce, to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon authorization of the expenditures, the responding state or states shall take or increase eradication or control measures as warranted. A responding state shall use money made available from the insurance fund expeditiously and efficiently to assist in affording the protection requested.
[PL 2005, c. 147, §1 (NEW).]

**3. Application.** In order to apply for expenditures from the insurance fund, a requesting state must submit the following in writing:

A. A detailed statement of the circumstances that occasion the request for invoking the compact; [PL 2005, c. 147, §1 (NEW).]

B. Evidence that the pest for which eradication or control assistance is requested constitutes a danger to an agricultural or forest crop, product, tree, shrub, grass or other plant having a substantial value to the requesting state; [PL 2005, c. 147, §1 (NEW).]

C. A statement of the extent of the present and projected program of the requesting state and its subdivisions, including full information as to the legal authority for the conduct of the program or

programs and the expenditures being made or budgeted therefor, in connection with the eradication, control or prevention of introduction of the pest concerned; [PL 2005, c. 147, §1 (NEW).]

D. Proof that the expenditures being made or budgeted as detailed in paragraph C do not constitute a reduction of the effort for the control or eradication of the pest concerned or, if there is a reduction, the reasons that the level of the program detailed in paragraph C constitutes a normal level of pest control activity; [PL 2005, c. 147, §1 (NEW).]

E. A declaration as to whether, to the best of the requesting state's knowledge and belief, the conditions that in its view occasion the invoking of the compact in the particular instance can be abated by a program undertaken with the aid of money from the insurance fund in one year or less, or whether the request is for an installment in a program that is likely to continue for a longer period of time; and [PL 2005, c. 147, §1 (NEW).]

F. Any other information as the governing board requires consistent with this compact. [PL 2005, c. 147, §1 (NEW).]

[PL 2005, c. 147, §1 (NEW).]

**4. Notice of meeting.** The governing board or executive committee shall give due notice of any meeting at which an application for assistance from the insurance fund is to be considered. The notice must be given to the compact administrator of each party state and to any other officers and agencies designated by the laws of the party states. The requesting state and any other party state are entitled to be represented and to present evidence and arguments at the meeting.

[PL 2005, c. 147, §1 (NEW).]

**5. Support.** Upon the submission required by subsection 3 and any other information it has or acquires, and upon determining that an expenditure of funds is within the purposes of this compact and justified thereby, the governing board or executive committee shall authorize support of the program. The governing board or the executive committee may meet at any time or place for the purpose of receiving and considering an application. All determinations of the governing board or executive committee with respect to an application, together with the reasons therefor, must be recorded and subscribed in such a manner as to show and preserve the votes of the individual members.

[PL 2005, c. 147, §1 (NEW).]

**6. Review.** A requesting state that is dissatisfied with a determination of the executive committee, upon notice in writing given within 20 days of the determination with which it is dissatisfied, is entitled to receive a review at the next meeting of the governing board. Determinations of the executive committee are reviewable only by the governing board at one of its regular meetings or at a special meeting held in such a manner as the governing board may authorize.

[PL 2005, c. 147, §1 (NEW).]

**7. Claims.** Responding states required to undertake or increase measures pursuant to this compact may receive money from the insurance fund either at the time or times when the state incurs expenditures on account of the measures or as reimbursement for expenses incurred and chargeable to the insurance fund. The governing board shall adopt and from time to time may amend or revise procedures for submission of claims and for payment thereof.

[PL 2005, c. 147, §1 (NEW).]

**8. Federal Government assistance.** Before authorizing the expenditure of money from the insurance fund pursuant to an application of a requesting state, the governing board shall ascertain the extent and nature of any timely assistance or participation that may be available from the Federal Government and shall request assistance and participation from the appropriate agency or agencies of the Federal Government.

[PL 2005, c. 147, §1 (NEW).]

**9. Memorandum of understanding.** The governing board may negotiate and execute a memorandum of understanding or other appropriate instrument defining the extent and degree of assistance or participation between and among the insurance fund, cooperating federal agencies, states and any other entities concerned.
[PL 2005, c. 147, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 147, §1 (NEW).

**§2318. Advisory and technical committees -- Article VII**

The governing board may establish advisory and technical committees composed of state, local and federal officials and private persons to advise it with respect to any one or more of its functions. Any such advisory or technical committee or any member or members thereof may meet with and participate in its deliberations upon request of the governing board or executive committee. An advisory or technical committee may furnish information and recommendations with respect to any application for assistance from the insurance fund being considered by the governing board or executive committee and the board or committee may receive and consider the same, provided that any participant in a meeting of the governing board or executive committee held pursuant to section 2317, subsection 4 is entitled to know the substance of any such information and recommendations, at the time of the meeting if furnished before or as part of the meeting or, if furnished after the meeting, no later than the time at which the governing board or executive committee makes its disposition of the application. [PL 2005, c. 147, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 147, §1 (NEW).

**§2319. Relations with nonparty jurisdictions -- Article VIII**

**1. Application.** A party state may make application for assistance from the insurance fund with respect to a pest in a nonparty state. The application must be considered and decided on by the governing board or executive committee in the same manner as an application with respect to a pest within a party state, except as provided in this section.
[PL 2005, c. 147, §1 (NEW).]

**2. Nonparty state.** At or in connection with any meeting of the governing board or executive committee held pursuant to section 2317, a nonparty state is entitled to appear, participate and receive information only to the extent that the governing board or executive committee provides. A nonparty state is not entitled to a review of any determination made by the executive committee.
[PL 2005, c. 147, §1 (NEW).]

**3. Expenditures.** The governing board or executive committee shall authorize expenditures from the insurance fund to be made in a nonparty state only after determining that the conditions in the nonparty state and the value of the expenditures to the party states, as a whole, justify them. The governing board or executive committee may set any conditions that it considers appropriate with respect to the expenditure of money from the insurance fund in a nonparty state and may enter into an agreement or agreements with nonparty states and other jurisdictions or entities as it determines necessary or appropriate to protect the interests of the insurance fund with respect to expenditures and activities outside of party states.
[PL 2005, c. 147, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 147, §1 (NEW).

**§2320. Finance -- Article IX**

**1. Budget.** The governing board shall submit to the executive head or designated officer or officers of each party state a budget for the insurance fund for such a period as may be required by the laws of that party state for presentation to the legislature thereof.
[PL 2005, c. 147, §1 (NEW).]

**2. Recommendations.** Each budget must contain specific recommendations of the amount or amounts to be appropriated by each party state. The requests for appropriations must be appropriated among the party states as follows: one tenth of the total budget in equal shares and the remainder in proportion to the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party state. In determining the value of the crops and products, the insurance fund may employ any source or sources of information that in its judgment presents the most equitable and accurate comparison among the party states. Each budget and request for appropriations must indicate the source or sources used in obtaining information concerning the value of the products.
[PL 2005, c. 147, §1 (NEW).]

**3. Accounts.** The financial assets of the insurance fund must be maintained in 2 accounts to be designated as the "operating account" and the "claims account." The operating account consists only of those assets necessary for the administration of the insurance fund during the next ensuing 2-year period. The claims account contains all money not included in the operating account and may not exceed the amount reasonably estimated to be sufficient to pay all legitimate claims on the insurance fund for a period of 3 years. When the claims account has reached its maximum limit or would reach its maximum limit by the addition of money requested for appropriation by the party states, the governing board shall reduce its budget request on a pro rata basis in such a manner as to keep the claims account within the maximum limit. Any money in the claims account by virtue of conditional donations, grants or gifts must be included in calculations made pursuant to this subsection only to the extent that such money is available to meet demands arising out of claims.
[PL 2005, c. 147, §1 (NEW).]

**4. Pledge of credit.** The governing board may not pledge the credit of any party state. The governing board may meet any of its obligations in whole or in part with money available to it under section 2315, subsection 7 if the governing board takes specific action setting aside the money prior to incurring any obligation to be met in whole or in part in such a manner. Except when the insurance fund makes use of money available to it under section 2315, subsection 7, the governing board may not incur any obligation prior to the allotment of money by the party states adequate to meet the obligation.
[PL 2005, c. 147, §1 (NEW).]

**5. Records.** The governing board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the insurance fund are subject to audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the insurance fund must be audited yearly by a certified or licensed public accountant, and a report of the audit must be included in and become part of the annual report of the insurance fund.
[PL 2005, c. 147, §1 (NEW).]

**6. Inspection of accounts.** The accounts of the insurance fund must be open at any reasonable time for inspection by duly authorized officers of the party states and by any persons authorized by the governing board.
[PL 2005, c. 147, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 147, §1 (NEW).

**§2321. Entry into force and withdrawal -- Article X**

This compact enters into force when enacted into law by 5 or more states. Thereafter, this compact becomes effective, as to any other state, upon that state's enactment thereof. [PL 2005, c. 147, §1 (NEW).]

Any party state may withdraw from this compact by enacting a statute repealing the same, but no withdrawal may take effect until 2 years after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal affects any liability already incurred by or chargeable to a party state prior to the time of the withdrawal. [PL 2005, c. 147, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 147, §1 (NEW).

**§2322. Construction and severability -- Article XI**

This compact must be liberally construed so as to effectuate the purposes thereof. This compact is severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States, or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance may not be affected thereby. If this compact is held contrary to the constitution of any state participating herein, the compact remains in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters. [PL 2005, c. 147, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 147, §1 (NEW).

**§2323. Cooperation**

Consistent with law and within available appropriations, the departments, agencies and officers of this State shall cooperate with the governing board of the Pest Control Insurance Fund established by the Pest Control Compact. [PL 2005, c. 147, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 147, §1 (NEW).

**§2324. Bylaws filed**

Pursuant to section 2315, subsection 8, copies of bylaws and amendments thereto must be filed with the Commissioner of Agriculture, Conservation and Forestry. [PL 2005, c. 147, §1 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

PL 2005, c. 147, §1 (NEW). PL 2011, c. 657, Pt. W, §5 (REV).

**§2325. Compact administrator**

The compact administrator for this State is the Commissioner of Agriculture, Conservation and Forestry. The duties of the compact administrator are deemed a regular part of the duties of this office. [PL 2005, c. 147, §1 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

SECTION HISTORY

PL 2005, c. 147, §1 (NEW). PL 2011, c. 657, Pt. W, §6 (REV).

**§2326. Request**

Within the meaning of section 2317, subsection 2 or section 2319, subsection 1, a request or application for assistance from the insurance fund may be made by the Governor whenever in the

Governor's judgment the conditions qualifying this State for assistance exist and it would be in the best interest of this State to make the request. [PL 2005, c. 147, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 147, §1 (NEW).

**§2327. Appropriations**

The department, agency or officer expending or becoming liable for an expenditure on behalf of a control or eradication program undertaken or intensified pursuant to the compact must have credited to the appropriate account in the State Treasury the amount or amounts of any payments made to this State to defray the cost of that program or any part thereof, or as reimbursement thereof. [PL 2005, c. 147, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 147, §1 (NEW).

**§2328. "Executive head" defined**

As used in the compact, with reference to this State, the term "executive head" means the Governor. [PL 2005, c. 147, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 147, §1 (NEW).

## CHAPTER 411

## CONTROL AND ERADICATION OF POTATO PESTS AND DISEASES

**§2351. Legislative intent**

The Legislature finds that the potato industry contributes significantly to the social and economic well-being of the people of the State and that the control and eradication of pests and diseases which threaten the viability of the industry must remain a high priority in the formulation of public policy. [PL 1983, c. 565, §8 (NEW).]

SECTION HISTORY

PL 1983, c. 565, §8 (NEW).

**§2352. Responsibility of the commissioner**

The commissioner may institute such pest control survey programs as the commissioner considers essential to the welfare of the industry. The commissioner may, in conjunction with the Maine Agricultural Experiment Station, and other public and private agencies, and in a manner consistent with the Maine Administrative Procedure Act, designate by rule those potato pests and diseases that pose a threat to the Maine potato industry, and by rule provide for the inspection, seizure, destruction or other deposition of any seed, plant, culls or other materials within the State whenever the commissioner finds such materials to be infested, or are reasonably believed to be infested, with any designated pest or disease, and further provide for the disinfection of any vehicle or other conveyance so infested. [RR 2021, c. 1, Pt. B, §135 (COR).]

SECTION HISTORY

PL 1983, c. 565, §8 (NEW). RR 2021, c. 1, Pt. B, §135 (COR).

## CHAPTER 413

## INTEGRATED PEST MANAGEMENT

### §2401. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1991, c. 609, §2 (NEW).]

**1. Integrated pest management.** "Integrated pest management" means the selection, integration and implementation of pest damage prevention and control based on predicted socioeconomic and ecological consequences, including:

A. Understanding the system in which the pest exists; [PL 1991, c. 609, §2 (NEW).]

B. Establishing dynamic economic or aesthetic injury thresholds and determining whether the organism or organism complex warrants control; [PL 1991, c. 609, §2 (NEW).]

C. Monitoring pests and natural enemies; [PL 1991, c. 609, §2 (NEW).]

D. When needed, selecting the appropriate system of cultural, mechanical, genetic, including resistant cultivars, biological or chemical prevention techniques or controls for desired suppression; and [PL 1991, c. 609, §2 (NEW).]

E. Systematically evaluating the pest management approaches utilized. [PL 1991, c. 609, §2 (NEW).]

[PL 1991, c. 609, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 609, §2 (NEW).

### §2402. Integrated Pest Management Fund

**(REPEALED)**

SECTION HISTORY

PL 1991, c. 609, §2 (NEW). PL 1993, c. 251, §B2 (AMD). PL 2001, c. 497, §2 (RP).

### §2403. Integrated Pest Management Advisory Committee

**(REPEALED)**

SECTION HISTORY

PL 1991, c. 609, §2 (NEW). PL 1993, c. 251, §B3 (RP).

### §2404. Integrated Pest Management Council

**1. Establishment; meetings.** The Integrated Pest Management Council, referred to in this section as the "council," as established in Title 5, section 12004-G, subsection 3-C, is created within the department and is administered jointly by the department and the University of Maine Cooperative Extension Pest Management Office. Members of the council must be jointly appointed by the commissioner and the Director of the University of Maine Cooperative Extension. The council must meet at least 2 times a year. Members are entitled to reimbursement for expenses only in accordance with Title 5, chapter 379.

[PL 2001, c. 667, Pt. B, §4 (AMD); PL 2001, c. 667, Pt. B, §5 (AFF).]

**2. Membership.** The council consists of the following 11 members:

A. Three members representing agricultural pest management; [PL 2001, c. 497, §3 (NEW).]

B. One member representing a citizen interest organization; [PL 2001, c. 497, §3 (NEW).]

C. One member representing the interest of forestry; [PL 2001, c. 497, §3 (NEW).]

D. One member representing organic growers and producers; [PL 2001, c. 497, §3 (NEW).]

E. One member representing structural pest management; [PL 2001, c. 497, §3 (NEW).]

F. One member representing rights-of-way vegetation management; [PL 2001, c. 497, §3 (NEW).]

G. One member representing turf or landscape management; [PL 2001, c. 497, §3 (NEW).]

H. One member representing a nonprofit environmental organization; and [PL 2001, c. 497, §3 (NEW).]

I. One member representing integrated pest management research. [PL 2001, c. 497, §3 (NEW).]
[PL 2001, c. 497, §3 (NEW).]

**3. Term of office.** The term of office for members is 3 years except that, of the original members appointed, the appointing authority shall appoint members to serve one-year, 2-year and 3-year terms to establish staggered terms.
[PL 2001, c. 497, §3 (NEW).]

**4. Coordinators.** The commissioner and the Director of the University of Maine Cooperative Extension shall each appoint one member of the council to serve as a cocoordinator of the council.
[PL 2001, c. 497, §3 (NEW).]

**5. Duties; responsibilities.** The council shall facilitate, promote, expand and enhance integrated pest management adoption in all sectors of pesticide use and pest management within the State. Specifically, the council shall:

A. Identify long-term and short-term priorities for integrated pest management research, education, demonstration and implementation; [PL 2001, c. 497, §3 (NEW).]

B. Serve as a communication link for the development of coordinated multidisciplinary partnerships among researchers, educators, regulators, policymakers and integrated pest management users; [PL 2001, c. 497, §3 (NEW).]

C. Identify funding sources and cooperate on obtaining new funding for on-site trials, education and training programs and other efforts to meet identified goals for expanding, advancing and implementing integrated pest management; [PL 2001, c. 497, §3 (NEW).]

D. Establish measurable goals for expansion of integrated pest management into new sectors and advancing the level of integrated pest management adoption in sectors where integrated pest management is already practiced; and [PL 2001, c. 497, §3 (NEW).]

E. Cooperate with appropriate organizations to establish protocols for measuring and documenting integrated pest management adoption in the State. [PL 2001, c. 497, §3 (NEW).]
[PL 2001, c. 497, §3 (NEW).]

**6. Report.** The council shall report to the joint standing committee of the Legislature having jurisdiction over agricultural matters annually on all of the council's activities during the year.
[PL 2001, c. 497, §3 (NEW).]

SECTION HISTORY

PL 2001, c. 497, §3 (NEW). PL 2001, c. 667, §B4 (AMD). PL 2001, c. 667, §B5 (AFF).

**§2405. Integrated Pest Management Fund**

There is created a dedicated, nonlapsing Integrated Pest Management Fund. The commissioner shall credit funds from any source to the Integrated Pest Management Fund for the purpose of developing and implementing integrated pest management programs. Appropriations from the General Fund may not be credited to the Integrated Pest Management Fund. [PL 2001, c. 497, §3 (NEW).]

SECTION HISTORY

PL 2001, c. 497, §3 (NEW).

**§2406. University of Maine Cooperative Extension integrated pest management programs**

The University of Maine Cooperative Extension shall develop and implement integrated pest management programs. The extension may seek the advice of the Integrated Pest Management Council established in section 2404 in establishing the programs. The extension shall use the funds deposited pursuant to section 607 for the purposes of this section. The extension shall administer the grant pursuant to section 607, subsection 6, paragraph A. [PL 2013, c. 290, §2 (NEW); PL 2013, c. 290, §4 (AFF).]

SECTION HISTORY

PL 2013, c. 290, §2 (NEW). PL 2013, c. 290, §4 (AFF).

## CHAPTER 415

## MAINE PESTICIDE EDUCATION FUND

**§2421. Fund established**

The Maine Pesticide Education Fund, referred to in this chapter as "the fund," is established. The fund consists of any funds received as contributions from private and public sources. The fund, to be accounted within the department, must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the fund become part of the assets of the fund. Any balance remaining in the fund at the end of any fiscal year must be carried forward to the next fiscal year. [PL 2007, c. 302, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 302, §1 (NEW).

**§2422. Expenditures from fund; distribution**

Funds in the Maine Pesticide Education Fund must be distributed by the department as follows: [PL 2007, c. 302, §1 (NEW).]

**1. Integrated Pest Management Fund.** Three percent of the money in the fund to the Integrated Pest Management Fund established under section 2405;
[PL 2007, c. 302, §1 (NEW).]

**2. Pesticide education and pesticide pick-up program.** Forty-seven percent of the money in the fund to the Board of Pesticides Control for pesticide education programs, applicator licensing and obsolete pesticide collection programs; and
[PL 2007, c. 302, §1 (NEW).]

**3. Pest management education.** Fifty percent of the money in the fund to the University of Maine Cooperative Extension for pest management and pesticide education programs, including, but not limited to, homeowner integrated pest management, school pest management, medical and veterinary facility pest management, pesticide application and use education and community health-related pest management programs.
[PL 2007, c. 302, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 302, §1 (NEW).

# CHAPTER 417

# MARIJUANA LEGALIZATION ACT

# (REPEALED)

**§2441. Short title**

**(REPEALED)**

SECTION HISTORY

IB 2015, c. 5, §1 (NEW). PL 2017, c. 409, Pt. A, §3 (RP).

**§2442. Definitions**

**(REPEALED)**

SECTION HISTORY

IB 2015, c. 5, §1 (NEW). PL 2017, c. 1, §§1-4 (AMD). PL 2017, c. 278, §§2, 3 (AMD). PL 2017, c. 309, §§1-5 (AMD). PL 2017, c. 409, Pt. A, §3 (RP).

**§2443. Exemption from criminal and civil penalties, seizure and forfeiture**

**(REPEALED)**

SECTION HISTORY

IB 2015, c. 5, §1 (NEW). PL 2017, c. 1, §5 (RP).

**§2444. State licensing authority**

**(REPEALED)**

SECTION HISTORY

IB 2015, c. 5, §1 (NEW). PL 2017, c. 1, §6 (AMD). PL 2017, c. 278, §4 (AMD). PL 2017, c. 409, Pt. A, §3 (RP).

**§2445. Independent testing and certification program**

**(REPEALED)**

SECTION HISTORY

IB 2015, c. 5, §1 (NEW). PL 2017, c. 1, §7 (AMD). PL 2017, c. 278, §5 (AMD). PL 2017, c. 309, §6 (AMD). PL 2017, c. 409, Pt. A, §3 (RP).

**§2446. Labeling; health and safety requirements; training; identification cards**

**(REPEALED)**

SECTION HISTORY

IB 2015, c. 5, §1 (NEW). PL 2017, c. 1, §8 (AMD). PL 2017, c. 278, §6 (AMD). PL 2017, c. 409, Pt. A, §3 (RP).

**§2447. License application and issuance**

**(REPEALED)**

SECTION HISTORY

IB 2015, c. 5, §1 (NEW). PL 2017, c. 1, §9 (AMD). PL 2017, c. 409, Pt. A, §3 (RP).

**§2448. Classes of licenses; license provisions**

**(REPEALED)**

SECTION HISTORY

IB 2015, c. 5, §1 (NEW). PL 2017, c. 1, §10 (AMD). PL 2017, c. 278, §§7-9 (AMD). PL 2017, c. 309, §§7-9 (AMD). PL 2017, c. 409, Pt. A, §3 (RP).

**§2449. Local licensing**

**(REPEALED)**

SECTION HISTORY

IB 2015, c. 5, §1 (NEW). PL 2017, c. 1, §11 (AMD). PL 2017, c. 409, Pt. A, §3 (RP).

**§2450. Transfer of ownership**

**(REPEALED)**

SECTION HISTORY

IB 2015, c. 5, §1 (NEW). PL 2017, c. 1, §12 (AMD). PL 2017, c. 409, Pt. A, §3 (RP).

**§2451. Licensing in general**

**(REPEALED)**

SECTION HISTORY

IB 2015, c. 5, §1 (NEW). PL 2017, c. 1, §13 (AMD). PL 2017, c. 409, Pt. A, §3 (RP).

**§2452. Personal use of marijuana**

**(REPEALED)**

SECTION HISTORY

IB 2015, c. 5, §1 (NEW). PL 2017, c. 1, §§14-16 (AMD). PL 2017, c. 409, Pt. A, §3 (RP).

**§2453. Unlawful acts and exceptions**

**(REPEALED)**

SECTION HISTORY

IB 2015, c. 5, §1 (NEW). PL 2017, c. 1, §17 (AMD). PL 2017, c. 409, Pt. A, §3 (RP).

**§2454. Construction**

**(REPEALED)**

SECTION HISTORY

IB 2015, c. 5, §1 (NEW). PL 2017, c. 1, §18 (AMD). PL 2017, c. 409, Pt. A, §3 (RP).

**§2455. Retail Marijuana Regulatory Coordination Fund**

**(REPEALED)**

SECTION HISTORY

PL 2017, c. 278, §10 (NEW). PL 2017, c. 409, Pt. A, §3 (RP).

## CHAPTER 419

## TICK LABORATORY AND PEST MANAGEMENT FUND

## (REPEALED)

**§2471. Tick Laboratory and Pest Management Fund**

**(REPEALED)**

SECTION HISTORY

PL 2019, c. 548, §1 (NEW). RR 2019, c. 2, Pt. A, §11 (COR). PL 2021, c. 635, Pt. YY, §1 (RP).

**§2472. Expenditures from the fund**

**(REPEALED)**

SECTION HISTORY

PL 2019, c. 548, §1 (NEW). RR 2019, c. 2, Pt. A, §12 (COR). PL 2021, c. 635, Pt. YY, §1 (RP).

## CHAPTER 421

## UNIVERSITY OF MAINE COOPERATIVE EXTENSION TICK LABORATORY OPERATIONS FUND

**§2481. Fund established**

The University of Maine Cooperative Extension Tick Laboratory Operations Fund, referred to in this chapter as "the fund," is established. The fund consists of revenues received pursuant to Title 8, section 374, subsection 6 and any funds received as contributions from private and public sources. The fund must be held separate and apart from all other money, funds and accounts. Eligible investment earnings credited to the assets of the fund become part of the assets of the fund. Any balance remaining in the fund at the end of any fiscal year must be carried forward to the next fiscal year. The fund is administered by the University of Maine Cooperative Extension. [PL 2025, c. 536, §1 (NEW).]

SECTION HISTORY

PL 2025, c. 536, §1 (NEW).

**§2482. Expenditures from fund; distribution**

Funds in the fund must be distributed as provided under this section. [PL 2025, c. 536, §1 (NEW).]

**1. Funds received from State.** All funds received from the State dedicated to the fund must be expended on the operations of the University of Maine Cooperative Extension tick laboratory or successor laboratory, including, but not limited to, supplies, educational materials development, salaries, equipment and travel.
[PL 2025, c. 536, §1 (NEW).]

**2. Funds received from private or public sources.** All funds received from private or public sources that were directed to the fund by the donating source must be spent on the operations of the University of Maine Cooperative Extension tick laboratory or successor laboratory, including, but not limited to, supplies, educational materials development, salaries, equipment and travel.
[PL 2025, c. 536, §1 (NEW).]

SECTION HISTORY

PL 2025, c. 536, §1 (NEW).

## PART 6

## BEE INDUSTRY

## CHAPTER 501

## GENERAL PROVISIONS

**§2501. Notification**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 157, §§1,2,2-A (AMD). PL 1977, c. 696, §95 (AMD). PL 1979, c. 672, §§A26,27 (AMD). PL 1985, c. 572 (RP).

**§2502. Disturbing bees on another's land**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 157, §3 (AMD). PL 1977, c. 696, §96 (AMD). PL 1985, c. 572 (RP).

**§2503. Tax assessor's list of bee keepers**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 140, §1 (RP). PL 1985, c. 572 (RP).

**§2504. Violations**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 157, §4 (AMD). PL 1977, c. 564, §36 (RPR). PL 1977, c. 696, §97 (RPR). PL 1985, c. 572 (RP).

**§2505. Damage to hives from bears**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 103 (NEW). PL 1985, c. 572 (RP).

## CHAPTER 503

## INSPECTION

**§2551. Bee inspectors**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 157, §5 (AMD). PL 1979, c. 716, §1 (AMD). PL 1985, c. 572 (RP).

**§2552. Salary**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 157, §§6,7 (AMD). PL 1979, c. 672, §A28 (AMD). PL 1985, c. 572 (RP).

**§2553. Duties**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 157, §8 (AMD). PL 1985, c. 572 (RP).

**§2554. Access to apiaries**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 157, §9 (AMD). PL 1985, c. 572 (RP).

## CHAPTER 505

## CERTIFICATES

**§2601. Certificates**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 157, §§10,11 (AMD). PL 1985, c. 572 (RP).

**§2602. Imports to be certified**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 157, §12 (AMD). PL 1985, c. 572 (RP).

**§2603. Import notification**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A29 (NEW). PL 1985, c. 572 (RP).

## CHAPTER 507

## DISEASE CONTROL

**§2651. Disease of bees**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 157, §13 (RPR). PL 1985, c. 572 (RP).

**§2652. Possession thereof**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 157, §14 (RPR). PL 1985, c. 572 (RP).

# PART 6-A

# HONEYBEE INDUSTRY

## CHAPTER 521

## LICENSING REQUIREMENTS

### §2701. Licensing

All persons owning honeybees within the State shall annually notify the commissioner of the keeping of bees and the location of the bees and shall forward to the commissioner for deposit with the Treasurer of State an annual license fee for all bees kept on June 15th of each year. Fees must be established by rule. Notwithstanding Title 5, section 8071, subsection 3, rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. License fees accrue as a dedicated revenue to the division of animal and plant health to fund the cost of apiary inspection and licensing. [PL 2011, c. 420, Pt. A, §7 (AMD).]

Between 14 and 30 days prior to June 15th annually, the commissioner shall cause notice of the annual notification and license fee requirement to be publicized. [PL 2009, c. 393, §7 (AMD).]

SECTION HISTORY

PL 1985, c. 572 (NEW). PL 1997, c. 480, §1 (AMD). PL 1999, c. 401, §H2 (AMD). PL 2009, c. 393, §7 (AMD). PL 2011, c. 420, Pt. A, §7 (AMD).

## CHAPTER 523

## IMPORTATION REQUIREMENTS

### §2751. Import permits

Honeybees or used honeybee equipment shipped or moved from any other state or country into this State must be accompanied by a permit issued by the Department of Agriculture, Conservation and Forestry. The department shall issue a permit for the importation of honeybees or used honeybee equipment when the applicant submits a completed application form, a certified health certificate and the registration fee. The application, certificate of inspection and registration fee must be received by the department and the permit issued prior to movement of honeybees or equipment into the State. [PL 1985, c. 572 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

SECTION HISTORY

PL 1985, c. 572 (NEW). PL 2011, c. 657, Pt. W, §5 (REV).

### §2752. Application forms

Application forms shall be supplied by the department upon request and the following information must be supplied by the applicant: [PL 1985, c. 572 (NEW).]

**1. Number of hives or boxes.** The number of hives or the number of boxes containing comb, or both, to be moved;
[PL 1985, c. 572 (NEW).]

**2. Place of origin.** The locality; city or cities, if any; the county or counties; and the state of origin of the hives or boxes of comb;
[PL 1985, c. 572 (NEW).]

**3. Destination.** The property, locality and county in which the hives or boxes of comb will be placed;
[PL 1985, c. 572 (NEW).]

**4. Date of entry.** The proposed date of entry into the State;
[PL 1985, c. 572 (NEW).]

**5. Purpose.** Facts pertaining to the purpose for which the honeybees and boxes of comb, or both, are to be moved, including evidence establishing the existence of a contractor agreement for pollination services; and
[PL 1985, c. 572 (NEW).]

**6. Bees leased or brokered for pollination purposes.** In the event that honeybees are leased or brokered to another beekeeper for pollination purposes:

A. The name and address of the individual who leased the bees to the pollinator; and [PL 1985, c. 572 (NEW).]

B. A list of all brands or other evidence of identity of brokered bees. [PL 1985, c. 572 (NEW).]
[PL 1985, c. 572 (NEW).]

SECTION HISTORY

PL 1985, c. 572 (NEW).

**§2753. Certificates of inspection**

No honeybees or used honeybee equipment may be shipped into the State without a health certificate signed by a legally authorized inspector at the point of shipment indicating that they are free from regulated contagious or infectious diseases and parasites based on actual inspection made within 30 days of the date of the shipment. These certificates must also indicate the destination of the bees or equipment within the State. [PL 1985, c. 572 (NEW).]

SECTION HISTORY

PL 1985, c. 572 (NEW).

**§2754. Registration fees**

A registration fee not to exceed $2 per colony for all bees to be shipped or moved into the State must be forwarded to the commissioner for deposit with the Treasurer of State. Fees must be established by rule in accordance with the Maine Administrative Procedure Act. The fees accrue as dedicated revenue to the division of animal and plant health to fund the cost of apiary inspection and licensing. [PL 2011, c. 420, Pt. A, §8 (AMD).]

SECTION HISTORY

PL 1985, c. 572 (NEW). PL 1997, c. 480, §2 (AMD). PL 1999, c. 401, §H3 (AMD). PL 2011, c. 420, Pt. A, §8 (AMD).

## CHAPTER 525

## DISEASE CONTROL

**§2771. Disease and parasites of honeybees**

The commissioner shall adopt rules to designate the diseases and parasites to be regulated in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. All honeybees infected with the disease known as American Foulbrood, European Foulbrood or other regulated honeybee diseases and parasites, together with the equipment contaminated by any such disease or parasite, are

declared to be a danger to spreading these diseases and parasites. All honeybees and equipment which are suspected by the commissioner to be infected or infested with a regulated disease or parasite shall be quarantined in a location stipulated by the commissioner. The presence of a regulated disease or parasite shall be confirmed using a suitable method and qualified agency authorized by the commissioner. Upon confirmation, the beekeeper shall be notified by a state bee inspector and allowed 7 days to eliminate the disease in a manner prescribed by the commissioner. If no corrective action is taken within 7 days, the infected or infested colonies shall be abated by a bee inspector in a manner prescribed by rule in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. [PL 1985, c. 572 (NEW).]

SECTION HISTORY

PL 1985, c. 572 (NEW).

**§2772. Possession**

It is unlawful for any person to knowingly own or possess honeybees having any contagious or infectious disease or parasite or bee equipment and appliances contaminated by any such disease or parasite. It is unlawful to sell, barter or give away bees, equipment or appliances from any apiary without a certificate of inspection from a qualified bee inspector. [PL 1985, c. 572 (NEW).]

SECTION HISTORY

PL 1985, c. 572 (NEW).

## CHAPTER 527

## INSPECTION

**§2801. Inspection duties**

The State Apiarist and part-time bee inspectors employed by the commissioner shall make such inspections of the apiaries or hive locations throughout the State as the commissioner deems necessary to determine the presence of regulated honeybee diseases or parasites of an infectious or contagious nature. [PL 1985, c. 572 (NEW).]

SECTION HISTORY

PL 1985, c. 572 (NEW).

**§2802. Part-time bee inspectors**

The commissioner may employ one or more persons qualified by experience and knowledge in beekeeping and detection of bee diseases as part-time inspectors of apiaries, to assist the State Apiarist. [PL 1985, c. 572 (NEW).]

SECTION HISTORY

PL 1985, c. 572 (NEW).

**§2803. Employment restrictions**

The State Apiarist may not own more than 50 colonies of honeybees. Any part-time bee inspector may not own more than 100 colonies of honeybees. [PL 1985, c. 572 (NEW).]

SECTION HISTORY

PL 1985, c. 572 (NEW).

**§2804. Salary**

Qualified part-time bee inspectors shall be employed on a per diem basis and shall receive necessary traveling expenses while actually engaged in the performance of their duties. A part-time bee inspector shall serve during the pleasure of the commissioner. [PL 1985, c. 572 (NEW).]

SECTION HISTORY

PL 1985, c. 572 (NEW).

**§2805. Access to apiaries**

Inspectors may enter, at all reasonable times, upon the premises of any keeper of bees or hive locations and make the examination of such bees, equipment and appliances found on the premises as the inspector considers necessary to determine the presence of contagious or infectious diseases or parasites. [RR 2021, c. 1, Pt. B, §136 (COR).]

SECTION HISTORY

PL 1985, c. 572 (NEW). RR 2021, c. 1, Pt. B, §136 (COR).

**§2806. Inspection certificates**

Any inspector shall, within 30 days after examination, issue certificates that honeybee equipment and appliances are apparently free from regulated disease and parasites or contamination, if so found. The certificates shall be filed as follows: One copy to the commissioner; one copy to the owner; and one copy to the inspector's files. [PL 1985, c. 572 (NEW).]

SECTION HISTORY

PL 1985, c. 572 (NEW).

## CHAPTER 529

## PROTECTION FROM DAMAGE

**§2851. Disturbing honeybees on another's land**

No person may enter upon the land of another for the purpose of capturing, destroying or interfering with a colony or swarm of honeybees or removing honey, except by the consent of the owner of the land. Violation of any of this section is a civil violation for which a forfeiture of not less than $50 nor more than $100 shall be adjudged for each violation. [PL 1985, c. 572 (NEW).]

SECTION HISTORY

PL 1985, c. 572 (NEW).

**§2852. Damage to hives from bears**

Any licensed beekeeper or a licensed beekeeper's designee may obtain a permit from the Commissioner of Inland Fisheries and Wildlife or the commissioner's agents to protect hives from damage by bears. [RR 2021, c. 1, Pt. B, §137 (COR).]

SECTION HISTORY

PL 1985, c. 572 (NEW). RR 2021, c. 1, Pt. B, §137 (COR).

## CHAPTER 531

## RULES AND VIOLATIONS

**§2871. Rules**

The commissioner shall adopt rules to enforce this Part in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. [PL 1985, c. 572 (NEW).]

SECTION HISTORY

PL 1985, c. 572 (NEW).

**§2872. Violations**

**1. Civil violation.** A person commits a civil violation if that person violates:

A. Chapter 521; [PL 2003, c. 452, Pt. B, §17 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. Chapter 523; or [PL 2003, c. 452, Pt. B, §17 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. Chapter 527. [PL 2003, c. 452, Pt. B, §17 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
[PL 2003, c. 452, Pt. B, §17 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**2. Penalty.** A person who violates this section commits a civil violation for which a fine of not less than $1 and not more than $50 may be adjudged for each colony in violation of chapter 521, 523 or 527.
[PL 2003, c. 452, Pt. B, §17 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1985, c. 572 (NEW). PL 2003, c. 452, §B17 (RPR). PL 2003, c. 452, §X2 (AFF).

## PART 7

## MILK AND MILK PRODUCTS

## CHAPTER 601

## MILK AND MILK PRODUCTS

**§2900. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1999, c. 679, Pt. A, §1 (NEW).]

**1. Aseptically processed and packaged.** "Aseptically processed and packaged" means hermetically sealed in a container and thermally processed to render the product free of microorganisms capable of reproducing in the product under normal nonrefrigeration conditions of storage and distribution.
[PL 1999, c. 679, Pt. A, §1 (NEW).]

**2. Bulk milk hauler and sampler.** "Bulk milk hauler and sampler" means a person who collects samples and transports raw milk from a farm or raw milk products to or from a farm, milk plant, receiving station or transfer station and has in that person's possession a permit from any state to sample such products.
[PL 1999, c. 679, Pt. A, §1 (NEW).]

**3. Commissioner.** "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry or the commissioner's duly authorized agent.
[PL 1999, c. 679, Pt. A, §1 (NEW); PL 2011, c. 657, Pt. W, §6 (REV).]

**4. Dairy or dairy farm.** "Dairy or dairy farm" means any place or premises where one or more cows, goats or sheep are kept and from which milk or milk products are provided, sold or offered for sale.

[PL 1999, c. 679, Pt. A, §1 (NEW).]

**5. Farm cheese.**

[PL 2005, c. 270, §1 (RP).]

**6. Heat treated.** "Heat treated" or "heat-treated" means processed by heating every particle of milk to a temperature of 145 degrees Fahrenheit for at least 30 minutes.
[PL 2005, c. 270, §2 (AMD).]

**7. Milk.** "Milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, goats or sheep.
[PL 1999, c. 679, Pt. A, §1 (NEW).]

**8. Milk distributor.** "Milk distributor" means any person who offers for sale or sells to another person any milk or milk products in their final form.
[PL 1999, c. 679, Pt. A, §1 (NEW).]

**9. Milk plant.** "Milk plant" means any place, premises or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, aseptically processed, bottled or otherwise prepared for distribution.
[PL 1999, c. 679, Pt. A, §1 (NEW).]

**10. Milk producer.** "Milk producer" means any person who operates a dairy farm and provides, sells or offers milk or milk products for sale.
[PL 1999, c. 679, Pt. A, §1 (NEW).]

**11. Milk products.** "Milk products" means cream, light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, sour cream, acidified sour cream, cultured sour cream, milk, butter, evaporated milk, sweetened condensed milk, nonfat dry milk solids, half-and-half, sour half-and-half, acidified sour half-and-half, cultured sour half-and-half, concentrated milk and milk products, skim milk, reconstituted or recombined milk and milk products, low-fat milk, light milk, reduced fat milk, homogenized milk, frozen milk concentrate, eggnog, cultured milk, buttermilk, yogurt, cottage cheese, creamed cottage cheese, acidified milk, low-sodium milk, lactose-reduced milk, aseptically processed and packaged milk and milk products, milk with added safe and suitable microbial organisms and any other milk product, frozen dairy dessert or frozen dairy dessert mix, cheese or other product designated as a milk product by the commissioner that is made by the addition or subtraction of milkfat or addition of safe and suitable optional ingredients for protein, vitamin or mineral fortification.
[PL 1999, c. 679, Pt. A, §1 (NEW).]

**12. Milk transport tank.** "Milk transport tank" means a vehicle, including the truck and tank, used by a bulk milk hauler and sampler or milk tank vehicle driver to transport bulk shipments of milk from a milk plant, receiving station or transfer station to another milk plant, receiving station or transfer station.
[PL 2013, c. 381, Pt. B, §1 (AMD).]

**13. Milk transportation company.** "Milk transportation company" means a company responsible for a milk transport tank.
[PL 1999, c. 679, Pt. A, §1 (NEW).]

**14. Not pasteurized.** "Not pasteurized" means any milk or milk product that has not been subjected to the temperature and time requirements of pasteurization using equipment designed for pasteurization or has not been aseptically processed and packaged.
[PL 1999, c. 679, Pt. A, §1 (NEW).]

**15. Pasteurization or pasteurized.** "Pasteurization" or "pasteurized" or a similar term means the process of heating every particle of milk or milk product in properly designed and operated equipment

to the temperature specified and for the time period specified in any rule adopted pursuant to section 2910 or any pasteurization process that has been recognized by the United States Food and Drug Administration to be equally effective and that is approved by the commissioner.
[PL 1999, c. 679, Pt. A, §1 (NEW).]

**16. Person.** "Person" means any individual, plant operator, partnership, corporation, company, firm, trustee, association or institution.
[PL 1999, c. 679, Pt. A, §1 (NEW).]

**17. Receiving station.** "Receiving station" means any place, premise or establishment where raw milk is received, collected, handled, stored or cooled and prepared for further transporting.
[PL 1999, c. 679, Pt. A, §1 (NEW).]

**18. Transfer station.** "Transfer station" means any place, premises or establishment where milk or milk products are transferred directly from one milk transport tank to another.
[PL 1999, c. 679, Pt. A, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 679, §A1 (NEW). PL 2005, c. 270, §§1,2 (AMD). PL 2011, c. 657, Pt. W, §6 (REV). PL 2013, c. 381, Pt. B, §1 (AMD).

**§2901. Definitions**

**(REPEALED)**

SECTION HISTORY

PL 1969, c. 41, §1 (AMD). PL 1971, c. 164, §§1-12 (AMD). PL 1977, c. 31 (AMD). PL 1979, c. 541, §§A72,A73 (AMD). PL 1979, c. 672, §§A30-33 (AMD). PL 1981, c. 315, §§1-6 (AMD). PL 1987, c. 700, §1 (AMD). PL 1987, c. 874, §1 (AMD). PL 1997, c. 639, §1 (AMD). PL 1999, c. 362, §§2-6 (AMD). PL 1999, c. 418, §1 (AMD). PL 1999, c. 679, §A2 (RP).

**§2901-A. Standards and labeling**

Notwithstanding any other requirements of this chapter, milk and milk products, defined in accordance with standards then in effect that have been adopted by the United States Government and labeled in conformity with labeling requirements then in effect that have been adopted by the United States Government, are considered to conform with the definitions and labeling requirements set forth in this chapter; except that containers of milk and cream packaged in Maine must also bear the name and address of the Maine licensed milk distributor and sufficient information to identify the milk plant where packaged. [PL 1999, c. 679, Pt. A, §3 (AMD).]

SECTION HISTORY

PL 1973, c. 67 (NEW). PL 1999, c. 362, §7 (AMD). PL 1999, c. 679, §A3 (AMD).

**§2901-B. Trademark for milk and milk products**

The department shall adopt rules permitting the use of the certification trademark provided for in section 443-B on milk or milk products. The initial rules must include limitations relating to the use of milk from cows that have been treated with recombinant bovine somatotropin, referred to in this section as "rbST." The rules must include a requirement that the department receive written consent from producers to draw blood from their milking herd, examine historical milk production records, inspect medicine storage places and perform other inspections reasonably necessary to verify compliance with the trademark criteria. [PL 2005, c. 382, Pt. F, §1 (AMD).]

**1. Notice by producer.** If the criteria for use of the certification trademark include absence of the use of rbST, a milk producer in this State who sells milk to a milk plant that uses the trademark must notify that milk plant before using rbST within the milking herd of the producer's dairy farm.

Notification to the milk plant must be made at least 45 days before using rbST. Notification must be made by certified mail and sent to the milk plant's employee responsible for milk procurement at the plant location where the milk is processed. For purposes of this section, "possession of rbST" means use.
[PL 1999, c. 679, Pt. A, §4 (AMD).]

**2. Failure to provide notice.** If a Maine milk producer fails to give the milk plant the notice required in subsection 1, the milk plant is not required to comply with the notice requirements of section 2903-A before refusing to continue to purchase milk under any contract with that milk producer.
[PL 1999, c. 679, Pt. A, §4 (AMD).]

SECTION HISTORY

PL 1993, c. 663, §1 (NEW). PL 1999, c. 679, §A4 (AMD). PL 2005, c. 382, §F1 (AMD).

**§2901-C. Licenses and permits**

A person required to obtain a permit or license under this section, section 2902-A or rules adopted under section 2910 or pursuant to former section 2902 may not sell, transport or transfer milk or milk products prior to obtaining the appropriate license or permit. [PL 1999, c. 679, Pt. A, §5 (NEW).]

**1. Milk distributor license.** A milk distributor shall obtain a license from the commissioner and shall renew that license annually. The license fee is based on the annual volume of milk or milk products sold or distributed in the State. The annual fee may not be lower than $25 or exceed $300. The commissioner shall deposit all money received from milk distributor license fees into the General Fund.
[PL 1999, c. 679, Pt. A, §5 (NEW).]

**2. Bulk milk hauler and sampler permit.** A bulk milk hauler and sampler who is based in this State shall obtain a permit from the commissioner and shall renew that permit annually. For the purposes of this section, "based in this State" means a bulk milk hauler and sampler who does not have a permit from another state to sample raw milk or raw milk products.
[PL 1999, c. 679, Pt. A, §5 (NEW).]

**3. Receiving station permit.** A person who owns or operates a receiving station shall obtain a permit for that receiving station from the commissioner and shall renew that permit annually.
[PL 1999, c. 679, Pt. A, §5 (NEW).]

**4. Transfer station permit.** A person who owns or operates a transfer station shall obtain a permit for that transfer station from the commissioner and shall renew that permit annually.
[PL 1999, c. 679, Pt. A, §5 (NEW).]

**5. Milk transportation company permit.** A person who owns or operates a milk transportation company shall obtain a permit for the transportation company from the commissioner and shall renew that permit annually.
[PL 1999, c. 679, Pt. A, §5 (NEW).]

SECTION HISTORY

PL 1999, c. 679, §A5 (NEW).

**§2902. Licensing fees**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 164, §13 (AMD). PL 1977, c. 694, §§137,138 (AMD). PL 1979, c. 672, §§A34-36 (AMD). PL 1981, c. 315, §§7-9 (AMD). PL 1981, c. 574, §1 (AMD). PL 1985, c. 751, §§1-3 (AMD). PL 1989, c. 888, §§3,4 (AMD). PL 1999, c. 362, §8 (RPR). PL 1999, c. 679, §A6 (RP).

### §2902-A. Operating permits

**1. Sale prohibited.** Following the adoption of and in accordance with rules established according to this section, no operator of a dairy farm may sell any milk to a milk distributor unless the operator holds a valid operating permit for the farm issued by the commissioner.
[PL 1999, c. 679, Pt. A, §7 (AMD).]

**2. Issuance of operating permits.** The commissioner, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, shall adopt rules for the issuance of operating permits. These rules must establish permitting procedures and standards for permit issuance. In establishing these procedures and standards, the commissioner shall seek consistency with applicable federal milk regulations and guidelines and with the provisions of agreements among states relating to the interstate shipment of milk. These permits are not transferable with respect to persons or locations or both.
[PL 1999, c. 679, Pt. A, §7 (AMD).]

**3. Permit granted; requirements; suspension.** A permit must be granted upon the express condition that the permittee at all times conducts the operation and maintains the facilities in accordance with the requirements of state law and any rules adopted under this chapter. Any violation that results in a health or safety hazard may lead to suspension of a permit in accordance with Title 5, section 10004 for a period of up to 30 days. A suspension or revocation of a permit for longer than 30 days, or a refusal to renew a permit, must be in accordance with Title 5, chapter 375, subchapter 5.
[PL 2017, c. 475, Pt. A, §7 (AMD).]

**4. Hearing on suspension of permit.** Upon receiving a written request from a person whose permit has been suspended, or who has been given a notice of intent to suspend by the commissioner, the commissioner shall within 72 hours conduct a hearing to ascertain the facts involved in the case and, based upon the evidence presented at that hearing, shall affirm, modify or rescind the suspension or notification of intent to suspend.
[PL 1987, c. 700, §2 (NEW).]

**5. Exemption.** An operator of a dairy farm located outside this State who holds a similar operating permit for that farm from a regulatory agency in another state may be exempted from this permit requirement by the commissioner.
[PL 1999, c. 679, Pt. A, §7 (AMD).]

SECTION HISTORY

PL 1987, c. 700, §2 (NEW). RR 1999, c. 1, §4 (COR). PL 1999, c. 679, §A7 (AMD). PL 2017, c. 475, Pt. A, §7 (AMD).

### §2902-B. Sale of unpasteurized milk and milk products

**1. Sale of unpasteurized milk or milk product.** A person may not sell unpasteurized milk or a product made from unpasteurized milk, including heat-treated cheese, unless the label on that product contains the words "not pasteurized."
[PL 2005, c. 270, §3 (AMD).]

**2. Sale of unpasteurized milk or milk product at eating establishment.** Except as provided in subsection 5, a person may not sell unpasteurized milk or a product made from unpasteurized milk at an eating establishment as defined in Title 22, section 2491, subsection 7.
[PL 2009, c. 652, Pt. B, §1 (AMD).]

**3. Exception.** This section does not apply to cheese that has been aged at a temperature above 35 degrees Fahrenheit for at least 60 days prior to sale.
[PL 2005, c. 270, §3 (AMD).]

**4. Testing of unpasteurized milk products.** The commissioner shall establish a process by rule for submitting samples of unpasteurized milk products to an independent laboratory for testing when:

A. The milk laboratory operated by the department has tested unpasteurized milk products and determined that they do not meet the standards for unpasteurized milk products established by rules adopted pursuant to section 2910; and [PL 2005, c. 172, §1 (NEW).]

B. The person operating the milk plant that processed the milk products has requested independent testing. [PL 2005, c. 172, §1 (NEW).]

The commissioner may require the person requesting the independent testing under paragraph B to pay for that testing. Any restrictions on the sale of unpasteurized milk products pending test results and after receipt of test results must be established by rule. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. For the purposes of this subsection, "independent laboratory" means a laboratory that is operated by a private entity or a public entity other than the department.
[PL 2005, c. 172, §1 (NEW).]

**4. (REALLOCATED TO T. 7, §2902-B, sub-§5) Sale of heat-treated cheese at eating establishment.**
[PL 2005, c. 270, §3 (NEW); PL 2005, c. 683, Pt. A, §12 (RAL).]

**5. (REALLOCATED FROM T. 7, §2902-B, sub-§4) Sale of heat-treated cheese at eating establishment.** Notwithstanding subsection 2, heat-treated cheese may be offered for consumption at an eating establishment as defined in Title 22, section 2491, subsection 7 provided the menu identifies items on the menu that contain or are made with heat-treated cheese and provides notice that heat-treated cheese is not pasteurized using the words "not pasteurized" on the menu.
[PL 2005, c. 270, §3 (NEW); PL 2005, c. 683, Pt. A, §12 (RAL).]

SECTION HISTORY

PL 1999, c. 418, §2 (NEW). PL 2003, c. 452, §B18 (RPR). PL 2003, c. 452, §X2 (AFF). PL 2005, c. 172, §1 (AMD). PL 2005, c. 270, §3 (AMD). PL 2005, c. 683, §A12 (AMD). PL 2009, c. 652, Pt. B, §1 (AMD).

**§2903. Restrictions on sales**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 99, §2 (AMD). PL 1971, c. 164, §§14-16 (AMD). PL 1979, c. 672, §§A37,38 (AMD). PL 1981, c. 315, §§10,11 (AMD). PL 1983, c. 348, §§1,2 (AMD). PL 1985, c. 32 (AMD). PL 1999, c. 362, §9 (RP).

**§2903-A. Refusal to purchase**

**1. Notice of refusal.** A milk plant owner or operator who has a verbal or written contract with a milk producer for the purchase of milk may not refuse to continue to purchase milk under the contract without first giving notice to the producer in accordance with this section. The milk plant owner or operator shall give written notice of intent to refuse to purchase to the producer and to the commissioner. The notice must state the date upon which the refusal will become effective.

A. Except as provided in paragraph B, the refusal does not become effective until 30 days following the milk plant owner or operator's notice of intent to refuse to purchase milk from the producer. [PL 1999, c. 679, Pt. A, §8 (AMD).]

B. If a milk plant owner or operator's refusal to continue to purchase milk is based on failure of the producer's milk to meet the milk plant owner or operator's quality criteria or the Interstate Milk Shipments Conference Standards, whichever is applicable, the refusal may become effective on

less than 30 days' notice. Upon issuance of notice of intent to refuse purchase because of failure to meet the criteria or standards, the milk plant owner or operator shall cause a sample of the refused milk to be taken immediately and transferred to the commissioner for testing in the state central laboratory. Upon receipt of the test results that the sample does not meet the milk plant owner or operator's quality criteria or the Interstate Milk Shipments Conference Standards, whichever is applicable, refusal to continue to purchase becomes effective immediately. Notice must be given to the producer by the milk plant owner or operator immediately upon the milk plant owner or operator's receipt of the test results. The state central laboratory shall mail the results of the test to the milk plant owner or operator and milk producer. [PL 1999, c. 679, Pt. A, §8 (AMD).]

[PL 1999, c. 679, Pt. A, §8 (AMD).]

**2. Challenge of refusal; adjudicatory hearing.** If the producer or the milk plant owner or operator desires to question the refusal to purchase or the test given under subsection 1, paragraph B, either may do so within 10 days after receipt of the notice from the milk plant owner or operator of the test results by requesting, in writing, that the commissioner conduct an adjudicatory hearing pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375. If a request for hearing is made by the milk plant owner or operator, refusal to purchase does not become effective until the hearing is held and a decision upholding the milk plant owner or operator's refusal has been issued by the commissioner. The decision of the commissioner as to the reasonableness of the milk plant owner or operator's refusal to purchase is considered final agency action for purposes of the Maine Administrative Procedure Act.

[PL 1999, c. 679, Pt. A, §8 (AMD).]

SECTION HISTORY

PL 1981, c. 574, §2 (NEW). PL 1999, c. 679, §A8 (AMD).

**§2903-B. Testing of samples for resolving disputed test results**

The commissioner shall develop a process for obtaining and testing a sample of milk when a milk producer disputes the result of a test or a component analysis performed by an employee of a milk plant that is used to determine acceptance of milk by the milk plant or payment to the milk producer. [PL 1999, c. 618, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 618, §1 (NEW).

**§2904. Rules and regulations**

**(REPEALED)**

SECTION HISTORY

PL 1969, c. 41, §2 (AMD). PL 1977, c. 694, §139 (AMD). PL 1999, c. 362, §10 (RP).

**§2904-A. Farm cheese**

**(REPEALED)**

SECTION HISTORY

PL 1997, c. 639, §2 (NEW). PL 1999, c. 418, §3 (AMD). PL 2005, c. 270, §4 (RP).

**§2905. Sales to institutions**

**(REPEALED)**

SECTION HISTORY

PL 1999, c. 362, §11 (RP).

**§2906. Civil suits**

The district attorney for the county in which any violation of sections 2901-A to 2903-B has occurred shall, if requested, assist the commissioner in suits arising under those sections. [PL 2005, c. 270, §5 (AMD).]

SECTION HISTORY

PL 1977, c. 696, §98 (RPR). PL 1999, c. 362, §12 (AMD). PL 1999, c. 679, §A9 (AMD). PL 2005, c. 270, §5 (AMD).

**§2907. Jurisdiction**

The District Court and the Superior Court have concurrent jurisdiction in cases arising under sections 2901-A to 2903-B. [PL 2005, c. 270, §6 (AMD).]

SECTION HISTORY

PL 1999, c. 362, §13 (AMD). PL 1999, c. 679, §A10 (AMD). PL 2005, c. 270, §6 (AMD).

**§2908. Violations**

**(REPEALED)**

SECTION HISTORY

PL 1969, c. 41, §3 (AMD). PL 1977, c. 696, §99 (RPR). PL 1985, c. 751, §4 (AMD). PL 1991, c. 725, §1 (AMD). PL 1999, c. 362, §14 (AMD). PL 1999, c. 679, §A11 (AMD). PL 2003, c. 452, §B19 (RP). PL 2003, c. 452, §X2 (AFF).

**§2908-A. Violations**

**1. Violation.** A firm, person, corporation or society may not sell milk or milk products in the State without the license or permits provided in sections 2901-C and 2902-A, violate sections 2901-A to 2903-B or neglect, fail or refuse to comply with those sections and the rules, regulations and standards of identity and quality issued pursuant to section 2910.
[PL 2005, c. 270, §7 (AMD).]

**2. Penalty.** The following penalties apply to violations of this section.

A. A person who violates subsection 1 commits a civil violation for which a fine of not less than $250 and not more than $500 may be adjudged. [PL 2003, c. 452, Pt. B, §20 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who violates subsection 1 after having previously violated subsection 1 commits a civil violation for which a fine of not less than $500 and not more than $1,000 may be adjudged. [PL 2003, c. 452, Pt. B, §20 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. B, §20 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 2003, c. 452, §B20 (NEW). PL 2003, c. 452, §X2 (AFF). PL 2005, c. 270, §7 (AMD).

**§2909. Inspection**

The commissioner, or a duly authorized agent of the commissioner, may perform inspections as authorized by written consents obtained pursuant to section 2901-B. [PL 1993, c. 663, §2 (NEW).]

SECTION HISTORY

PL 1993, c. 663, §2 (NEW).

**§2910. Standards for milk and milk products**

The commissioner, in a manner consistent with the Maine Administrative Procedure Act, shall establish standards by rule for the inspection and examination, licensing, permitting, testing, labeling and sanitation of milk and milk product production and distribution. [PL 1999, c. 362, §15 (NEW).]

The standards must be consistent with the requirements of the official standards, known as the Pasteurized Milk Ordinance, as issued by the Secretary of the United States Department of Health and Human Services, Food and Drug Administration, except that the standards may not prohibit the sale of unpasteurized milk and milk products in the State. [PL 1999, c. 362, §15 (NEW).]

Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A, except that amendments to the rules to maintain consistency with the official standards known as the Pasteurized Milk Ordinance, as issued by the Secretary of the United States Department of Health and Human Services, Food and Drug Administration, are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. Amendments to the rules may not prohibit the sale of unpasteurized milk or milk products in the State. [PL 1999, c. 679, Pt. A, §12 (AMD).]

SECTION HISTORY

PL 1999, c. 362, §15 (NEW). PL 1999, c. 679, §A12 (AMD).

**§2910-A. Injunctions by commissioner**

In addition to any other remedy for the enforcement of sections 2901-C to 2903-B or a rule, order or decision by the commissioner adopted or issued pursuant to this chapter, the commissioner is authorized to apply to the Superior Court for a preliminary or permanent injunction restraining any person from violating any provision of sections 2901-C to 2903-B or any rule, order or decision of the commissioner adopted or issued pursuant to this chapter. The Superior Court has jurisdiction upon hearing and for good cause shown to grant a preliminary or permanent injunction. In case of violation of an injunction issued under this section, the court may cite the person for contempt of court. The existence of either civil or criminal remedies is not a defense in this proceeding. The commissioner is not required to give or post a bond when making an application for an injunction under this section. [PL 2005, c. 270, §8 (AMD).]

SECTION HISTORY

PL 1999, c. 679, §A13 (NEW). PL 2005, c. 270, §8 (AMD).

**§2910-B. Dairy Improvement Fund**

The commissioner shall administer the Dairy Improvement Fund established under Title 10, section 1023-P in accordance with this section and Title 10, section 1023-P. All money received by the fund from any source, including revenue distributed under Title 8, section 1036, subsection 2-A, paragraph M, must be deposited with the Finance Authority of Maine and credited to the fund. Money credited to the fund must be used to provide loans to assist dairy farmers in making capital improvements to maintain and enhance the viability of their farms and to pay the administrative costs of processing loan applications and servicing and administering the fund and loans made from the fund. Repayment of these loans and interest on the loans must be credited to the fund to be available for the same purposes. [PL 2011, c. 625, §1 (NEW).]

The commissioner shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2011, c. 625, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 625, §1 (NEW).

## CHAPTER 602

## BONDING LAW

**§2911. Title**

**(REPEALED)**

SECTION HISTORY

PL 1969, c. 296 (NEW). PL 1971, c. 544, §19 (RP).

**§2912. Enforcing official**

**(REPEALED)**

SECTION HISTORY

PL 1969, c. 296 (NEW). PL 1971, c. 544, §19 (RP).

**§2913. Definitions**

**(REPEALED)**

SECTION HISTORY

PL 1969, c. 296 (NEW). PL 1971, c. 544, §19 (RP).

**§2914. Dealers required to be licensed**

**(REPEALED)**

SECTION HISTORY

PL 1969, c. 296 (NEW). PL 1971, c. 544, §19 (RP).

**§2915. License applications**

**(REPEALED)**

SECTION HISTORY

PL 1969, c. 296 (NEW). PL 1971, c. 544, §19 (RP).

**§2916. Bonds required as prerequisite to license**

**(REPEALED)**

SECTION HISTORY

PL 1969, c. 296 (NEW). PL 1971, c. 544, §19 (RP).

**§2917. Amount of bond**

**(REPEALED)**

SECTION HISTORY

PL 1969, c. 296 (NEW). PL 1971, c. 544, §19 (RP).

**§2918. Issuance of license; additional requirements**

**(REPEALED)**

SECTION HISTORY

PL 1969, c. 296 (NEW). PL 1971, c. 544, §19 (RP).

**§2919. Payments to producers for products**

**(REPEALED)**

SECTION HISTORY

PL 1969, c. 296 (NEW). PL 1971, c. 544, §19 (RP).

**§2920. Nonpayment; forfeiture of bond**

**(REPEALED)**

SECTION HISTORY

PL 1969, c. 296 (NEW). PL 1971, c. 544, §19 (RP).

**§2921. Proceedings for recovery on bond**

**(REPEALED)**

SECTION HISTORY

PL 1969, c. 296 (NEW). PL 1971, c. 544, §19 (RP).

**§2922. Penalty**

**(REPEALED)**

SECTION HISTORY

PL 1969, c. 296 (NEW). PL 1971, c. 544, §19 (RP).

**§2923. Powers of commissioner**

**(REPEALED)**

SECTION HISTORY

PL 1969, c. 296 (NEW). PL 1971, c. 544, §19 (RP).

## CHAPTER 603

## MILK COMMISSION

**§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 other than an integrated operation.
[PL 1985, c. 717, §1 (AMD).]

**4-A. Integrated operation.** "Integrated operation" means a person who is a dealer and who also sells at retail the milk that the person handles for sale, shipment, storage or processing within the State.
[RR 2021, c. 1, Pt. B, §138 (COR).]

**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 any of the following, regardless of the presence of any flavoring:

A. Whole milk or cream, whether fresh, sour or storage; [PL 2005, c. 382, Pt. F, §2 (NEW).]

B. Skimmed milk; or [PL 2005, c. 382, Pt. F, §2 (NEW).]

C. Buttermilk. [PL 2005, c. 382, Pt. F, §2 (NEW).]
[PL 2005, c. 382, Pt. F, §2 (AMD).]

**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 such milk only to dealers.
[RR 2021, c. 1, Pt. B, §139 (COR).]

**9. Producer-dealer.** "Producer-dealer" means a dealer who produces a part or all of the dealer's milk or a person who produces milk and sells to a grocery store or dairy products store or similar commercial establishment.
[RR 2021, c. 1, Pt. B, §140 (COR).]

**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 the person purchased it, but does not include a store.
[RR 2021, c. 1, Pt. B, §141 (COR).]

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

**14. Retail store.** "Retail store" means a grocery store, dairy product store or any similar commercial establishment where milk is sold to consumers for consumption off the premises.
[PL 1973, c. 758, §1 (NEW).]

SECTION HISTORY

PL 1973, c. 758, §1 (AMD). PL 1985, c. 717, §§1,2 (AMD). PL 2005, c. 382, §F2 (AMD). RR 2021, c. 1, Pt. B, §§138-141 (COR).

**§2952. Organization**

**1. Members.** The Maine Milk Commission, as established by Title 5, section 12004-E, subsection 2, consists of the following 5 members:

A. The commissioner or the commissioner's designee, ex officio; and [PL 2005, c. 382, Pt. F, §3 (NEW).]

B. Four members, who must be residents of the State, appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over agriculture matters and subject to confirmation by the Legislature. [PL 2005, c. 382, Pt. F, §3 (NEW).]
[PL 2005, c. 382, Pt. F, §3 (NEW).]

**2. Conflict of interest.** In addition to the limitations imposed under Title 5, section 18, the following conflict of interest restrictions apply.

A. A member of the commission appointed under subsection 1, paragraph B may not, at the time of appointment or while serving as a member of the commission, have a business or professional relationship or connection with or a financial interest in any producer, dealer, store or other person whose activities are subject to the jurisdiction of the commission. The retail purchase of milk for consumption is not a violation of this paragraph. [PL 2005, c. 382, Pt. F, §3 (NEW).]

B. An employee of the commission may not have a business or professional relationship or connection with or a financial interest in any producer, dealer, store or other person whose activities are subject to the jurisdiction of the commission. The retail purchase of milk for consumption is not a violation of this paragraph. [PL 2005, c. 382, Pt. F, §3 (NEW).]

C. A member or employee of the commission may not render, or be a member of a firm that renders, any professional or other service for or against a producer, dealer, store or other person whose activities are subject to the jurisdiction of the commission. [PL 2005, c. 382, Pt. F, §3 (NEW).]

[PL 2005, c. 382, Pt. F, §3 (NEW).]

**3. Terms; vacancies.** Members of the commission appointed under subsection 1, paragraph B serve for a term of 4 years or until their successors are duly appointed and qualified, except that the initial terms of these members are for one, 2, 3 and 4 years so that the terms of the members of the commission are staggered.

A vacancy in the membership of the commission must be filled by appointment by the Governor.
[PL 2005, c. 382, Pt. F, §3 (NEW).]

**4. Chair; employees and resources.** The members of the commission shall elect a chair. With the approval of the commission, the commissioner may employ, subject to the Civil Service Law, a secretary and such officers, clerks, assistants and other employees as the commission determines necessary. To the extent possible, the commission shall make use of professional, expert or other resources available within the various departments of State Government, including, but not limited to, the department, the Department of Health and Human Services and the Department of the Attorney General, and such departments shall, as resources allow, provide necessary and appropriate services at the request of the commission. To the extent these services are not available or otherwise adequate, the commission may employ appropriate experts, professionals or others to assist it in carrying out its duties.
[PL 2005, c. 382, Pt. F, §3 (NEW).]

**5. Compensation; office; supplies.** Members of the commission are compensated as provided in Title 5, chapter 379, as determined by the Governor. The administrative costs of the commission, including expenses and compensation of members, may not exceed the amount of fees collected under this chapter. The commission must be furnished a suitable office at the seat of government, together with all necessary equipment and supplies.
[PL 2005, c. 382, Pt. F, §3 (NEW).]

**6. Special meetings.** The chair shall call special meetings of the commission whenever requested in writing by 2 or more members of the commission.
[PL 2005, c. 382, Pt. F, §3 (NEW).]

SECTION HISTORY

PL 1969, c. 362 (AMD). PL 1971, c. 594, §12 (AMD). PL 1973, c. 758, §2 (AMD). PL 1975, c. 293, §4 (AMD). PL 1975, c. 517, §1 (RPR). PL 1975, c. 771, §§100,101 (AMD). PL 1977, c. 78, §31 (AMD). PL 1979, c. 731, §19 (AMD). PL 1979, c. 734, §6 (AMD). PL 1983, c. 484, §1 (AMD). PL 1983, c. 812, §§52,53 (AMD). PL 1985, c. 517 (AMD). PL 1985, c. 785, §B48 (AMD). PL 1989, c. 410, §21 (AMD). PL 1989, c. 503, §B46 (AMD). PL 1999, c. 679, §B1 (AMD). PL 1999, c. 679, §B14 (AFF). PL 2003, c. 689, §B6 (REV). PL 2005, c. 382, §F3 (RPR).

**§2952-A. Powers and duties**

**1. Powers; general.** The commission may:

A. Establish and change the minimum wholesale and retail prices for the sale of milk within the State; [PL 2005, c. 382, Pt. F, §4 (NEW).]

B. Adopt and enforce all rules and orders necessary to carry out this chapter; and [PL 2005, c. 382, Pt. F, §4 (NEW).]

C. In administering this chapter:

(1) Conduct hearings;

(2) Subpoena and examine under oath persons whose activities are subject to the jurisdiction of the commission, including producers, dealers and stores and their officers, agents and representatives; and

(3) Subpoena and examine the business records, books and accounts of persons whose activities are subject to the jurisdiction of the commission, including producers, dealers and stores and their officers, agents and representatives.

Any member of the commission and any employee designated by the commission may sign subpoenas and administer oaths to witnesses. [PL 2005, c. 382, Pt. F, §4 (NEW).]
[PL 2005, c. 382, Pt. F, §4 (NEW).]

**2. Limitations.** The commission may not modify, add to or annul any sanitary regulations imposed by any state or municipal authority or compel pasteurization in any market area.
[PL 2005, c. 382, Pt. F, §4 (NEW).]

**3. Duties.** The commission shall:

A. Not less than once every 3 years, conduct independent studies of the economics and practices of the milk industry in order to assist the commission in establishing minimum prices. The studies must include the compilation of cost data for farms at 4 different levels of production; and [PL 2009, c. 467, §1 (AMD).]

B. Ensure that distributors give 30 days' notice before terminating delivery to any customer in their delivery area or in the traditional delivery area of a distributor they have purchased. The 30-day notice does not apply to cancellations resulting from a failure to pay bills. [PL 2005, c. 382, Pt. F, §4 (NEW).]
[PL 2009, c. 467, §1 (AMD).]

**4. Authority; accounts and records.** To enable the commission to perform its duties, the commission may inquire into the management of the businesses of the producers, dealers and stores to obtain from them all necessary information. Every producer, dealer and store shall keep and render to the commission, at such times and in such manner and form as may be prescribed by the rules of the commission, accounts of all business transacted that is related to the production, purchasing, processing, sale or distribution of milk. Such accounts must reasonably reflect, in such detail as the commission considers appropriate, income, expense, assets, liabilities and such other accounting entries as the commission considers necessary, to assist the commission in making its determinations as to:

A. Minimum prices generally; [PL 2005, c. 382, Pt. F, §4 (NEW).]

B. Separate minimum price categories to be established to reflect different container costs; [PL 2005, c. 382, Pt. F, §4 (NEW).]

C. Separate minimum price categories to be established for different quantities of milk packaged and sold in separate containers; [PL 2005, c. 382, Pt. F, §4 (NEW).]

D. Separate minimum price categories to reflect identifiable distribution costs; and [PL 2005, c. 382, Pt. F, §4 (NEW).]

E. All matters pertinent to the proper performance of its duties. [PL 2005, c. 382, Pt. F, §4 (NEW).]

The commission shall adopt routine technical rules that establish procedures to enable the commission to inspect the records, books and accounts of dealers, producers and stores at their various offices and places of business at reasonable times. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2005, c. 382, Pt. F, §4 (NEW).]

SECTION HISTORY

PL 2005, c. 382, §F4 (NEW). PL 2009, c. 467, §1 (AMD).

**§2953. Powers and duties**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 517, §2 (RPR). PL 1989, c. 123 (AMD). PL 2003, c. 648, §1 (AMD). PL 2005, c. 382, §F5 (RP).

**§2953-A. Interstate conferences and compacts**

The commissions shall have power to enter into compacts, subject to congressional approval, with legally constituted milk commissions or similar authorities of other states or of the United States of America to effect a uniformity in regulating and insuring an adequate supply of pure and wholesome milk to the inhabitants of this State, to provide uniform control of milk produced in this State and handled in interstate commerce and to exercise all the powers hereunder for such purpose as well as the following powers: [PL 1965, c. 463 (NEW).]

**1. Hearings.** To conduct joint investigations and hearings and to issue joint or concurrent orders.
[PL 1965, c. 463 (NEW).]

**2. Enforcement.** To employ or designate a joint agent or agencies to enforce such orders or compacts.
[PL 1965, c. 463 (NEW).]

**3. Classification.** To provide for classifications of milk in accordance with the form in which it is used or moved with uniform minimum prices or methods of fixing such prices for each class.
[PL 1965, c. 463 (NEW).]

**4. Payments.** To provide for payment to all producers and associations of producers delivering milk to dealers of uniform prices, subject to adjustments with the joint agent for location and butterfat content.
[PL 1965, c. 463 (NEW).]

**4-A. Northeast Interstate Dairy Compact.** To enter into the Northeast Interstate Dairy Compact.

A. Maine's representatives to the Northeast Interstate Dairy Compact are as follows:

(1) The commissioner or designee;

(2) The chair of the Maine Milk Commission or designee; and

(4) A dairy farmer who is engaged in the production of milk at the time of appointment or reappointment, to be appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over agricultural matters and confirmation by the Legislature. [PL 2005, c. 382, Pt. F, §6 (AMD).]

B. [PL 2005, c. 382, Pt. F, §7 (RP).]

C. The Northeast Interstate Dairy Compact may establish rules using the procedures outlined in the Federal Administrative Procedure Act and may proceed under emergency rule-making provisions without making findings of emergency. [PL 1989, c. 437 (NEW).]

D. This subsection shall not take effect until the Northeast Interstate Dairy Compact is enacted by 3 other states and approved by the Congress of the United States. [PL 1989, c. 437 (NEW).]
[PL 2005, c. 382, Pt. F, §§6, 7 (AMD).]

**5. Regulations.** To make such joint regulations as may be incidental to the foregoing and not inconsistent thereto and as may be necessary to effectuate the above mentioned powers.
[PL 1965, c. 463 (NEW).]

**6. Compensation.** Members serving pursuant to subsection 4-A, paragraph A, subparagraphs (2) and (4) are compensated for attendance at Northeast Interstate Dairy Compact meetings in amounts not to exceed those set forth in Title 3, section 2, except that employees of the State who are compensated as part of their employment do not receive additional compensation under this subsection.
[PL 1999, c. 679, Pt. B, §2 (NEW); PL 1999, c. 679, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 1965, c. 463 (NEW). PL 1989, c. 437 (AMD). PL 1993, c. 274, §1 (AMD). PL 1999, c. 679, §B2 (AMD). PL 1999, c. 679, §B14 (AFF). PL 2005, c. 382, §§F6,7 (AMD).

**§2953-B. Hearings in a new or expanded market area**

At least 14 days and not more than 21 days prior to designating a new or expanded natural market area, the commission shall hold a public hearing in the proposed area to determine whether to designate that area as a market. As a basis for its determinations, the commission shall solicit and seek to receive oral and written testimony in addition to the data received through the implementation of the information gathering procedures of its rules and regulations. Due notice of the public hearing shall be given by publishing the notice as provided in the Maine Administrative Procedure Act, Title 5, chapter 375. [PL 1979, c. 672, Pt. A, §39 (NEW).]

SECTION HISTORY

PL 1979, c. 672, §A39 (NEW).

**§2954. Establishment of minimum prices**

**1. Commission empowered to establish prices; public hearing.** The commission is vested with the power to establish and change, after investigation and public hearing, the minimum wholesale and retail prices to be paid to producers, dealers and stores for milk received, purchased, stored, manufactured, processed, distributed or otherwise handled within the State. The commission shall hold a public hearing prior to the establishing or changing of such minimum prices. The commission may proceed, however, under the emergency rule-making provisions of Title 5, section 8054 without making findings of emergency when the only changes to be made in the minimum prices are to conform with the orders of any federal or other agency duly authorized by law to establish or negotiate producer prices, are to respond to other conditions affecting prevailing Class I, Class II and Class III prices in southern New England or are to reflect the milk handling fee levied and imposed by Title 36, chapter 721. Title 5, section 8054, subsection 3, the 2nd sentence, does not apply to minimum prices adopted under this subsection. Due notice of the public hearing must be given by publishing notice as provided in Title 5, chapter 375. The commission shall hold such a public hearing not less frequently than once every 12 months to determine whether the minimum wholesale and retail prices then established should be changed. In addition to the data received through the implementation of the information gathering procedures of its rules as a basis for its determinations, the commission shall solicit and seek to receive oral and written testimony at hearings to determine whether the minimum wholesale and retail prices

then established should be changed and whether the proposed minimum wholesale and retail prices are just and reasonable.
[PL 2005, c. 683, Pt. A, §13 (AMD).]

**2. Considerations in establishing prices.** The minimum wholesale and retail prices established by the commission must 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; prevailing prices in neighboring states; seasonal production and other conditions affecting the costs of production, transportation and marketing in the milk industry, including a reasonable return to producer, dealer and store; and the public need for the establishment of retail milk prices at the lowest practicable levels.

A. The minimum wholesale prices paid to producers are based on the prevailing Class I, Class II and Class III prices in southern New England except that, after investigation, the Maine Milk Commission may set different minimum wholesale prices paid to producers to reflect the costs of producing milk in this State. [PL 2005, c. 382, Pt. F, §8 (AMD).]

B. The minimum wholesale prices paid to dealers must be established to reflect the lowest prices at which milk purchased from producers in this State at minimum prices in the State can be received, processed, packaged and distributed within the State at a just and reasonable return, and in addition must include the amount of any fee levied and imposed by Title 36, chapter 721. [PL 2005, c. 396, §2 (AMD).]

C. The minimum retail prices established for payment by consumers must be based on the minimum wholesale price paid to dealers and a rate of return determined to be just and reasonable by the Maine Milk Commission. [PL 2005, c. 382, Pt. F, §8 (AMD).]

D. In establishing and changing minimum wholesale and retail prices, the commission shall consider the effect of possible pricing decisions on the ability of the Maine dairy industry to compete in supplying milk to Maine consumers and, in such a consideration, shall include the following factors:

(1) The strength and viability of the Maine dairy industry as a whole;

(2) The extent of any social or economic benefits of maintaining dairy processing plants in different geographic regions or natural marketing areas of the State; and

(3) The encouragement of consumption by Maine consumers of milk produced and processed within the State, consistent with the Constitution of Maine and the United States Constitution. [PL 2005, c. 382, Pt. F, §8 (NEW).]

E. The commission may not set different minimum wholesale prices for different retail delivery volumes of milk. [PL 2005, c. 382, Pt. F, §8 (NEW).]
[PL 2005, c. 382, Pt. F, §8 (AMD); PL 2005, c. 396, Pt. F, §8 (AMD).]

**3. Exemption for on-premise sales of raw milk.** The minimum price provisions of this chapter shall not apply to sales by producers of raw milk produced and sold to consumers on the premises of the producers.
[PL 1975, c. 517, §3 (RPR).]

**4. Commission empowered to establish classifications of milk.** The commission may establish and change, after investigation and public hearing, classifications of milk according to its various usages and shall specify to what classification the prices established under this chapter apply.
[PL 2005, c. 382, Pt. F, §9 (AMD).]

**5. Minimum price schedule.** Minimum prices set by the commission may vary in the several market areas of the State. The commission shall furnish all dealers registered in each market with a schedule of applicable prices and shall publish the schedule in appropriate newspapers in that market.

Once minimum prices for a market take effect, no dealer, store or other person handling milk in that market may buy or offer to buy, sell or offer to sell milk for prices less than the scheduled minimum prices established for that market.
[PL 2005, c. 382, Pt. F, §10 (AMD).]

**6. Schedule of maximum transportation allowances; adjustments.** The commission may annually establish a schedule of maximum transportation allowances that may be charged by any Maine dealer for hauling milk from a producer's farm to the dealer's dairy plant. The commission shall base its schedule on the recommendations of the commissioner pursuant to section 3156 and shall conduct hearings prior to establishing that schedule. Any dealer may petition the commission at any time to approve a proposed adjustment in that schedule of transportation charges for that dealer. The burden is on the dealer to substantiate the need and reasonableness of such a proposed adjustment, and in the absence of evidence, the proposed adjustments must be denied.
[PL 2005, c. 382, Pt. F, §11 (AMD).]

**7. Prohibition.** A person may not engage in any practice destructive of the scheduled minimum prices for milk established under this chapter for any market, including but not limited to offering any discount, rebate, gratuity, advertising allowance or combination price for milk with any other commodity. A purchaser of milk at retail may tender a coupon or any item of value if the coupon or item of value is not brand specific and is redeemable for cash by the retailer and if the total value tendered by the purchaser is not less than the minimum retail price established by the commission.
[PL 2005, c. 382, Pt. F, §12 (AMD).]

**8. Milk produced outside the State.** Whenever milk produced outside the State becomes a subject of regulation by the State in the exercise of its police powers, this chapter applies and the powers of the commission attach. After any such milk so produced comes within the jurisdiction of this State, no sale or purchase by dealers of such milk within this State may occur at a price less than the scheduled minimum price established according to usage in any given market.
[PL 2005, c. 382, Pt. F, §12 (AMD).]

**9. Minimum wholesale prices paid to producers for their milk.** Notwithstanding any other provisions of this chapter or chapter 611, minimum wholesale prices paid by dealers to producers for their milk that is sold in this State are subject to the minimum producer prices established by the Maine Milk Commission, regardless of whether the dealer is subject to federal milk pricing regulation in addition to state milk pricing regulation.
[PL 1999, c. 56, §1 (AMD).]

**10. Additional considerations in establishing prices.**

[PL 2005, c. 382, Pt. F, §13 (RP).]

**11. Adjustments for over-order premiums.** If following the establishment of minimum prices under subsection 1, which include an over-order premium as defined by section 3152, subsection 8-A, the commission receives new evidence showing that the actual over-order premium in effect in the period during which the minimum prices apply, or any portion thereof, are different from the over-order premium included in the prices, the commission may adjust minimum prices in a subsequent period to offset that difference. Any such adjustment shall be made equally applicable to wholesale and retail minimum prices.
[PL 1987, c. 857 (NEW).]

**12. Adjustments for changes in costs of production.** Notwithstanding any other provisions of this section, the commission may only adjust minimum prices to reflect changes in costs of production after posting notice of rulemaking in accordance with Title 5, section 8053. The commission may not adjust any minimum price to reflect changes in costs of production under the emergency rule-making provisions of Title 5, section 8054.
[PL 1989, c. 436, §1 (NEW).]

**13. Report to State Tax Assessor.**

[PL 2005, c. 382, Pt. F, §14 (AMD); PL 2005, c. 396, §3 (RP).]

**14. Effective date of certain prices.** Any new minimum wholesale prices paid to dealers and new minimum retail prices established pursuant to this section are effective on the Sunday closest to the first day of the month.
[PL 1993, c. 274, §2 (AMD).]

**15. Exception.**

[PL 2005, c. 382, Pt. F, §15 (RP).]

**16. Initial notification and subsequent reports to State Tax Assessor.** The Maine Milk Commission shall notify the State Tax Assessor the first time after May 1, 2005 that the basic price of milk as defined in Title 36, section 4901, subsection 1 is below $18 for 2 consecutive months. After initial notification, the Maine Milk Commission shall report before the first of each month to the State Tax Assessor the basic price of milk established for that month in Title 36, chapter 721.
[PL 2005, c. 396, §4 (NEW).]

SECTION HISTORY

PL 1965, c. 245 (AMD). PL 1965, c. 425, §§5-B (AMD). PL 1971, c. 129 (AMD). PL 1973, c. 758, §§3-7 (AMD). PL 1975, c. 517, §3 (RPR). PL 1977, c. 694, §140 (AMD). PL 1983, c. 573, §§1,2 (AMD). PL 1985, c. 42, §1 (AMD). PL 1987, c. 402, §A80 (AMD). PL 1987, c. 447, §1 (AMD). PL 1987, c. 857 (AMD). PL 1989, c. 436, §1 (AMD). RR 1991, c. 1, §17 (COR). PL 1991, c. 266, §§1,2 (AMD). PL 1991, c. 376, §27 (AMD). PL 1991, c. 526, §§1-3 (AMD). PL 1991, c. 824, §A8 (AMD). PL 1993, c. 104, §1 (AMD). PL 1993, c. 274, §2 (AMD). PL 1993, c. 663, §3 (AMD). PL 1995, c. 2, §§1-3 (AMD). PL 1999, c. 56, §1 (AMD). PL 1999, c. 679, §B3 (AMD). PL 1999, c. 679, §B14 (AFF). PL 2005, c. 382, §§F8-15 (AMD). PL 2005, c. 396, §§1-4 (AMD). PL 2005, c. 683, §A13 (AMD).

**§2954-A. Payment by dealers to producers**

Payment by dealers to producers is governed by this section. For purposes of this section, the term "delivery month" means the calendar month in which milk is delivered to a dealer from the producer.
[PL 2005, c. 382, Pt. F, §16 (NEW).]

**1. First 15 days.** On or before the 5th day after the end of a delivery month, a dealer shall pay the producer for milk received from that producer during the first 15 days of the delivery month at a rate that is not less than the most recently published northeast marketing area milk marketing order statistical uniform price for Penobscot County.
[PL 2005, c. 382, Pt. F, §16 (AMD).]

**2. Balance due.** A dealer shall pay the producer for the balance due for milk received during that delivery month as follows.

A. On or before the 20th day after the end of the delivery month, the dealer shall pay the producer for milk received from that producer during the delivery month an initial payment calculated using the minimum prices set by the commission pursuant to section 2954, subsection 2, paragraph A minus:

(1) Any portion of that amount deposited in the Maine Milk Pool or deducted pursuant to section 3153, subsection 2; and

(2) The amount of the payment made to the producer under subsection 1. [PL 2005, c. 382, Pt. F, §16 (AMD).]

B. On or before the 5th day after the end of the month in which the payments required by subsection 1 and paragraph A are made, each dealer shall pay each of the dealer's producers any sums received

on behalf of the producers pursuant to section 3153, subsection 4 and Maine Milk Pool rules. [PL 2005, c. 382, Pt. F, §16 (AMD).]
[PL 2005, c. 382, Pt. F, §16 (AMD).]

**3. Penalties.** The license of any dealer who violates this section may be suspended or revoked in accordance with Title 5, chapter 375.
[PL 1985, c. 172 (NEW).]

SECTION HISTORY

PL 1965, c. 449 (NEW). PL 1985, c. 172 (RPR). PL 1987, c. 447, §2 (AMD). PL 1999, c. 679, §B4 (AMD). PL 1999, c. 679, §B14 (AFF). PL 2005, c. 382, §F16 (AMD).

**§2954-B. Study of milk price regulatory options**

**1. Study commission.** The Legislature directs that a study be undertaken as outlined in this section for the purpose of analyzing the situation of the Maine dairy industry under current milk pricing legislation and of analyzing the options for ensuring the long-term stability of the industry. The Commissioner of Agriculture, Food and Rural Resources shall provide for a study of the intent, regulatory approach and economic consequences of various milk pricing programs in Maine, including the Maine Milk Commission, Maine Milk Pool and the destructive competition laws, and of other potential mechanisms for pricing regulation, including, without limitation, minimum pricing at the producer level only, minimum wholesale pricing that reflects various costs of distribution, prohibiting below-cost pricing, establishing presumptive pricing and elimination of state pricing regulations.
[PL 1985, c. 42, §2 (NEW).]

**2. Basis for evaluation.** The study shall, at a minimum, evaluate existing and alternative pricing mechanisms in terms of their ability to:

A. Stabilize dairy farmer incomes and assure that Maine farmers benefit to the greatest extent possible from the higher proportion of fluid milk processed and sold in Maine; [PL 1985, c. 42, §2 (NEW).]

B. Maintain dairies in Maine which process fluid milk for Maine consumption; and [PL 1985, c. 42, §2 (NEW).]

C. Encourage efficient farm and processor operations which provide consumers high quality, low-cost milk and milk products. [PL 1985, c. 42, §2 (NEW).]
[PL 1985, c. 42, §2 (NEW).]

**3. Report content.** The study's findings and conclusions shall be expressed in a final report which shall discuss the merits of each of the existing and alternative pricing mechanisms reviewed in terms of each of the objectives established in subsection 2, and shall outline the long-term changes in the dairy industry which might reasonably be expected to occur as a result of continuance or establishment of each of these alternatives.
[PL 1985, c. 42, §2 (NEW).]

**4. Study panel.** The study shall be carried out by a panel of recognized experts in the economics of regulation and pricing. This panel shall be named by the Commissioner of Agriculture, Food and Rural Resources after consultation with the joint standing committee of the Legislature having jurisdiction over agriculture and shall be convened no later than May 1, 1985.
[PL 1985, c. 42, §2 (NEW).]

**5. Select Committee on Milk Pricing.** There is a Select Committee on Milk Pricing consisting of 10 members to advise the study panel on the design of the study and on the options and policies to be evaluated. The committee is composed of 3 members of the House of Representatives, appointed by the Speaker of the House of Representatives, one of whom must represent each political party; 2 members of the Senate, appointed by the President of the Senate, one of whom must be chosen to

represent each political party; and 3 members named by the Governor, one of whom must be knowledgeable of the dairy processing industry, one of whom must be knowledgeable of milk retailing and one milk producer who is knowledgeable of marketing systems. The Public Advocate or the Public Advocate's designee shall also serve on the committee, representing consumer interests. The Commissioner of Agriculture, Food and Rural Resources shall serve ex officio as chair of the committee.
[RR 2021, c. 1, Pt. B, §142 (COR).]

**6. Panel to meet with select committee.** The panel shall meet with the Select Committee on Milk Pricing no later than July 1, 1985, to present to the committee its preliminary study design, including the alternative pricing mechanisms to be evaluated and at other times at the request of the Select Committee on Milk Pricing. The panel shall issue its final report to the Select Committee on Milk Pricing no later than November 1, 1985.
[PL 1985, c. 42, §2 (NEW).]

**7. Preparation of legislation.** After consultation with the Select Committee on Milk Pricing, the commissioner shall prepare legislation based on the report of the panel. The proposed legislation shall be provided to the members of the joint standing committee of the Legislature having jurisdiction over agriculture by December 15, 1985, for their review prior to its submission to the Legislature.
[PL 1985, c. 42, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 42, §2 (NEW). RR 2021, c. 1, Pt. B, §142 (COR).

**§2954-C. Applicability to integrated operation**

The provisions of this chapter which apply to dealers, including, but not limited to, the provisions of section 2956, shall apply to the dealer phase of the business of an integrated operation and those which apply to retail stores shall apply to the retail phase of the business of an integrated operation.
[PL 1985, c. 717, §3 (NEW).]

SECTION HISTORY

PL 1985, c. 717, §3 (NEW).

**§2955. Licenses**

A dealer may not buy milk from producers or others for sale or process, distribute, sell or offer to sell milk in any market in the State designated by the commission unless duly licensed by the commission. A license may not 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. A retailer may not sell or offer to sell milk in any market in the State that the retailer has purchased in Maine from an unlicensed dealer. [RR 2021, c. 1, Pt. B, §143 (COR).]

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 District Court as designated by Title 4, chapter 5 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, is sufficient cause to suspend, revoke or withhold such license. [PL 1999, c. 547, Pt. B, §21 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

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.

SECTION HISTORY

PL 1973, c. 303, §3 (AMD). PL 1975, c. 517, §4 (AMD). PL 1977, c. 694, §141 (AMD). PL 1999, c. 547, §B21 (AMD). PL 1999, c. 547, §B80 (AFF). RR 2021, c. 1, Pt. B, §143 (COR).

**§2956. Records and fees**

All dealers in any market designated by the commission shall keep the following records: [PL 1975, c. 517, §5 (RPR).]

**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, or of importer of such milk into the State;
[PL 1975, c. 517, §5 (RPR).]

**2. Use, location and market outlet.** A record of the quantity of all milk sold, detailed as to use, location and market outlet; and
[PL 2005, c. 382, Pt. F, §17 (AMD).]

**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.
[PL 1975, c. 517, §5 (RPR).]

Each dealer shall furnish to that dealer's producers a statement of the amount of milk purchased, the price per hundredweight or pound, 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, protein test and other solids test when weight and test method of payment is used, and shall pay Maine producers in accordance with section 2954-A. [PL 2005, c. 382, Pt. F, §18 (AMD).]

Each licensed dealer shall pay to the commission an annual license fee of $1 and the sum of 5¢ 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. Two and one-half 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 is not subject to such sums of 5¢ per hundredweight. [PL 1999, c. 161, §1 (AMD).]

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 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.
[PL 1975, c. 517, §5 (RPR).]

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, 1/2 pint of cream shall be considered the equivalent of one quart of milk. [PL 1975, c. 517, §5 (RPR).]

SECTION HISTORY

PL 1969, c. 214, §1 (AMD). PL 1971, c. 128, §§1,2 (AMD). PL 1975, c. 444, §3 (AMD). PL 1975, c. 514 (AMD). PL 1975, c. 517, §5 (RPR). PL 1975, c. 770, §45 (AMD). PL 1981, c. 481, §1 (AMD). PL 1983, c. 573, §3 (AMD). RR 1993, c. 1, §17 (COR). PL 1995, c. 693, §5 (AMD). PL 1995, c. 693, §25 (AFF). PL 1999, c. 161, §1 (AMD). PL 1999, c. 679, §B5 (AMD). PL 1999, c. 679, §B14 (AFF). PL 2005, c. 382, §§F17,18 (AMD).

**§2956-A. Dairy Industry Fund**

**1. Fund established; source.** The Dairy Industry Fund, referred to in this section as the "fund," is established. In addition to payments to the commission pursuant to section 2956, a dealer shall deduct 1¢ per hundredweight from amounts paid by the dealer to each Maine milk producer and pay that amount into the fund as a monthly payment.
[PL 2001, c. 8, §1 (NEW).]

**2. Distributions from fund.** Notwithstanding section 2957, the commission shall make distributions from the fund to a statewide association that has been approved by the majority of dairy farmers in the State in amounts allocated from the fund for that purpose.
[PL 2001, c. 8, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 8, §1 (NEW).

**§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.

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

SECTION HISTORY

PL 1969, c. 214, §2 (AMD). PL 1971, c. 594, §13 (AMD). PL 1975, c. 444, §4 (AMD).

**§2958. Dairy Council Committee**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 444, §5 (RP).

**§2959. Injunctions and civil penalties**

**1. Injunction.** In addition to any other remedy set forth in this chapter for the enforcement of this chapter or any rule, order or decision of the commission, the Superior Court has 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, order or decision of the commission. If it is established upon hearing that the person charged has been or is committing any unlawful act under this chapter or is in violation of any rule, order or decision of the commission, the court shall enter a decree enjoining that person from committing further such violations. 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 is no defense to this proceeding. The commission or its authorized agent may not be required to give or post a bond when making an application for an injunction under this section.
[PL 2005, c. 382, Pt. F, §19 (AMD).]

**2. Civil penalties.** Any person who violates any provision of this chapter or of any rule, order or decision of the commission shall be subject to the following civil penalties, to be collected by the commission in a civil action:

A. For the first violation, a civil penalty not to exceed $1,000; and [PL 1985, c. 717, §4 (NEW).]

B. For each subsequent violation, a civil penalty not to exceed $2,000. [PL 1985, c. 717, §4 (NEW).]

All penalties collected by the commission shall be paid to the Treasurer of State for deposit to the General Fund.
[PL 1985, c. 717, §4 (NEW).]

SECTION HISTORY

PL 1985, c. 717, §4 (RPR). PL 2005, c. 382, §F19 (AMD).

**§2960. Penalties**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 696, §100 (RPR). PL 1985, c. 717, §5 (RP).

**§2961. Temporary minimum prices to be paid to dealers and retailers for the sale of milk**

**(REPEALED)**

SECTION HISTORY

PL 1981, c. 481, §2 (NEW). RR 1997, c. 2, §29 (COR). PL 2005, c. 382, §F20 (RP).

**§2962. Administrative enforcement**

When the commission, after such investigation as it considers appropriate, believes that a violation of this chapter or of any rule, order or decision of the commission has occurred, it may order any person to cease that violation. Before issuing such an order, the commission shall afford any person who would be aggrieved by the order an opportunity for a hearing. In any such investigation or hearing, the commission may exercise all of the powers given to it by section 2952-A. Any person aggrieved by a final order issued under this section may obtain judicial review of the order in Superior Court by filing a petition in accordance with Title 5, section 11001 and the Maine Rules of Civil Procedure, Rule 80C. In responding to such a petition, the commission may seek enforcement of its order, including civil penalties for any violation found, and the court, if it upholds the order, may order its enforcement, including civil penalties. [PL 2005, c. 382, Pt. F, §21 (AMD).]

Nothing in this section is intended to require that the commission take administrative enforcement action prior to seeking judicial relief for any violation of this chapter or of any rule, order or decision of the commission, nor intended to limit the commission's ability to bring an independent action to enforce any decision or order issued by it, including civil penalties for any violation found by it. [PL 1985, c. 717, §6 (NEW).]

SECTION HISTORY

PL 1985, c. 717, §6 (NEW). PL 2005, c. 382, §F21 (AMD).

**§2963. Transportation allowance study**

The Legislature finds that historically the commission has allowed a deduction in the price paid to producers for Class II milk sold by Maine dealers to federally regulated plants. This transportation allowance has remained constant while the ability to transport milk and the shipping and sales practices of dealers have changed. In order to further understanding of the transportation allowance the commission shall: [PL 1989, c. 438 (NEW).]

**1. Original intent.** Examine the original intent of the transportation allowance;
[PL 1989, c. 438 (NEW).]

**2. Current practice.** Determine whether the transportation allowance is being applied in situations other than those originally intended;

[PL 1989, c. 438 (NEW).]

**3. Finding.** Determine whether the transportation allowance should be applied to transfers of milk that are ordinary business practice or are recurring transactions;
[PL 1989, c. 438 (NEW).]

**4. Adopt rules.** In accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, adopt any necessary rules which the commission determines, after hearing, are not inconsistent with the original intent, and current use of the transportation allowance; and
[PL 1989, c. 438 (NEW).]

**5. Report.** Report its findings, any actions taken by the commission and any recommendations for legislation by March 1, 1990, to the joint standing committee of the Legislature having jurisdiction over agricultural matters. The committee may introduce any legislation necessary to address the findings or actions of the commission.
[PL 1989, c. 438 (NEW).]

SECTION HISTORY

PL 1989, c. 438 (NEW).

**§2964. Donations of fresh milk to food banks**

The minimum price provisions of this chapter do not apply to donations of fresh milk produced and processed within the State by a dealer or producer-dealer to an incorporated nonprofit organization within the State established for the purpose of reducing hunger and increasing food security. Donations under this section may occur only if the fresh milk produced and processed within the State to be donated does not have a wholesale or retail market that will provide a higher monetary value to the dealer or producer-dealer. [PL 2019, c. 357, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 357, §1 (NEW).

## CHAPTER 603-A

## DESTRUCTIVE COMPETITION

**§2981. Definitions**

Unless the context otherwise indicates, the definitions contained in section 2951 shall apply to this chapter. [PL 1983, c. 484, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 484, §2 (NEW).

**§2982. Applicability; authority**

Dealers shall observe this chapter only when no applicable minimum dealer price for milk established under chapter 603 is in effect. Retail stores shall observe this chapter only when no applicable minimum retail price or minimum retail margin for milk established under chapter 603 is in effect. This chapter shall be administered by the Maine Milk Commission. [PL 1983, c. 484, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 484, §2 (NEW).

**§2983. Selling below cost**

It is unlawful for any dealer or retail store to sell milk for fluid consumption at less than the cost thereof to the dealer or retail store with the purpose or intent to injure competitors or destroy competition. In all proceedings brought to enforce this section, proof of consistent and repeated advertisements, offers to sell or sales of milk for fluid consumption by any dealer or retail store at less than cost to them, as defined in sections 2984 and 2985, the advertisements, offers to sell and sales thereby forming a pattern of sales below cost, shall be prima facie evidence of intent to injure competitors and destroy competition. This section shall not apply where the price of milk for fluid consumption is set in good faith to meet legal competition. [PL 1983, c. 484, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 484, §2 (NEW).

**§2984. Cost of milk to a dealer**

"Cost of milk to a dealer" means the dealer's raw product cost, plus any shrinkage allowance permitted by the commission, to which shall be added the dealer's expenses directly and indirectly incurred in receiving, processing, packaging and delivering milk. Without limitation, these expenses shall include labor, including salaries and bonuses of executives and officers, rent, depreciation, selling costs, maintenance of equipment, utilities, delivery costs, interest, licenses, taxes, insurance, advertising, professional services and all other fixed and variable expenses. The commission may determine the dealer's expenses directly and indirectly incurred in receiving, processing, packaging and delivering fluid milk by either of the following methods: [PL 1983, c. 484, §2 (NEW).]

**1. Cost accounting data.** Through reliance upon cost accounting data, relating to the dealer, gathered or received by the commission pursuant to section 2952-A or 2986 for any 3-month period within one year preceding and one year following the date of an alleged violation, unless the dealer proves that changed circumstances render any cost accounting data relied upon by the commission incapable of proving that the violation occurred; or
[PL 2005, c. 382, Pt. F, §22 (AMD).]

**2. Expenses; percentage of dealer price.** By imputing an amount to cover these expenses which, unless the dealer proves lower actual costs, shall be deemed to be the percentage of the total dealer price of the milk as the commission shall by rule establish in conjunction with any milk pricing orders which change base dealer margins.
[PL 1983, c. 484, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 484, §2 (NEW). PL 2005, c. 382, §F22 (AMD).

**§2985. Cost of milk to a retail store**

"Cost of milk to a retail store" means the price paid by a retail store to a dealer for fluid milk, to which shall be added the retail store's expenses directly and indirectly incurred in shipping, handling and selling fluid milk. Without limitation, these expenses shall include labor, including salaries and bonuses of executives and officers, rent, depreciation, selling costs, maintenance of equipment, utilities, shipping costs, interest, licenses, taxes, insurance, advertising, professional services and all other fixed and variable expenses. The commission may determine the retail store's expenses directly and indirectly incurred in shipping, handling and selling milk by any of the following methods: [PL 1983, c. 484, §2 (NEW).]

**1. Cost accounting data.** Through reliance upon cost accounting data, relating to the retailer, gathered or received by the commission pursuant to section 2952-A or 2986 for any 3-month period within one year preceding and one year following the date of an alleged violation, unless the retail store proves that changed circumstances render the cost accounting data relied upon by the commission incapable of proving that the violation occurred;

[PL 2005, c. 382, Pt. F, §23 (AMD).]

**2. Expenses; percentage of total retail price.** By imputing an amount to cover these expenses which, unless the retail store proves lower actual costs, shall be deemed to be the percentage of the total retail price of the milk as the commission shall by rule establish in conjunction with any milk pricing orders which change retail margins; or
[PL 1983, c. 484, §2 (NEW).]

**3. Other expenses.** By imputing an amount to cover these expenses which, unless the retail store proves lower actual costs, shall be determined by dividing total store expenses by total store sales and multiplying the percentage obtained by the total retail price of the milk.
[PL 1983, c. 484, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 484, §2 (NEW). PL 2005, c. 382, §F23 (AMD).

**§2986. Investigations; hearings; inspections**

**1. Investigatory powers.** To aid the commission in determining if a dealer or retail store is selling fluid milk below cost, the commission may:

A. Conduct investigations and hearings; [PL 2005, c. 382, Pt. F, §24 (NEW).]

B. Subpoena and examine under oath persons possessing relevant information, including, but not limited to, dealers and retail stores and their officers, agents and representatives; [PL 2005, c. 382, Pt. F, §24 (NEW).]

C. Subpoena and examine the business records, books and accounts of dealers, retail stores or other persons who possess relevant business records, books or accounts; and [PL 2005, c. 382, Pt. F, §24 (NEW).]

D. Inspect at reasonable times the business records, books and accounts of a dealer or retail store at the dealer's or store's office or place of business. [PL 2005, c. 382, Pt. F, §24 (NEW).]
[PL 2005, c. 382, Pt. F, §24 (NEW).]

**2. Oaths and subpoenas.** Any member of the commission or any employee designated by the commission may sign subpoenas and administer oaths to witnesses.
[PL 2005, c. 382, Pt. F, §24 (NEW).]

SECTION HISTORY

PL 1983, c. 484, §2 (NEW). PL 2005, c. 382, §F24 (RPR).

**§2987. Rules**

The commission may adopt all rules establishing or relating to hearing procedures, cost accounting and the collection of information as may be necessary to carry out this chapter. [PL 1983, c. 484, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 484, §2 (NEW).

**§2988. Civil action by injured person**

**1. Injunctive relief; damages and costs.** Any person damaged or who is threatened with loss or injury by reason of a violation of section 2983 may bring a civil action in the Superior Court in the county where the person resides, to prevent, restrain or enjoin the violation or threatened violation. If in that action a violation or threatened violation of section 2983 is established, the court may enjoin and restrain or otherwise prohibit the violation or threatened violation. In that action it is not necessary that actual damages to the plaintiff be alleged or proved. In addition to the injunctive relief, the plaintiff in

the action is entitled to recover from the defendant 3 times the amount of actual damages sustained by the plaintiff and the costs of the action, including reasonable attorneys' fees.
[RR 2021, c. 1, Pt. B, §144 (COR).]

**2. Damages only.** In the event no injunctive relief is sought or required, any person injured by a violation of section 2983 may maintain an action for damages alone in the Superior Court in the county where the person resides and the measure of damages in the action is the same as prescribed in subsection 1.
[RR 2021, c. 1, Pt. B, §144 (COR).]

SECTION HISTORY

PL 1983, c. 484, §2 (NEW). RR 2021, c. 1, Pt. B, §144 (COR).

**§2989. Civil action by the commission**

**1. Civil penalties.** Any dealer or retail store which violates section 2983 shall be subject to the following civil penalties, to be collected by the commission in a civil action:

A. For the first violation, a civil penalty not to exceed $1,000; and [PL 1983, c. 484, §2 (NEW).]

B. For each subsequent violation, a civil penalty not to exceed $2,000. [PL 1983, c. 484, §2 (NEW).]

All penalties collected by the commission shall be paid to the Treasurer of State for deposit to the General Fund.
[PL 1983, c. 484, §2 (NEW).]

**2. Injunction.** In lieu of or in addition to the collection of civil penalties under subsection 1, the commission may bring a civil action in the Superior Court to prevent, restrain or enjoin a violation of section 2983. If in that action a violation or threatened violation of section 2983 shall be established, the court may enjoin and restrain or otherwise prohibit the violation or threatened violation. In the action it shall not be necessary that actual damages to any person be alleged or proved.
[PL 1983, c. 484, §2 (NEW).]

SECTION HISTORY

PL 1983, c. 484, §2 (NEW).

## 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). PL 1995, c. 693, §9 (AMD). PL 1995, c. 693, §25 (AFF). RR 1995, c. 2, §17 (COR).

**§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).

## CHAPTER 604-A

## MAINE DAIRY AND NUTRITION COUNCIL TAX

**§2997. 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. 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, a subdealer or a store.
[PL 1991, c. 376, §28 (NEW).]

**1-A. Board.** "Board" means the Maine Dairy Promotion Board.

[PL 1995, c. 693, §12 (NEW); PL 1995, c. 693, §25 (AFF).]

**1-B. Council.** "Council" means the Maine Dairy and Nutrition Council.
[PL 1995, c. 693, §12 (NEW); PL 1995, c. 693, §25 (AFF).]

**2. Milk.** "Milk" means cows' milk, fluid and whole, skimmed milk, low fat milk and buttermilk, irrespective of whether that milk is flavored. "Milk" includes cream and one quart of cream is considered the equivalent of 4 quarts of milk.
[PL 1991, c. 376, §28 (NEW).]

**3. Nutrition.** "Nutrition" means the study of proper and balanced diet to promote health, especially in human beings.
[PL 1991, c. 376, §28 (NEW).]

**4. Nutrition education.** "Nutrition education" means helping and educating people in the selection of food for the primary purpose of nourishing their bodies in health throughout the life cycle and helping and educating people in extending and teaching knowledge of food and nutrition principles, including promotion and research, and the application of these principles.
[PL 1991, c. 376, §28 (NEW).]

**5. Producer.** "Producer" means any person who produces milk and sells the milk to a dealer.
[PL 1991, c. 376, §28 (NEW).]

**6. Producer dealer.** "Producer dealer" means a dealer who produces a part or all of that dealer's milk or a person who produces milk and sells to a grocery store, dairy products' store or similar commercial establishment.
[PL 1991, c. 376, §28 (NEW).]

SECTION HISTORY

PL 1991, c. 376, §28 (NEW). PL 1995, c. 693, §12 (AMD). PL 1995, c. 693, §25 (AFF).

**§2998. Organization**

**(REPEALED)**

SECTION HISTORY

PL 1991, c. 376, §28 (NEW). PL 1993, c. 689, §3 (AMD). PL 1995, c. 693, §13 (RP). PL 1995, c. 693, §25 (AFF).

**§2998-A. Staffing**

**(REPEALED)**

SECTION HISTORY

PL 1993, c. 689, §4 (NEW). PL 1995, c. 693, §14 (RP). PL 1995, c. 693, §25 (AFF).

**§2998-B. Maine Dairy and Nutrition Council**

**1. Council established as a public instrumentality.** The Maine Dairy and Nutrition Council 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 council 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, §15 (NEW); PL 1995, c. 693, §25 (AFF).]

B. The council 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, §15 (NEW); PL 1995, c. 693, §25 (AFF).]

C. Notwithstanding, paragraphs A and B:

(1) Employees of the council, 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 council 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 council 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 council;

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

(4) Funds received by the council pursuant to chapters 603 and 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 council are governed by the conflict of interest provisions set forth in Title 5, section 18. [PL 2019, c. 667, Pt. B, §7 (AMD).]

[PL 2019, c. 667, Pt. B, §7 (AMD).]

**2. Council membership.** The council consists of the following 5 members:

A. Four members appointed by organizations of Maine milk 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, §4 (AMD).]

B. [PL 2005, c. 382, Pt. E, §5 (RP).]

C. One member representing Maine milk dealers, appointed by the commissioner. [PL 1995, c. 693, §15 (NEW); PL 1995, c. 693, §25 (AFF).]

[PL 2005, c. 382, Pt. E, §§4, 5 (AMD).]

**3. Council chair.** The council shall annually elect a chair.

[PL 1995, c. 693, §15 (NEW); PL 1995, c. 693, §25 (AFF).]

**4. Producer members.**

[PL 2005, c. 382, Pt. E, §6 (RP).]

**5. Cross membership; prohibition.** A council member may not be a member of the Maine Dairy Promotion Board, established under section 2992-A.

[PL 1995, c. 693, §15 (NEW); PL 1995, c. 693, §25 (AFF).]

**6. Quorum; voting.** Fifty-one percent of the members of the council 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 council.

[PL 1995, c. 693, §15 (NEW); PL 1995, c. 693, §25 (AFF).]

**7. Terms.** Producer members are appointed to 4-year terms and may not serve more than 2 consecutive terms. The dealer council member is appointed to a 4-year term and may not serve 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, §15 (NEW); PL 1995, c. 693, §25 (AFF).]

**8. Compensation.** The members of the council are entitled to compensation from funds received pursuant to chapters 603 and 611 according to such guidelines as the council may establish.
[PL 1995, c. 693, §15 (NEW); PL 1995, c. 693, §25 (AFF).]

**9. Executive director; staff.** The council shall appoint an executive director who is the council's chief administrative officer and serves at the pleasure of the council. The executive director shall employ, as the council directs, additional staff who serve at the pleasure of the executive director. The salary paid to the executive director and other staff of the council must be fixed by the council. The council may delegate to its staff the power to execute the council's policies and programs, subject to the council's oversight.
[PL 1995, c. 693, §15 (NEW); PL 1995, c. 693, §25 (AFF).]

**10. Sharing of staff.** The council and the Maine Dairy Promotion Board, established in section 2992-A, may share an executive director and staff. The total salary of a shared employee may be agreed to by the council and board and the percentage of the salary paid by the council must be proportional to the work performed for the council by the shared employee. The council must utilize accounting procedures adequate to track the proportion of work a shared employee performs for the council.
[PL 1995, c. 693, §15 (NEW); PL 1995, c. 693, §25 (AFF).]

**11. Debt.** A debt or obligation incurred by the council is not a debt or obligation of the State.
[PL 1995, c. 693, §15 (NEW); PL 1995, c. 693, §25 (AFF).]

SECTION HISTORY

PL 1995, c. 693, §15 (NEW). PL 1995, c. 693, §25 (AFF). RR 1997, c. 2, §31 (COR). PL 2005, c. 382, §§E4-6 (AMD). PL 2007, c. 597, §10 (AMD). PL 2011, c. 657, Pt. W, §6 (REV). PL 2019, c. 667, Pt. B, §7 (AMD).

**§2999. Duties**

In order that the optimal health of the citizens of the State may be achieved more fully, the Maine Dairy and Nutrition Council shall provide guidance in nutrition and nutrition education based on the concept of a balanced diet, including milk and its products in accordance with scientific recommendations, and protect the interests of all the people of the State by strengthening and preserving the dairy industry. The council has the following powers and duties. The council: [PL 1993, c. 689, §5 (AMD).]

**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 or supplies the council determines necessary for its purposes. The council may delegate to its executive director the power to enter into the contracts or agreements, subject to the council's oversight;
[PL 1993, c. 689, §5 (NEW).]

**2. Cooperation with other agencies.** Shall cooperate with other state or regional agencies with similar purposes, including transferring to those agencies any portion of its receipts that the council considers appropriate and in the best interests of the dairy industry in the State;
[PL 1993, c. 689, §5 (NEW).]

**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 council and report the results of the audit to the council, the commissioner, the Treasurer of State and the Legislature;
[PL 1995, c. 693, §16 (AMD); PL 1995, c. 693, §25 (AFF).]

**4. Annual report.** Shall prepare an annual report that must include a summary of all receipts and expenditures, including expenditures for specific programs; a description of the various programs operated, contracted or sponsored by the council; and a directory of current council members, including their affiliation and term of office; and
[PL 1993, c. 689, §5 (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, §16 (NEW); PL 1995, c. 693, §25 (AFF).]

SECTION HISTORY

PL 1991, c. 376, §28 (NEW). PL 1993, c. 689, §5 (AMD). PL 1995, c. 693, §16 (AMD). PL 1995, c. 693, §25 (AFF).

**§2999-A. Collection of fees**

A dealer as defined in section 2997 shall pay a fee of 1 1/2¢ per hundredweight based on quantity of milk purchased from Maine producers or purchased from producers outside of the State and sold within the State and shall forward that payment to the council no later than the last day of the month following the month in which the milk was purchased. [PL 1999, c. 161, §3 (NEW).]

All producer dealers shall pay to the council a fee of 1 1/2¢ per hundredweight on all milk sold 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, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 161, §3 (NEW).

## CHAPTER 605

## STANDARDS

**§3001. Condensed or evaporated milk**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 99, §3 (RP).

**§3002. Addition of fats or oils**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 99, §3 (RP).

**§3003. Enforcement**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 99, §3 (RP).

## CHAPTER 607

## USE, CARE AND CLEANSING OF CONTAINERS

## (REPEALED)

**§3051. Cleaning cans and rooms**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 696, §101 (AMD). PL 1999, c. 362, §16 (RP).

**§3052. Cleaning receptacles**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 696, §102 (AMD). PL 1999, c. 362, §16 (RP).

## CHAPTER 609

## INSPECTIONS AND ENFORCEMENT

## (REPEALED)

**§3101. Inspection and analysis**

**(REPEALED)**

SECTION HISTORY

PL 1991, c. 725, §2 (AMD). PL 1999, c. 362, §16 (RP).

**§3101-A. Definitions**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 99, §1 (NEW). PL 1979, c. 541, §A74 (AMD). PL 1979, c. 731, §19 (AMD). PL 1999, c. 362, §16 (RP).

**§3102. Examination procedures**

**(REPEALED)**

SECTION HISTORY

PL 1999, c. 362, §16 (RP).

**§3103. Pasteurization standards and equipment**

**(REPEALED)**

SECTION HISTORY

PL 1971, c. 164, §§17-21 (AMD). PL 1999, c. 362, §16 (RP).

**§3104. Injunctions by commissioner**

**(REPEALED)**

SECTION HISTORY

PL 1991, c. 725, §3 (AMD). PL 1999, c. 362, §16 (RP).

**§3105. Restrictions on biosynthetic bovine somatotropin**

**(REPEALED)**

SECTION HISTORY

PL 1991, c. 725, §4 (NEW). MRSA T. 7 §3105 (RP).

**§3105-A. Restrictions on biosynthetic bovine somatotropin**

**(REPEALED)**

SECTION HISTORY

PL 1993, c. 291, §1 (NEW). MRSA T. 7 §3105-A (RP).

## CHAPTER 611

## MILK POOLING

### §3151. Legislative Findings and Intent

The Legislature finds that among Maine's dairy farmers, prices received for milk differ substantially, and that these differences arise in part from a dual marketing system whereby approximately 1/2 the milk produced in Maine is marketed in Maine subject to the price control authority of the Maine Milk Commission, Maine market, while the other 1/2 is marketed to handlers selling in southern New England, commonly known as the Boston market, subject to the price regulations of the northeast marketing area milk marketing order. [PL 1999, c. 679, Pt. B, §6 (AMD); PL 1999, c. 679, Pt. B, §14 (AFF).]

The Legislature finds that under this dual system, producers selling on the Maine market receive a significantly higher price for their milk than do their Boston market counterparts; that, in terms of net income after operating costs, producers on the Maine market receive, on the average, 50% more than their Boston market counterparts of equal size; that the lower net returns received by producers selling on the Boston market seriously limits their ability to withstand cost fluctuations caused by unpredictable increases in costs of fuel, credit, feed and other input costs or price fluctuations resulting from changing milk price support policies, all of which are largely controlled by national and international policies and other events beyond their control; that this relative vulnerability engenders an instability in the present marketing system resulting in a destructive competition for higher priced markets; that this instability has recently been aggravated by the introduction of store-brand milk in Maine markets; that the result is a serious threat not only to the viability of these Boston market farms but also to the Maine dairy industry as a whole; and that the loss of these dairy farms would seriously erode Maine's agricultural base. [PL 1983, c. 573, §4 (NEW).]

The Legislature finds that the higher prices paid to Maine milk producers selling on the Maine market result from the state and federal regulatory framework of the milk industry, as well as from actual cost differences which would exist independent of any regulatory framework. Specifically, higher prices on the Maine market are found to derive from cost savings realized by the Maine market producers in transporting milk to local markets, and from a comparatively higher fluid milk, Class I, utilization rate. Whereas, this favorable utilization rate is made possible by the presence of 2 independently regulated markets which allow the sale of excess Maine production on the Boston market, with the result that such excess is excluded from the calculation of utilization rates on the Maine market, the Legislature finds that the resulting price difference is in the nature of an economic benefit

which has arbitrarily accrued to Maine market producers over Boston market producers. [PL 1983, c. 573, §4 (NEW).]

The Legislature finds that it is in the best interest of the Maine dairy industry and the well-being of the State as a whole to adjust prices paid to Maine milk producers to redistribute this benefit among Maine milk producers in both markets. In so doing, it is the intention of the Legislature to eliminate those differences attributable to the higher utilization rates which are a product of the 2 regulated markets. [PL 1983, c. 573, §4 (NEW).]

The Legislature finds that dairy farms in Aroostook, Washington and northern Penobscot Counties presently operate at significantly higher costs because of their remoteness from markets and supplies; that they face greater risks because they operate on a closer margin; that their markets are less secure; and that negative changes in the overall economy have a magnified effect in the northern Maine region. [PL 1999, c. 679, Pt. B, §6 (AMD); PL 1999, c. 679, Pt. B, §14 (AFF).]

It is the intent of the Legislature that the reblending of Class I premiums under the Maine Milk Pool created by this chapter be deemed to be the reapportionment of an economic benefit created by regulation in order to smooth out differences in milk prices between different markets and not as a tax on the income of Maine market producers. It is also the interest of the Legislature that deductions from the Maine Milk Pool for promotion be deemed to be deductions from the amounts otherwise payable from the pool to Maine and Boston market producers. [PL 1983, c. 573, §4 (NEW).]

In addition to the above findings and as a result of the possible implementation of an over-order premium to be paid to milk producers, the Legislature finds that legislation is necessary to ensure that such a premium is distributed in a manner which is most advantageous and most equitable for all Maine milk producers and intends to achieve that result by enacting the provisions of this chapter relating to over-order pricing. The Legislature also finds that while the pooling and redistribution of such a premium as provided in this chapter is in the best interest of all Maine milk producers, it intends that redistribution to be a separate and distinct purpose and function of the Maine Milk Pool not essential to the purpose and function of the pool as originally enacted. [PL 1987, c. 447, §3 (NEW).]

SECTION HISTORY

PL 1983, c. 573, §4 (NEW). PL 1987, c. 447, §3 (AMD). PL 1999, c. 679, §B6 (AMD). PL 1999, c. 679, §B14 (AFF).

**§3152. Definitions**

As used in this chapter, unless the context indicates otherwise, the following words have the following meanings. [PL 1983, c. 573, §4 (NEW).]

**1. Blend price.** "Blend price" means the price of milk per hundredweight computed as the sum of the Class I price multiplied by the percentage of milk sold as Class I milk, the Class II price multiplied by the percentage sold as Class II milk and the Class III price multiplied by the percentage sold as Class III milk. The blend price must be separately calculated for the base minimum price and the over-order premium.
[PL 1991, c. 266, §3 (AMD).]

**1-A. Base minimum price.** "Base minimum price" means Class I, Class II and Class III prices established pursuant to the northeast marketing area milk marketing order.
[PL 2005, c. 382, Pt. F, §25 (AMD).]

**1-B. Adjusted base minimum price.** "Adjusted base minimum price" means the base minimum price plus any amounts established by the Maine Milk Commission to reflect the increased costs of production pursuant to section 2954, subsection 2, paragraph A.
[PL 2005, c. 382, Pt. F, §26 (AMD).]

**2. Boston market dealer.** "Boston market dealer" means any dealer as defined in subsection 4 who purchases milk from producers subject to the price regulations of the northeast marketing area milk marketing order.
[PL 1999, c. 679, Pt. B, §9 (AMD); PL 1999, c. 679, Pt. B, §14 (AFF).]

**3. Boston market producer.** "Boston market producer" means any Maine milk producer selling to a dealer marketing milk subject to the northeast marketing area milk marketing order, or any agricultural cooperative that buys milk from or handles milk for such a producer and sells it to such a dealer.
[PL 1999, c. 679, Pt. B, §9 (AMD); PL 1999, c. 679, Pt. B, §14 (AFF).]

**4. Dealer.** "Dealer" means any person or entity who purchases or receives milk from a producer within the State for processing and sale within or outside the State.

A. A producer-dealer which is not an agricultural cooperative shall be deemed a dealer only with respect to milk purchased or received from other producers. [PL 1985, c. 646, §1 (NEW).]

B. A producer-dealer which is an agricultural cooperative shall be deemed a dealer:

(1) With respect to all milk purchased or received from other producers; and

(2) With respect to all milk purchased or received from its members except to the extent that it is exempt from the Maine Milk Pool under section 3152-A. [PL 1985, c. 646, §1 (NEW).]

C. An agricultural cooperative which is not a producer-dealer shall be deemed a dealer with respect to all milk subject to the producer price control authority of the Maine Milk Commission which it purchases or receives and which is not sold to a dealer. [PL 1985, c. 646, §1 (NEW).]
[PL 1985, c. 646, §1 (RPR).]

**4-A. Eligible marketing cooperative.** "Eligible marketing cooperative" means an association of milk producers organized to negotiate producer prices higher than the minimum producer prices established pursuant to the northeast marketing area milk marketing order and that the commissioner has determined will not, through its operation, evade, impair or undermine the purposes of this chapter.
[PL 2005, c. 382, Pt. F, §27 (AMD).]

**5. Maine market dealer.** "Maine market dealer" means any dealer as defined in subsection 4 who sells milk subject to the price control authority of the Maine Milk Commission.
[PL 1983, c. 573, §4 (NEW).]

**6. Maine market producer.** "Maine market producer" means any Maine milk producer selling to a dealer marketing milk on the Maine market, or any agricultural cooperative that buys milk or handles milk for such a producer and sells it to such a dealer.
[PL 1983, c. 573, §4 (NEW).]

**7. Maine Milk Pool.** "Maine Milk Pool" means the sum of collections as prescribed in section 3153, from Maine market producers.
[PL 1983, c. 573, §4 (NEW).]

**8. Northern Maine market producer.** "Northern Maine market producer" means any Maine milk producer located in Aroostook County or Washington County or that portion of Penobscot County north of and including the minor civil divisions of Medway, T.A.R. 7 and Long A T.W.P. who sells to a dealer determined by the commissioner to be marketing milk on the Maine market or any agricultural cooperative that buys milk or handles milk for such a producer and sells it to such a dealer.
[PL 2005, c. 382, Pt. F, §28 (AMD).]

**8-A. Over-order premium.** "Over-order premium" means that part of the minimum Class I, Class II and Class III prices established by the Maine Milk Commission pursuant to chapter 603, that exceeds the applicable Class I, Class II and Class III prices established pursuant to the northeast marketing area

milk marketing order as adjusted to reflect the increased costs of production pursuant to section 2954, subsection 2, paragraph A.
[PL 1999, c. 679, Pt. B, §11 (AMD); PL 1999, c. 679, Pt. B, §14 (AFF).]

**9. Plant price.** "Plant price" means the F.O.B. price paid for milk at a milk processing plant, unless milk received at that plant is first collected at a federal order bulk reload station as defined by Part 1001 Federal Milk Order No. 1 in which case the plant price shall mean the price paid for milk at the reload station after deductions for subsequent transportation.
[PL 1983, c. 573, §4 (NEW).]

**10. Producer-dealer.** "Producer-dealer" means a dealer who produces a part or all of the dealer's milk or a person who produces milk and sells to a grocery store or dairy products store or similar commercial establishment, and includes an agricultural cooperative comprised solely of dairy farmers that wholly owns and operates its processing facilities, and whose individual members hold a share of that ownership that is in direct proportion to that individual's share of all milk produced by cooperative members for the cooperative, except that such an agricultural cooperative is a "producer-dealer" under this chapter only if it was in existence on January 1, 1986, and had been recognized on or before that date by the commissioner as meeting the criteria established in this subsection.
[RR 2021, c. 1, Pt. B, §145 (COR).]

**11. Utilization rate.** "Utilization rate" means the percentage of milk produced that is used as Class I or fluid milk, the percentage of milk produced that is used as Class II milk and the percentage of milk that is used as Class III milk.
[PL 1991, c. 266, §7 (AMD).]

SECTION HISTORY

PL 1983, c. 573, §4 (NEW). PL 1985, c. 646, §§1,2 (AMD). PL 1987, c. 447, §§4,5 (AMD). PL 1989, c. 436, §§2-4 (AMD). PL 1991, c. 266, §§3-7 (AMD). PL 1999, c. 547, §B22 (AMD). PL 1999, c. 547, §B80 (AFF). PL 1999, c. 679, §§B7-11 (AMD). PL 1999, c. 679, §B14 (AFF). PL 2001, c. 471, §A10 (AMD). PL 2001, c. 471, §A11 (AFF). PL 2005, c. 382, §§F25-28 (AMD). RR 2021, c. 1, Pt. B, §145 (COR).

### §3152-A. Agricultural cooperatives which are producer-dealers

**1. Exemption; pool payments.** An agricultural cooperative that is a producer-dealer under section 3152, subsection 10 is exempt from payment into and redistributions out of the Maine Milk Pool to the extent that the milk sold or otherwise distributed by the agricultural cooperative does not exceed 5,000,000 pounds a month. Nothing in this subsection exempts an agricultural cooperative that is a producer-dealer from any other requirements of this chapter. In any month in which the milk sold or otherwise distributed by the agricultural cooperative that is a producer-dealer exceeds 5,000,000 pounds, the agricultural cooperative shall make payment into and redistributions out of the Maine Milk Pool in accordance with this chapter with respect to that milk that is in excess of 5,000,000 pounds.
[PL 2005, c. 382, Pt. F, §29 (AMD).]

**2. Promotion; administration.**

[PL 1999, c. 161, §4 (RP).]

SECTION HISTORY

PL 1985, c. 646, §3 (NEW). PL 1999, c. 161, §4 (AMD). PL 2005, c. 382, §F29 (AMD).

### §3153. Maine Milk Pool

**1. Establishment.** Within 180 days after September 23, 1983, the commissioner shall adopt rules establishing a fund to be known as the "Maine Milk Pool," to which all money collected from Maine dealers pursuant to subsection 2 must be credited. These funds must be redistributed to eligible Maine

market producers, eligible northern Maine market producers and eligible Boston market producers according to procedures established under subsection 4.
[PL 1999, c. 161, §5 (AMD).]

**2. Collections from dealers.** Collections from dealers must be made as follows.

A. Effective January 1, 2000, each Maine market dealer shall, on a monthly basis, calculate for its Maine market producers the amount of payment at the adjusted base minimum price that would be payable to its Maine market producers according to the price calculated using that dealer's utilization rate, referred to in this subsection as "the Maine sample payment amount," and the amount of payment that would be due its Maine market producers according to the price calculated using the applicable component prices and producer price differential for Suffolk County, Massachusetts for the northeast marketing area milk marketing order, referred to in this subsection as "the comparable Boston payment amount." Except as otherwise provided in this paragraph, in any month in which the Maine sample payment amount is more than the comparable Boston payment amount, the Maine market dealer shall pay to the Maine Milk Pool the amount of the difference. Based on the fact that northern Maine market producers presently operate at significantly higher costs because of their remoteness from markets and supplies, that they face greater risks because they operate on a closer margin and because their markets are less secure, payments to the Maine Milk Pool at the adjusted base minimum price attributable to northern Maine market producers must be reduced by 1/2 and those producers' initial payments under this section must be increased by the corresponding amounts.

(1) For any month in which there is only one Maine market dealer subject to this paragraph and the milk sold or otherwise distributed by that dealer during that month does not exceed 1,000,000 pounds, the additional payment due to the Maine Milk Pool must instead be made by that dealer to its Maine market producers. [PL 2005, c. 382, Pt. F, §30 (AMD).]

B. For any month in which the Maine sample payment amount is less than the comparable Boston payment amount, the Maine market dealer may deduct the difference from the next month's initial payment to producers under section 2954-A, subsection 2, paragraph A. Upon the termination of their business relationship, producers are liable to dealers for all sums advanced under this paragraph that have not been recouped by way of deduction. [PL 2005, c. 382, Pt. F, §30 (AMD).]

C. For any month in which the Maine Milk Commission has established minimum prices payable to producers that include an over-order premium that the commission has determined is attributable to the activity of an eligible marketing cooperative, this paragraph applies. Each Maine market dealer shall, on a monthly basis, calculate for its Maine market producers the amount of payment from the over-order premium that would be payable to its Maine market producers according to the blend price calculated using that dealer's utilization rate. With respect to those producers who have designated an eligible marketing cooperative to receive the over-order premium, the dealer shall make the payment to the eligible marketing cooperative. With respect to those producers who have not designated an eligible marketing cooperative to receive the over-order premium, the dealer shall make the payment into the Maine Milk Pool. [PL 2005, c. 382, Pt. F, §30 (AMD).]

D. For any month in which the Maine Milk Commission has established minimum prices payable to producers that include an over-order premium that the commission has determined is not attributable to the activity of an eligible marketing cooperative, the over-order premium is not pooled. [PL 2005, c. 382, Pt. F, §30 (AMD).]

E. [PL 1987, c. 874, §§2, 4 (RP).]

E. [PL 1989, c. 436, §6 (NEW); PL 1989, c. 878, Pt. B, §8 (RP).]

F. For any month in which the Maine Milk Commission has included in Class I, Class II or Class III prices any amounts to reflect the increased costs of production pursuant to section 2954, subsection 2, paragraph A, those amounts must be paid into the Maine Milk Pool for redistribution in accordance with subsection 4. [PL 2005, c. 382, Pt. F, §30 (AMD).]

G. [PL 2005, c. 382, Pt. F, §30 (RP).]

[PL 2005, c. 382, Pt. F, §30 (AMD).]

**3. Additional collections for promotion.**

[PL 1999, c. 161, §6 (RP).]

**4. Redistribution of pool; base minimum price.** The commissioner shall, by rule, adopt procedures to redistribute payments into the Maine Milk Pool under subsection 2, paragraphs A and F on an equal basis to eligible Maine market producers and eligible Boston market producers, except that:

A. If any Boston market producer whose farm is located within 140 miles of Boston receives a plant price, excluding deductions or additions imposed by the northeast marketing area milk marketing order that is greater than the amount of the initial payment to Maine market producers under section 2954-A, subsection 2, paragraph A, the commissioner shall credit that additional amount against the redistribution from the Maine Milk Pool to which that producer would otherwise be entitled in order to avoid potential inequities arising from equal redistribution; [PL 2005, c. 382, Pt. F, §31 (AMD).]

B. If the credit against redistribution exceeds the pool payment due the producer, that producer shall pay into the Maine Milk Pool an amount equal to the excess or that producer's share of the cost of promotion, whichever is less. The commissioner may provide by rule that these amounts must be deducted from future pool payments made under this subsection to that producer or from pool payments due to that producer under subsection 5, or from future payments due to that producer for milk; and [PL 2005, c. 382, Pt. F, §31 (AMD).]

C. If the commissioner determines that payments from the pool will be made to dairies, cooperatives or some other entity as a representative of producers, then the dairy, cooperative or other representative shall pay to the producer the amount owed to that producer within such time period as is determined by the procedures established by rule under this subsection. [PL 2005, c. 382, Pt. F, §31 (AMD).]

D. [PL 1987, c. 447, §7 (RP).]

[PL 2005, c. 382, Pt. F, §31 (AMD).]

**5. Redistribution of pool; over-order premium.** Redistribution of payments into the pool under subsection 2, paragraph C is governed by this subsection.

A. For any month in which subsection 2, paragraph C is in effect, the commissioner shall pay those Maine market producers whose over-order premium was paid into the Maine Milk Pool an initial redistribution under this paragraph. In calculating the rate of this redistribution and the timing of its payment, the commissioner shall attempt to achieve, insofar as practicable, an initial redistribution that ensures that Maine producers who are not members of eligible marketing cooperatives receive an initial redistribution equivalent to that received by Maine producers who are members of eligible marketing cooperatives. The commissioner shall consider the following factors:

(1) The gross rate of redistribution used by eligible marketing cooperatives to calculate payment to their members;

(2) Reasonable administrative and other charges deducted by eligible marketing cooperatives from the redistributions made to their members;

(3) The timing of the redistributions made by an eligible marketing cooperative to its members; and

(4) Such other factors as may be relevant to the goal of achieving, insofar as practicable, price equity among producers. [PL 2005, c. 382, Pt. F, §32 (AMD).]

B. The commissioner shall redistribute the remainder of the amount paid into the Maine Milk Pool under subsection 2, paragraph C on an equal basis to eligible Maine market producers and eligible Boston market producers; except that if any Maine market producer or Boston market producer receives an additional premium other than one attributable to the activity of an eligible marketing cooperative, the commissioner shall credit that additional premium against the redistribution to which that producer would otherwise be entitled under this paragraph in order to avoid potential inequities arising from equal redistribution. [PL 2005, c. 382, Pt. F, §32 (AMD).]

C. If the commissioner determines that the basis for redistribution adopted by an eligible marketing cooperative is disadvantageous to Maine producers belonging to that cooperative, that the cooperative has not made redistributions to its Maine members in a timely manner or that the administrative or other fees deducted by the cooperative from redistributions to its members are excessive, unjust or unreasonable, the commissioner may commence proceedings to revoke the eligible status of the cooperative pursuant to section 3155-B. [PL 2005, c. 382, Pt. F, §32 (AMD).]

C-1. [PL 1987, c. 874, §§3, 4 (RP).]

D. The commissioner shall, by rule, adopt such procedures as are necessary to implement this subsection. If the commissioner determines that payments from the pool will be made to dairies, cooperatives or some other entity as a representative of producers, then the dairy, cooperative or other representative shall pay to the producer the amount owed to that producer within such time period as is determined by the procedures established by rule under this subsection. [PL 1987, c. 447, §8 (NEW).]

[PL 2005, c. 382, Pt. F, §32 (AMD).]

**6. Rules.** The commissioner shall adopt by routine technical rule such procedures as are necessary to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2005, c. 382, Pt. F, §33 (NEW).]

SECTION HISTORY

PL 1983, c. 573, §4 (NEW). PL 1985, c. 506, §B5 (AMD). PL 1987, c. 447, §§6-8 (AMD). PL 1987, c. 874, §§2-4 (AMD). PL 1989, c. 436, §§5,6 (AMD). PL 1989, c. 878, §§B8,9 (AMD). PL 1991, c. 12 (AMD). PL 1991, c. 266, §8 (AMD). PL 1995, c. 693, §§17,18 (AMD). PL 1995, c. 693, §25 (AFF). RR 1997, c. 2, §32 (COR). PL 1999, c. 161, §§5,6 (AMD). PL 1999, c. 210, §1 (AMD). PL 1999, c. 679, §§B12,13 (AMD). PL 1999, c. 679, §B14 (AFF). PL 2001, c. 433, §1 (AMD). PL 2005, c. 382, §§F30-33 (AMD).

**§3153-A. Dairy stabilization subsidy**

If the base price of milk falls below $16.94 per hundredweight in any month beginning September 1, 2003 and ending May 31, 2004, the administrator of the Maine Milk Pool shall distribute to Maine milk producers on a per hundredweight basis 40% for the months of January to May 2004 of the difference between $16.94 per hundredweight and the base price of milk per hundredweight. The amount distributed for milk produced during the period between January 1, 2004 and May 31, 2004 may not exceed $2,100,000. The Governor shall provide these funds to the Maine milk pool administrator for distribution to Maine milk producers, as provided for in this section, during the months of October 2003 to June 2004. The base price of milk is the Suffolk County, Massachusetts

Class I price of milk as determined for each month by the Northeast Market Administrator of the United States Department of Agriculture. [PL 2003, c. 522, §1 (AMD).]

SECTION HISTORY

PL 2003, c. 120, §2 (NEW). PL 2003, c. 522, §1 (AMD).

**§3153-B. Dairy stabilization**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Annual production" means the total quantity of milk produced in a 12-month period beginning June 1st and ending May 31st of the next calendar year. Total quantity is expressed in hundredweight. [PL 2003, c. 648, §2 (NEW).]

B. "Base price" means the price of milk calculated each month in accordance with subsection 2. [PL 2003, c. 648, §2 (NEW).]

C. "Suffolk County price" means the Suffolk County, Massachusetts statistical uniform price of milk as determined for each month by the Northeast Market Administrator of the United States Department of Agriculture and expressed per hundredweight of milk. [PL 2003, c. 648, §2 (NEW).]

D. "Target price" means the short-run break-even point for each of 4 categories of annual production. Target prices are determined in accordance with subsection 3. [PL 2009, c. 467, §2 (AMD).]

[PL 2009, c. 467, §2 (AMD).]

**2. Calculation of base price.** Base price is calculated each month by adding to the Suffolk County price:

A. The amount per hundredweight paid to milk producers in the State as monthly premiums established by the Maine Milk Commission under section 2954, subsection 1; and [PL 2003, c. 648, §2 (NEW).]

B. The amount per hundredweight received by milk producers as a monthly payment from the Federal Government due to low milk prices. [PL 2003, c. 648, §2 (NEW).]

Cost-of-production adjustments established under section 2954, subsection 2, paragraph A are not considered premiums for the purpose of calculating base price.

[PL 2003, c. 648, §2 (NEW).]

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

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

[PL 2009, c. 467, §3 (AMD).]

**4. Distribution of dairy stabilization support.** Beginning July 1, 2004 for each month that the base price is below the target price, the administrator of the Maine Milk Pool shall distribute to each milk producer in the State an amount of money equal to the previous month's production in hundredweight multiplied by the difference between the applicable target price and the base price in the previous month.

[PL 2003, c. 648, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 648, §2 (NEW). PL 2005, c. 382, §F34 (AMD). PL 2007, c. 240, Pt. OOO, §1 (AMD). PL 2007, c. 262, §1 (AMD). PL 2009, c. 467, §§2, 3 (AMD).

**§3153-C. Milk Income Loss Contract**

**(REPEALED)**

SECTION HISTORY

PL 2003, c. 648, §2 (NEW). PL 2005, c. 230, §1 (AMD). PL 2009, c. 467, §4 (RP).

**§3153-D. Transfer of revenues**

On or before the 18th day of each month, the administrator of the Maine Milk Pool shall subtract the amount in the Maine Milk Pool, Other Special Revenue Funds account that is available for distribution for dairy stabilization support from the total amount to be distributed for the previous month pursuant to section 3153-B and certify this amount to the State Controller, who shall transfer the certified monthly amount when certified from General Fund undedicated revenue to the Maine Dairy Farm Stabilization Fund, Other Special Revenue Funds account. [PL 2013, c. 368, Pt. Y, §1 (AMD).]

SECTION HISTORY

PL 2005, c. 418, §1 (NEW). PL 2009, c. 467, §5 (AMD). PL 2011, c. 625, §2 (AMD). PL 2011, c. 690, §1 (AMD). PL 2013, c. 368, Pt. Y, §1 (AMD).

**§3154. Administration**

**1. Authority of commissioner.** The commissioner may enter into agreement with the Maine Milk Commission or other state agency for administering the provisions of this chapter, and may employ such staff and services as may be necessary.
[PL 1983, c. 573, §4 (NEW).]

**2. Deductions.** Prior to the redistribution of the pool as provided in section 3153, the commissioner shall deduct the following:

A. Amounts sufficient to cover the costs of administering this chapter. Those amounts must be determined annually and must be adopted by rule by the commissioner; and [PL 1995, c. 693, §19 (AMD); PL 1995, c. 693, §25 (AFF).]

B. [PL 1999, c. 161, §7 (RP).]
[PL 1999, c. 161, §7 (AMD).]

**3. Records and information.** The commissioner may receive and utilize such reports and other information from any dealer as furnished to the Maine Milk Commission pursuant to section 2956 for the purpose of administering this chapter. The commissioner may also require any dealer purchasing milk from producers who may be eligible for participation in the milk pool to furnish directly such reports and other information as may be necessary to determine the eligibility of those producers and the extent of their participation.
[PL 1983, c. 573, §4 (NEW).]

**4. Interest on over-order premiums.** Interest earned on over-order premiums paid into the Maine Milk Pool pursuant to section 3153, subsection 2, paragraph C, shall be credited to the pool. At least annually, the commissioner shall pay accrued interest on an equal basis to eligible Maine market and Boston market producers.
[PL 1987, c. 447, §9 (NEW).]

In the event that information requested is not adequately provided by any dealer, the commissioner may require producers who may be eligible for participation in the Maine Milk Pool to furnish such

reports and other information as may be necessary to determine their eligibility and the extent of their participation. [PL 2005, c. 382, Pt. F, §35 (AMD).]

The cost of obtaining information required to determine eligibility and extent of participation shall be shared by all producers as provided in subsection 2, except that added costs incurred in obtaining information directly from a producer whose dealer does not furnish that information shall be assessed to that producer. [PL 1983, c. 573, §4 (NEW).]

An eligible marketing cooperative, or an organization applying for recognition as an eligible marketing cooperative, shall furnish the commissioner all information, records and reports necessary for the commissioner to determine and monitor the cooperative's initial eligibility and its ongoing compliance with this chapter. In addition to any other available remedies, the commissioner may commence proceedings pursuant to section 3155-B, to revoke the eligible status of a cooperative that willfully fails to provide information, records or reports requested by the commissioner. [PL 2005, c. 382, Pt. F, §36 (AMD).]

The commissioner shall prescribe by rule the form, content and time for filing of any reports which may be required under this section. All reports shall be subject to audit. [PL 1983, c. 573, §4 (NEW).]

SECTION HISTORY

PL 1983, c. 573, §4 (NEW). PL 1985, c. 506, §B6 (AMD). PL 1987, c. 447, §§9,10 (AMD). PL 1995, c. 693, §19 (AMD). PL 1995, c. 693, §25 (AFF). PL 1999, c. 161, §7 (AMD). PL 2005, c. 382, §§F35,36 (AMD).

**§3155. Penalties**

Any person who fails to furnish reports required by the commissioner pursuant to section 3154 in a timely fashion shall be subject to the following civil penalties, to be collected by the commissioner in a civil action: [PL 1983, c. 816, Pt. A, §1 (AMD).]

**1. First violation.** For the first violation, a civil penalty not to exceed $100; and
[PL 1983, c. 573, §4 (NEW).]

**2. Subsequent violation.** For each subsequent violation within one year of the first violation, a civil penalty not to exceed $500.
[PL 1983, c. 573, §4 (NEW).]

Persons who violate any other rules promulgated under this chapter shall be subject to a civil penalty not to exceed $100 to be collected by the commissioner in a civil action. All penalties collected by the commissioner shall be paid to the Treasurer of State for deposit to the General Fund. In addition to other available remedies, the commissioner may bring a civil action to collect any amounts owed to the Maine Milk Pool under this chapter. [PL 1987, c. 447, §11 (AMD).]

SECTION HISTORY

PL 1983, c. 573, §4 (NEW). PL 1983, c. 816, §A1 (AMD). PL 1987, c. 447, §11 (AMD).

**§3155-A. Predatory behavior of eligible marketing cooperative prohibited**

**1. Violations.** No eligible marketing cooperative may:

A. Collect or attempt to collect from a Maine market dealer, directly or indirectly, all or any part of an over-order premium with respect to the milk of a Maine market producer who has not designated that cooperative to receive the over-order premium pursuant to section 3153, subsection 2, paragraph C; [PL 1987, c. 447, §12 (NEW).]

B. Collect or attempt to collect from a Maine market dealer, directly or indirectly, any handling charge, fee or other payment in lieu of an over-order premium which the cooperative is barred from collecting under paragraph A; [PL 1987, c. 447, §12 (NEW).]

C. Discriminate against any Maine market dealer making payments in accordance with section 3153, subsection 2, paragraph C, in the marketing of its members' milk based in whole or in part on the extent to which the dealer's producers have joined or refused to join the cooperative; or [PL 1987, c. 447, §12 (NEW).]

D. Collect or attempt to collect all or any part of an over-order premium from a Maine market dealer prior to determination of its eligibility or during any period for which its eligible status has been revoked by the commissioner. [PL 1987, c. 447, §12 (NEW).]

[PL 1987, c. 447, §12 (NEW).]

**2. Civil penalties.** Each violation of this section is punishable by a civil penalty not to exceed $2,000 for a first violation and $5,000 for each subsequent violation, which penalties may be collected by the commissioner in a civil action. All penalties collected by the commissioner shall be paid to the Treasurer of State for deposit into the General Fund.

[PL 1987, c. 447, §12 (NEW).]

**3. Injunctive relief.** The Superior Court shall have jurisdiction upon complaint filed by the commissioner to restrain or enjoin any person from committing any act prohibited by subsection 1 or from violating any order or decision issued by the commissioner pursuant to subsection 4. The commissioner shall not be required to post a bond when applying for an injunction under this subsection.

[PL 1987, c. 447, §12 (NEW).]

**4. Administrative enforcement.** When the commissioner, after such investigation as the commissioner determines appropriate, believes that a violation of this section has occurred, the commissioner may order the eligible marketing cooperative to cease that violation. In lieu of, or in addition to, such an order and notwithstanding Title 4, section 152, subsection 9 and Title 5, section 10051, subsection 1, the commissioner may also revoke the eligible status of the cooperative for purposes of this chapter for a period not to exceed one year for a first violation, 2 years for a 2nd violation and permanently for a 3rd or subsequent violation. Before issuing such an order or revoking a cooperative's eligibility, the commissioner shall afford the cooperative an opportunity for a hearing. Any person aggrieved by a final order or decision issued under this subsection may obtain judicial review in Superior Court by filing a petition in accordance with Title 5, section 11001 and the Maine Rules of Civil Procedure, Rule 80C. In responding to such a petition, the commissioner may seek enforcement of the order or decision, including civil penalties for any violation found, and the court, if it upholds the order or decision, may order its enforcement, including civil penalties.

[PL 1999, c. 547, Pt. B, §23 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

Nothing in this section is intended to require that the commissioner take administrative enforcement action prior to seeking judicial relief for any violation of this section or is intended to limit the commissioner's ability to bring an independent action to enforce any decision or order issued by him, including civil penalties for any violation found by him. [PL 1987, c. 447, §12 (NEW).]

SECTION HISTORY

PL 1987, c. 447, §12 (NEW). PL 1999, c. 547, §B23 (AMD). PL 1999, c. 547, §B80 (AFF).

**§3155-B. Eligible marketing cooperative; revocation of status**

Notwithstanding section 3155-A, Title 4, section 152, subsection 9 and Title 5, section 10051, subsection 1, the commissioner may revoke the eligible status of a marketing cooperative upon a determination that it has through its operation evaded, impaired or undermined the purposes of this chapter. [PL 2005, c. 382, Pt. F, §37 (NEW).]

SECTION HISTORY

PL 2005, c. 382, §F37 (NEW).

**§3156. Transportation allowances**

The commissioner shall annually conduct a study investigating the costs of transporting milk from producers' farms to dairy processing plants and shall examine existing and practicably achievable cost efficiencies by market areas as defined by the Maine Milk Commission pursuant to section 2951, subsection 5. Based upon that study, the commissioner shall annually recommend a schedule of maximum allowable transportation charges to the Maine Milk Commission. [PL 1983, c. 573, §4 (NEW).]

SECTION HISTORY

PL 1983, c. 573, §4 (NEW).

## PART 8

## DOGS

## (REPEALED)

## CHAPTER 701

## GENERAL PROVISIONS

## (REPEALED)

**§3401. Lists of all dogs; returns**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 193, §1 (AMD). PL 1965, c. 513, §11 (AMD). PL 1969, c. 94, §3 (AMD). PL 1973, c. 272 (AMD). PL 1973, c. 681, §1 (AMD). PL 1973, c. 788, §31 (AMD). PL 1975, c. 140, §2 (RP).

**§3402. Copies of law posted**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 513, §12 (AMD). PL 1973, c. 625, §43 (AMD). PL 1975, c. 140, §3 (RPR). PL 1977, c. 564, §37 (AMD). PL 1987, c. 383, §2 (RP).

**§3403. Expenditure of surplus money**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 513, §13 (AMD). PL 1975, c. 771, §102 (AMD). PL 1977, c. 696, §103 (RP).

**§3404. Stealing or killing dog**

**(REPEALED)**

SECTION HISTORY

PL 1981, c. 326, §1 (AMD). PL 1987, c. 383, §2 (RP).

**§3405. Record of sales**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 383, §2 (RP).

**§3406. Dogs brought to veterinarian**

**(REPEALED)**

SECTION HISTORY

PL 1967, c. 491 (AMD). PL 1969, c. 242 (AMD). PL 1979, c. 121 (RPR). PL 1979, c. 492, §§1,2 (AMD). PL 1979, c. 663, §§21,22 (AMD). PL 1979, c. 731, §19 (AMD). PL 1981, c. 368, §§2,3 (AMD). PL 1987, c. 383, §2 (RP).

## CHAPTER 703

## LICENSES

## (REPEALED)

**§3451. Fees; tags; guide dogs; duties of animal husbandry expert**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 193, §§2-4 (AMD). PL 1967, c. 214 (AMD). PL 1967, c. 494, §6 (AMD). PL 1969, c. 94, §§1,2 (AMD). PL 1969, c. 244, §1 (AMD). PL 1971, c. 453 (AMD). PL 1971, c. 546, §§1,2 (AMD). PL 1975, c. 236, §§3,4 (AMD). PL 1975, c. 391, §§1-2 (AMD). PL 1977, c. 694, §§142-146 (AMD). PL 1977, c. 696, §104 (AMD). PL 1979, c. 314 (AMD). PL 1979, c. 492, §§3,4 (AMD). PL 1979, c. 541, §A75 (AMD). PL 1979, c. 663, §23 (AMD). PL 1979, c. 672, §A40 (AMD). PL 1979, c. 731, §19 (AMD). PL 1981, c. 193, §§1-3 (AMD). PL 1981, c. 326, §2 (AMD). PL 1981, c. 368, §4 (AMD). PL 1981, c. 698, §16 (AMD). PL 1987, c. 383, §2 (RP).

**§3452. Issuance by clerks**

**(REPEALED)**

SECTION HISTORY

PL 1969, c. 82, §1 (AMD). PL 1977, c. 579, §§C1,C2 (AMD). PL 1979, c. 492, §§5-7 (AMD). PL 1979, c. 663, §24 (AMD). PL 1987, c. 383, §2 (RP).

**§3452-A. Animal control officer**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 492, §8 (NEW). PL 1979, c. 663, §25 (AMD). PL 1987, c. 383, §2 (RP).

**§3452-B. Use of license fees retained by municipalities**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 492, §9 (NEW). PL 1987, c. 383, §2 (RP).

**§3453. Unorganized territories**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 25 (AMD). PL 1965, c. 513, §14 (AMD). PL 1969, c. 82, §2 (AMD). PL 1969, c. 94, §4 (AMD). PL 1977, c. 579, §§C3,C4 (AMD). PL 1979, c. 731, §19 (AMD). PL 1987, c. 383, §2 (RP).

**§3454. License necessary**

**(REPEALED)**

SECTION HISTORY

PL 1973, c. 45, §1 (NEW). PL 1981, c. 326, §3 (AMD). PL 1987, c. 383, §2 (RP).

**§3455. Dogs not to run at large**

**(REPEALED)**

SECTION HISTORY

PL 1973, c. 45, §1 (NEW). PL 1977, c. 503, §1 (AMD). PL 1977, c. 564, §38 (AMD). PL 1979, c. 541, §A76 (AMD). PL 1985, c. 47 (AMD). PL 1987, c. 383, §2 (RP).

**§3456. -- disposal**

**(REPEALED)**

SECTION HISTORY

PL 1973, c. 45, §1 (NEW). PL 1979, c. 492, §10 (AMD). PL 1979, c. 731, §19 (AMD). PL 1987, c. 383, §2 (RP).

**§3457. Violations**

**(REPEALED)**

SECTION HISTORY

PL 1973, c. 45, §1 (NEW). PL 1977, c. 120 (AMD). PL 1977, c. 696, §105 (RPR). PL 1987, c. 383, §2 (RP).

**§3458. Local regulations**

**(REPEALED)**

SECTION HISTORY

PL 1973, c. 659 (NEW). PL 1987, c. 383, §2 (RP).

**§3459. Responsibility for payment of impoundment and other fees**

**(REPEALED)**

SECTION HISTORY

PL 1983, c. 12 (NEW). PL 1987, c. 383, §2 (RP).

## CHAPTER 705

## KENNELS

## (REPEALED)

**§3501. Inspection; hearings**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 193, §5 (RP).

## CHAPTER 707

## TRAINING AND FIELD TRIALS

## (REPEALED)

**§3551. Training of dogs**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 249, §1 (AMD). PL 1977, c. 503, §2 (RPR). PL 1979, c. 420, §2 (RP).

**§3551-A. Training of coon hounds**

**(REPEALED)**

SECTION HISTORY

PL 1975, c. 249, §2 (NEW). PL 1975, c. 772, §1 (AMD). PL 1977, c. 503, §3 (RP).

**§3552. Special dog training areas**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 112 (AMD). PL 1975, c. 590, §23 (AMD). PL 1979, c. 420, §2 (RP).

**§3553. Field trials for bird dogs or coon dogs**

**(REPEALED)**

SECTION HISTORY

PL 1973, c. 89, §1 (AMD). PL 1979, c. 420, §2 (RP).

**§3554. Field trials for retrieving dogs**

**(REPEALED)**

SECTION HISTORY

PL 1973, c. 89, §2 (AMD). PL 1975, c. 590, §24 (AMD). PL 1979, c. 420, §2 (RP).

**§3554-A. Field trials for sporting dogs**

**(REPEALED)**

SECTION HISTORY

PL 1973, c. 89, §3 (NEW). PL 1975, c. 590, §25 (AMD). PL 1979, c. 420, §2 (RP).

**§3555. Training and field trials for beagles and other rabbit hounds**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 420, §2 (RP).

## CHAPTER 709

## DANGEROUS DOGS

## (REPEALED)

**§3601. Dogs running-at-large in area frequented by deer**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 448, §1 (AMD). PL 1967, c. 404, §1 (AMD). PL 1969, c. 425, §1 (AMD). PL 1973, c. 45, §2 (RP).

**§3602. Dogs killed for hunting or worrying certain animals**

**(REPEALED)**

SECTION HISTORY

PL 1967, c. 404, §2 (AMD). PL 1971, c. 572, §§1,2 (AMD). PL 1975, c. 497, §3 (AMD). PL 1977, c. 696, §§106,107 (AMD). PL 1979, c. 127, §46 (AMD). PL 1979, c. 230 (AMD). PL 1979, c. 420, §3 (RP).

**§3603. Chasing game; domestic animals or fowl**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 420, §4 (RP).

**§3604. Killing for assault permitted**

**(REPEALED)**

SECTION HISTORY

PL 1977, c. 251, §3 (RP). PL 1977, c. 564, §39 (REEN). PL 1987, c. 383, §2 (RP).

**§3605. Complaints; damages and costs**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 165 (AMD). PL 1987, c. 383, §2 (RP).

## CHAPTER 711

## DAMAGE BY DOGS

## (REPEALED)

**§3651. Reimbursement**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 383, §2 (RP).

**§3652. Damage by dogs or wild animals; recovery from owner; killing of sheep**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 137, §§1,2 (AMD). PL 1971, c. 96 (AMD). PL 1975, c. 206 (AMD). PL 1977, c. 696, §108 (AMD). PL 1979, c. 672, §A41 (RP).

**§3652-A. Damage by dogs to livestock, poultry or domestic rabbits; recovery from owner**

**(REPEALED)**

SECTION HISTORY

PL 1981, c. 368, §5 (NEW). PL 1987, c. 383, §2 (RP).

**§3653. Joint and several liability**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §42 (RP). PL 1981, c. 368, §6 (REEN). PL 1987, c. 383, §2 (RP).

**§3654. Damage to beehives by wild animals**

**(REPEALED)**

SECTION HISTORY

PL 1973, c. 776, §1 (NEW). PL 1977, c. 157, §15 (AMD). PL 1979, c. 672, §A43 (RP).

## CHAPTER 713

## ENFORCEMENT AND PENALTIES

## (REPEALED)

**§3701. Keeping unlicensed dog**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 513, §15 (AMD). PL 1977, c. 696, §109 (RPR). PL 1987, c. 383, §2 (RP).

**§3702. Warrants; disposal**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 193, §§6,7 (AMD). PL 1969, c. 91, §1 (AMD). PL 1971, c. 74 (AMD). PL 1973, c. 182 (AMD). PL 1973, c. 681, §2 (AMD). PL 1975, c. 391, §3 (AMD). PL 1979, c. 492, §11 (AMD). PL 1987, c. 383, §2 (RP).

**§3703. Officers to make returns**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 193, §8 (AMD). PL 1965, c. 513, §16 (AMD). PL 1967, c. 494, §7 (AMD). PL 1969, c. 91, §2 (AMD). PL 1979, c. 492, §12 (AMD). PL 1987, c. 383, §2 (RP).

**§3704. Official refusal or neglect of duty**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 513, §17 (AMD). PL 1969, c. 91, §3 (AMD). PL 1975, c. 770, §46 (AMD). PL 1977, c. 696, §110 (RPR). PL 1979, c. 127, §47 (AMD). PL 1979, c. 492, §13 (AMD). PL 1981, c. 470, §A11 (RPR). PL 1981, c. 698, §17 (AMD). PL 1985, c. 197 (AMD). PL 1987, c. 383, §2 (RP).

**§3705. Jurisdiction; fines**

**(REPEALED)**

SECTION HISTORY

PL 1965, c. 513, §18 (AMD). PL 1977, c. 630, §1 (AMD). PL 1977, c. 696, §111 (AMD). PL 1979, c. 541, §A77 (AMD). PL 1981, c. 125 (AMD). PL 1987, c. 383, §2 (RP).

## CHAPTER 715

## DAMAGE TO SHEEP

## (REPEALED)

**§3801. Purpose**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A44 (NEW). PL 1979, c. 731, §19 (AMD). PL 1981, c. 368, §7 (RP).

**§3802. Definitions**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A44 (NEW). PL 1981, c. 368, §7 (RP).

**§3803. Registration of participating sheep producers**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A44 (NEW). PL 1981, c. 368, §7 (RP).

**§3804. Filing of claims**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A44 (NEW). PL 1979, c. 731, §19 (AMD). PL 1981, c. 368, §7 (RP).

**§3805. Limits on reimbursements**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A44 (NEW). PL 1981, c. 368, §7 (RP).

**§3806. Funding**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A44 (NEW). PL 1981, c. 368, §7 (RP).

**§3807. Recovery of damage done by dogs**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A44 (NEW). PL 1981, c. 368, §7 (RP).

**§3808. Rules and regulations**

**(REPEALED)**

SECTION HISTORY

PL 1979, c. 672, §A44 (NEW). PL 1981, c. 368, §7 (RP).

## PART 9

## ANIMAL WELFARE

## CHAPTER 717

## ANIMAL WELFARE ACT

**§3901. Animal Welfare Act**

This chapter is known and may be cited as the "Animal Welfare Act." [PL 1995, c. 502, Pt. C, §5 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1995, c. 502, §C5 (AMD).

**§3902. Purposes; comprehensive program**

The primary legislative purposes of this Act are to provide for the licensing of dogs and the humane and proper treatment of animals. To ensure the humane and proper treatment of animals, the commissioner shall develop, implement and administer a comprehensive program that upholds the animal welfare laws of the State through communication, education and enforcement. [PL 2001, c. 617, §4 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 2001, c. 617, §4 (AMD).

**§3903. Membership**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1989, c. 701, §§2,6 (AMD). PL 1991, c. 267, §1 (AMD). PL 1991, c. 622, §FF2 (AMD). PL 1991, c. 779, §3 (RP). PL 1991, c. 779, §52 (AFF).

**§3903-A. Animal Welfare Board; membership**

**(REPEALED)**

SECTION HISTORY

PL 1991, c. 779, §4 (NEW). PL 1995, c. 502, §C6 (RP).

**§3904. Terms of office**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 779, §5 (AMD). PL 1995, c. 502, §C7 (RP).

**§3905. Administration**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 779, §6 (AMD). PL 1995, c. 502, §C8 (RP).

**§3906. Powers and duties of the board**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1989, c. 503, §B47 (AMD). PL 1989, c. 701, §§3,4,6 (AMD). PL 1991, c. 267, §§2,3 (AMD). PL 1991, c. 622, §§FF3-10 (AMD). PL 1991, c. 779, §7 (RP). PL 1991, c. 779, §52 (AFF).

**§3906-A. Powers and duties of board**

**(REPEALED)**

SECTION HISTORY

PL 1991, c. 779, §8 (NEW). PL 1995, c. 502, §C9 (RP).

**§3906-B. Powers and duties of commissioner**

The commissioner has the powers and duties set forth in this section. [PL 1991, c. 779, §9 (NEW).]

**1. Dog licensing laws.** The commissioner shall carry out the dog licensing laws and furnish to municipalities all license blanks, stickers and tags.
[PL 1997, c. 690, §1 (AMD).]

**2. Animal Welfare Fund.** The commissioner shall deposit all license fees received pursuant to chapters 721, 723, 725 and 735 in a separate account established by the Treasurer of State and known as the Animal Welfare Fund. The commissioner shall deposit 80% of the feed registration fees collected under section 714, subsection 1 and any revenue from the surcharge collected as specified in section 714, subsection 4 in the Animal Welfare Fund. This account does not lapse, but continues from year to year. The commissioner shall pay from the Animal Welfare Fund the expense of furnishing license blanks, stickers and tags, travel expenses and salaries for necessary personnel, payments to animal shelters and expenses incurred in the administration of this Part.
[PL 2023, c. 3, Pt. K, §1 (AMD).]

**3. Dog recorders.** The commissioner shall appoint dog recorders in unorganized territories and establish fees for services rendered.
[PL 1991, c. 779, §9 (NEW).]

**4. Training and certification of animal control officers.** The commissioner shall develop both a basic and advanced program to train animal control officers. The basic program must include training in investigation of complaints of cruelty to animals, training in response to calls concerning animals suspected of having rabies and training in enforcement of dog licensing laws and rabies immunization laws.

The advanced training must include, but is not limited to, training in animal cruelty with respect to hoarders of animals, animal cruelty with respect to domestic violence, new laws, case reviews and report writing.

The commissioner shall certify all animal control officers who complete the training programs.
[PL 2007, c. 439, §1 (AMD).]

**5. Cruelty to animals.**
[PL 1995, c. 502, Pt. C, §10 (RP).]

**6. Inspections.** The commissioner shall inspect licensed facilities as provided in chapters 723 and 735.
[PL 1997, c. 690, §3 (AMD).]

**7. Payment of fees.** The commissioner may authorize payments to providers of special services to animals when the commissioner determines those services are in the public interest.
[PL 1991, c. 779, §9 (NEW).]

**8. Copies of law.** The commissioner shall seasonably forward to the clerks of municipalities copies of this Part.
[PL 1991, c. 779, §9 (NEW).]

**9. Employees.** The commissioner, in consultation with the Animal Welfare Advisory Committee, shall employ, subject to the Civil Service Law, necessary employees to assist in enforcing this Part and in carrying out the commissioner's duties and responsibilities. The commissioner shall conduct a background check of a potential employee. The commissioner may not hire as a state humane agent a person who has been convicted of murder, a Class A or Class B offense, a violation under Title 17-A, chapter 9, 11, 12 or 13, a violation of Title 19-A, former section 4011 or Title 19-A, section 4113 or a criminal violation under Title 17, chapter 42 or a person who has been adjudicated of a civil violation for cruelty to animals under chapter 739 or who has been convicted or adjudicated in any other state, provincial or federal court of a violation similar to those specified in this subsection.
[PL 2021, c. 647, Pt. B, §2 (AMD); PL 2021, c. 647, Pt. B, §65 (AFF).]

**9-A. Humane agents.** The commissioner shall assign a humane agent to each of the following areas of specialization:

A. Blood sports; [PL 2003, c. 405, §2 (NEW).]

B. Exotic animals; [PL 2003, c. 405, §2 (NEW).]

C. Large animals; [PL 2003, c. 405, §2 (NEW).]

D. Mental health and domestic violence; [PL 2003, c. 405, §2 (NEW).]

E. Small animals; and [PL 2003, c. 405, §2 (NEW).]

F. Training. [PL 2003, c. 536, §1 (AMD).]
[PL 2003, c. 536, §1 (AMD).]

**10. Rules.** Pursuant to Title 5, chapter 375, the commissioner shall adopt, amend and repeal rules, including emergency rules, necessary for the proper administration, implementation, enforcement and interpretation of any provision of law that the commissioner is charged with administering.
[PL 1991, c. 779, §9 (NEW).]

**11. Cruelty to animals.** The commissioner, in cooperation with animal control officers, shall investigate complaints of cruelty to animals and enforce cruelty-to-animal laws in accordance with chapter 739 and Title 17, chapter 42. The Attorney General and the district attorneys shall assist the commissioner with the commissioner's enforcement responsibilities.
[PL 1995, c. 502, Pt. C, §12 (NEW).]

**12. Intermittent agents.**
[PL 2021, c. 99, §1 (RP).]

**12-A. Right to call and designate assistance.** The commissioner may employ a person considered necessary to assist in a response to a natural or human-made disaster affecting animals. A person called and employed for assistance shall proceed to help resolve the natural or human-made disaster as directed by the commissioner or the commissioner's designee.

A. A person considered necessary to assist in a response must receive compensation for services at the prevailing rate in the State, except that animal control officers, veterinarians, animal shelter staff or other groups used outside the State may receive pay at their usual rates. Equipment may be provided by individuals or groups during a response. Equipment used in a response must, upon application, be compensated for at an amount fixed by the state in which the response occurred. A person responding under this subsection may be provided with subsistence pay during the response. [PL 2021, c. 99, §2 (NEW).]

B. The commissioner or the commissioner's designee shall promptly prepare a report of the commissioner's or the designee's investigation of the response detailing the cause of the natural or human-made disaster and recommendations for future prevention and response. The commissioner or the commissioner's designee shall prepare and include in the report a detailed statement of expenses incurred immediately after the natural or human-made disaster on forms provided by the department.

All requests for reimbursement must be presented to the commissioner or the commissioner's designee within 60 days after demobilization or become void. The commissioner or the commissioner's designee may extend the time as long as a preliminary report has been made.

The commissioner or the commissioner's designee shall examine all invoices presented to the State for reimbursement or direct payment. After items not qualifying for reimbursement have been deducted, the commissioner or the commissioner's designee shall approve the remaining items for payment. [RR 2025, c. 2, Pt. A, §23 (COR).]
[RR 2025, c. 2, Pt. A, §23 (COR).]

**13. Spaying and neutering fund.**
[PL 2003, c. 682, §1 (RP).]

**14. Information.** The commissioner may obtain, develop or disseminate any information useful or convenient for carrying out any purpose or power of the commissioner.
[PL 1995, c. 502, Pt. C, §12 (NEW).]

**15. Annual report.** The commissioner shall report the activities of the commissioner annually by March 1st to the joint standing committee of the Legislature having jurisdiction over agricultural matters and the joint standing committee of the Legislature having jurisdiction over taxation matters. This report must include a summary of cases of cruelty to animals investigated by the commissioner, a summary of final dispositions of those cases and, with respect to companion animals, a report of the number of animal shelter intakes, the number of sterilizations and the number of euthanizations and an account of deposits into and payments from the Companion Animal Sterilization Fund established in section 3910-B.
[PL 2003, c. 682, §2 (AMD).]

**16. Animal welfare auxiliary fund.** The commissioner may accept gifts, donations, bequests, endowments, grants and matching funds from any private or public source for the purposes of ensuring the humane and proper treatment of animals and enhancing the administration and enforcement of this Part and Title 17, chapter 42. The commissioner shall deposit all funds accepted for these purposes and all proceeds from sales authorized under subsection 17 into a separate, nonlapsing account known as the animal welfare auxiliary fund. All gifts, donations, bequests, endowments, grants, proceeds and

matching funds received must be used for the benefit of and accomplishment of the objectives in this Part and Title 17, chapter 42 and any gift, donation, bequest, endowment, grant or matching funds accepted with a stipulated purpose may be used only for that purpose.

All money deposited in the animal welfare auxiliary fund in accordance with section 1820-A, subsection 4 must be used for investigating alleged cases of mistreatment or abuse of equines and enhancing enforcement of this Part and Title 17, chapter 42 as these laws pertain to equines and for costs associated with department laboratory services needed to control or eradicate diseases affecting equines.
[PL 2019, c. 343, Pt. T, §2 (AMD).]

**17. Fund-raising.** The commissioner may engage in the marketing and selling of general merchandise products to generate supplemental funds, which must be deposited in the animal welfare auxiliary fund established under subsection 16.
[PL 2009, c. 548, §2 (NEW).]

**18. Training of person appointed by commissioner to vaccinate animals.** The commissioner, in consultation with veterinarians employed by the State, shall develop a program to train a person appointed by the commissioner as provided under section 3920 to vaccinate animals. The program must include, but is not limited to, training relating to properly storing and administering rabies vaccines; issuing rabies certificates; and providing information to an owner or keeper of an animal to be vaccinated.

The commissioner shall certify a person who satisfactorily completes the training program.
[PL 2025, c. 141, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 779, §9 (NEW). PL 1993, c. 468, §§2,3 (AMD). PL 1995, c. 502, §§C10-12 (AMD). PL 1997, c. 690, §§1-3 (AMD). PL 2001, c. 399, §2 (AMD). PL 2001, c. 422, §3 (AMD). PL 2003, c. 405, §§1-3 (AMD). PL 2003, c. 536, §1 (AMD). PL 2003, c. 682, §§1,2 (AMD). PL 2005, c. 281, §§3,4 (AMD). PL 2007, c. 439, §1 (AMD). PL 2007, c. 439, §2 (AMD). PL 2009, c. 148, §2 (AMD). PL 2009, c. 548, §§1, 2 (AMD). PL 2019, c. 343, Pt. T, §2 (AMD). PL 2021, c. 99, §§1, 2 (AMD). PL 2021, c. 647, Pt. B, §2 (AMD). PL 2021, c. 647, Pt. B, §65 (AFF). PL 2021, c. 696, §2 (AMD). PL 2023, c. 3, Pt. K, §1 (AMD). PL 2025, c. 141, §2 (AMD). RR 2025, c. 2, Pt. A, §23 (COR).

### §3906-C. Animal Welfare Advisory Council

The Animal Welfare Advisory Council, as established by Title 5, section 12004-I, subsection 2-C and referred to in this section as the "council," shall advise the commissioner on matters pertaining to animal welfare. [PL 2001, c. 399, §3 (RPR).]

**1. Membership.** The council consists of 14 members appointed by the Governor as follows:

A. One member representing municipal interests; [PL 2001, c. 399, §3 (RPR).]

B. One animal control officer; [PL 1991, c. 779, §10 (NEW).]

C. One member representing licensed animal shelters; [PL 1991, c. 779, §10 (NEW).]

D. One member representing licensed boarding kennels; [PL 2009, c. 333, §1 (AMD).]

E. One member representing licensed pet shops or pet food suppliers; [PL 2021, c. 99, §3 (AMD).]

F. [PL 2001, c. 399, §3 (RP).]

G. One member who is or has been a veterinarian licensed to practice in the State; [PL 2001, c. 399, §3 (RPR).]

H. One member who owns a pet and represents the interests of the public in animal welfare, generally; [PL 2009, c. 333, §1 (AMD).]

I. One attorney with experience in animal welfare law or prosecutorial experience within the state court system; [PL 2021, c. 99, §4 (AMD).]

J. One cooperative extension agent or specialist; [PL 2001, c. 399, §3 (NEW).]

K. One member with expertise in equine care; [PL 2003, c. 405, §4 (AMD).]

L. One member with expertise in livestock representing a statewide farming organization; [PL 2009, c. 333, §1 (AMD).]

M. One member representing a state-based animal advocacy group; [PL 2009, c. 333, §1 (AMD).]

N. One member who holds a kennel license issued under section 3932-B; and [PL 2025, c. 414, §1 (AMD).]

O. One member representing licensed breeding kennels. [PL 2009, c. 333, §1 (NEW).]

In making the appointment of the veterinarian member, the Governor shall consider nominations made by the Maine Veterinary Medical Association. In making the appointment of the person holding a kennel license issued under section 3932-B, the Governor shall consider nominations made by state-based dog clubs.
[PL 2025, c. 414, §§1, 2 (AMD).]

**2. Staff.** The department shall provide necessary staffing services to the council.
[PL 2009, c. 343, §1 (AMD).]

**3. Compensation.** Members of the council are entitled to travel and meal expenses only.
[PL 2001, c. 399, §3 (RPR).]

**4. Terms of office.** Except for initial appointees, each member serves for a term of 3 years or until the member's successor has been appointed. A member may not serve more than 2 consecutive terms. In the case of a vacancy for any reason, the Governor shall appoint a member representing the same interest to fill the unexpired term.
[PL 2009, c. 343, §2 (AMD).]

**5. Initial terms of office.** Initially, 4 appointed members serve for one year, 4 members serve for 2 years and 3 members serve for 3 years.
[PL 2001, c. 399, §3 (RPR).]

**6. Administration; meetings.** The council shall elect one of its members as chair. The chair serves for a 2-year period and may not serve as chair for consecutive 2-year periods.

The council shall hold regular public meetings at least every other month but may waive by majority vote a succeeding meeting. The chair shall call special meetings of the council whenever requested in writing by 2 or more members. The council shall send notice and minutes of the meetings to the joint standing committee of the Legislature having jurisdiction over animal welfare matters.

The chair may delegate, as necessary, duties to members of the council, either individually or through the formation of subcommittees, to carry out the functions of the council.
[PL 2025, c. 15, §1 (AMD).]

**7. Duties.** The council shall perform the following duties:

A. Review and advise the commissioner on proposed revisions to the animal welfare laws and rules; [PL 2001, c. 399, §3 (NEW).]

B. Assist the commissioner in the continuing implementation and evaluation of the animal welfare laws and rules; [PL 2001, c. 399, §3 (NEW).]

C. Review training programs for humane agents and animal control officers and make recommendations for training appropriate to the duties of the humane agents and animal control officers; [PL 2001, c. 399, §3 (NEW).]

D. Research options for increasing revenue to the Animal Welfare Fund to ensure funding for the implementation and enforcement of the animal welfare laws and rules, periodically evaluate the adequacy of funding for those laws and rules and make recommendations to the commissioner; and [PL 2001, c. 399, §3 (NEW).]

E. Advise the commissioner on other matters related to the animal welfare laws and rules. [PL 2001, c. 399, §3 (NEW).]

[PL 2001, c. 399, §3 (NEW).]

SECTION HISTORY

PL 1991, c. 779, §10 (NEW). PL 1995, c. 502, §C13 (AMD). PL 2001, c. 399, §3 (RPR). PL 2003, c. 405, §4 (AMD). PL 2009, c. 333, §1 (AMD). PL 2009, c. 343, §§1, 2 (AMD). PL 2021, c. 99, §§3, 4 (AMD). PL 2025, c. 15, §1 (AMD). PL 2025, c. 414, §§1, 2 (AMD).

**§3907. Definitions**

As used in this Part, and in every law relating to or affecting animals, unless the context indicates otherwise, the following terms have the following meanings. [PL 1987, c. 383, §3 (NEW).]

**1. Act.** "Act" means the Animal Welfare Act.
[RR 2005, c. 2, §10 (COR).]

**1-A. Abandoned dog.**
[PL 2013, c. 115, §1 (RP).]

**1-B. Abandoned animal.** "Abandoned animal" means an animal that has been deserted by its owner or keeper, excluding animals that are part of a population control effort.
[PL 2013, c. 115, §2 (NEW).]

**2. Animal.** "Animal" means every living, sentient creature not a human being.
[PL 1987, c. 383, §3 (NEW).]

**3. Animal control.** "Animal control" means control of dogs, cats, and domesticated or undomesticated animals in accordance with section 3948.
[PL 1993, c. 468, §4 (AMD).]

**4. Animal control officer.** "Animal control officer" means the person appointed periodically by a municipality pursuant to chapter 725.
[PL 1995, c. 490, §1 (AMD).]

**5. Animal control shelter.**
[PL 1993, c. 657, §2 (RP).]

**5-A. Animal shelter.** "Animal shelter" means a:

A. Facility that houses domesticated animals and operates for the purpose of providing stray, abandoned, abused or owner-surrendered animals with sanctuary or finding the animals temporary or permanent adoptive homes; or [PL 2015, c. 223, §1 (NEW).]

B. Rescue group. [PL 2015, c. 223, §1 (NEW).]

[PL 2015, c. 223, §1 (RPR).]

**6. At large.** "At large" means off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the animal.
[PL 1987, c. 383, §3 (NEW).]

**7. Board.**

[PL 2005, c. 510, §2 (RP).]

**8. Boarding kennel.** "Boarding kennel" means any place, building, tract of land or abode in or on which 3 or more privately owned companion animals are kept at any one time for their owners in return for a fee or compensation and includes a facility where 3 or more companion animals are kept for training purposes for compensation.
[PL 2009, c. 343, §3 (AMD).]

**8-A. Breeding kennel.** "Breeding kennel" means a location where 5 or more adult female dogs or cats capable of breeding are kept and some or all of the offspring are offered for sale, sold or exchanged for value or a location where more than 16 dogs or cats raised on the premises are sold to the public in a 12-month period. "Breeding kennel" does not include a kennel licensed under section 3932-B when the dogs are kept primarily for hunting, show, training, sledding, competition, field trials or exhibition purposes and not more than 16 dogs are offered for sale, sold or exchanged for value within a 12-month period.
[PL 2025, c. 414, §3 (AMD).]

**8-B. Bodily injury.** "Bodily injury" has the same meaning as in Title 17-A, section 2, subsection 5.
[PL 2017, c. 404, §1 (NEW).]

**9. Business day.** "Business day" means any day of the calendar year other than a Saturday, Sunday or legal holiday.
[PL 1987, c. 383, §3 (NEW).]

**9-A. Cat identification.** "Cat identification" means:

A. A registered microchip used in conjunction with a visible collar and tag, with a faceted, reflective ear stud or a tipped or notched ear; [PL 2001, c. 363, §1 (NEW).]

B. A collar or collar and tag worn by the cat that provides the current name, address and telephone number of the owner; or [PL 2001, c. 363, §1 (NEW).]

C. A collar and tag providing the name and address of the animal shelter that issued the tag. [PL 2001, c. 363, §1 (NEW).]
[PL 2001, c. 363, §1 (NEW).]

**9-B. Cat.** "Cat" means a member of the genus and species known as Felis catus.
[PL 2023, c. 484, §1 (NEW).]

**9-C. Certified rabies vaccinator.** "Certified rabies vaccinator" means a person appointed and certified to administer rabies vaccine to animals pursuant to section 3920.
[PL 2025, c. 141, §3 (NEW).]

**10. Clerk; municipal clerk.** "Clerk" or "municipal clerk" means the clerk of a municipality, the deputy clerk or assistant clerk, where directed by the clerk, carrying out the duties of this Part.
[PL 1987, c. 383, §3 (NEW).]

**11. Commissioner.** "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry or the commissioner's duly authorized agent.
[RR 2021, c. 1, Pt. B, §146 (COR).]

**11-A. Companion animal.** "Companion animal" means a cat or dog.
[PL 2003, c. 682, §3 (NEW).]

**11-B. Council.** "Council" means the Animal Welfare Advisory Council as established by Title 5, section 12004-I, subsection 2-C or its duly authorized agent.
[PL 2005, c. 510, §4 (NEW).]

**12. Constable.** "Constable" means a law enforcement officer appointed by municipal officers pursuant to law.
[PL 1987, c. 383, §3 (NEW).]

**12-A. Equine facility.**
[PL 1999, c. 498, §1 (RP).]

**12-B. Foster home.**
[PL 2005, c. 510, §5 (RP).]

**12-C. Dog.** "Dog" means a member of the genus and species known as canis familiaris, except that in chapters 720, 721, 725, 727, 729 and 739 "dog" means a member of the genus and species known as canis familiaris or any canine, regardless of generation, resulting from the interbreeding of a member of canis familiaris with a wolf hybrid.
[PL 2011, c. 100, §2 (AMD).]

**12-D. Dangerous dog.** "Dangerous dog" means a dog or wolf hybrid that causes the death of or inflicts serious bodily injury on an individual or a domesticated animal who is not trespassing on the dog or wolf hybrid owner's or keeper's premises at the time of the injury or death; a dog or wolf hybrid that causes a reasonable and prudent person who is not on the dog or wolf hybrid owner's or keeper's premises and is acting in a reasonable and nonaggressive manner to fear imminent serious bodily injury by assaulting or threatening to assault that individual or individual's domesticated animal; or a dog or wolf hybrid that inflicts bodily injury on an individual or a domesticated animal who is not trespassing on the dog or wolf hybrid owner's or keeper's premises at the time of the injury and has previously been determined by a court of competent jurisdiction to be a nuisance dog.

"Dangerous dog" does not include:

A. A dog certified by the State and used for law enforcement use; [PL 2017, c. 404, §2 (NEW).]

B. A dog or wolf hybrid that injures or threatens to assault an individual who is on the dog or wolf hybrid owner's or keeper's premises if the dog or wolf hybrid has no prior history of assault and was provoked by the individual immediately prior to the injury or threatened assault; or [PL 2017, c. 404, §2 (NEW).]

C. A dog or wolf hybrid that inflicts serious bodily injury on or causes the death of an individual who is committing a crime against an individual or property owned by the dog or wolf hybrid owner or keeper. [PL 2017, c. 404, §2 (NEW).]

For the purposes of this definition, "dog or wolf hybrid owner's or keeper's premises" means the residence or residences, including buildings and land and motor vehicles, belonging to the owner or keeper of the dog or wolf hybrid.
[PL 2017, c. 404, §2 (RPR).]

**12-E. Feral cat.** "Feral cat" means a cat without owner identification of any kind that consistently exhibits extreme fear in the presence of people.
[PL 2007, c. 439, §3 (NEW).]

**12-F. Dog licensing agent.** "Dog licensing agent" means a veterinarian office or animal shelter that licenses dogs for a municipality.
[PL 2013, c. 115, §3 (NEW).]

**13. Service dog kept for breeding purposes.** "Service dog kept for breeding purposes" means a male or female dog owned by a nonprofit organization for the purpose of producing puppies to be trained as service dogs and living with a resident of the State.
[PL 2007, c. 664, §8 (AMD).]

**14. Service dog kept prior to training.** "Service dog kept prior to training" means a dog under 18 months of age, owned by a nonprofit organization for the purpose of training as a service dog and living temporarily with a resident of the State prior to training.
[PL 2007, c. 664, §9 (AMD).]

**15. Humane agent.** "Humane agent" means an employee of the department who assists in enforcing this Part.
[PL 2001, c. 422, §4 (AMD).]

**15-A. Humane society.**
[PL 1993, c. 657, §4 (RP).]

**15-B. Humanely clean conditions.** "Humanely clean conditions" means that both indoor areas and outdoor enclosures are cleaned on a periodic basis to remove excretions and other waste materials, dirt and trash with sufficient frequency to minimize health hazards and to provide adequately clean living conditions for the species of animal.
[PL 2007, c. 702, §5 (NEW).]

**15-C. Humanely trap.** "Humanely trap" means to trap an animal using traps and trapping methods that are designed to avoid injury to animals to the greatest extent practicable for animal control or animal rescue purposes.
[PL 2013, c. 115, §4 (NEW).]

**16. Keeper.** "Keeper" means a person in possession or control of a dog or other animal. A person becomes the keeper of a stray domesticated animal, other than a dog or livestock, if the person feeds that animal for at least 10 consecutive days.
[PL 1995, c. 490, §4 (AMD).]

**17. Kennel.** "Kennel" means 5 or more dogs kept in a single location under one ownership for breeding, hunting, show, training, field trials, sledding, competition or exhibition purposes. The sale or exchange of one litter of puppies within a 12-month period alone does not constitute the operation of a kennel.
[PL 2011, c. 100, §4 (AMD).]

**18. Law enforcement officer.** "Law enforcement officer" means any person who, by virtue of the person's public employment, is vested by law with a duty to maintain public order, enforce any law of this State establishing a civil violation, prosecute offenders or make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes.
[RR 2021, c. 1, Pt. B, §147 (COR).]

**18-A. Livestock.** "Livestock" means cattle; equines; sheep; goats; swine; domesticated cervids, fowl and rabbits; members of the family Camelidae, genus lama and genus vicugna; bison; and ratites.
[PL 2007, c. 439, §4 (AMD).]

**19. Municipality.** "Municipality" means an organized city, town or plantation.
[PL 1993, c. 657, §5 (AMD).]

**20. Mutilate.** "Mutilate" means to injure or disfigure by irreparably damaging body parts. "Mutilate" does not include conduct performed by a licensed veterinarian or conduct that conforms to accepted veterinary practices.
[PL 1997, c. 456, §2 (AMD).]

**20-A. Nuisance dog.** "Nuisance dog" means a dog or wolf hybrid that causes bodily injury, other than serious bodily injury, to an individual or a domesticated animal who is not trespassing on the dog or wolf hybrid owner's or keeper's premises at the time of the injury; a dog or wolf hybrid that causes a reasonable and prudent person who is not on the dog or wolf hybrid owner's or keeper's premises and is acting in a reasonable and nonaggressive manner to fear bodily injury, other than serious bodily

injury, by assaulting or threatening to assault that individual or individual's domesticated animal; or a dog or wolf hybrid that causes damage to property or crops not owned by the dog or wolf hybrid owner or keeper while the dog or wolf hybrid is not on the owner's or keeper's premises.

"Nuisance dog" does not include:

A. A dog certified by the State and used for law enforcement use; [PL 2017, c. 404, §3 (NEW).]

B. A dog or wolf hybrid that injures or threatens to assault an individual who is on the dog or wolf hybrid owner's or keeper's premises if the dog or wolf hybrid has no prior history of assault and was provoked by the individual immediately prior to the injury or threatened assault; or [PL 2017, c. 404, §3 (NEW).]

C. A dog or wolf hybrid that inflicts bodily injury on an individual who is committing a crime against an individual or property owned by the dog or wolf hybrid owner or keeper. [PL 2017, c. 404, §3 (NEW).]

For the purposes of this definition, "dog or wolf hybrid owner's or keeper's premises" means the residence or residences, including buildings and land and motor vehicles, belonging to the owner or keeper of the dog or wolf hybrid.
[PL 2017, c. 404, §3 (NEW).]

**21. Owner.** "Owner" means a person owning, keeping or harboring a dog or other animal.
[PL 1993, c. 657, §6 (AMD).]

**22. Person.** "Person" means an individual, corporation, partnership, association or any other legal entity.
[PL 1987, c. 383, §3 (NEW).]

**22-A. Pet animal.**
[PL 1997, c. 690, §6 (RP).]

**22-B. Pet.** "Pet" means a dog, cat or other domesticated animal commonly kept as a companion, but does not include tamed animals that are ordinarily considered wild animals or livestock.
[PL 1997, c. 690, §7 (AMD).]

**22-C. Pet food supplier.** "Pet food supplier" means any retail location located in the State that sells feeding supplies for pets or livestock.
[PL 2021, c. 99, §5 (NEW).]

**23. Pet shop.** "Pet shop" means a place or vehicle in or on which any dogs, cats, rodents, reptiles, fish, pet birds, exotic birds or exotic animals not born and raised on those premises are kept for the purpose of sale to the public.
[PL 1993, c. 657, §8 (AMD).]

**23-A. Rescue group.** "Rescue group" means an organization or individual that receives domesticated animals that have been abandoned, surrendered or removed from an animal facility or that takes in homeless dogs or cats and sells, gives or otherwise places the animals in private homes.
[PL 2015, c. 223, §2 (AMD).]

**23-B. Population control effort.** "Population control effort" means the activities, programs and projects aimed at reducing the number of cats and dogs without homes, including, but not limited to, the trapping, neutering and vaccinating of feral cats, the trapping of cats for impoundment at an animal shelter and spaying or neutering services for abandoned animals and stray dogs and cats.
[PL 2013, c. 115, §5 (NEW).]

**24. Respective municipality.** "Respective municipality" means, in the case of towns, plantations and cities, the municipality where the dog or ferret is found; in the case of unorganized territories, the

municipality near or adjacent to the unorganized territory where the dog or ferret is found; or the designee of that municipality.
[PL 1993, c. 657, §9 (AMD).]

**24-A. Service dog.** "Service dog" means a dog that meets the definition of "service animal" set forth in Title 5, section 4553, subsection 9-E or "assistance animal" set forth in Title 5, section 4553, subsection 1-H.
[PL 2015, c. 457, §5 (AMD).]

**24-B. Serious bodily injury.** "Serious bodily injury" has the same meaning as in Title 17-A, section 2, subsection 23.
[PL 2017, c. 404, §4 (NEW).]

**25. Shelter.**
[PL 1993, c. 657, §10 (RP).]

**25-A. Stray.** "Stray" means off the owner's premises and not under the control of a person.
[PL 1993, c. 657, §11 (NEW).]

**25-B. Small animal.** "Small animal" means a bird, reptile or amphibian or a small mammal, other than a cat or dog, commonly kept as a household pet and that is an unrestricted species designated by the Commissioner of Inland Fisheries and Wildlife in rules adopted pursuant to Title 12, chapter 915.
[PL 2013, c. 115, §6 (NEW).]

**26. Torment, torture and cruelty.** "Torment, torture and cruelty" means every act, omission or neglect, whether by the owner or any other person, where unjustifiable physical pain, suffering or death is caused or permitted.
[PL 1987, c. 383, §3 (NEW).]

**26-A. Unorganized territory.** "Unorganized territory" means all areas located within the jurisdiction of the State, except areas located within organized cities and towns, and Indian reservations. "Unorganized territory" does not include plantations.
[PL 1995, c. 490, §5 (NEW).]

**27. Vertebrate.** "Vertebrate" means a subphylum of chordate animals comprising those having a brain enclosed in a skull or cranium and a segmented spinal column, including mammals, birds, reptiles, amphibians and fish.
[PL 1987, c. 383, §3 (NEW).]

**28. Warrant.**
[PL 2015, c. 223, §3 (RP).]

**29. Well cared for.** "Well cared for" means that the animal is receiving necessary sustenance, necessary medical attention, proper shelter, protection from the weather and humanely clean conditions and that the animal has not been nor is being injured, overworked, tormented, tortured, abandoned, poisoned, beaten, mutilated or exposed to a poison with the intent that it be taken by the animal.
[PL 1987, c. 383, §3 (NEW).]

**30. Wolf hybrid.** "Wolf hybrid" means a mammal that is the offspring of the reproduction between a species of wild canid or wild canid hybrid and a domestic dog or wild canid hybrid. "Wolf hybrid" includes a mammal that is represented by its owner to be a wolf hybrid, coyote hybrid, coydog or any other kind of wild canid hybrid.
[PL 1999, c. 127, Pt. A, §16 (RPR).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 622, §FF11 (AMD). PL 1991, c. 779, §§11-15 (AMD). PL 1991, c. 779, §52 (AFF). PL 1993, c. 468, §§4,5 (AMD). PL 1993, c. 657, §§1-11 (AMD). PL 1995, c. 351, §1 (AMD). PL 1995, c. 409, §§1,2 (AMD). PL 1995, c. 490, §§1-5 (AMD). PL

1997, c. 33, §1 (AMD). PL 1997, c. 456, §§1,2 (AMD). PL 1997, c. 690, §§4-8 (AMD). PL 1997, c. 704, §1 (AMD). PL 1999, c. 127, §A16 (AMD). PL 1999, c. 350, §1 (AMD). PL 1999, c. 498, §1 (AMD). PL 2001, c. 363, §1 (AMD). PL 2001, c. 399, §4 (AMD). PL 2001, c. 422, §4 (AMD). PL 2003, c. 334, §2 (AMD). PL 2003, c. 536, §2 (AMD). PL 2003, c. 682, §3 (AMD). RR 2005, c. 2, §10 (COR). PL 2005, c. 510, §§1-5 (AMD). PL 2007, c. 439, §§3-5 (AMD). PL 2007, c. 664, §§8-10 (AMD). PL 2007, c. 702, §§3-6 (AMD). PL 2009, c. 343, §§3, 4 (AMD). PL 2009, c. 403, §1 (AMD). PL 2011, c. 100, §§1-4 (AMD). PL 2011, c. 369, §3 (AMD). PL 2011, c. 657, Pt. W, §6 (REV). PL 2013, c. 115, §§1-6 (AMD). PL 2015, c. 223, §§1-3 (AMD). PL 2015, c. 457, §5 (AMD). PL 2017, c. 404, §§1-4 (AMD). PL 2021, c. 99, §5 (AMD). RR 2021, c. 1, Pt. B, §§146, 147 (COR). PL 2023, c. 484, §1 (AMD). PL 2025, c. 141, §3 (AMD). PL 2025, c. 414, §3 (AMD).

**§3908. Governmental function**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1997, c. 690, §9 (RP).

**§3909. Enforcement**

**1. Attorney General and District Attorneys.** Whenever a person has engaged in or is about to engage in an act or practice that constitutes a violation of this Part, a rule adopted pursuant to this Part or a condition of an order, license or permit approved or decision issued by the commissioner pursuant to this Part, or that constitutes a violation of Title 17, chapter 42, the Attorney General or a District Attorney, at the request of the commissioner, may institute proceedings before the District Court or Superior Court for an order enjoining those acts or practices, an order directing compliance or imposing a civil or criminal penalty, or any combination of these actions, as provided by law. Upon a showing by the commissioner that the person has engaged or is about to engage in such an act or practice, the court may grant a permanent or temporary injunction, restraining order or other order as appropriate.
[PL 2005, c. 422, §1 (AMD).]

**2. Designated employees of the department.** For purposes of prosecution under this section, the commissioner may authorize humane agents and a state veterinarian who have been certified in accordance with subsection 3-A to issue and serve civil violation processes against offenders pursuant to the Maine Rules of Civil Procedure, Rule 80H and any other applicable rules of court for violations of this Part. The commissioner may authorize certified humane agents or a certified state veterinarian to represent the department in District Court in the prosecution of civil violations of these laws. A certified humane agent or a certified state veterinarian may seek civil penalties as provided by law as well as a permanent or temporary injunction, restraining order or other equitable relief as the court finds appropriate.
[PL 2009, c. 652, Pt. A, §6 (RPR).]

**2-A. Animal welfare citation form.** The commissioner shall designate the Uniform Summons and Complaint as the citation form to be used by the department.

A. The Department of Public Safety is responsible for all Uniform Summons and Complaint forms issued to the department. The commissioner or the commissioner's designee is responsible for the further issuance of Uniform Summons and Complaint books to humane agents and a state veterinarian certified under subsection 3-A and for the proper disposition of those books. [PL 2009, c. 343, §6 (NEW).]

B. It is unlawful and official misconduct for any humane agent or other public employee to dispose of an official citation form or Uniform Summons and Complaint, except in accordance with law and as provided for in an applicable official policy or procedure of the department. [PL 2009, c. 343, §6 (NEW).]

C. A Uniform Summons and Complaint may be filed in a court having jurisdiction and constitutes a lawful complaint to commence any criminal prosecution or civil violation proceeding if the Uniform Summons and Complaint is duly sworn to as required by law and is otherwise legally sufficient. [PL 2009, c. 343, §6 (NEW).]

D. A Uniform Summons and Complaint, when served upon a person by a humane agent, functions as a summons to appear in court. A person who fails to appear in court after having been served with a summons commits a Class E crime. Upon that person's failure to appear, the court may issue a warrant of arrest. It is an affirmative defense to prosecution under this paragraph that the failure to appear resulted from just cause. [PL 2009, c. 343, §6 (NEW).]

[PL 2009, c. 343, §6 (NEW).]

**3. Education requirement; management.**

[PL 2003, c. 405, §5 (RP).]

**3-A. Humane agents; training requirements.** Continuing employment of a humane agent hired after October 1, 2003 is contingent upon the successful completion by that agent of a 100-hour service training program at the Maine Criminal Justice Academy or a nationally recognized training program on investigation and enforcement of animal welfare laws and the successful completion of an examination on state animal welfare laws and rules adopted pursuant to this Part. To issue and serve civil violation processes or represent the department in District Court under subsection 2, a humane agent or a state veterinarian must have completed a program at the Maine Criminal Justice Academy that certifies familiarity with court procedures.

A humane agent, regardless of appointment date, shall complete training in the handling of small and large animals and a minimum of 40 hours of training each year, including a combination of classroom and hands-on training.

[PL 2009, c. 343, §7 (AMD).]

**4. Subpoenas.** The commissioner or the commissioner's designee after consultation with the appropriate attorney for the State or the legal counsel for the department may:

A. Serve subpoenas requiring persons to disclose or provide to the department information or records in their possession that are necessary and relevant to an investigation under the animal welfare laws.

(1) The department may apply to the District Court to enforce a subpoena.

(2) A person who complies with a subpoena is immune from civil or criminal liability that might otherwise result from the act of turning over or providing information or records to the department. [PL 2001, c. 422, §5 (NEW).]

[PL 2001, c. 422, §5 (NEW).]

**5. Enforcement provision; animal control officers.** The certification of an animal control officer under section 3906-B may be suspended or revoked by the commissioner in accordance with Title 5, chapter 375.

[PL 2009, c. 343, §8 (NEW).]

**6. Confidential information.** The names of and other identifying information about persons providing information pertaining to criminal or civil cruelty to animals to the department are confidential information and may not be released.

[PL 2013, c. 267, Pt. C, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 779, §16 (AMD). PL 1995, c. 490, §6 (AMD). PL 1997, c. 456, §3 (RPR). PL 1997, c. 683, §B1 (AMD). PL 1999, c. 254, §2 (AMD). PL 2001, c. 422, §5 (AMD). PL 2003, c. 405, §§5,6 (AMD). PL 2003, c. 536, §3 (AMD). PL 2005, c. 422, §1

(AMD). PL 2009, c. 213, Pt. M, §2 (AMD). PL 2009, c. 343, §§5-8 (AMD). PL 2009, c. 652, Pt. A, §6 (AMD). PL 2013, c. 267, Pt. C, §1 (AMD).

**§3910. Jurisdiction**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 2001, c. 617, §5 (RP).

**§3910-A. Forfeitures and surcharge**

**1. Forfeitures.** Unless otherwise provided, any court in this State shall collect fines or forfeitures imposed for violations of this Part and pay the fine or forfeiture into the treasury of the municipality where the offense or violation was committed. The municipal clerk shall deposit and expend fines and forfeitures received in accordance with section 3945.
[PL 2001, c. 617, §6 (NEW).]

**2. Surcharge imposed.** A surcharge of $10 must be added to every fine, forfeiture or penalty imposed by any court in this State for a violation of this Part. The surcharge, for the purposes of collection and collection procedures, is considered a part of the fine, forfeiture or penalty. All funds collected as a result of this surcharge must be deposited monthly in the Animal Welfare Fund established under section 3906-B, subsection 2.
[PL 2001, c. 710, §5 (AMD); PL 2001, c. 710, §6 (AFF).]

SECTION HISTORY

PL 2001, c. 617, §6 (NEW). PL 2001, c. 710, §5 (AMD). PL 2001, c. 710, §6 (AFF).

**§3910-B. Companion Animal Sterilization Fund**

**1. Establishment.** There is established the Companion Animal Sterilization Fund, an interest-bearing account and nonlapsing fund in the department, referred to in this section as "the fund." The fund receives money deposited by the Treasurer of State pursuant to Title 36, section 5284-A, revenues generated in accordance with this section, all revenue from the surcharges collected under section 3933, subsection 4, revenue received from surcharges in accordance with section 714, subsection 4 and any money contributed voluntarily to the fund. All money deposited in the fund and the earnings on that money remain in the fund to be used for the program established under section 3910-C and for the necessary direct administrative and personnel costs of the department and the administrator as provided under subsection 1-A associated with implementing and overseeing that program, and may not be deposited in the General Fund or any other fund except as specifically provided by law. The fund may not be charged for indirect costs under a departmental indirect cost allocation plan. As used in this section, "administrator," "overpopulation," "program," "sterilization" and "veterinary provider" have the same meanings as in section 3910-C, subsection 1.
[PL 2023, c. 484, §2 (AMD).]

**1-A. Administration of the fund.** The administrator administers the fund in accordance with subsection 5 and procedures and eligibility standards established under section 3910-C. The administrator may not expend more than 15% of the fund annually for administrative costs.
[PL 2023, c. 484, §2 (AMD).]

**2. Subsidies; development of standards.**
[PL 2023, c. 484, §2 (RP).]

**3. Fund-raising.** The commissioner or the commissioner's authorized agent may provide for the creation, reproduction, sale, licensing and distribution and other disposal of any art or other products for the purpose of generating revenues for the fund. All money generated from the sale of these items must be deposited into the fund.

[PL 2003, c. 682, §4 (NEW).]

**4. Oversight.**
[PL 2021, c. 523, §4 (RP).]

**5. Distribution of funds.** Money in the fund must be distributed for the purposes of the program in accordance with this subsection.

A. The administrator shall determine if there is an overpopulation of cats or dogs and apportion available funds between sterilization for cats and dogs according to the need to control overpopulation of cats or dogs. [PL 2023, c. 484, §2 (NEW).]

B. If one species under paragraph A is overpopulated, but not the other, then no more than 10% of the fund annually may be expended for sterilization for the species that is not overpopulated. [PL 2023, c. 484, §2 (NEW).]

C. If there is no overpopulation of either species under paragraph A, funds must be expended according to requests for assistance with sterilization costs from eligible program applicants and participating veterinary providers with priority given to geographic areas with the greatest need for program services. [PL 2023, c. 484, §2 (NEW).]

[PL 2023, c. 484, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 682, §4 (NEW). PL 2005, c. 281, §5 (AMD). PL 2005, c. 510, §6 (AMD). PL 2007, c. 539, Pt. CCCC, §§1-3 (AMD). PL 2009, c. 148, §3 (AMD). PL 2021, c. 523, §§1-4 (AMD). PL 2023, c. 484, §2 (AMD).

**§3910-C. Companion Animal Sterilization Program**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Administrator" means the entity that administers the program as provided in subsection 7. [PL 2023, c. 484, §3 (NEW).]

B. "Fund" means the Companion Animal Sterilization Fund under section 3910-B. [PL 2023, c. 484, §3 (NEW).]

C. "Neuter" means to castrate a male animal by removing the animal's testicles or to sterilize a male animal by a nonsurgical method approved by the federal Food and Drug Administration. [PL 2023, c. 484, §3 (NEW).]

D. "Overpopulation" means a surplus of cats or dogs when compared to demand for ownership by humans as determined by the commissioner by rule. [PL 2023, c. 484, §3 (NEW).]

E. "Program" means the Companion Animal Sterilization Program established under subsection 2. [PL 2023, c. 484, §3 (NEW).]

F. "Spay" means to sterilize a female animal by removing the animal's ovaries or to sterilize a female animal by a nonsurgical method approved by the federal Food and Drug Administration. [PL 2023, c. 484, §3 (NEW).]

G. "Spay or neuter event" means an event scheduled by a veterinary provider, including, but not limited to, a mobile clinic, a pop-up clinic or a clinic in a fixed location, during which 10 or more sterilizations are provided per day for program participants. [PL 2023, c. 484, §3 (NEW).]

H. "Sterilization" means the spaying or neutering of a companion animal, a stray animal or a feral cat. [PL 2023, c. 484, §3 (NEW).]

I. "Veterinary provider" means a person licensed to practice veterinary medicine under Title 32, section 4861 or an animal welfare organization that has at least one licensed veterinarian on staff

and regularly provides companion animal sterilization services to the public. [PL 2023, c. 484, §3 (NEW).]

[PL 2023, c. 484, §3 (NEW).]

**2. Establishment.** The Companion Animal Sterilization Program is established within the department to provide sterilization services in order to reduce:

A. Stray and unwanted cats and dogs; [PL 2023, c. 484, §3 (NEW).]

B. Cat and dog euthanasia rates; [PL 2023, c. 484, §3 (NEW).]

C. Dog bites; [PL 2023, c. 484, §3 (NEW).]

D. Feral cats; [PL 2023, c. 484, §3 (NEW).]

E. Threats to public health and safety from rabies and other zoonotic diseases; [PL 2023, c. 484, §3 (NEW).]

F. Costs associated with community and state animal control; and [PL 2023, c. 484, §3 (NEW).]

G. Areas lacking access to veterinary care. [PL 2023, c. 484, §3 (NEW).]

[PL 2023, c. 484, §3 (NEW).]

**3. Eligibility.** A person is eligible to have a companion animal, a stray animal or a feral cat sterilized under the program if the person is:

A. At least 18 years of age and not declared as a dependent by another person for tax purposes; [PL 2023, c. 484, §3 (NEW).]

B. A resident of the State; [PL 2023, c. 484, §3 (NEW).]

C. The owner of the companion animal or the keeper of the stray animal or feral cat to be sterilized; and [PL 2023, c. 484, §3 (NEW).]

D. One of the following:

(1) The owner of the companion animal or the keeper of the stray animal to be sterilized and has a household income less than 133% of the federal poverty level, except that, if money is available in the fund, the department may by rule increase the household income limit for the purposes of eligibility up to 150% of the federal poverty level;

(2) The owner of the companion animal or the keeper of the stray animal to be sterilized participates in an income-based governmental public assistance program as determined by the department by rule; or

(3) The keeper of a feral cat, regardless of income. [PL 2023, c. 484, §3 (NEW).]

A person determined eligible under this subsection may be issued a voucher for sterilization services under this subsection.

[PL 2023, c. 484, §3 (NEW).]

**4. Copayment.** A person who meets the eligibility requirements under subsection 3 and who receives services under the program shall submit to the administrator or the veterinary provider, whichever is applicable, a copayment determined by the department unless the animal that is spayed or neutered is a feral cat. The department shall determine the copayment on an annual basis. The administrator may waive the copayment if the administrator determines that the copayment creates a financial hardship for the person.

[PL 2023, c. 484, §3 (NEW).]

**5. Veterinary provider participation and payment.** On an annual basis, a veterinary provider that wishes to receive payments for sterilization services under the program shall sign an agreement with the department on a form provided by the department. Under the agreement, the veterinary

provider agrees to fees that may be charged for sterilization services, as established by the department, and all other program conditions and elects the manner of payment under the program in accordance with this subsection. The agreement must specify that the program only provides payments for the specific services covered under the program pursuant to subsection 6.

A veterinary provider may elect one of the following ways in which to receive payments under the program.

A. A veterinary provider may elect to receive prepayments for sterilizations in accordance with this paragraph by filing an application with the administrator requesting funding for sterilizations that the provider commits to perform in the 6-month period following the application's approval. The administrator shall provide prepayments to the veterinary provider in a single installment or in multiple installments. If the administrator provides multiple installments, any installment after the first installment must be conditioned upon the veterinary provider's provision of at least 75% of the sterilizations prepaid by the first installment and the availability of funding. A veterinary provider shall collect the copayments established under subsection 4 and provide an accounting to the administrator. The administrator may supply to the veterinary provider vouchers that allow the provider to verify in-clinic eligibility of clients. [PL 2023, c. 484, §3 (NEW).]

B. A veterinary provider may elect to receive reimbursements for individual sterilizations by submitting an invoice to the administrator for the sterilization performed for a person issued a voucher by the administrator. The veterinary provider shall submit the invoice with the associated voucher after performing the sterilization. [PL 2023, c. 484, §3 (NEW).]

[PL 2023, c. 484, §3 (NEW).]

**6. Voucher reimbursement rate.** The department shall establish by rule voucher reimbursement rates under the program in consultation with a statewide association of veterinarians. The reimbursement rates must cover the cost of the presterilization examination, the sterilization and a rabies vaccination. The reimbursement rate may cover additional procedures approved by the department, including feline viral rhinotracheitis, feline calicivirus and feline panleukopenia vaccinations; distemper, hepatitis, parainfluenza and parvovirus vaccinations; and flea and tick treatment and may cover pain management and a device that prevents the cat or dog from reaching the surgical site. The owner of a companion animal or keeper of a stray animal or feral cat is responsible for the payment of any additional procedures administered by the veterinary provider that are not covered by the program.

[PL 2023, c. 484, §3 (NEW).]

**7. Program administration.** The department through a competitive selection process shall contract with a suitable animal welfare organization to administer the program. The administrator must have adequate resources and staff, or plans for adding sufficient staff, to administer the program, as determined by rule by the department. Other than the payment of administrative costs under section 3910-B, subsection 1-A, the administrator may not have any direct or indirect pecuniary interest in or receive or be eligible to receive, directly or indirectly, any benefit that may arise from a contract with the State under this section. In the event that the department is unable to contract with a suitable animal welfare organization, the department is the administrator. The administrator shall:

A. Issue a unique identifying code to a person who is determined to be eligible under subsection 3. The code must indicate the type of animal that is eligible for sterilization under the program; [PL 2023, c. 484, §3 (NEW).]

B. Issue a group of vouchers to a veterinary provider to be used at a spay or neuter event for persons determined eligible in accordance with subsection 3. Vouchers under this paragraph are valid for no more than 120 days from the date of issuance unless extended by the administrator; [PL 2023, c. 484, §3 (NEW).]

C. Maintain a phone line and a voice mail system and ensure that calls and messages are returned within 10 business days; [PL 2023, c. 484, §3 (NEW).]

D. Procure veterinary provider participation agreements under subsection 5 and maintain relationships with veterinary providers; [PL 2023, c. 484, §3 (NEW).]

E. Maintain a list of participating veterinary providers; [PL 2023, c. 484, §3 (NEW).]

F. Except as provided under subsection 5, paragraph A, verify individual owner or keeper eligibility for the program; [PL 2023, c. 484, §3 (NEW).]

G. Establish a process for spay or neuter events that ensures that participating veterinary providers are verifying owner or keeper eligibility for the program; [PL 2023, c. 484, §3 (NEW).]

H. Dispense payment to veterinary providers in a timely manner once an application for payment is approved or an invoice for services is received and verified; [PL 2023, c. 484, §3 (NEW).]

I. Collect and review progress reports from veterinary providers, including, but not limited to, specific vouchers redeemed, fund expenditures, money remaining in the fund, changes needed for additional funding installments pursuant to subsection 5, paragraph A and accounting for copayments under subsection 4 paid directly to veterinary providers; and [PL 2023, c. 484, §3 (NEW).]

J. Report quarterly to the commissioner on program progress including reconciliation of all funding, vouchers issued and redeemed, participating veterinary providers' progress, number of funding applications, number and type of sterilizations performed, geographic distribution of owners and keepers participating in the program, funds dispersed and fund balance. [PL 2023, c. 484, §3 (NEW).]

[PL 2023, c. 484, §3 (NEW).]

**8. Rules.** The department shall adopt rules necessary to implement this section. Notwithstanding Title 5, section 8071, subsection 2, rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2023, c. 484, §3 (NEW).]

SECTION HISTORY

PL 2023, c. 484, §3 (NEW).

## CHAPTER 719

## UNCONTROLLED DOGS

### §3911. Dogs at large

It is unlawful for any dog, licensed or unlicensed, to be at large, except when used for hunting. The owner or keeper of any dog found at large is subject to the penalties provided in this chapter. [PL 1999, c. 254, §3 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1987, c. 643, §1 (AMD). PL 1999, c. 254, §3 (AMD).

### §3911-A. Abandonment of wolf hybrid

A person who abandons a wolf hybrid licensed under section 3922 commits a civil violation for which a fine not to exceed $1,000 may be adjudged. A person who abandons a wolf hybrid not licensed under section 3922 commits a civil violation for which a fine of $1,000 must be adjudged. For the purposes of this section "abandon" means to desert. For enforcement purposes a wolf hybrid is

abandoned if the animal is found a distance of more than 5 miles from the premises of the owner and is not under the control of any person. [PL 2015, c. 301, §1 (AMD).]

SECTION HISTORY

PL 2001, c. 129, §1 (NEW). PL 2011, c. 100, §5 (AMD). PL 2015, c. 301, §1 (AMD).

**§3911-B. Disposition of wolf hybrid at large**

The owner or keeper of a wolf hybrid found at large commits a civil violation. An animal control officer or person acting in that capacity shall seize, impound or restrain a wolf hybrid found at large and proceed under this section. [PL 2011, c. 100, §6 (NEW).]

**1. Owner of wolf hybrid located.** If a wolf hybrid at large is licensed under section 3922, subsection 3-B or its owner can otherwise be identified and located, an animal control officer or person acting in that capacity shall take the wolf hybrid to its owner and issue citations for violations of this Part.
[PL 2011, c. 100, §6 (NEW).]

**2. Unable to locate owner.** If an animal at large is permanently identified as a wolf hybrid in accordance with section 3921-A but the owner of record cannot be located, an animal control officer or person acting in that capacity shall take the wolf hybrid to the animal shelter designated by the respective municipality in which the wolf hybrid was found.

An animal shelter that accepts a wolf hybrid under this subsection is entitled to receive from the department the sum of $4 a day for the period for which food and shelter are furnished, not to exceed 6 days. The animal shelter's responsibilities and the procedure for filing claims and calculating fees established under section 3913, subsection 3 apply to wolf hybrids accepted under this subsection. Upon expiration of the 6-day period, ownership of the wolf hybrid is vested in the animal shelter. The animal shelter shall:

A. Transfer ownership of the wolf hybrid to a person holding a permit to possess wildlife under Title 12, section 12152 and authorized to accept wolf hybrids in compliance with rules adopted under Title 12, section 12160, subsection 2; [PL 2011, c. 100, §6 (NEW).]

B. Transfer ownership of the wolf hybrid to a person who operates an animal refuge in another state and is licensed to accept wolf hybrids; or [PL 2011, c. 100, §6 (NEW).]

C. After keeping the wolf hybrid for 8 days, euthanize the wolf hybrid humanely in accordance with Title 17, chapter 42, subchapter 4. [PL 2011, c. 100, §6 (NEW).]
[PL 2011, c. 100, §6 (NEW).]

**3. Owner unknown.** If an animal suspected of being a wolf hybrid is found at large and that animal is not licensed under section 3922 and does not bear any identification of the owner, an animal control officer or person acting in that capacity shall notify the Department of Inland Fisheries and Wildlife and request assistance in the capture and disposition of the animal under Title 12, section 12160.
[PL 2011, c. 100, §6 (NEW).]

**4. Euthanasia for severely sick, severely injured or extremely vicious wolf hybrid.** Notwithstanding subsections 1, 2 and 3, a humane agent, an animal control officer or an animal shelter within the State may authorize in writing immediate euthanasia of a severely sick, severely injured or extremely vicious wolf hybrid upon determining that the following conditions are met:

A. The clerk, dog recorder or animal control officer of the respective municipality where the wolf hybrid was found has been notified of the animal's presence and the owner of the wolf hybrid, if known, has been notified; and [PL 2011, c. 100, §6 (NEW).]

B. A veterinarian states in writing that the wolf hybrid's recovery from its injury or illness, given reasonable time and reasonable care, is doubtful or that the wolf hybrid presents a danger to the public. [PL 2011, c. 100, §6 (NEW).]

Notwithstanding paragraphs A and B, a veterinarian may authorize immediate euthanasia if, in the veterinarian's judgment, the wolf hybrid is severely injured or sick and has no possibility of recovery.
[PL 2011, c. 100, §6 (NEW).]

**5. Immunity from civil liability.** A veterinarian, a humane agent, an animal control officer or an animal shelter is not civilly liable to any party for authorization made in accordance with subsection 4 nor is any person performing euthanasia under that authorization.
[PL 2011, c. 100, §6 (NEW).]

SECTION HISTORY

PL 2011, c. 100, §6 (NEW).

**§3912. Disposition of dogs at large**

**1. Ownership of dog unknown.** Except as provided in subsection 2, an animal control officer or person acting in that capacity shall seize, impound or restrain a dog found in violation of section 3911 and deliver it to an animal shelter as provided for in section 3913, subsection 2-A. If ownership can not be established, such a dog may be handled as a stray dog for the purpose of acceptance by an animal shelter.
[PL 1997, c. 690, §10 (NEW).]

**2. Ownership of dog known.** An animal control officer or person acting in that capacity shall seize, impound or restrain a dog found in violation of section 3911 and, if the owner is known, shall:

A. Take the dog to its owner; or [PL 1999, c. 254, §4 (NEW).]

B. Deliver it to an animal shelter as provided in section 3913. An animal shelter receiving a dog in accordance with this paragraph shall follow the procedure for stray dogs provided in section 3913. [PL 1999, c. 254, §4 (NEW).]

[PL 1999, c. 254, §4 (RPR).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1987, c. 643, §1 (AMD). PL 1991, c. 779, §17 (AMD). PL 1993, c. 657, §12 (AMD). PL 1997, c. 690, §10 (RPR). PL 1999, c. 254, §4 (AMD).

**§3912-A. Animal shelter**

**(REPEALED)**

SECTION HISTORY

PL 1991, c. 779, §18 (NEW). PL 1993, c. 657, §13 (RP).

**§3913. Procedure for stray dogs**

**1. Persons finding stray dogs.** A person finding a stray dog and taking control of that dog shall take that dog to its owner if known or, if the owner is not known, to the animal shelter designated by the municipality in which the dog was found.
[PL 1993, c. 657, §14 (RPR).]

**2. Dog shelters.**
[PL 1991, c. 779, §20 (RP).]

**2-A. Animal shelter.** An animal shelter, as defined in section 3907, to which a stray dog is taken shall accept the dog for a period of 6 days unless the shelter is in quarantine or has a bona fide lack of adequate space. Except as provided in subsection 2-B, the acceptance entitles the animal shelter to

receive from the department the sum of $4 a day for the period for which food and shelter are furnished to the dog. An animal shelter may refuse to accept dogs from municipalities not contracting with that animal shelter.
[PL 2009, c. 343, §9 (AMD).]

**2-B. Adoption policy.** Beginning January 1, 2010, to be eligible for reimbursement under subsection 2-A, an animal shelter must have an adoption policy. An adoption policy must provide for a dog to be available for adoption for a minimum of 24 hours except as provided in subsection 6.
[PL 2009, c. 343, §10 (NEW).]

**3. Claims; fees.** The procedure for filing claims and calculating fees is as follows.

A. On the business day next following the date of acceptance of a dog that is not delivered by an animal control officer or person acting in that capacity, the animal shelter shall notify the animal control officer or person acting in that capacity of the respective municipality of the acceptance of the dog, its description and the circumstances of its finding. [PL 1997, c. 690, §11 (AMD).]

B. An animal shelter that accepts a dog under this section, within 45 days of acceptance of the dog, shall submit a claim on a department-approved form to the department for fees incurred in providing food and shelter and the animal shelter shall forward a copy of the claim to the clerk of the respective municipality. [PL 1997, c. 690, §11 (AMD).]

C. If the owner claims the dog within the 6-day period, the owner may have and receive the dog upon payment of all department-approved fees as provided in subsection 2-A, the municipal impoundment fee and actual fees incurred for food, shelter, veterinary care and any other fees required by this chapter for each day that the dog has been sheltered, provided that the dog is licensed in accordance with chapter 721. [PL 1991, c. 779, §22 (AMD).]
[PL 1997, c. 690, §11 (AMD).]

**4. Ownership of dog.** Upon expiration of the 6-day period, ownership of the dog is vested in the animal shelter. The animal shelter may then:

A. Except as provided in section 3938-A, sell or give away the dog, but not to a research facility, if a license is first obtained in accordance with chapter 721; or [PL 2007, c. 439, §6 (AMD).]

B. Otherwise dispose of the dog humanely in accordance with Title 17, chapter 42, subchapter IV. Except as provided in this section, an animal shelter must hold a dog at least 8 days before euthanasia. [PL 1997, c. 690, §11 (AMD).]

Notwithstanding this subsection, ownership of a dog for the purposes of adoption is immediately vested in an animal shelter if the animal shelter makes a determination that the dog is obviously abandoned. An obviously abandoned dog does not include a dog roaming at large.

An animal shelter shall establish and collect fees for reclaimed or adopted animals to offset costs of keeping a dog beyond 6 days.

None of the proceeds obtained from the sale, donation, adoption or other disposition of the dog may be deducted from the fee claimed.

Notwithstanding subsection 3, paragraph C, the previous owner may reacquire the dog at any time prior to its sale, donation or disposal upon payment of the municipal impoundment fee and actual fees incurred for food, shelter, veterinary care and any other fees required by this chapter for each day that the dog has been sheltered. In this case, no fee may be allowed by the department.
[PL 2007, c. 439, §6 (AMD).]

**5. Euthanasia for sick or injured dogs.**

[PL 1997, c. 690, §11 (RP).]

**6. Euthanasia for severely sick, severely injured or extremely vicious dog.** A humane agent, an animal control officer or an animal shelter within the State may authorize in writing immediate euthanasia of a severely sick, severely injured or extremely vicious dog upon determining that the following conditions are met:

A. The clerk or animal control officer of the municipality where the dog was found has been notified of the dog's presence and the owner of the dog, if known, has been notified; and [PL 1997, c. 690, §11 (AMD).]

B. [PL 1997, c. 690, §11 (RP).]

C. A veterinarian states in writing that the dog's recovery from its injury or illness, given reasonable time and reasonable care, is doubtful or that the dog presents a danger to the public. [PL 1997, c. 690, §11 (AMD).]

Notwithstanding paragraphs A to C, a veterinarian may authorize immediate euthanasia if, in the veterinarian's judgment, there is no possibility of recovery for a severely injured or sick animal.
[PL 1997, c. 690, §11 (AMD).]

**7. Immunity from civil liability.** A veterinarian, a humane agent, an animal control officer or an animal shelter is not civilly liable to any party for authorization made in accordance with subsection 6 nor is any person performing euthanasia under that authorization.
[PL 1997, c. 690, §11 (AMD).]

**8. Regulation and inspection.**

[PL 1991, c. 779, §23 (RP).]

**9. Violation.**
[PL 1991, c. 779, §23 (RP).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 622, §§FF12-14 (AMD). PL 1991, c. 779, §§19-23 (AMD). PL 1991, c. 779, §52 (AFF). PL 1993, c. 468, §§6,7 (AMD). PL 1993, c. 657, §§14-17 (AMD). PL 1995, c. 268, §1 (AMD). PL 1997, c. 690, §11 (AMD). PL 2007, c. 439, §6 (AMD). PL 2009, c. 343, §§9, 10 (AMD).

**§3913-A. Temporary licenses**

**(REPEALED)**

SECTION HISTORY

PL 1993, c. 468, §8 (NEW). PL 1993, c. 657, §18 (RP).

**§3914. Purchase and sale of animals**

Animal shelters, kennels, breeding kennels, boarding kennels and pet shops engaged in buying or selling animals shall keep records of the buyer and seller in each transaction for a 2-year period commencing at the time of purchase or sale. The records must be open to inspection by the department or law enforcement officers. A person not in possession of a valid license for an animal shelter, kennel, breeding kennel, boarding kennel or grandfathered pet shop shall obtain a vendor's license under section 4163 prior to selling, offering for sale or exchanging for value a cat or dog. For purposes of this section, "grandfathered pet shop" has the same meaning as in section 3933. [PL 2019, c. 544, §1 (AMD).]

A wolf hybrid may not be sold or exchanged for value. Ownership of a wolf hybrid may be transferred only in accordance with section 3911-B or section 3921-B, subsection 3. [PL 2011, c. 100, §7 (NEW).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 779, §24 (AMD). PL 1993, c. 657, §19 (AMD). PL 2007, c. 439, §7 (AMD). PL 2011, c. 100, §7 (AMD). PL 2019, c. 544, §1 (AMD).

**§3915. Violation**

Any person who violates this chapter commits a civil violation for which a forfeiture of not less than $50 nor more than $250 may be adjudged for a first violation and not less than $100 nor more than $500 for 2 or more violations. [PL 2001, c. 13, §1 (AMD).]

SECTION HISTORY

PL 1991, c. 779, §25 (NEW). PL 1997, c. 690, §12 (AMD). PL 2001, c. 13, §1 (AMD).

## CHAPTER 720

## RABIES PREVENTION AND SHELTER PROVISIONS

**§3916. Rabies vaccinations**

**1. Required for cats.** Except as provided in subsection 4, an owner or keeper of a cat over 3 months of age shall have that cat vaccinated against rabies. The rabies vaccine must be administered by a licensed veterinarian, a licensed veterinary technician under the direct supervision or indirect supervision of a licensed veterinarian or a certified rabies vaccinator. Upon receiving an initial vaccination, a cat is considered protected for one year and an owner or keeper of that cat shall get a booster vaccination for that cat one year after the initial vaccination and subsequent booster vaccinations at intervals that do not exceed the intervals recommended by a national association of state public health veterinarians for the type of vaccine administered.
[PL 2025, c. 141, §4 (AMD).]

**1-A. Required for dogs.** Except as provided in subsection 4, an owner or keeper of a dog, within 30 days after the dog attains 3 months of age, shall have that dog vaccinated against rabies. The rabies vaccine must be administered by a licensed veterinarian, a licensed veterinary technician under the direct supervision or indirect supervision of a licensed veterinarian or a certified rabies vaccinator. Upon receiving an initial vaccination, a dog is considered protected for one year and an owner or keeper of that dog shall get a booster vaccination for that dog one year after the initial vaccination and subsequent booster vaccinations at intervals that do not exceed the intervals recommended by a national association of state public health veterinarians for the type of vaccine administered. A wolf hybrid is required to be vaccinated in accordance with this subsection. The procedure prescribed under Title 22, chapter 251, subchapter 5 for a wolf hybrid suspected of having rabies does not change based on proof that the wolf hybrid has received a rabies vaccination.
[PL 2025, c. 141, §4 (AMD).]

**2. Certificate.** A licensed veterinarian who vaccinates or supervises the vaccination of an animal, a licensed veterinary technician who vaccinates an animal under the direct supervision or indirect supervision of a licensed veterinarian or a certified rabies vaccinator who vaccinates an animal shall issue to the owner or keeper a certificate of rabies vaccination approved by the State and shall indicate on the certificate the date by which a booster vaccination is required pursuant to subsection 1 or 1-A, whichever is applicable.
[PL 2025, c. 141, §4 (AMD).]

**2-A. Notice to department.** A veterinarian, licensed veterinary technician under the direct supervision or indirect supervision of a licensed veterinarian or certified rabies vaccinator who issues a certificate of rabies vaccination for a dog pursuant to subsection 2 shall, within 30 days of issuing the certificate, forward by mail, e-mail or fax a copy of that certificate to the department. The department shall send a copy of the certificate by mail, e-mail or fax to the clerk of the municipality in which the

owner or keeper resides. If the owner or keeper resides in the unorganized territory, the department shall send a copy of the certificate to the dog recorder in that unorganized territory or, in the absence of a duly authorized dog recorder, to the dog recorder in the nearest municipality or unorganized territory in the same county in which the owner or keeper resides. The department may retain a copy or electronic record of the rabies certificate. The department may accumulate certificates received and distribute them periodically to the appropriate municipalities and dog recorders. Distributions must be made no fewer than 4 times a year.
[PL 2025, c. 141, §4 (AMD).]

**3. Enforcement.** A humane agent, an animal control officer or a law enforcement officer may ask an owner or keeper of a cat or dog to present proof of a certificate of rabies vaccination from the State.
[PL 2005, c. 422, §5 (AMD).]

**4. Exception.** Notwithstanding any provision of this chapter to the contrary, an animal shelter operated by a nonprofit organization is not required to vaccinate an abandoned or stray cat or dog received by the shelter.

An owner or keeper of a cat or dog is exempt from the requirements of subsection 1 or 1-A, whichever is applicable, if a medical reason exists that precludes the vaccination of the cat or dog. To qualify for this exemption, the owner or keeper must have a written statement signed by a licensed veterinarian that includes a description of the cat or dog and the medical reason that precludes the vaccination.
[PL 2025, c. 141, §4 (AMD).]

SECTION HISTORY

PL 1991, c. 779, §26 (NEW). PL 1993, c. 468, §9 (AMD). PL 1995, c. 490, §7 (AMD). PL 1997, c. 704, §§3-5 (AMD). PL 2005, c. 422, §§3-6 (AMD). PL 2007, c. 119, §1 (AMD). PL 2007, c. 439, §8 (AMD). PL 2021, c. 99, §§6, 7 (AMD). PL 2025, c. 141, §4 (AMD).

**§3916-A. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2025, c. 141, §5 (NEW).]

**1. Direct supervision.** "Direct supervision" has the same meaning as in Title 32, section 4853, subsection 4-A.
[PL 2025, c. 141, §5 (NEW).]

**2. Indirect supervision.** "Indirect supervision" has the same meaning as in Title 32, section 4853, subsection 4-B.
[PL 2025, c. 141, §5 (NEW).]

**3. Licensed veterinarian.** "Licensed veterinarian" has the same meaning as in Title 32, section 4853, subsection 5.
[PL 2025, c. 141, §5 (NEW).]

**4. Licensed veterinary technician.** "Licensed veterinary technician" has the same meaning as in Title 32, section 4853, subsection 11.
[PL 2025, c. 141, §5 (NEW).]

SECTION HISTORY

PL 2025, c. 141, §5 (NEW).

**§3917. Antirabies clinics**

The following provisions apply to low-cost antirabies clinics. [PL 1991, c. 779, §26 (NEW).]

**1. Clinic establishment.** The department shall facilitate the establishment of low-cost antirabies clinics at locations and on dates as appropriate. At least one low-cost antirabies clinic must be

conducted annually in each county. In facilitating the establishment of antirabies clinics, the department shall cooperate with local veterinarians and local organizations. When other arrangements cannot be made for a licensed veterinarian to vaccinate or to supervise vaccinations by an animal technician at a low-cost clinic, a veterinarian employed by the department, a licensed veterinary technician under the direct supervision or indirect supervision of a licensed veterinarian or a certified rabies vaccinator shall administer the vaccinations.
[PL 2025, c. 141, §6 (AMD).]

**2. Veterinarians participating in low-cost antirabies clinics.** This subsection applies to a veterinarian licensed under Title 32, chapter 71-A or an assistant under the direction of the veterinarian providing professional services within the scope of the veterinarian's license who participates in a low-cost antirabies clinic established under this section. Adherence by the veterinarian or assistant to the standards of care within the profession creates a rebuttable presumption that the conduct of the veterinarian or assistant was not negligent.
[PL 1991, c. 779, §26 (NEW).]

SECTION HISTORY

PL 1991, c. 779, §26 (NEW). PL 1993, c. 468, §10 (AMD). PL 2025, c. 141, §6 (AMD).

**§3918. Violation**

A person who violates this chapter commits a civil violation for which a forfeiture of not more than $100 may be adjudged. [PL 1997, c. 704, §6 (NEW).]

SECTION HISTORY

PL 1997, c. 704, §6 (NEW).

**§3919. Seizure of stray cats and small animals**

**1. Definition.** For the purposes of this chapter, a "stray cat" means a cat on the premises of a person other than the owner of the cat, without the consent of the owner or occupant of the premises, on a public street or on other public property, except under the physical control of the owner.
[PL 2001, c. 363, §3 (NEW).]

**2. Seizure by animal control officer.** An animal control officer or person acting in that capacity may seize or humanely trap a stray cat or small animal and deliver it to an animal shelter as provided for in section 3919-A or section 3919-E or to the owner, if the owner is known. If ownership can not be established, such a cat or small animal may be handled as a homeless cat or small animal for the purpose of acceptance and disposition by an animal shelter.
[PL 2013, c. 115, §7 (AMD).]

**3. Person finding stray cat.** A person finding a stray cat or small animal and not knowing the owner or residence of the cat or small animal may take that cat or small animal to the animal shelter designated by the municipality in which the cat or small animal was found.
[PL 2013, c. 115, §7 (AMD).]

SECTION HISTORY

PL 2001, c. 363, §3 (NEW). PL 2013, c. 115, §7 (AMD).

**§3919-A. Procedure for acceptance and disposition of cats by animal shelter**

An animal shelter to which a cat is taken may accept the cat unless the shelter is in quarantine. An animal shelter accepting a cat shall comply with the provisions of this section. [PL 2001, c. 363, §3 (NEW).]

**1. Cats with identification.** An animal shelter that accepts a cat with cat identification shall make a reasonable attempt to notify the owner by telephone or by sending a written notice within 24 hours of

accepting the cat. Except as provided in subsections 4 and 5, the animal shelter shall hold the cat for a period of 6 days beginning on and including the day of acceptance. If the owner claims the cat within the 6-day period, the animal shelter shall release the cat to the owner upon payment of any municipal impoundment fee and actual fees incurred for food, shelter and veterinary care. Upon expiration of the 6-day period, ownership of the cat is vested with the animal shelter and the animal shelter may then handle the cat as a homeless cat for disposition in accordance with subsection 2.
[PL 2001, c. 363, §3 (NEW).]

**2. Homeless cats.** When an animal shelter accepts a cat under section 3919 and that cat does not have cat identification, the animal shelter shall hold the cat for not less than 48 hours or, for feral cats, not less than 24 hours. After the 24-hour or 48-hour period, the animal shelter may treat the cat as a homeless cat and may:

A. Except as provided in section 3938-A, offer the cat for adoption, sell or give away the cat; or [PL 2007, c. 439, §9 (AMD).]

B. Otherwise dispose of the cat humanely in accordance with Title 17, chapter 42, subchapter 4. [PL 2003, c. 405, §8 (AMD).]

An animal shelter may not sell or give a cat to a research facility.
[PL 2009, c. 343, §11 (AMD).]

**3. Owner's claim after 6-day period.** An owner may reacquire a cat at any time prior to its disposition under subsection 2 upon payment of any municipal impoundment fee and actual fees incurred for food, shelter and veterinary care and any other reasonable fee imposed by the animal shelter.
[PL 2001, c. 363, §3 (NEW).]

**4. Euthanasia for severely sick or severely injured cat or small animal.** A humane agent, an animal control officer or an animal shelter may authorize in writing the immediate euthanasia of a severely sick or severely injured cat or small animal upon determining that the following conditions are met:

A. The animal control officer of the municipality where the cat or small animal was found has been notified or, if the cat or small animal has identification, the owner of the cat or small animal has been notified; and [PL 2015, c. 223, §4 (AMD).]

B. A veterinarian states in writing that the cat's or small animal's recovery from its injury or illness, given reasonable time and reasonable care, is doubtful or that the cat or small animal presents a danger to the public. [PL 2015, c. 223, §4 (AMD).]

Notwithstanding paragraphs A and B, a veterinarian may authorize immediate euthanasia if, in the veterinarian's judgment, there is no possibility of recovery for a severely injured or severely sick cat or small animal.
[PL 2015, c. 223, §4 (AMD).]

**5. Immunity.** A veterinarian, a humane agent, an animal control officer or an animal shelter, including a person employed by an animal shelter, is not civilly liable to the owner of a cat or small animal for the loss of that cat or small animal resulting from actions taken in compliance with this section.

Nothing in this subsection grants to an animal shelter or person any immunity from liability arising from the gift, sale or other transference of a cat or small animal to a research facility in violation of subsection 2.
[PL 2015, c. 223, §5 (AMD).]

SECTION HISTORY

PL 2001, c. 363, §3 (NEW). PL 2003, c. 405, §8 (AMD). PL 2007, c. 439, §§9, 10 (AMD). PL 2009, c. 343, §11 (AMD). PL 2015, c. 223, §§4, 5 (AMD).

**§3919-B. Disposition of pet when owner is institutionalized**

Notwithstanding sections 3913 and 3919-A and except as provided in Title 17, section 1021, when a person brings a pet to an animal shelter because the owner of that pet is incarcerated or hospitalized or under the process described in Title 14, section 6025-A, that person shall provide the animal shelter with the name and last known address of the pet's owner and the name and address of a facility where the person is incarcerated or hospitalized. The person bringing the pet to the shelter shall also provide the shelter with that person's name and address and that person's relationship to the owner or the official capacity in which that person is acting to enforce the animal welfare laws. The animal shelter may accept the pet unless the shelter is in quarantine. An animal shelter accepting a pet under this section shall comply with the provisions of this section. [PL 2023, c. 336, §1 (AMD).]

**1. Notice.** An animal shelter that accepts a pet under this section shall within 24 hours of receiving the pet send a notice by mail, return receipt requested, to the owner of the pet at the owner's last known address. The notice must inform the owner of the provisions of this section.
[PL 2009, c. 343, §12 (AMD).]

**2. Release of pet.** Upon payment of costs incurred for food, shelter and veterinary care, an animal shelter shall release a pet accepted under this section to its owner or to a person who is designated in a letter signed by the owner as acting on the owner's behalf.
[PL 2003, c. 405, §9 (NEW).]

**3. Transfer of ownership; disposition of pet.** If an owner fails to arrange for release of a pet in accordance with subsection 2 within 10 days of the pet's acceptance by the shelter, ownership of the pet is vested with the animal shelter upon expiration of the 10-day period and the animal shelter may:

A. Except for a wolf hybrid, offer the pet for adoption or sell or give away the pet; or [PL 2011, c. 100, §8 (AMD).]

B. Dispose of the pet humanely in accordance with Title 17, chapter 42, subchapter 4. [PL 2003, c. 405, §9 (NEW).]

An animal shelter may not sell or give a pet to a research facility. An animal shelter may not sell, give away or offer for adoption a wolf hybrid. Ownership of a wolf hybrid may be transferred only in accordance with section 3921-B, subsection 3.
[PL 2011, c. 100, §8 (AMD).]

**4. Claims.** When an owner does not arrange for the release of a pet under subsection 2, the animal shelter is entitled to receive from the department $4 a day for food and shelter for the pet for a maximum of 10 days.
[PL 2003, c. 405, §9 (NEW).]

**5. Immunity.** A person who brings a pet to an animal shelter in accordance with this section is not civilly liable to the owner for the loss of that pet resulting from the release, transfer or disposition of the pet in accordance with subsection 2 or 3. A veterinarian, a humane agent, an animal control officer or an animal shelter, including a person employed by an animal shelter, is not civilly liable to the owner for the loss of that pet resulting from the release, transfer or disposition of the pet in accordance with subsection 2 or 3.

Nothing in this subsection grants to an animal shelter or person any immunity from liability arising from the gift, sale or other transfer of a pet to a research facility in violation of subsection 3.
[PL 2003, c. 405, §9 (NEW).]

SECTION HISTORY

PL 2003, c. 405, §9 (NEW). PL 2009, c. 343, §12 (AMD). PL 2011, c. 100, §8 (AMD). PL 2023, c. 336, §1 (AMD).

**§3919-C. Animal held pending court decision**

When an animal shelter holds an animal at the request or with the approval of the person who seized the animal pending an investigation or disposition by the court of an alleged violation of chapter 739 or Title 17, chapter 42, the shelter is entitled to receive from the person who seized the animal monetary compensation in accordance with this section for the period for which food and shelter are furnished to the animal. For the purposes of this section, "person who seized the animal" includes a humane agent, law enforcement or an animal control officer permitted by law to obtain a search warrant or to seize animals ex parte. [PL 2015, c. 223, §6 (AMD).]

**1. Compensation for dogs and cats.** Compensation for a dog or cat is $15 a day. Compensation for a female cat or dog with a litter that has not been weaned is $18 a day.
[PL 2021, c. 696, §3 (AMD).]

**2. Equines.** Compensation for an equine is $20 a day.
[PL 2021, c. 696, §4 (AMD).]

**3. Livestock.** Except for equines, fowl and rabbits, compensation for a livestock animal is between $5 and $20 a day as determined by the department based on the size of the animal.
[PL 2021, c. 696, §5 (AMD).]

**4. Other animals.** Compensation for a rabbit is $2 a day. Compensation for a bird, including poultry, is $1 a day. Compensation for other animals is as determined by the department.
[PL 2007, c. 439, §11 (NEW).]

SECTION HISTORY

PL 2003, c. 405, §9 (NEW). PL 2007, c. 439, §11 (AMD). PL 2015, c. 223, §6 (AMD). PL 2021, c. 696, §§3-5 (AMD).

**§3919-D. Temporary animal shelter**

The department may temporarily impound animals within an enclosure other than a licensed animal shelter, and such an enclosure constitutes a temporary animal shelter. When animals are held at a temporary animal shelter for more than 21 days, the shelter must comply with the standards established by the department for licensed animal shelters. [PL 2007, c. 702, §7 (NEW).]

SECTION HISTORY

PL 2007, c. 702, §7 (NEW).

**§3919-E. Disposition of small animals**

**1. Small animals.** When an animal shelter accepts a small animal under section 3919 and the animal does not have identification, the animal shelter shall hold that small animal for not less than 48 hours. After the expiration of the 48-hour period, the animal shelter may treat the small animal as homeless and may:

A. Offer the small animal for adoption, sell the small animal, give away the small animal or transfer the small animal to an appropriate facility that can provide for that specific type of small animal; or [PL 2015, c. 223, §7 (AMD).]

B. Otherwise dispose of the small animal humanely in accordance with Title 17, chapter 42, subchapter 4. [PL 2013, c. 115, §8 (NEW).]

An animal shelter may not sell or give any small animal to a research facility.
[PL 2015, c. 223, §7 (AMD).]

**2. Exceptions.** A small animal that is subject to permit requirements of the Department of Inland Fisheries and Wildlife under Title 12, chapter 915 may not be adopted or have its ownership transferred without the permission of the Department of Inland Fisheries and Wildlife.
[PL 2013, c. 115, §8 (NEW).]

SECTION HISTORY

PL 2013, c. 115, §8 (NEW). PL 2015, c. 223, §7 (AMD).

**§3920. Certified rabies vaccinator**

**1. Appointment and certification.** Except as provided in subsection 5, the commissioner, in consultation with the Animal Welfare Advisory Council, as established by Title 5, section 12004-I, subsection 2-C and as described in section 3906-C, shall appoint one or more persons in each county to administer rabies vaccines to animals. Upon initial appointment, a person must complete training in accordance with section 3906-B, subsection 18 in order to become a certified rabies vaccinator. A certified rabies vaccinator serves in a volunteer capacity unless the person is an employee of the State or an animal shelter licensed under section 3932-A. A certified rabies vaccinator must be under the direct supervision or indirect supervision of a licensed veterinarian to administer rabies vaccines to animals. A humane agent may serve as a certified rabies vaccinator. A certified rabies vaccinator is authorized to act until termination of appointment by the commissioner or until resignation of the certified rabies vaccinator.
[PL 2025, c. 141, §7 (NEW).]

**2. Scope and duration.** A certified rabies vaccinator shall acknowledge in writing that the certified rabies vaccinator understands the scope and duration of service.
[PL 2025, c. 141, §7 (NEW).]

**3. Immunity from civil liability.** A certified rabies vaccinator is not civilly liable to any party for actions made in accordance with this chapter.
[PL 2025, c. 141, §7 (NEW).]

**4. Rulemaking.** The commissioner shall adopt rules to establish procedures for appointment and certification of certified rabies vaccinators. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2025, c. 141, §7 (NEW).]

**5. Animal shelter requests.** An animal shelter licensed under section 3932-A may submit a request to the commissioner that a member of the animal shelter's staff be appointed as a certified rabies vaccinator in a limited capacity. The request must be submitted in writing by the animal shelter's veterinarian of reference. A certified rabies vaccinator authorized under this subsection may administer vaccines only to animals in the care of the animal shelter or at an antirabies clinic established pursuant to section 3917.
[PL 2025, c. 141, §7 (NEW).]

SECTION HISTORY

PL 2025, c. 141, §7 (NEW).

## CHAPTER 721

## DOG LICENSES

**§3921. License necessary**

A dog may not be kept within the limits of the State, unless the dog has been licensed by its owner or keeper in accordance with the laws of this State. [PL 1997, c. 690, §13 (AMD).]

Any law enforcement agency within the State, counties or municipalities owning dogs for law enforcement purposes shall be required to license the dogs in the municipality in which they are domiciled, but shall be exempt from any license or recording fee, provided that all other licensing requirements are fulfilled. [PL 1987, c. 383, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1995, c. 409, §3 (AMD). PL 1997, c. 690, §13 (AMD).

**§3921-A. Permanent identification of wolf hybrids**

The commissioner shall adopt rules to establish methods of identifying wolf hybrids through tattooing, the placement of a microchip under the animal's skin or any other method determined by the commissioner as adequately providing a permanent means of identification on the body of the animal. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. A person may not own or keep a wolf hybrid under section 3921-B, subsection 2 or under Title 12, section 12152 unless the animal has identification in compliance with the rules adopted under this section. [PL 2011, c. 100, §9 (AMD).]

SECTION HISTORY

PL 2001, c. 129, §2 (NEW). PL 2011, c. 100, §9 (AMD).

**§3921-B. Prohibition on keeping a wolf hybrid; exception**

**1. Prohibition.** Except as provided in subsection 2, a person may not keep a wolf hybrid in the State unless that person holds a valid permit to possess wildlife in captivity issued by the Department of Inland Fisheries and Wildlife under Title 12, section 12152.
[PL 2011, c. 100, §10 (NEW).]

**2. Exception.** A person keeping a wolf hybrid as a pet and in compliance with all applicable provisions in this Part on June 1, 2011 may continue to keep that wolf hybrid as long as the following conditions are met:

A. The wolf hybrid has been spayed or neutered; and [PL 2011, c. 100, §10 (NEW).]

B. The owner continues to license the wolf hybrid in accordance with section 3922, subsection 3-B. [PL 2011, c. 100, §10 (NEW).]
[PL 2011, c. 100, §10 (NEW).]

**3. Restrictions on transfer.** A person keeping a wolf hybrid under subsection 2 may transfer ownership of the wolf hybrid to a person:

A. Holding a permit to possess wildlife under Title 12, section 12152 and authorized to accept wolf hybrids in compliance with rules adopted under Title 12, section 12160, subsection 2; [PL 2011, c. 100, §10 (NEW).]

B. Who operates an animal refuge in another state that is licensed to accept wolf hybrids; or [PL 2011, c. 100, §10 (NEW).]

C. Who has had direct contact with the wolf hybrid, is familiar with the wolf hybrid's behavior and has been advised of the reporting requirement under subsection 4 and licensing laws under section 3922. [PL 2011, c. 100, §10 (NEW).]

A person transferring ownership of a wolf hybrid under this subsection shall within 10 days of the transfer notify the department and provide the name and address of the person accepting the transfer.
[PL 2011, c. 100, §10 (NEW).]

**4. Duty to report death.** The owner of a wolf hybrid kept under subsection 2 shall notify the department of the wolf hybrid's death on a form prescribed by the department within 30 days of the wolf hybrid's death.

[PL 2011, c. 100, §10 (NEW).]

**5. Violation.** A person who violates this section commits a civil violation for which a fine of $2,500 may be adjudged.
[PL 2011, c. 100, §10 (NEW).]

SECTION HISTORY

PL 2011, c. 100, §10 (NEW).

**§3922. Issuance of license**

**1. License; January 1st.** Each owner or keeper of a dog at the age of 6 months or more, on or before January lst of each year, shall obtain a license:

A. From the clerk of the municipality where the dog is kept; [PL 2001, c. 422, §6 (AMD).]

B. From the dog recorder in the unorganized territory where the dog is kept or, in the absence of a duly authorized dog recorder, from a dog recorder in the nearest municipality or unorganized territory in the same county where the dog is kept; [PL 2003, c. 405, §10 (AMD).]

C. From a person authorized to issue licenses under section 3923-F; or [PL 2013, c. 115, §9 (AMD).]

D. From the department using the Internet in accordance with section 3923-G. [PL 2003, c. 405, §12 (NEW).]
[PL 2013, c. 115, §9 (AMD).]

**2. License; after January 1st.** The owner or keeper, within 10 days of the conditions of paragraph A or B being met, shall obtain a license, if between January lst and October 15th of any year:

A. A dog reaches the age of 6 months or more; or [PL 1997, c. 690, §14 (AMD).]

B. A person becomes the owner or keeper of a dog aged 6 months or more. [PL 1997, c. 690, §14 (AMD).]
[PL 1997, c. 690, §14 (AMD).]

**3. Proof of immunization.** A municipal clerk may not issue a license for a dog until the applicant has filed with the clerk proof that the dog has been immunized against rabies as provided in section 3916, subsection 1-A and in accordance with rules adopted by the Commissioner of Health and Human Services, except that the requirement of immunization may be waived by the clerk under conditions set forth by the Commissioner of Health and Human Services.

The commissioner shall adopt rules that allow the clerk and the commissioner to accept valid proof of immunization against rabies provided by another state.
[PL 2025, c. 141, §8 (AMD).]

**3-A. Exception to immunization requirement for wolf hybrids.**
[PL 2007, c. 439, §13 (RP).]

**3-B. Proof of permanent identification and other restrictions on licensing a wolf hybrid.** A municipal clerk may not issue a license for a wolf hybrid until the applicant has filed with the clerk proof that:

A. The wolf hybrid has been permanently identified in accordance with section 3921-A; [PL 2011, c. 100, §11 (NEW).]

B. The wolf hybrid has been spayed or neutered; and [PL 2011, c. 100, §11 (NEW).]

C. The wolf hybrid was licensed in this State in 2011 by:

(1) June 1, 2011 if the wolf hybrid was 6 months old or older on June 1, 2011; or

(2) December 31, 2011 if the wolf hybrid was less than 6 months old on June 1, 2011. [PL 2011, c. 100, §11 (NEW).]

[PL 2011, c. 100, §11 (AMD).]

**4. Service dogs.** If a service dog has not been previously registered or licensed by the municipal clerk to whom the application is being made, the clerk may not register the dog nor issue to its owner or keeper a license unless the applicant presents written evidence to the municipal clerk that the dog meets the definition of "service dog." For the purpose of this subsection, "written evidence" means a service dog certification form approved by the department in consultation with the Maine Human Rights Commission.

[PL 2019, c. 437, §1 (AMD).]

**5. Form of license.** The license must state the breed, sex, color and markings of the dog, whether the animal is a dog or wolf hybrid, whether the dog has been determined by a court of competent jurisdiction to be a dangerous dog or a nuisance dog and the name and address of the owner or keeper. If the person applying for a license declares that the dog is a wolf hybrid, the license must state that the dog is a wolf hybrid. The license must be issued in triplicate and the original must be given to the applicant and the remaining 2 copies must be retained by the municipal clerk or dog recorder.

[PL 2017, c. 404, §5 (AMD).]

**6. Designation of wolf hybrid.** An owner or keeper of a dog declared as a wolf hybrid may not change the license designation. A dog that has been declared a wolf hybrid must be treated as a wolf hybrid in accordance with Title 22, chapter 251, subchapter 5. The procedure prescribed under Title 22, chapter 251, subchapter 5 for a wolf hybrid suspected of having rabies does not change based on proof that the wolf hybrid has received a rabies vaccination.

[PL 2007, c. 439, §14 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1987, c. 643, §2 (AMD). PL 1993, c. 468, §25 (AMD). PL 1993, c. 657, §§20,21 (AMD). PL 1995, c. 409, §4 (AMD). PL 1997, c. 690, §14 (AMD). PL 1997, c. 704, §§7-10 (AMD). PL 2001, c. 129, §3 (AMD). PL 2001, c. 422, §§6,7 (AMD). PL 2003, c. 405, §§10-12 (AMD). PL 2003, c. 689, §B7 (REV). PL 2007, c. 439, §§12-14 (AMD). PL 2007, c. 664, §11 (AMD). PL 2011, c. 100, §11 (AMD). PL 2013, c. 115, §9 (AMD). PL 2017, c. 404, §5 (AMD). PL 2019, c. 437, §1 (AMD). PL 2025, c. 141, §8 (AMD).

### §3923. License and recording fees

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1989, c. 278 (AMD). PL 1991, c. 528, §RRR (AFF). PL 1991, c. 528, §S (AMD). PL 1991, c. 591, §S (AMD). PL 1991, c. 622, §§FF15,16 (AMD). PL 1991, c. 779, §27 (AMD). PL 1991, c. 779, §52 (AFF). PL 1991, c. 779, §§52,60 (AFF). PL 1993, c. 468, §11 (RP).

### §3923-A. License and recording fees

Except as provided in subsection 3 and section 3923-B, a dog owner or keeper obtaining a license from a municipal clerk, dog licensing agent or dog recorder shall pay the license and recording fees established in this section. For purposes of this section, "dog licensing agent" means an animal shelter or a veterinarian pursuant to section 3923-F. [PL 2025, c. 414, §4 (AMD).]

**1. Dogs capable of producing young.** A dog owner or keeper shall pay a fee of $11 to the municipal clerk or dog licensing agent for each dog 6 months of age or older and capable of producing young. A dog is considered capable of producing young unless certification under subsection 2 is provided.

The municipal clerk or dog licensing agent shall retain a $1 recording fee and pay the remaining $10 to the department for deposit in the Animal Welfare Fund.
[PL 2013, c. 115, §10 (AMD).]

**2. Dogs incapable of producing young.** A dog owner shall pay a fee of $6 to the municipal clerk or a dog licensing agent for each dog 6 months of age or older and incapable of producing young. A dog is considered incapable of producing young when the owner provides the following:

A. A written certificate issued by a veterinarian stating that the veterinarian has neutered the dog; [PL 1997, c. 690, §15 (AMD).]

B. A written certificate issued by a veterinarian stating that the veterinarian has examined the dog and determined that the dog is incapable of producing young; or [PL 1997, c. 690, §15 (AMD).]

C. A previous license stating that the dog is incapable of producing young. [PL 1997, c. 690, §15 (AMD).]

The municipal clerk or dog licensing agent shall retain a $1 recording fee, deposit $2 in the municipality's animal welfare account established in accordance with section 3945 and pay the remaining $3 to the department for deposit in the Animal Welfare Fund.
[PL 2013, c. 115, §10 (AMD).]

**3. Exemption from fees.** A municipal clerk or a dog licensing agent shall issue a license upon application and without payment of a license fee required under this section for:

A. A service dog owned or kept by a person with a physical or mental disability; [PL 2007, c. 664, §12 (AMD).]

B. [PL 2007, c. 664, §12 (RP).]

C. [PL 2007, c. 664, §12 (RP).]

D. A trained search and rescue dog recognized by the Department of Inland Fisheries and Wildlife or by the statewide association of search and rescue that cooperates with the Department of Inland Fisheries and Wildlife in developing standards for search and rescue or such a dog awaiting training; and [PL 2001, c. 422, §9 (AMD).]

E. A dog certified by the State and used for law enforcement purposes. [PL 2001, c. 422, §9 (NEW).]
[PL 2013, c. 115, §10 (AMD).]

**4. Late fees.** An owner or keeper required to license a dog under section 3922, subsection 1 or section 3923-B, subsection 1 and applying for a license for that dog after January 31st shall pay to the municipal clerk, dog licensing agent or dog recorder a late fee of $25 in addition to the annual license fee paid in accordance with subsection 1 or 2. The clerk, dog licensing agent or dog recorder shall deposit all late fees collected under this subsection into the municipality's animal welfare account established in accordance with section 3945.
[PL 2025, c. 414, §5 (AMD).]

**5. Dogs determined to be dangerous dogs or nuisance dogs by the court.** The owner or keeper of a dog determined by a court of competent jurisdiction to be a dangerous dog shall pay a fee of $100 to the municipal clerk or a dog licensing agent. The municipal clerk or dog licensing agent shall retain a $1 recording fee, deposit $98 in the municipality's animal welfare account established in accordance with section 3945 and pay the remaining $1 to the department for deposit in the Animal Welfare Fund.

The owner or keeper of a dog determined by a court of competent jurisdiction to be a nuisance dog shall pay a fee of $30 to the municipal clerk or a dog licensing agent. The municipal clerk or dog licensing agent shall retain a $1 recording fee, deposit $28 in the municipality's animal welfare account

established in accordance with section 3945 and pay the remaining $1 to the department for deposit in the Animal Welfare Fund.

A dog determined by a court of competent jurisdiction to be a dangerous dog or a nuisance dog does not qualify for the exemptions from fees under subsection 3.

An owner or keeper of a dog determined by a court of competent jurisdiction to be a dangerous dog applying for a license for that dog after January 31st shall pay to the municipal clerk, dog licensing agent or dog recorder a late fee of $150 in addition to the annual license fee paid in accordance with this subsection.

An owner or keeper of a dog determined by a court of competent jurisdiction to be a nuisance dog applying for a license for that dog after January 31st shall pay to the municipal clerk, dog licensing agent or dog recorder a late fee of $70 in addition to the annual license fee paid in accordance with this subsection.

The clerk, dog licensing agent or dog recorder shall deposit all late fees collected under this subsection into the municipality's animal welfare account established in accordance with section 3945.
[PL 2017, c. 404, §6 (NEW).]

SECTION HISTORY

PL 1993, c. 468, §12 (NEW). PL 1993, c. 657, §§22-24 (AMD). PL 1995, c. 409, §5 (AMD). PL 1995, c. 557, §1 (AMD). PL 1997, c. 690, §15 (AMD). PL 1999, c. 597, §1 (AMD). PL 2001, c. 422, §§8,9 (AMD). PL 2003, c. 405, §13 (AMD). PL 2007, c. 439, §15 (AMD). PL 2007, c. 664, §12 (AMD). PL 2009, c. 343, §13 (AMD). PL 2009, c. 548, §3 (AMD). PL 2013, c. 115, §10 (AMD). PL 2017, c. 404, §6 (AMD). PL 2025, c. 414, §§4, 5 (AMD).

**§3923-B. Tags**

**1. Tags.** The municipal clerk or dog licensing agent shall provide with each new license issued under section 3923-A a tag indicating the year the license is issued and bearing other information prescribed by the department. The owner or keeper shall make sure that the tag is securely attached to a collar of leather, metal or material of comparable strength and that the collar is worn at all times by the dog for which the license was issued, except as provided in subsection 3.

If the tag is lost or the owner has moved to a different municipality, the owner or keeper of the dog shall obtain a new license and tag. The municipal clerk or dog licensing agent shall issue another license and tag upon presentation of the original license and payment of $1. The clerk or agent shall retain the $1 for a recording fee.
[PL 2013, c. 115, §11 (AMD).]

**2. Rabies tags.**
[PL 1997, c. 690, §16 (RP).]

**2-A. Rabies tags.** An owner or keeper shall ensure that a rabies tag obtained from a veterinarian, a licensed veterinary technician under the direct supervision or indirect supervision of a licensed veterinarian or a certified rabies vaccinator for immunization against rabies is securely attached to a collar of leather, metal or material of comparable strength and that the collar is worn at all times by the dog for which the rabies tag was issued, except as provided in subsection 3. For purposes of this section, "direct supervision" has the same meaning as in Title 32, section 4853, subsection 4-A; "indirect supervision" has the same meaning as in Title 32, section 4853, subsection 4-B; "licensed veterinarian" has the same meaning as in Title 32, section 4853, subsection 5; and "licensed veterinary technician" has the same meaning as in Title 32, section 4853, subsection 11.
[RR 2025, c. 1, Pt. A, §14 (COR).]

**3. Exceptions.** A dog is not required to wear a tag when on the premises of the owner or off the premises of the owner while hunting, in training or in an exhibition. When a dog is hunting, in training

or in an exhibition, its owner or keeper shall produce proof of licensure and proof of rabies immunization within 24 hours upon request by a humane agent, animal control officer or law enforcement officer, including a game warden.
[PL 1999, c. 254, §6 (AMD).]

SECTION HISTORY

PL 1993, c. 468, §12 (NEW). PL 1993, c. 657, §§25,26 (AMD). PL 1995, c. 409, §6 (AMD). PL 1997, c. 690, §16 (AMD). PL 1999, c. 254, §§5,6 (AMD). PL 2007, c. 439, §16 (AMD). PL 2013, c. 115, §11 (AMD). PL 2025, c. 141, §9 (AMD). RR 2025, c. 1, Pt. A, §14 (COR).

**§3923-C. Kennel license**

**(REPEALED)**

SECTION HISTORY

PL 1993, c. 657, §27 (NEW). PL 1995, c. 409, §7 (AMD). PL 1995, c. 490, §§8,9 (AMD). PL 1995, c. 625, §§B1,2 (AMD). PL 1997, c. 690, §§17-21 (AMD). PL 2003, c. 405, §14 (AMD). PL 2003, c. 536, §4 (AMD). PL 2005, c. 422, §7 (AMD). PL 2009, c. 403, §2 (AMD). PL 2025, c. 414, §6 (RP).

**§3923-D. Temporary licenses**

An animal shelter may issue a temporary dog license when transferring ownership vested in the animal shelter under section 3913, subsection 4 to a person buying or otherwise accepting ownership. The department shall provide animal shelters with temporary license forms. The animal shelter shall complete all information prescribed on the form, provide the owner with the original temporary license and submit the copy for the municipal clerk and the animal control officer to the appropriate municipal clerk. The animal shelter may retain a copy of the temporary license to comply with section 3914. A temporary license is valid for a period of 10 days beginning on the date of issuance. An animal shelter may charge $1 for issuing a temporary license. [PL 1997, c. 690, §22 (AMD).]

SECTION HISTORY

PL 1993, c. 657, §27 (NEW). PL 1995, c. 409, §7 (AMD). PL 1997, c. 690, §22 (AMD).

**§3923-E. Monthly report**

Municipal clerks or dog recorders shall receive the license fees in accordance with section 3923-A, pay them to the department and make a monthly report to the department on a department-approved form of all licenses issued and fees received. [PL 2025, c. 414, §7 (AMD).]

SECTION HISTORY

PL 1993, c. 657, §27 (NEW). PL 2025, c. 414, §7 (AMD).

**§3923-F. Veterinarian or animal shelter serving as dog licensing agent**

The commissioner may authorize an animal shelter licensed in accordance with chapter 723 and a veterinarian licensed in accordance with Title 32, chapter 71-A to issue dog licenses under section 3923-A. The commissioner shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The rules must provide a process for identifying animal shelters and veterinarians who are willing to serve as dog licensing agents for distributing license blanks, tags and stickers, and for the collection, distribution and deposit of license fees into the appropriate state accounts. [PL 2013, c. 115, §12 (AMD).]

SECTION HISTORY

PL 2001, c. 422, §10 (NEW). PL 2009, c. 343, §14 (AMD). PL 2013, c. 115, §12 (AMD).

**§3923-G. Internet licensing project**

**1. Procedure developed; municipality participation.** The commissioner may develop and implement a procedure by which a dog owner can electronically apply for and be issued a dog license using a publicly accessible site on the Internet. A municipality may choose to participate in the electronic dog licensing project by contacting and working with the commissioner. Electronic licensing is available only to residents of a municipality that requests and is accepted by the commissioner to participate in the electronic licensing project. The commissioner may limit the number of municipalities that participate in the project.
[PL 2003, c. 405, §15 (NEW).]

**2. Forms; verification of rabies immunization.** The commissioner shall develop a form to be used for electronic licensing under this section. The commissioner shall consult with the Commissioner of Health and Human Services to establish the information needed to verify rabies immunization.
[PL 2003, c. 405, §15 (NEW); PL 2003, c. 689, Pt. B, §7 (REV).]

**3. Payment of licensing fee.** The commissioner shall establish a mechanism for accepting payment of license fees by credit card. An owner or keeper who applies for a dog license using the publicly accessible site on the Internet developed pursuant to subsection 1 shall pay the fee required under section 3923-A and an additional service fee of $1 for each license to cover administrative costs and pay the Internet service provider.
[PL 2003, c. 405, §15 (NEW).]

**4. Distribution of licensing fee.** The commissioner shall deposit all fees received under this section into the Animal Welfare Fund. The commissioner shall establish procedures for participating municipalities to periodically receive the appropriate credit or payment for license fees collected by the department under this section. A municipality is entitled to a payment or credit of $3 for each dog licensed under this section. All payments or credits received by a municipality must be deposited or credited to the municipality's animal welfare account established in accordance with section 3945.
[PL 2003, c. 405, §15 (NEW).]

**5. Sticker requirement.**
[PL 2007, c. 439, §17 (RP).]

**6. Exclusion of wolf hybrids, dangerous dogs and nuisance dogs.** This section does not apply to the licensing of a wolf hybrid, a dangerous dog or a nuisance dog. A person owning a wolf hybrid, a dangerous dog or a nuisance dog shall obtain a license from the municipal clerk or the dog recorder for the municipality, plantation or unorganized territory in which the person owning the wolf hybrid, the dangerous dog or the nuisance dog resides.
[PL 2021, c. 99, §8 (AMD).]

SECTION HISTORY

PL 2003, c. 405, §15 (NEW). PL 2003, c. 689, §B7 (REV). PL 2007, c. 439, §17 (AMD). PL 2011, c. 100, §12 (AMD). PL 2021, c. 99, §8 (AMD).

**§3924. Violation**

**1. Civil violation.** Any person who violates any section of this chapter commits a civil violation for which a forfeiture not to exceed $100 may be adjudged.
[PL 1987, c. 383, §3 (NEW).]

**2. Unlawful use of collar or tag.** A person who removes a tag or who places a tag on a dog for which the license was not issued commits a civil violation for which a forfeiture of not more than $100 may be adjudged.
[PL 1997, c. 690, §23 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1995, c. 409, §8 (AMD). PL 1997, c. 690, §23 (AMD).

**§3925. Dog licensing database**

The department shall develop and implement a dog licensing database in coordination with any electronic dog licensing project implemented pursuant to section 3923-G. The database must track all dog licensing throughout the State and allow municipalities and animal control officers to reunite lost dogs with owners and track dogs that have been determined by a court of competent jurisdiction to be dangerous dogs and nuisance dogs pursuant to chapter 727. The department shall provide all municipalities and dog licensing agents with access to the database at no cost. [PL 2017, c. 404, §7 (NEW).]

SECTION HISTORY

PL 2017, c. 404, §7 (NEW).

## CHAPTER 723

## FACILITY LICENSES

**§3931. Kennels**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 779, §28 (AMD). PL 1993, c. 657, §29 (RP).

**§3931-A. Breeding kennels**

**1. License necessary.** A person maintaining a breeding kennel, as defined in section 3907, must obtain a license from the department and is subject to rules adopted by the department. The license expires 12 months after the date of issuance. An applicant for a breeding kennel license shall state in the application the number of female dogs or cats capable of breeding that are maintained at the breeding kennel. The department shall issue a license or a conditional license under subsection 6 in one of the 3 categories described in paragraphs A, B and C and collect a fee in accordance with subsection 2.

A. A breeding kennel that maintains at least 5 but no more than 10 female dogs or cats capable of breeding is a Category 1 breeding kennel. [PL 2009, c. 403, §3 (NEW).]

B. A breeding kennel that maintains at least 11 but no more than 20 female dogs or cats capable of breeding is a Category 2 breeding kennel. [PL 2009, c. 403, §3 (NEW).]

C. A breeding kennel that maintains 21 or more female dogs or cats capable of breeding is a Category 3 breeding kennel. [PL 2009, c. 403, §3 (NEW).]

[PL 2009, c. 403, §3 (AMD).]

**2. License fees.** The license fee is $125 for a Category 1 breeding kennel, $150 for a Category 2 breeding kennel and $200 for a Category 3 breeding kennel.

[PL 2025, c. 414, §8 (AMD).]

**3. Dog licenses.**

[PL 1993, c. 468, §13 (RP).]

**4. Surcharge on sale of dogs and cats that have not been neutered.**

[PL 2005, c. 510, §7 (RP).]

**5. License number requirements.** A breeding kennel shall prominently display in any advertising the state-issued kennel license number.

The breeding kennel shall provide its license number to a person purchasing or receiving an animal from the breeding kennel.
[PL 2009, c. 403, §5 (AMD).]

**6. Conditional breeding kennel license.** Upon receiving an application for a breeding kennel that does not at the time of application hold a valid license under this section, the department shall issue a conditional breeding kennel license. The conditional license remains in effect until the breeding kennel passes an inspection under section 3936. If a breeding kennel cannot meet minimum standards within 6 months after the initial inspection, the conditional breeding kennel license may be revoked or suspended by the department pending an administrative proceeding held in accordance with Title 5, chapter 375, subchapter 5.
[PL 2009, c. 403, §6 (NEW).]

SECTION HISTORY

PL 1991, c. 779, §29 (NEW). PL 1993, c. 468, §13 (AMD). PL 1993, c. 657, §30 (AMD). PL 1995, c. 490, §10 (AMD). PL 2003, c. 405, §16 (AMD). PL 2005, c. 281, §6 (AMD). PL 2005, c. 510, §7 (AMD). PL 2007, c. 702, §8 (AMD). PL 2009, c. 403, §§3-6 (AMD). PL 2025, c. 414, §8 (AMD).

**§3931-B. Wolf hybrid kennel**

**(REPEALED)**

SECTION HISTORY

PL 2001, c. 129, §4 (NEW). PL 2011, c. 100, §13 (RP).

**§3932. Boarding kennels**

**1. License necessary.** A person maintaining a boarding kennel, as defined in section 3907, shall obtain a license from the department and is subject to rules adopted by the department. The license expires December 31st annually or in a manner consistent with the license provisions of the Maine Administrative Procedure Act, whichever is later.
[PL 1993, c. 657, §31 (AMD).]

**2. License fees.** The fee for a boarding kennel license is $125.
[PL 2025, c. 414, §9 (AMD).]

**3. Dog licenses.**

[PL 1993, c. 657, §32 (RP).]

**4. Advertising.** A boarding kennel shall prominently display the state-issued kennel license number in any form of print advertising.

The license number must be provided to a person boarding an animal at a boarding kennel.
[PL 2007, c. 439, §18 (NEW).]

**5. Notice of fees and services.** A person maintaining a boarding kennel shall post upon the premises and provide upon request a written notice of fees charged for boarding and for any other services offered at the boarding kennel. The notice must indicate the hours during which the owner of the boarding kennel or a person responsible to the owner of the boarding kennel is on the premises.
[PL 2009, c. 343, §15 (NEW).]

**6. Conditional boarding kennel license.** Upon receiving a license application for a boarding kennel that does not at the time of application hold a valid license under this section, the department shall issue a conditional boarding kennel license to an applicant who pays the required fees and is not prohibited from obtaining a license under section 3935. The conditional license remains in effect until the boarding kennel meets the requirements for a license under section 3936. If a boarding kennel

passes an inspection under section 3936 and meets all other conditions of licensure, the conditional license must be changed to a standard license. If a boarding kennel cannot meet minimum standards within 6 months after the initial inspection, the conditional license may be revoked or suspended by the department pending an administrative proceeding held in accordance with Title 5, chapter 375, subchapter 5.
[PL 2013, c. 115, §13 (NEW).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 779, §30 (AMD). PL 1993, c. 657, §§31,32 (AMD). PL 2003, c. 405, §17 (AMD). PL 2007, c. 439, §18 (AMD). PL 2009, c. 343, §15 (AMD). PL 2013, c. 115, §13 (AMD). PL 2025, c. 414, §9 (AMD).

**§3932-A. Animal shelters**

**1. License necessary.** A person operating an animal shelter as defined in section 3907 shall obtain a license from the department and is subject to rules adopted by the department. The license expires December 31st annually or in a manner consistent with the license provisions of the Maine Administrative Procedure Act, whichever is later.
[PL 1993, c. 657, §33 (NEW).]

**2. License fee.** The license fee for an animal shelter is $125.
[PL 2025, c. 414, §10 (AMD).]

**3. Temporary placement.** Facilities where animals are temporarily placed by the department are exempt from licensing requirements.
[PL 2007, c. 439, §19 (NEW).]

**4. Conditional animal shelter license.**
[PL 2015, c. 223, §8 (RP).]

SECTION HISTORY

PL 1993, c. 657, §33 (NEW). PL 2003, c. 405, §18 (AMD). PL 2007, c. 439, §19 (AMD). PL 2013, c. 115, §14 (AMD). PL 2015, c. 223, §8 (AMD). PL 2025, c. 414, §10 (AMD).

**§3932-B. Kennel license**

**1. License necessary.** A person maintaining a kennel, as defined in section 3907, subsection 17, shall annually obtain a kennel license from the department, and that person is subject to rules adopted by the department. Individuals or entities obtaining facility licenses under sections 3931-A, 3932, 3932-A and 3933 are not required to obtain a kennel license. A kennel license expires December 31st annually.
[PL 2025, c. 414, §11 (NEW).]

**2. Application.** An individual who is required to obtain a kennel license shall submit an application with the department for such a license by January 31st annually or within 30 days of first being required to obtain a kennel license pursuant to subsection 1. In order for the State to issue a kennel license, the applicant must provide to the department a complete application, a signed inspection from an animal control officer appointed by the municipality where a kennel is located, or a humane agent if there is no animal control officer appointed by the municipality where a kennel is located, that confirms a passed inspection in compliance with subsection 5 and current rabies vaccination certificates for all animals as required by section 3916. The initial inspection must be made not more than 30 days before filing the first application for a license. Inspections to renew a kennel license must be performed annually. A humane agent may conduct an inspection of a kennel in a municipality with an animal control officer under specific and extenuating circumstances as determined by the department by rule. If the municipality does not have an animal control officer, the humane agent may conduct an inspection

of a kennel by request as determined by the department by rule. If a humane agent conducts an inspection pursuant to this subsection, the municipality shall pay for the cost of the inspection.
[PL 2025, c. 414, §11 (NEW).]

**3. License fees.** A kennel owner shall pay a fee to the department for each kennel license. The kennel license fee is $50 for 5 to 10 dogs, $100 for 11 to 20 dogs and $150 for 21 or more dogs. The department shall forward 20% of the collected fee to the animal welfare account established pursuant to section 3945 for the municipality in which the kennel is located and deposit the remainder into the Animal Welfare Fund established pursuant to section 3906-B, subsection 2.
[PL 2025, c. 414, §11 (NEW).]

**4. Form of license.** If a kennel license is issued in hard copy, it must be issued in triplicate, with the original copy given to the applicant, one copy given to the municipality where the applicant is located and one copy kept on file by the department. The license may be issued electronically to all parties.
[PL 2025, c. 414, §11 (NEW).]

**5. Annual inspection.** An animal control officer appointed by the municipality where a kennel is located, or a humane agent if there is no animal control officer appointed by the municipality where a kennel is located, shall annually inspect the premises of the kennel prior to the State's issuing or renewing a kennel license according to rules established by the department. A humane agent may conduct an inspection of a kennel in a municipality with an appointed animal control officer under specific and extenuating circumstances as determined by the department by rule. If a humane agent conducts an inspection pursuant to this subsection, the municipality shall pay for the cost of the inspection.
[PL 2025, c. 414, §11 (NEW).]

**6. License tags.** Dogs covered by a kennel license must be furnished suitable individual dog license tags indicating the year that the license is issued. License tags furnished pursuant to this subsection must be attached to the collars of the dogs covered by the kennel license in the manner prescribed under section 3923-B, subsection 1 and subject to the exceptions prescribed under section 3923-B, subsection 3.
[PL 2025, c. 414, §11 (NEW).]

SECTION HISTORY

PL 2025, c. 414, §11 (NEW).

**§3933. Pet shops**

**1. License necessary.** A person maintaining a pet shop, as defined in section 3907, shall obtain a license from the department and is subject to rules adopted by the department. The license expires December 31st annually or in a manner consistent with the license provisions of the Maine Administrative Procedure Act, whichever is later. A license issued under this section does not authorize a person to keep for sale or offer for sale dogs or cats unless the pet shop meets the requirements of section 4153, subsection 3, paragraph B. For purposes of this section, a licensed pet shop that meets the requirements of section 4153, subsection 3, paragraph B is a grandfathered pet shop.
[PL 2019, c. 544, §2 (AMD).]

**2. License fees.** The fee for a pet shop license is $200.
[PL 2025, c. 414, §12 (AMD).]

**3. Records.** A person maintaining a pet shop, as defined in section 3907, shall keep a record of each animal received by the pet shop, except for mice and fish. The record must include the name and address of the person or company from whom the animal was received and the name and address of the person buying or otherwise acquiring the animal from the pet shop. The record must be kept on file for

a period of 2 years following the sale or other disposition of the animal by the pet shop and must be made available to the department within 24 hours of the request of the department.
[PL 2009, c. 343, §16 (AMD).]

**4. Surcharge on sale of dogs and cats by grandfathered pet shops.** A person maintaining a grandfathered pet shop shall collect a surcharge of $25 on each cat or dog sold that has not been neutered and forward the entire surcharge to the department for deposit in the Companion Animal Sterilization Fund established under section 3910-B.
[PL 2019, c. 544, §2 (AMD).]

**5. Advertising.** A grandfathered pet shop license holder advertising to the public the availability of a dog or cat for sale or in any way exchanging a dog or cat for value shall prominently display the state-issued pet shop license number in any publication in which the pet shop license holder advertises. The pet shop license number must be provided to a person adopting or purchasing an animal from the pet shop.
[PL 2019, c. 544, §2 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 779, §31 (AMD). PL 1993, c. 657, §34 (AMD). PL 2003, c. 350, §1 (AMD). PL 2003, c. 405, §19 (AMD). PL 2005, c. 281, §7 (AMD). PL 2007, c. 439, §20 (AMD). PL 2009, c. 343, §16 (AMD). PL 2019, c. 544, §2 (AMD). PL 2025, c. 414, §12 (AMD).

**§3934. Exemption from licensure**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 779, §32 (RP).

**§3935. License prohibited**

The department may not issue a license to maintain a facility required to be licensed under this chapter to an individual who, within the 10 years previous to the application for the license, has been convicted of murder, a Class A or Class B offense, a violation under Title 17-A, chapter 9, 11, 12 or 13 or a criminal violation under Title 17, chapter 42 or under a criminal law involving cruelty to animals that is no longer in effect or, within 10 years previous to the application for the license, has been adjudicated of a civil violation for cruelty to animals under chapter 739 or has been convicted or adjudicated in any other state, provincial or federal court of a violation similar to those specified in this section. An individual who submits an application to be licensed under this chapter shall submit the results of a background check to the department along with the license application. The individual shall pay for the background check. [PL 2025, c. 414, §13 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1993, c. 468, §14 (AMD). PL 1993, c. 657, §35 (AMD). PL 2005, c. 422, §8 (AMD). PL 2007, c. 439, §21 (AMD). PL 2009, c. 343, §17 (AMD). PL 2025, c. 414, §13 (AMD).

**§3935-A. Late fees**

A person maintaining a facility required to be licensed under this chapter shall pay a late fee equal to 50% of the required license fee if that person fails to renew a license within 30 days of that license's expiration date. The late fee must be deposited in the Animal Welfare Fund established in section 3906-B. [PL 2005, c. 422, §9 (NEW).]

SECTION HISTORY

PL 2005, c. 422, §9 (NEW).

**§3936. Inspection and quarantine**

**1. Inspection and quarantine.** The commissioner, a state humane agent, a veterinarian employed by the State or a licensed veterinarian at the direction of the commissioner may, at any reasonable time, enter a facility required to be licensed under this chapter and make examinations and conduct any recognized tests for the existence of contagious or infectious diseases or conditions. If a facility required to be licensed under this chapter is also used for human habitation, the person authorized to make examinations and conduct tests must be escorted by the owner, or the owner's agent, of the facility and the examinations and tests may be made only in those portions of the premises used as a facility required to be licensed under this chapter. The commissioner may inspect a facility required to be licensed under this chapter in accordance with the sanitation and health rules established by the department and for compliance with laws and rules, including licensing and permitting requirements, of the Department of Inland Fisheries and Wildlife pertaining to wildlife importation and possession. In conducting inspections, measures established by the department through rulemaking must be used to prevent the spread of infectious and contagious diseases. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. A veterinarian employed by the State or any licensed veterinarian may quarantine a facility required to be licensed under this chapter, in person or by registered mail, and the quarantine must be maintained as long as the department determines necessary. The decision and order for this quarantine is not considered a licensing or an adjudicatory proceeding as defined by the Maine Administrative Procedure Act. The commissioner shall promptly notify the Department of Inland Fisheries and Wildlife of violations. [PL 2025, c. 414, §14 (AMD).]

**2. Suspension of license.**
[PL 2025, c. 414, §14 (RP).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 779, §33 (AMD). PL 1993, c. 89, §1 (AMD). PL 1995, c. 490, §11 (AMD). PL 1997, c. 690, §24 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2009, c. 343, §18 (AMD). PL 2009, c. 403, §7 (AMD). PL 2025, c. 414, §14 (AMD).

**§3936-A. Noncompliance; subsequent inspection required**

If, upon inspection under section 3936, the commissioner or the commissioner's designee finds a facility licensed under this chapter to be in violation of this chapter or rules adopted under this chapter, the commissioner or the commissioner's designee shall issue a written notice describing the violation, the required corrective action to be taken and the date by which the correction must be made. No fee is charged for the first follow-up inspection. If the corrective action has not been taken within the specified period and 2 or more follow-up inspections are needed in any calendar year, the department shall charge the licensee a fee equal to 50% of the original license fee for each follow-up inspection. The original notice of a violation must inform the licensee of the fee charged for follow-up inspections. [PL 2009, c. 403, §8 (NEW).]

If the person operating the facility fails to complete corrective actions by the date noted in the original notice or a subsequent date specified by the department, the department may revoke, suspend or refuse to renew a license issued under this chapter pending an administrative proceeding held in accordance with Title 5, chapter 375, subchapter 5. [PL 2009, c. 403, §8 (NEW).]

SECTION HISTORY

PL 2009, c. 403, §8 (NEW).

**§3936-B. Refuse to issue or renew, suspend or revoke license**

The department may, in accordance with Title 5, chapter 375, subchapter 5, refuse to issue, refuse to renew, suspend or revoke the license of a facility required to be licensed under this chapter if a person maintaining the facility makes a material and deliberate misstatement in the application for a license or a license renewal under this chapter, violates any provision of this chapter or any rules adopted pursuant to this chapter, violates any quarantine, maintains animals in a manner contrary to any provision of the laws enforced by the department or rules adopted by the department, fails to keep records required by the department or violates any provision of the laws enforced by or rules adopted by the Department of Inland Fisheries and Wildlife pertaining to wildlife importation and possession. [PL 2025, c. 414, §15 (NEW).]

SECTION HISTORY

PL 2025, c. 414, §15 (NEW).

**§3937. Investigation**

Upon written complaint made to the commissioner by any person alleging violation of this chapter, or any of the rules of the chapter by any licensee, the commissioner shall cause an investigation to be made upon matters related in the complaint. [PL 1987, c. 383, §3 (NEW); PL 1993, c. 468, §25 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1993, c. 468, §25 (AMD).

**§3938. Violation**

A person maintaining a facility required to be licensed under this chapter without having obtained a license, or after a license has been revoked or suspended, commits a civil violation for which a forfeiture of not less than $50 nor more than $200 a day may be adjudged. [PL 2025, c. 414, §16 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1993, c. 468, §14 (AMD). PL 1993, c. 657, §36 (AMD). PL 2025, c. 414, §16 (AMD).

**§3938-A. Minimum age of transfer for cats and dogs**

A person or an animal shelter, boarding kennel, breeding kennel or grandfathered pet shop that sells, gives away or otherwise transfers ownership of a dog or cat before it has reached its 56th day of life commits a civil violation for which a fine of not less than $50 nor more than $200 may be adjudged. For purposes of this section, "grandfathered pet shop" has the same meaning as in section 3933. [PL 2019, c. 544, §3 (AMD).]

SECTION HISTORY

PL 2007, c. 439, §22 (NEW). PL 2019, c. 544, §3 (AMD).

**§3939. Dog licenses**

Nothing in this chapter may be construed to exempt licensed facilities from the license requirements of chapter 721. [PL 1993, c. 657, §37 (NEW).]

SECTION HISTORY

PL 1993, c. 657, §37 (NEW).

**§3939-A. Spay; neuter of dogs and cats**

**1. Spay; neuter.** Except as otherwise provided in subsections 2 and 3, an animal shelter may not place with a new owner a dog or cat that has not been spayed or neutered unless an appointment has been made with a licensed veterinarian to spay or neuter the animal within 30 days of accepting

ownership. A person who accepts ownership of a dog or cat that is unaltered shall, in addition to any other charges or other fees, make a deposit equal to 100% of the cost of the scheduled surgery with the animal shelter and shall sign a spay-neuter agreement. The animal shelter must refund the deposit upon receiving proof of sterilization.

For purposes of this section, "place" means to sell, give away or otherwise transfer possession of a cat or dog.
[PL 2015, c. 223, §9 (AMD).]

**2. Detrimental to health.** If a licensed veterinarian or licensed veterinary technician as defined in Title 32, section 4853 determines that a dog or cat is too sick or injured or that it would otherwise be detrimental to the health of the dog or cat to be spayed or neutered within 30 days of placement, the animal shelter shall collect a deposit of not less than $50 and not more than $150 at the time of sale or placement. The animal shelter shall determine the amount of the deposit based on the cost of spaying or neutering within the geographic area served by the animal shelter. A person accepting ownership of the dog or cat under this subsection shall sign an agreement to have the animal sterilized as soon as it is medically advisable.

Upon receipt of proof of sterilization, the animal shelter shall immediately and fully refund the deposit.
[PL 2015, c. 494, Pt. A, §4 (RPR).]

**3. Extension.** Notwithstanding subsection 1, an animal shelter may extend the date by which spaying or neutering is to be completed at its discretion for good cause. An extension must be in writing.
[PL 2015, c. 223, §9 (AMD).]

**4. Reimbursement of deposit.** If a dog or cat dies prior to spaying or neutering and within the agreement period, the owner is entitled to reimbursement of the deposit paid under subsection 1. If a dog or cat dies prior to spaying or neutering and within 120 days of signing an agreement under subsection 2, the owner is entitled to reimbursement of the deposit paid under subsection 2. To receive reimbursement under this subsection, the owner must provide the animal shelter with a letter signed by a licensed veterinarian stating that the cat or dog has died and providing a description of the animal.
[PL 2015, c. 223, §9 (AMD).]

**5. Unclaimed deposits.** Except as provided in subsections 2, 3 and 4, deposits received under subsection 1 or 2 that are unclaimed within 120 days of the date the spay-neuter agreement was signed must be:

A. Used to subsidize spaying or neutering of dogs and cats offered for placement by the animal shelter receiving the deposits; or [PL 2015, c. 223, §9 (AMD).]

B. Remitted to the department for deposit in the Companion Animal Sterilization Fund established under section 3910-B. [PL 2007, c. 439, §23 (NEW).]

When extensions are granted under subsection 3 and the deposits are unclaimed 120 days after the extended date for spaying or neutering, those deposits must be disposed of under paragraphs A and B.
[PL 2015, c. 223, §9 (AMD).]

SECTION HISTORY

PL 2007, c. 439, §23 (NEW). PL 2015, c. 209, §1 (AMD). PL 2015, c. 223, §9 (AMD). PL 2015, c. 494, Pt. A, §4 (AMD).

**§3939-B. Violations**

**1. Noncompliance by new owner.** If a person receiving a dog or cat from an animal shelter fails to comply with section 3939-A, that person forfeits the sterilization deposit and commits a civil violation for which a fine of not less than $50 nor more than $200 per animal may be adjudged.
[PL 2015, c. 223, §10 (AMD).]

**2. Noncompliance by animal shelter.** If an animal shelter fails to require a spay-neuter agreement or fails to collect a deposit as required under section 3939-A, that animal shelter commits a civil violation for which a fine of not less than $50 nor more than $200 per animal may be adjudged. [PL 2015, c. 223, §10 (AMD).]

SECTION HISTORY

PL 2007, c. 439, §24 (NEW). PL 2015, c. 223, §10 (AMD).

## CHAPTER 725

## MUNICIPAL DUTIES

### §3941. Posting of law

Municipal clerks, annually, at least 20 days before January 1st, shall post copies of chapter 721 and this chapter in the municipal offices. [PL 2007, c. 439, §25 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1997, c. 690, §25 (AMD). PL 2007, c. 439, §25 (AMD).

### §3942. Issuance of dog licenses

Municipal clerks shall issue dog licenses in accordance with chapter 721, receive the license fees and pay to the department $10 for dogs capable of producing young and $3 from each license fee received for dogs incapable of producing young. The clerks shall keep a record of all licenses issued by them, with the names of the owners or keepers of dogs licensed and the sex, registered numbers and description of all dogs except those covered by a kennel license and whether the dogs have been determined by a court of competent jurisdiction to be dangerous dogs or nuisance dogs. The clerks shall make a monthly report to the department on a department-approved form of all dog licenses issued and fees received. [PL 2017, c. 404, §8 (AMD).]

The clerk shall retain $1 from each license fee as a recording fee. The clerk shall deposit $2 from each license for a dog incapable of producing young in the municipality's animal welfare account established in accordance with section 3945. [PL 2003, c. 405, §20 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 622, §FF17 (AMD). PL 1991, c. 779, §34 (AMD). PL 1991, c. 779, §52 (AFF). PL 1999, c. 254, §7 (AMD). PL 2001, c. 617, §7 (AMD). PL 2003, c. 405, §20 (AMD). PL 2015, c. 223, §11 (AMD). PL 2017, c. 404, §8 (AMD).

### §3943. Municipal warrants

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 264, §§1,2 (AMD). PL 1991, c. 779, §§35,36 (AMD). PL 1991, c. 779, §60 (AFF). PL 1995, c. 490, §§12,13 (AMD). PL 1997, c. 690, §26 (AMD). PL 1999, c. 136, §1 (AMD). PL 2003, c. 405, §21 (AMD). PL 2009, c. 343, §19 (RP).

### §3944. Issuance of kennel licenses

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 779, §37 (AMD). PL 1993, c. 657, §38 (AMD). PL 1997, c. 690, §27 (AMD). PL 2025, c. 414, §17 (RP).

**§3945. Use of license fees and court fines retained by municipalities**

Except for the $1 recording fee pursuant to section 3942 retained by the municipal clerk, all fees and court fines retained by municipalities must be kept in a separate account and must be used for the salaries and costs of animal control, enforcement of licensing laws, care of stray animals that are injured or abandoned and the support of one or more approved animal shelters. Any money not expended for these purposes in a municipality's fiscal year does not lapse, but must be carried over to the next fiscal year. [PL 2001, c. 617, §8 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1993, c. 657, §39 (AMD). PL 1995, c. 490, §14 (AMD). PL 2001, c. 617, §8 (AMD).

**§3946. Dog recorders in unorganized territories**

Dog recorders appointed by the commissioner in unorganized territories shall issue dog licenses, receive the license fees and pay them to the department. The recorders shall keep the clerk's copy of all licenses issued by them and make reports to the department on a form approved by the department of all licenses issued and fees received. The recorders shall report following each month in which licenses are actually issued and fees are actually collected. [PL 1995, c. 490, §15 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 779, §38 (AMD). PL 1995, c. 490, §15 (AMD).

**§3947. Animal control officers**

Each municipality shall appoint one or more animal control officers whose duties are enforcement of sections 3911, 3912, 3916, 3921, 3924, 3948, 3950, 3950-A, 3952-A, 4041 and 4042 and Title 17, section 1023, responding to reports of animals suspected of having rabies in accordance with Title 22, sections 1313 and 1313-A and any other duties to control animals as the municipality may require. A municipality may appoint an employee of an animal shelter as an animal control officer as long as the person meets the qualifications and training requirements of this section. [PL 2019, c. 437, §2 (AMD).]

A municipality may not appoint a person to the position of animal control officer who has been convicted of murder, a Class A or Class B offense or a violation of Title 17-A, chapter 9, 11, 12 or 13 or has been convicted of a criminal violation under Title 17, chapter 42 or has been adjudicated of a civil violation for cruelty to animals under chapter 739 or who has been convicted or adjudicated in any other state, provincial or federal court of a violation similar to those specified in this section. [PL 2007, c. 439, §26 (AMD).]

Animal control officers must be certified in accordance with section 3906-B, subsection 4. Upon initial appointment, an animal control officer must complete basic training and be certified by the commissioner within 6 months of appointment. [PL 2007, c. 439, §26 (AMD).]

An animal control officer must attend advanced training programs as described under section 3906-B, subsection 4 to maintain certification. An animal control officer must have a minimum of 8 hours of training each year. [PL 2007, c. 439, §26 (NEW).]

Upon appointment of an animal control officer, municipal clerks shall notify the commissioner of the name, address and telephone number of the animal control officer within 10 business days. In the event the position is vacant upon termination or resignation of the animal control officer, the municipal clerk shall notify the commissioner within 10 business days of the vacancy. [PL 2009, c. 343, §20 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1987, c. 643, §3 (AMD). PL 1991, c. 779, §39 (AMD). PL 1993, c. 468, §15 (AMD). PL 1995, c. 490, §16 (AMD). PL 1997, c. 690, §28 (AMD). PL 2007, c. 439, §26 (AMD). PL 2009, c. 177, §1 (AMD). PL 2009, c. 343, §20 (AMD). PL 2017, c. 404, §9 (AMD). PL 2019, c. 437, §2 (AMD).

**§3948. Animal control**

**1. Control.** Municipalities shall control dogs running at large.
[PL 1997, c. 690, §29 (AMD).]

**2. Medical attention.** Law enforcement officers and animal control officers shall take a stray animal to its owner, if known, or, if the owner is unknown, shall ensure that any injured companion animal that is at large or in a public way is given proper medical attention.
[PL 2009, c. 343, §21 (AMD).]

**3. Domesticated and undomesticated animals.** A municipality shall control domesticated animals that are a cause of complaint in the community. A municipality shall control animals that pose a threat to public health or safety. A municipality may control undomesticated animals in matters on which no other department is charged by law to regulate.
[PL 1997, c. 690, §31 (AMD).]

**4. Reporting.** By January 31st of each year, a municipality shall report to the animal welfare program of the department all complaints related to animal control incidents for the prior calendar year. The report must include the number and type of animal complaints received and responded to by municipal animal control officers, law enforcement officers or municipal officials and the outcomes of each investigation. The reports must be on forms provided by the department.
[PL 2017, c. 404, §10 (NEW).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1987, c. 643, §4 (AMD). PL 1993, c. 468, §16 (AMD). PL 1995, c. 490, §17 (AMD). PL 1997, c. 690, §§29-31 (AMD). PL 2009, c. 343, §21 (AMD). PL 2017, c. 404, §10 (AMD).

**§3949. Animal shelter designation**

Municipal clerks, annually, on or before April 1st, shall certify to the commissioner the name and location of the animal shelter with which the municipality has entered into a contract to accept stray animals or have an arrangement for an animal shelter that will accept stray animals. Animal shelters designated by the municipality under this section must comply with commissioner rules. [PL 1997, c. 690, §32 (AMD).]

A municipality may contract with an animal shelter licensed under section 3932-A for other animal control services. A municipality may not contract with a shelter for the performance of the duties of an animal control officer as specified in section 3947 unless an employee of that shelter is the appointed animal control officer for that municipality and the duties of an animal control officer are performed by the person so appointed. [PL 2009, c. 177, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1993, c. 468, §25 (AMD). PL 1993, c. 657, §40 (AMD). PL 1997, c. 690, §32 (AMD). PL 2009, c. 177, §2 (AMD).

**§3950. Local regulations**

Each municipality is empowered to adopt or retain more stringent ordinances, laws or regulations dealing with the subject matter of this chapter, including the establishment of fees necessary and appropriate to finance the cost of animal control services, except that municipalities may not adopt

breed-specific ordinances, laws or regulations. Any less restrictive municipal ordinances, laws or regulations are invalid and of no force and effect. [PL 2013, c. 595, Pt. U, §1 (AMD).]

**1. Certain agricultural working dogs exempt from barking dog ordinances.** A municipal ordinance, law or regulation that prohibits or limits barking dogs does not apply to dogs engaged in herding livestock or to agricultural guard dogs engaged in protecting livestock or warning the owners of danger to the livestock. For the purposes of this subsection, the term "livestock" has the same meaning as in section 3907, subsection 18-A.
[PL 2005, c. 138, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1991, c. 779, §40 (AMD). PL 2005, c. 138, §1 (AMD). PL 2013, c. 595, Pt. U, §1 (AMD).

**§3950-A. Official refusal or neglect of duty**

**1. Violation.** A mayor, municipal officer, clerk, town or city manager, administrative assistant to the mayor, town or city councilor, dog recorder of unorganized territories, constable, police officer, sheriff or animal control officer commits a civil violation if that person refuses or intentionally fails to perform the duties imposed by:

A. This chapter; [PL 2003, c. 452, Pt. B, §21 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. Chapter 719; [PL 2003, c. 452, Pt. B, §21 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. Chapter 720; [PL 2003, c. 452, Pt. B, §21 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

D. Chapter 721; [PL 2003, c. 452, Pt. B, §21 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

E. [PL 2025, c. 414, §18 (RP).]

F. Chapter 727; or [PL 2025, c. 414, §19 (AMD).]

G. Chapter 723. [PL 2025, c. 414, §20 (NEW).]
[PL 2025, c. 414, §§18-20 (AMD).]

**2. Penalty.** A person who violates subsection 1 commits a civil violation for which a fine of not less than $50 and not more than $500 and costs may be adjudged and, for an animal control officer, revocation of that person's certification as an animal control officer may be imposed.
[PL 2021, c. 99, §9 (AMD).]

**3. Investigation.** The commissioner, at the commissioner's own instance or upon written complaint made to the commissioner by another person, shall investigate an alleged refusal or neglect of duty by a municipal officer.
[PL 2003, c. 452, Pt. B, §21 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**4. Prosecution.** The commissioner shall direct proceedings, actions and prosecutions to be instituted to enforce all laws relating to animals and to the liability of municipal officers and their agents for failure, neglect or refusal to comply with the laws relating to animals.
[PL 2003, c. 452, Pt. B, §21 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1995, c. 490, §18 (AMD). PL 1995, c. 557, §2 (AMD). PL 1997, c. 690, §33 (AMD). PL 2003, c. 452, §B21 (RPR). PL 2003, c. 452, §X2 (AFF). PL 2009, c. 343, §22 (AMD). PL 2021, c. 99, §9 (AMD). PL 2025, c. 414, §§18-20 (AMD).

**§3950-B. Euthanasia for severely sick or severely injured livestock**

**1. Written authorization.** A humane agent, animal control officer or animal shelter may authorize in writing the euthanasia of severely sick or severely injured livestock under the following conditions:

A. The clerk or animal control officer of the municipality in which the livestock was found has been notified of the livestock's presence and a reasonable attempt to contact the owner of the livestock has been made; and [PL 2019, c. 437, §3 (NEW).]

B. A veterinarian states in writing that given reasonable time and reasonable care the livestock's recovery from the livestock's sickness or injury is doubtful. [PL 2019, c. 437, §3 (NEW).]

[PL 2019, c. 437, §3 (NEW).]

**2. Immediate euthanasia.** Notwithstanding subsection 1, paragraphs A and B, a veterinarian may authorize immediate euthanasia if, in the veterinarian's judgment, there is no possibility of recovery for severely sick or severely injured livestock.

[PL 2019, c. 437, §3 (NEW).]

SECTION HISTORY

PL 2019, c. 437, §3 (NEW).

**§3950-C. Immunity from civil liability**

A municipality, veterinarian, humane agent, animal control officer or animal shelter is not civilly liable to any party for authorization made in accordance with section 3950-B nor is any person performing euthanasia under that authorization civilly liable. [PL 2019, c. 437, §3 (NEW).]

SECTION HISTORY

PL 2019, c. 437, §3 (NEW).

## CHAPTER 727

## DANGEROUS DOGS AND NUISANCE DOGS

**§3951. Killing for assault permitted**

Any person may lawfully kill a dog if necessary to protect that person, another person or a domesticated animal during the course of a sudden, unprovoked assault. [PL 1997, c. 690, §34 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1997, c. 690, §34 (AMD).

**§3952. Keeping a dangerous dog**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1987, c. 736, §6 (AMD). PL 1989, c. 212 (AMD). PL 1997, c. 690, §§35,36 (AMD). PL 1999, c. 350, §2 (AMD). PL 2001, c. 399, §5 (AMD). PL 2003, c. 71, §1 (AMD). PL 2007, c. 170, §§1-4 (AMD). PL 2007, c. 702, §9 (AMD). RR 2009, c. 1, §9 (COR). PL 2011, c. 82, §§1, 2 (AMD). PL 2011, c. 559, Pt. A, §4 (AMD). PL 2017, c. 404, §11 (RP).

**§3952-A. Keeping a dangerous dog or a nuisance dog**

A person who owns or keeps a dog determined by a court of competent jurisdiction to be a dangerous dog or a nuisance dog commits a civil violation for which the court shall adjudge a fine of not less than $250 and not more than $5,000, plus costs, none of which may be suspended. All fines, other than costs, must be paid to the municipality where the dog resides pursuant to section 3910-A and

be placed in the municipality's animal welfare account established in accordance with section 3945. [PL 2017, c. 404, §12 (NEW).]

**1. Procedure.** A person who is assaulted or threatened with bodily injury by a dog or a person witnessing such an assault or threatened assault against a person or domesticated animal or a person with knowledge of such an assault or threatened assault against a minor, or a person whose property or crops have been damaged by a dog, within 30 days of the incident, may make written complaint to the sheriff, local law enforcement officer or animal control officer that the dog is a dangerous dog or a nuisance dog. For the purposes of this chapter, "domesticated animal" includes, but is not limited to, livestock as defined in section 3907, subsection 18-A.

A representative of the sheriff's department, a local law enforcement officer or an animal control officer appointed by the municipality shall investigate and document the complaint. Upon completion of the investigation of the complaint, the investigator may issue a civil violation summons for keeping a dangerous dog or a nuisance dog.

All records of the outcome of the investigation must be kept by the municipality for the life of the dog, plus 2 years.
[PL 2017, c. 404, §12 (NEW).]

**2. Dangerous dog finding.** If, upon hearing, the court finds that a dog is a dangerous dog, the court shall impose a fine and may order any one or more of the following that the court determines is appropriate:

A. Order the dog to be euthanized if the court finds that the dog:

(1) Has killed, maimed or inflicted serious bodily injury upon a person or has a history of a prior assault or a prior finding by the court of being a dangerous dog; and

(2) Presents a clear threat to public safety; [PL 2017, c. 404, §12 (NEW).]

B. Order that the owner or keeper of the dog, if that person has previously been adjudicated of having violated this section, may not own, possess or have on that person's premises any dogs for a period of time, which may be permanent; [PL 2017, c. 404, §12 (NEW).]

C. Order the owner or keeper of the dog, if the owner or keeper is allowed to keep the dog, or any other person keeping the dog, to post dangerous dog signs, visible from all directions and provided by the department, around the entrance of the premises where the dog resides and to notify in writing any service provider that has a reasonable expectation to be on the property that the dog has been determined to be a dangerous dog. The owner or keeper is responsible for the cost of the signs; [PL 2017, c. 404, §12 (NEW).]

D. Order the dog confined in a secure enclosure. For the purposes of this paragraph, "secure enclosure" means a fence or structure of at least 6 feet in height forming or making an enclosure suitable to prevent the entry of young children and suitable to confine a dangerous dog in conjunction with other measures that may be taken by the owner or keeper. The secure enclosure must be locked, be designed with secure sides and be designed to prevent the animal from escaping from the enclosure. The enclosure may also be designed with a secure top and bottom if determined necessary by the court. The court shall specify the length of the period of confinement and may order permanent confinement; [PL 2017, c. 404, §12 (NEW).]

E. Order that the owner or keeper of a dog confined to a secure enclosure pursuant to paragraph D may not allow the dog outside of the secure enclosure unless:

(1) It is necessary to obtain veterinary care for the dog or to comply with orders of the court; and

(2) The dog is securely muzzled with a basket-style muzzle, restrained by a leash not more than 3 feet in length with a minimum tensile strength of 300 pounds and under the direct control of the dog owner or keeper; [PL 2017, c. 404, §12 (NEW).]

F. Order the dog to be securely muzzled with a basket-style muzzle, restrained by a leash not more than 3 feet in length with a minimum tensile strength of 300 pounds and under the direct control of the dog owner or keeper whenever the dog is off the owner's or keeper's premises; [PL 2017, c. 404, §12 (NEW).]

G. Order the dog to be spayed or neutered; [PL 2017, c. 404, §12 (NEW).]

H. Order the dog to be microchipped within 60 days of the court order; [PL 2017, c. 404, §12 (NEW).]

I. Order the owner or keeper of the dog to obtain a minimum of $100,000 in liability insurance for the life of the dog; [PL 2017, c. 404, §12 (NEW).]

J. Order the owner or keeper of the dog to have the dog evaluated by a certified canine behaviorist or certified dog trainer and to attend dog training classes; and [PL 2017, c. 404, §12 (NEW).]

K. Order the owner or keeper of the dog to immediately notify the sheriff, a local law enforcement officer or an animal control officer if the dog escapes. [PL 2017, c. 404, §12 (NEW).]

The court may order restitution in accordance with Title 17-A, chapter 69 for any damages inflicted upon a person or a person's property by a dog determined to be a dangerous dog under this subsection. [PL 2019, c. 113, Pt. C, §2 (AMD).]

**3. Nuisance dog finding.** If, upon hearing, the court finds that a dog is a nuisance dog, the court shall impose a fine and may impose any of the penalties set forth in subsection 2, paragraphs F to K. A dog may be determined by a court to be a nuisance dog only once. After 2 years from the date of the court order finding that the dog is a nuisance dog, the owner or keeper may petition the court to amend or reduce any of the restrictions placed on the dog. The court may amend or reduce the restrictions placed on the dog if the owner or keeper demonstrates to the satisfaction of the court that the owner or keeper has complied with the court order and the dog no longer poses a risk as a nuisance dog. [PL 2017, c. 404, §12 (NEW).]

**4. Identification and confinement of other dogs.** In addition to orders imposed pursuant to subsections 2 and 3, the court may order that the owner or keeper of a dangerous dog or a nuisance dog:

A. Provide the animal control officer in the municipality where the dangerous dog or nuisance dog is kept with photographs and descriptions of other dogs kept by that owner or keeper including the sex, breed, age, identifying markings and microchip numbers of each dog; and [PL 2017, c. 404, §12 (NEW).]

B. Confine any other dogs kept on the owner's or keeper's premises as provided in subsection 2, paragraphs D and E. [PL 2017, c. 404, §12 (NEW).]

[PL 2017, c. 404, §12 (NEW).]

**5. Failure to abide by court order.** If the owner or keeper of a dog willfully fails to comply with any provision of a court order imposed pursuant to subsection 2, 3 or 4, the court shall find the owner or keeper in contempt.

If the court order imposed pursuant to subsection 2, paragraph A is not complied with within the time set by the court, the court may, upon application by the complainant under subsection 1 or other person, issue a warrant to the sheriff or any of the sheriff's deputies or to a local law enforcement officer or constable in the municipality where the dog is found, commanding the officer to have the dog humanely euthanized and make a return of the warrant to the court within 14 days from the date of the warrant.

The owner or keeper must be ordered to pay all costs of supplementary proceedings and all reasonable costs for seizure and euthanasia of the dog.
[PL 2017, c. 404, §12 (NEW).]

**6. Dogs presenting immediate or continuing threat to public.** After issuing a summons pursuant to subsection 1 and before hearing, if the dog poses an immediate or continuing threat to the public, a sheriff, local law enforcement officer or animal control officer shall give a written order requiring the owner or keeper of the dog to muzzle with a basket-style muzzle, restrain or confine the dog to the owner's or keeper's premises or to have the dog confined at the owner's or keeper's expense at a place determined by the sheriff, local law enforcement officer or animal control officer. If an owner or keeper of a dog fails to comply with the written order, the sheriff, local law enforcement officer or animal control officer may apply to the District Court, the Superior Court or a justice of the peace for an ex parte order for authorization to take possession of the dog that poses an immediate or continuing threat to the public and turn the dog over to the applicant or other suitable person.

A dog owner or keeper who fails to abide by the written order commits a civil violation for which a fine of not less than $50 and not more than $200 may be adjudged for each day of noncompliance.
[PL 2017, c. 404, §12 (NEW).]

**7. Ex parte.** An order may be entered ex parte upon findings by the court or justice of the peace when:

A. The dog has inflicted serious bodily injury; or [PL 2017, c. 404, §12 (NEW).]

B. There is a reasonable likelihood that the dog is dangerous or vicious and:

(1) Its owner has failed to muzzle, restrain or confine the dog; and

(2) That failure poses an immediate threat of harm to the public. [PL 2017, c. 404, §12 (NEW).]

[PL 2017, c. 404, §12 (NEW).]

**8. Modify order.** An order under subsection 7 may be modified by the court.

A. Upon 2 days' notice or a shorter period the court may prescribe, the owner or keeper whose dog has been possessed pursuant to an ex parte order may appear in the District Court or the Superior Court and move for the dissolution or modification of the ex parte order. [PL 2017, c. 404, §12 (NEW).]

B. The court shall hear and determine the motion, and the hearing may be advanced on the docket and receive priority over other cases when the court determines that the interests of justice so require. [PL 2017, c. 404, §12 (NEW).]

C. The owner or keeper shall submit an affidavit setting forth specific facts to substantiate the modification or dissolution of the order. The applicant has the burden of presenting evidence to substantiate the original findings. [PL 2017, c. 404, §12 (NEW).]

[PL 2017, c. 404, §12 (NEW).]

**9. Lien.** Any person taking possession of a dog as provided in this section has a lien on that dog in accordance with Title 17, section 1021, subsection 6.
[PL 2017, c. 404, §12 (NEW).]

**10. Treble damages.** If a dog whose owner or keeper refuses or neglects to comply with an order under this section wounds any person by a sudden assault or wounds or kills any domesticated animal, the owner or keeper shall pay the person injured treble damages and costs to be recovered by a civil action.
[PL 2017, c. 404, §12 (NEW).]

**11. Class D crime.** If the owner or keeper of a dog refuses or neglects to comply with an order issued under subsection 2, 3, 4 or 7, the owner or keeper commits a Class D crime. The court, as part of the judgment, may prohibit a person convicted under this subsection from owning or possessing a dog or having a dog on that person's premises for a period of time. The prohibition may be permanent. [PL 2017, c. 404, §12 (NEW).]

**12. Duty of owner or keeper to notify.** The owner or keeper of a dog determined by a court of competent jurisdiction to be a dangerous dog or a nuisance dog shall notify the municipality in which the dog resides in writing and within 30 days if ownership of the dog is transferred, the residence of the dog is changed or the dog is deceased.
[PL 2017, c. 404, §12 (NEW).]

SECTION HISTORY

PL 2017, c. 404, §12 (NEW). PL 2019, c. 113, Pt. C, §2 (AMD).

**§3953. Stealing, injuring or killing dogs**

Except as provided in section 3951 and Title 12, section 12404, and unless the killing is justified to protect persons or property, a person who steals, confines or secretes, willfully or negligently injures or willfully or negligently kills a dog is liable in damages to the dog's owner in a civil action. [PL 2003, c. 414, Pt. B, §13 (AMD); PL 2003, c. 614, §9 (AFF).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1997, c. 690, §37 (AMD). PL 2003, c. 414, §B13 (AMD). PL 2003, c. 414, §D7 (AFF). PL 2003, c. 614, §9 (AFF).

**§3954. Prohibitions on dangerous dogs and nuisance dogs**

**1. Prohibitions.** A person may not:

A. [PL 2019, c. 95, §1 (RP).]

B. Transfer ownership of a dog determined by a court of competent jurisdiction to be a dangerous dog without the permission of the court, unless the transfer is to an animal control officer or an animal shelter that has a contract with a municipality to euthanize the dog for the municipality; or [PL 2017, c. 404, §13 (NEW).]

C. Tether a dog determined by a court of competent jurisdiction to be a dangerous dog or a nuisance dog. [PL 2017, c. 404, §13 (NEW).]
[PL 2019, c. 95, §1 (AMD).]

**2. Penalty.** A person who violates subsection 1 commits a civil violation for which a fine not to exceed $100 may be adjudged in addition to court costs.
[PL 2017, c. 404, §13 (NEW).]

SECTION HISTORY

PL 2017, c. 404, §13 (NEW). PL 2019, c. 95, §1 (AMD).

**§3955. Leaving the scene of an assault by a dog that causes an injury that requires medical attention for a person**

**1. Required actions by owner or keeper.** The owner or keeper of a dog that assaults a person and causes an injury that requires medical attention shall comply with the requirements of this section before leaving the scene of the assault:

A. The owner or keeper shall secure aid for the injured person, including, as appropriate, securing medical assistance and reporting the assault to the local law enforcement agency; [PL 2019, c. 134, §1 (NEW).]

B. After securing aid for the injured person, the owner or keeper may leave the scene on a temporary basis in order to contain the dog that assaulted the person; and [PL 2019, c. 134, §1 (NEW).]

C. After securing aid for the injured person and containing the dog that assaulted the person, the owner or keeper shall provide the owner's or keeper's name, current address and contact information to the injured person, a person acting for the injured person or a law enforcement officer. [PL 2019, c. 134, §1 (NEW).]

[PL 2019, c. 134, §1 (NEW).]

**2. Violation.** A violation of this section is a Class D crime.

[PL 2019, c. 134, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 134, §1 (NEW).

## CHAPTER 729

## DAMAGE BY ANIMALS

### §3961. Reimbursement for damage done by animals

**1. Injuries and damages by animal.** When an animal damages a person or that person's property due to negligence of the animal's owner or keeper, the owner or keeper of that animal is liable in a civil action to the person injured for the amount of damage done if the damage was not occasioned through the fault of the person injured.

[PL 2001, c. 220, §1 (NEW).]

**2. Injuries by dog.** Notwithstanding subsection 1, when a dog injures a person who is not on the owner's or keeper's premises at the time of the injury, the owner or keeper of the dog is liable in a civil action to the person injured for the amount of the damages. Any fault on the part of the person injured may not reduce the damages recovered for physical injury to that person unless the court determines that the fault of the person injured exceeded the fault of the dog's keeper or owner.

[PL 2001, c. 220, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1999, c. 254, §8 (AMD). PL 2001, c. 220, §1 (RPR).

### §3961-A. Attack on service animal or assistance animal

A person who owns or keeps a dog that attacks, injures or kills a service animal or assistance animal while the service animal or assistance animal is in discharge of its duties commits a civil violation for which a forfeiture of not more than $1,000 may be adjudged. [PL 2015, c. 457, §6 (AMD).]

When a person is adjudicated of a violation of this section, the court shall order the person to make restitution to the owner of the service animal or assistance animal for any veterinary bills and necessary retraining costs or replacement costs of the service animal or assistance animal if it is disabled or killed.

[PL 2015, c. 457, §6 (AMD).]

For the purposes of this section, "service animal" has the same meaning as set forth in Title 5, section 4553, subsection 9-E. For the purposes of this section, "assistance animal" has the same meaning as set forth in Title 5, section 4553, subsection 1-H. [PL 2015, c. 457, §6 (AMD).]

SECTION HISTORY

PL 2001, c. 220, §2 (NEW). PL 2007, c. 664, §13 (AMD). PL 2011, c. 369, §4 (AMD). PL 2015, c. 457, §6 (AMD).

**§3962. Complaint and recovery**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1993, c. 468, §18 (RP).

**§3962-A. Penalty for damage to livestock or pets by animals**

**1. Violation.** Except as provided in subsection 3, the owner or keeper of an animal that due to negligence of the animal's owner or keeper kills or injures livestock, poultry, domestic rabbits or pets commits a civil violation for which a forfeiture not to exceed $100 may be adjudged in addition to costs.
[PL 1999, c. 254, §9 (AMD).]

**2. Additional remedy.** A person who suffers damage as a result of a violation of subsection 1 may also pursue a civil action against the owner or keeper of the animal pursuant to section 3961.
[PL 1999, c. 254, §9 (AMD).]

**3. Exception.** If the owner or keeper of an animal that kills or injures another animal establishes that the animal that was killed or injured provoked the killing or injury or that the animal that committed the killing or injury was leashed or controlled on the owner's or keeper's property at the time of the killing or injury, then the owner or keeper is not liable under this section or section 3961.
[PL 1999, c. 254, §9 (AMD).]

SECTION HISTORY

PL 1993, c. 468, §19 (NEW). PL 1995, c. 351, §2 (RPR). PL 1999, c. 254, §9 (AMD).

**§3963. Joint and several liability**

If any properly enclosed livestock, poultry, domestic rabbits or pets are killed or injured by 2 or more dogs at the same time and the dogs are kept by 2 or more owners or keepers, the owners or keepers are jointly and severally liable for the damage. [PL 1995, c. 351, §3 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1995, c. 351, §3 (AMD).

**§3964. Damage by animals**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1995, c. 351, §4 (RP).

## CHAPTER 730

## FERRETS

## (REPEALED)

**§3966. Control of ferrets; seller's obligation**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 643, §5 (NEW). PL 1989, c. 342, §1 (AMD). PL 1995, c. 490, §19 (AMD). PL 1997, c. 690, §38 (RP).

**§3967. Seizing of ferrets**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 643, §5 (NEW). PL 1993, c. 468, §20 (AMD). PL 1993, c. 657, §41 (AMD). PL 1997, c. 690, §38 (RP).

**§3968. Disposition of ferrets**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 643, §5 (NEW). PL 1993, c. 468, §20 (AMD). PL 1993, c. 657, §42 (AMD). PL 1997, c. 690, §38 (RP).

**§3969. Bites by ferrets**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 643, §5 (NEW). PL 1997, c. 690, §38 (RP).

**§3970. Violations and damage caused by ferrets**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 643, §5 (NEW). PL 1997, c. 690, §38 (RP).

## CHAPTER 730-A

## BREEDING, SALE AND TRANSPORTATION OF SMALL MAMMALS

**§3970-A. Sale and importation of juvenile ferrets**

**1. Prohibition on sale.** A person, firm, corporation or other business entity may not sell or offer for sale or resale in the State any ferret that is less than 8 weeks of age as determined by examination for adult canine dentition.
[PL 2003, c. 262, §1 (NEW).]

**2. Prohibition on importation.** A person, firm, corporation or other business entity may not ship or bring into the State any ferret that is less than 8 weeks of age as determined by examination for adult canine dentition unless that ferret is transported with its mother.
[PL 2003, c. 262, §1 (NEW).]

**3. Penalty.** A person who violates this section commits a civil violation for which a fine not to exceed $100 per violation may be adjudged.
[PL 2003, c. 262, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 262, §1 (NEW).

**§3970-B. Breeding and sale of small mammals**

**1. Rulemaking.** The commissioner shall adopt major substantive rules in accordance with Title 5, chapter 375, subchapter 2-A to regulate the breeding and sale of small mammals, including, but not limited to, guinea pigs, hamsters and rabbits. The rules must reflect the standards of the Animal and

Plant Health Inspection Service of the United States Department of Agriculture for the care of small mammals. Rules adopted pursuant to this section apply only to persons who are not regulated or required to be licensed under chapter 723 or 735.
[PL 2003, c. 642, §2 (NEW).]

**2. Penalty.** A person who violates the rules adopted under this section commits a civil violation for which a fine not to exceed $100 per violation may be adjudged.
[PL 2003, c. 642, §2 (NEW).]

SECTION HISTORY

PL 2003, c. 642, §2 (NEW).

## CHAPTER 731

## MISTREATMENT OF ANIMALS

### §3971. Vivisection prohibited in public and private schools

**1. Use of animals in schools.** No live vertebrate, except eggs, may be used in kindergarten and grades one to 12 of any public or private school as part of a scientific experiment or for any other purpose in which the animal is experimentally medicated or drugged in a manner to cause painful reactions or to induce painful or lethal pathological conditions, or in which the animal is injured through any other type of treatment, experiment or procedure, including, but not limited to, anesthetization or electric shock or where the normal health of the animal is interfered with or where pain or distress is caused.

No person may, in the presence of any student in kindergarten and grades one to 12, practice vivisection or exhibit a vivisected animal. Dissection of dead animals or any portions of dead animals in schools shall be confined to the classroom and to the presence of students engaged in the study of dissection and shall not be for the purpose of exhibition.

This subsection shall also apply to any activity associated with or sponsored by the school system.
[PL 1987, c. 383, §3 (NEW).]

**2. Treatment of animals in general.** Live animals used as class pets or for purposes not prohibited in subsection 1 shall be housed and cared for in a safe and humane manner. The animals shall not remain in school over periods when school is not in session, unless adequate care is provided at all times.
[PL 1987, c. 383, §3 (NEW).]

**3. Standards of treatment.** Any animal whose use is permitted under this section shall be treated in accordance with the ethical and humane standards promulgated by the commissioner pursuant to the rule-making provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, after consultation with representative groups in the State having an interest or expertise in the field of animal welfare, biology and education.
[PL 1987, c. 383, §3 (NEW); PL 1993, c. 468, §25 (AMD).]

**4. Enforcement.** The commissioner shall enforce this section in consultation with the Commissioner of Education.
[PL 1989, c. 700, Pt. A, §34 (AMD); PL 1993, c. 468, §25 (AMD).]

**5. Penalty for violations.** Any person who violates this section shall be punished by a fine of not more than $75.
[PL 1987, c. 383, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1989, c. 700, §A34 (AMD). PL 1993, c. 468, §25 (AMD).

**§3972. Unlawful use of animals**

**1. Unlawful use of animals.** It is unlawful for any person to:

A. Sell, display, raffle, give away or offer for sale within the State any live animals that have been dyed or otherwise artificially colored; [PL 1997, c. 690, §39 (AMD).]

B. Sell, display, raffle, give away or offer for sale to the public any live fowl, turtles or rabbits under 8 weeks of age in lots of less than 2; [PL 2017, c. 131, §1 (AMD).]

C. Use any live animal as a premium, fund-raising device, prize or award or use any live animal in a raffle, contest, game or promotion except as authorized by law or rule; [PL 1997, c. 690, §39 (AMD).]

D. Use any live animal as bait in any racing contest or in the training of animals for racing contests; [PL 1995, c. 144, §1 (AMD).]

E. Tie, tether or restrain any animal in a manner that is inhumane or detrimental to its welfare; [PL 2015, c. 223, §12 (AMD).]

F. Intentionally cause an equine to fall or lose its balance by any means whatsoever. For the purposes of this paragraph, the term "equine" means, but is not limited to, a horse, mare, pony, ass, donkey, burro, mule or hinny. This paragraph does not apply to the lawful laying down of an equine for medical or identification purposes; or [PL 2015, c. 223, §13 (AMD).]

G. Abandon, dump or dispose of any deceased domesticated animal on public property or on private property without the permission of the property owner. [PL 2015, c. 223, §14 (NEW).]
[PL 2017, c. 131, §1 (AMD).]

**2. Violation.** Any person who makes unlawful use of animals contrary to this section commits a civil violation for which a forfeiture not to exceed $100 may be adjudged. For the purposes of this section, "animal" does not include lobsters or shellfish.
[PL 1989, c. 342, §2 (AMD).]

**3. Construction.** Nothing in this section may be construed to apply to any animal to be used or raised for agriculture, aquaculture or fishing, to any dog to be used or raised for hunting or exhibition purposes, by persons with proper facilities otherwise authorized by law, or to games using animals in which the participating animal is not caused, directly or indirectly, to perform any act that deviates from the animal's natural behavior provided that the game is conducted by an educational or cultural institution or other nonprofit service organization.
[PL 1989, c. 342, §2 (AMD).]

**4. Exception.** Notwithstanding subsection 1, paragraph C, livestock may be raffled by charitable organizations in accordance with Title 17, section 1837-A for fund-raising purposes. For the purposes of this section, "charitable organization" has the same meaning as defined in Title 9, section 5003, subsection 1. Proceeds from a raffle under this subsection must be used for charitable purposes.

The animal must be awarded in freezer-ready form.
[PL 2017, c. 284, Pt. KKKKK, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1989, c. 154, §1 (AMD). PL 1989, c. 342, §2 (AMD). PL 1995, c. 144, §§1,2 (AMD). PL 1997, c. 690, §§39-41 (AMD). PL 2009, c. 487, Pt. B, §1 (AMD). PL 2015, c. 223, §§12-14 (AMD). PL 2017, c. 131, §1 (AMD). PL 2017, c. 284, Pt. KKKKK, §1 (AMD).

## CHAPTER 733

## TRANSPORTATION OF ANIMALS

### §3981. Intrastate transportation of animals

**1. Period of confinement.** No railroad, motor truck, common carrier or its receiver, trustee or lessee which transports animals within the State or other person having the care, custody or charge of animals loaded into any such form of transportation may confine the animals in cars, boats, vehicles or vessels of any description for a period longer than 28 consecutive hours without unloading the animals in a humane manner, by means of a chute or tailgate of sufficient size, into properly equipped pens or other suitable enclosures for rest, water and feeding for a period of at least 5 consecutive hours, unless prevented by storm, accident or other unavoidable cause which cannot be anticipated or avoided by the exercise of due diligence and foresight.

In estimating the time of confinement, the time consumed in loading and unloading shall not be considered, but the time during which the animals have been confined without such rest, food or water in a car, boat, vehicle or vessel shall be included.
[PL 1987, c. 383, §3 (NEW).]

**2. Extension of time for confinement.** Upon the separate written request of the owner or person in custody of the shipment of animals, the time of confinement may be extended to 36 hours.
[PL 1987, c. 383, §3 (NEW).]

**3. Sheep.** A railroad, motor truck, common carrier or its receiver, trustee or lessee, or other person having the care, custody or charge of sheep loaded into any such form of transportation, is not required to unload sheep in the nighttime, but, when the time expires in the nighttime, the sheep may continue in transit to a suitable place of unloading not exceeding the maximum limitation of 36 hours during which they may be confined.
[PL 1987, c. 383, §3 (NEW).]

**4. Preference of animals as freight.** A railroad, motor truck and common carrier within the State shall give cars, boats, vehicles or vessels containing cattle, sheep, swine or other animals a continuous passage in preference to other freight. Cars, boats, vehicles or vessels loaded with animals at any station shall have precedence over all other freight.
[PL 1987, c. 383, §3 (NEW).]

**5. Conditions of transportation.** Cars, boats, vehicles or vessels shall be sufficiently covered or boarded on the sides and ends to afford proper protection to animals in case of storms or severe cold weather and shall be properly ventilated. A greater number of animals shall not be loaded into any car, boat, vehicle or vessel than can stand comfortably within.

No person may transport any animal in or upon any car, boat, vehicle or vessel in a cruel or inhumane manner.
[PL 1987, c. 383, §3 (NEW).]

**6. Violation.** Any person who violates this section commits a civil violation for which a forfeiture of not less than $50 nor more than $500 for every such offense may be adjudged.
[PL 1987, c. 383, §3 (NEW).]

**7. Construction.** Nothing in this chapter may be construed to prohibit the use of strike cages for dogs while in the lawful sport of hunting or in training or the movement of livestock or poultry when standards of the industry are followed.
[PL 1997, c. 690, §42 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1997, c. 690, §42 (AMD).

### §3982. Liens

A railroad, motor truck, common carrier or its receiver, trustee or lessee has a lien on all animals in transit for reimbursement of penalties paid in consequence of the direction or orders of the owner or person in custody of the shipment of animals and for all extra expenses or damages incurred in the care and protection of animals according to this chapter. [PL 1987, c. 383, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW).

**§3983. Possession of animals unlawfully detained**

The commissioner, a humane agent, sheriff, deputy sheriff, constable, police officer or person authorized to make arrests may take possession of any animals detained in violation of this chapter and may unload the animals and place them in properly equipped pens or other suitable enclosures for rest, water and feeding. The commissioner or any person taking possession pursuant to this section has a lien on the animals detained for expenses incurred for the care given. [PL 1987, c. 383, §3 (NEW); PL 1993, c. 468, §25 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1993, c. 468, §25 (AMD).

**§3984. Enforcement of lien**

The commissioner or any person having a lien in accordance with section 3982 or 3983 may enforce the lien in the same manner as enforcements of liens on personal property pursuant to Title 10, chapter 631. [PL 1987, c. 383, §3 (NEW); PL 1993, c. 468, §25 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1993, c. 468, §25 (AMD).

**§3985. Immunity from liability**

Neither the commissioner nor any person having a lien in accordance with section 3982 or 3983 is liable for the detention of animals pursuant to this chapter. [PL 1987, c. 383, §3 (NEW); PL 1993, c. 468, §25 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1993, c. 468, §25 (AMD).

## CHAPTER 735

## RESEARCH INSTITUTIONS

**§3991. Regulation of research institutions**

**(REPEALED)**

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1993, c. 468, §25 (AMD). PL 1999, c. 547, §B24 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2003, c. 405, §22 (AMD). PL 2003, c. 452, §B22 (RP). PL 2003, c. 452, §X2 (AFF).

**§3991-A. Regulation of research institutions**

**1. License necessary.** A research or teaching institution of higher education may not employ live animals in scientific investigation, experiment or instruction or for the testing of drugs or medicines without first having been issued a license under this section by the commissioner.
[PL 2003, c. 452, Pt. B, §23 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**2. Application.** A research or teaching institution desiring to obtain a license shall make application to the commissioner. On receipt of the application, the commissioner shall investigate as necessary to determine whether the public interest will be served by the issuance of the license. The commissioner may issue the license as long as the research or teaching institution, by reason of its standards, facilities, practices or activities, is a fit and proper institution to receive the license and that its issuance is in the public interest. The standards for licensure are those contained in United States Code, Title 7, Section 2143 and any federal regulations issued pursuant to that law. This chapter may not be construed to be more restrictive than federal law. In the case of conflict between state law and federal law or a mandatory rule, regulation or order of the Federal Government or its agencies, the federal law, rule, regulation or order governs.
[PL 2003, c. 452, Pt. B, §23 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**3. Fees; license renewal.** Before issuance of a license, each research or teaching institution licensed under this chapter shall pay to the commissioner a license fee of $200. A license expires on June 30th next following the date of issue. The commissioner shall annually renew each license upon the application of the licensee, unless, after notice and hearing as provided in this chapter, the commissioner finds that, by reason of the standards, facilities, practices or activities of the licensee, the renewal is not in the public interest. The commissioner, after notice and hearing as provided in this chapter, may modify, fail to renew, suspend or revoke any license if the commissioner finds that, by reason of the standards, facilities, practices or activities of the licensee, the continuation of the license is not in the public interest.
[PL 2003, c. 452, Pt. B, §23 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**4. Noncompliance.** If, in the opinion of the commissioner, there is or may be noncompliance with or a violation of this chapter or of a rule adopted by the commissioner that is of sufficient gravity to warrant further action, the commissioner may request an informal conference with the licensee. The commissioner shall provide the licensee with adequate notice of the conference and the issues to be discussed.

If the commissioner finds that the factual basis of the alleged noncompliance with or violation of this chapter is true and may warrant further action, the commissioner:

A. With the consent of the licensee, may enter into a consent agreement that fixes the period and terms of probation best adapted to protect the health and welfare of animals and to rehabilitate or educate the licensee; [PL 2003, c. 452, Pt. B, §23 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. In consideration for acceptance of a voluntary surrender of the license, may negotiate stipulations, in a consent decree to be signed by the commissioner, the licensee and the Office of the Attorney General, that ensure protection of the health and welfare of animals and that serve to rehabilitate or educate the licensee; [PL 2003, c. 452, Pt. B, §23 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. If the commissioner concludes that modification or nonrenewal of the license may be in order, shall hold an adjudicatory hearing in accordance with Title 5, chapter 375, subchapter 4; or [PL 2003, c. 452, Pt. B, §23 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

D. If the commissioner concludes that suspension or revocation of the license is in order, shall file a complaint in the District Court in accordance with Title 4, chapter 5. [PL 2003, c. 452, Pt. B, §23 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. B, §23 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**5. Grounds for discipline.** Grounds for an action to modify, suspend, revoke or refuse to renew the license of a person licensed under this chapter are:

A. The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued; [PL 2003, c. 452, Pt. B, §23 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A violation of this chapter or a rule adopted by the commissioner; and [PL 2003, c. 452, Pt. B, §23 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. Conviction of a crime involving cruelty to animals. [PL 2003, c. 452, Pt. B, §23 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. B, §23 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**6. Violation; penalty.** A person may not knowingly violate this chapter or the rules issued pursuant to this chapter. The following penalties apply.

A. A person who violates this subsection commits a civil violation for which a fine of not more than $100 may be adjudged. [PL 2003, c. 452, Pt. B, §23 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who violates this subsection after having previously violated this subsection commits a civil violation for which a fine of not more than $250 may be adjudged. [PL 2003, c. 452, Pt. B, §23 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. B, §23 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**7. Rules.** The commissioner may adopt rules that are necessary to carry out the purposes of this chapter.

[PL 2003, c. 452, Pt. B, §23 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**8. Inspection.** In connection with the granting, continuance or renewal of a license and in connection with an investigation of alleged cruelty or alleged violation of this chapter or the rules issued pursuant to this chapter, the commissioner, at least annually, may visit and inspect the research and teaching institutions or animal research and care facilities of any licensee or of any research or teaching institution that has applied for a license.

[PL 2003, c. 452, Pt. B, §23 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 2003, c. 452, §B23 (NEW). PL 2003, c. 452, §X2 (AFF).

## CHAPTER 737

## CALF AND PIG SCRAMBLES

### §4001. Regulation of calf and pig scrambles

**1. Permit required.** Any person sponsoring a calf or pig scramble shall obtain a permit from the commissioner for each specific event at least 10 days before the event.

[PL 1987, c. 383, §3 (NEW); PL 1993, c. 468, §25 (AMD).]

**2. Application.** Applications for calf or pig scramble permits shall specify the name of the applicant, the type of scramble and the date or dates of the scramble.

[PL 1987, c. 383, §3 (NEW).]

**3. Fee.** A fee of $10 must be submitted with any application for a calf or pig scramble.

[PL 1999, c. 254, §10 (AMD).]

**4. Rules.** Each applicant obtaining a permit under this section is subject to the rules adopted by the commissioner on the weight and size of animals, age of participants, length of event and such other requirements as the commissioner considers necessary.

[PL 1997, c. 690, §43 (AMD).]

**5. Violation.** Any person who violates this chapter or any of the rules issued pursuant to this chapter commits a civil violation for which a forfeiture not to exceed $100 may be adjudged.
[PL 1987, c. 383, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1993, c. 468, §25 (AMD). PL 1997, c. 690, §43 (AMD). PL 1999, c. 254, §10 (AMD).

## CHAPTER 739

## CRUELTY TO ANIMALS

### §4011. Cruelty to animals

**1. Cruelty to animals.** Except as provided in subsection 1-A, a person, including an owner or the owner's agent, is guilty of cruelty to animals if that person:

A. Kills or attempts to kill any animal belonging to another person without the consent of the owner or without legal privilege; [PL 1995, c. 490, §20 (RPR).]

B. Except for a licensed veterinarian or a person certified under Title 17, section 1042, kills or attempts to kill an animal by a method that does not cause instantaneous death; [PL 1995, c. 490, §20 (RPR).]

C. Is a licensed veterinarian or a person certified under Title 17, section 1042 and that person kills or attempts to kill an animal by a method that does not conform to standards adopted by a national association of licensed veterinarians; [RR 1997, c. 2, §33 (COR).]

D. Injures, overworks, tortures, torments, abandons or cruelly beats or intentionally mutilates an animal; gives drugs, including but not limited to, a scheduled drug as defined in Title 17-A, section 1101, subsection 11, to an animal with an intent to harm or intoxicate the animal; gives poison or alcohol to an animal; or exposes a poison with intent that it be taken by an animal. The owner or occupant of property is privileged to use reasonable force to eject a trespassing animal; [PL 2019, c. 437, §4 (AMD).]

E. Deprives an animal that the person owns or possesses of necessary sustenance, necessary medical attention, proper shelter, protection from the weather or humanely clean conditions; [PL 1997, c. 456, §5 (AMD).]

F. Keeps or leaves a domestic animal on an uninhabited or barren island lying off the coast of the State during the month of December, January, February or March without providing necessary sustenance and proper shelter; [PL 1999, c. 254, §11 (AMD).]

G. Hunts, traps or sells for the purpose of hunting any animal, except as permitted pursuant to chapter 202-A and Title 12, Part 13, and excluding humane trapping of animals for population control efforts or animal control pursuant to this Part; [PL 2013, c. 115, §15 (AMD).]

H. Injects, inserts or causes ingestion of any substance used solely to enhance the performance of an animal by altering the animal's metabolism to that animal's detriment, including but not limited to excessive levels of sodium bicarbonate in equines used for competition; [PL 2007, c. 702, §10 (AMD).]

I. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal; or [PL 2007, c. 702, §11 (AMD).]

J. Confines an animal in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health. [PL 2007, c. 702, §12 (NEW).]

[PL 2019, c. 437, §4 (AMD).]

**1-A. Animal cruelty.** Except as provided in paragraphs A and B, a person is guilty of cruelty to animals if that person kills or attempts to kill a cat or dog.

A. A licensed veterinarian or a person certified under Title 17, section 1042 may kill a cat or dog according to the methods of euthanasia under Title 17, chapter 42, subchapter IV. [PL 1995, c. 490, §21 (NEW).]

B. A person who owns a cat or dog, or the owner's agent, may kill that owner's cat or dog by shooting with a firearm provided the following conditions are met.

(1) The shooting is performed by a person 18 years of age or older using a weapon and ammunition of suitable caliber and other characteristics to produce instantaneous death by a single shot.

(2) Death is instantaneous.

(3) Maximum precaution is taken to protect the general public, employees and other animals.

(4) Any restraint of the cat or dog during the shooting does not cause undue suffering to the cat or dog. [PL 1995, c. 490, §21 (NEW).]

[PL 1995, c. 490, §21 (NEW).]

**2. Affirmative defenses.** It is an affirmative defense to this section that:

A. The conduct was performed by a licensed veterinarian or was a part of scientific research governed by accepted standards; [PL 1987, c. 383, §3 (NEW).]

B. The conduct was designed to control or eliminate rodents, ants or other common pests on the defendant's own property; [PL 2007, c. 702, §13 (AMD).]

C. The conduct involved the use of live animals as bait or in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13; or [PL 2007, c. 702, §14 (AMD).]

D. The animal is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the department. [PL 2007, c. 702, §15 (NEW).]

Evidence of proper care of any animal shall not be admissible in the defense of alleged cruelty to other animals.

[PL 2007, c. 702, §§13-15 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1995, c. 490, §§20,21 (AMD). RR 1997, c. 2, §33 (COR). PL 1997, c. 456, §§4-6 (AMD). PL 1997, c. 690, §44 (AMD). PL 1999, c. 254, §§11-13 (AMD). PL 1999, c. 765, §9 (AMD). PL 2001, c. 425, §§1-3 (AMD). PL 2001, c. 617, §9 (AMD). PL 2003, c. 414, §§B14,15 (AMD). PL 2003, c. 414, §D7 (AFF). PL 2003, c. 614, §9 (AFF). PL 2007, c. 702, §§10-15 (AMD). PL 2013, c. 115, §15 (AMD). PL 2019, c. 437, §4 (AMD).

**§4012. Cruelty to birds**

**1. Cruelty to birds.** A person is guilty of cruelty to birds if that person:

A. Keeps or uses any live pigeon, fowl or other bird for a target or to be shot at, either for amusement or as a test of skill in marksmanship; [PL 1987, c. 383, §3 (NEW).]

B. Shoots at any bird or is present as a party, umpire or judge at a shooting; or [PL 1987, c. 383, §3 (NEW).]

C. Rents any building, shed, room, yard, field or premises or knowingly allows the use of the same for the purposes of paragraphs A and B. [PL 1997, c. 690, §45 (AMD).]

[PL 1997, c. 690, §45 (AMD).]

**2. Construction.** This section may not be construed to prohibit the shooting of wild game in its wild state or the shooting of birds at field trials under the supervision of the Department of Inland Fisheries and Wildlife in accordance with Title 12, chapter 915, subchapter 13.

[PL 2003, c. 414, Pt. B, §16 (AMD); PL 2003, c. 614, §9 (AFF).]

**3. Affirmative defense.** It is an affirmative defense to this section that the conduct involved the use of live animals in the training of other animals in accordance with the laws of the Department of Inland Fisheries and Wildlife, Title 12, Part 13.

[PL 2003, c. 414, Pt. B, §16 (AMD); PL 2003, c. 614, §9 (AFF).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1997, c. 690, §45 (AMD). PL 2003, c. 414, §B16 (AMD). PL 2003, c. 414, §D7 (AFF). PL 2003, c. 614, §9 (AFF).

**§4013. Necessary sustenance**

No person owning or responsible for confining or impounding any animal may fail to supply the animal with a sufficient supply of food and water as prescribed in this section. [PL 1987, c. 383, §3 (NEW).]

**1. Food.** The food shall be of sufficient quantity and quality to maintain all animals in good health.

[PL 1987, c. 383, §3 (NEW).]

**2. Water.** If potable water is not accessible to the animal at all times, it must be provided daily and in sufficient quantity for the health of the animal. Snow or ice is not an adequate water source.

[PL 2003, c. 405, §23 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 2003, c. 405, §23 (AMD).

**§4014. Necessary medical attention**

No person owning or responsible for confining or impounding any animal may fail to supply the animal with necessary medical attention when the animal is or has been suffering from illness, injury, disease, excessive parasitism or malformed or overgrown hoof. [PL 1987, c. 383, §3 (NEW).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW).

**§4015. Proper shelter, protection from the weather and humanely clean conditions**

No person owning or responsible for confining or impounding any animal may fail to provide the animal with proper shelter, protection from the weather and humanely clean conditions as prescribed in this section. [PL 1997, c. 456, §7 (AMD).]

**1. Indoor standards.** Minimum indoor standards of shelter shall be as follows.

A. The ambient temperature shall be compatible with the health of the animal. [PL 1987, c. 383, §3 (NEW).]

B. Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health of the animal at all times. [PL 1987, c. 383, §3 (NEW).]

[PL 1987, c. 383, §3 (NEW).]

**2. Outdoor standards.** Minimum outdoor standards of shelter are as follows.

A. When sunlight is likely to cause heat exhaustion of an animal tied or caged outside, sufficient shade by natural or artificial means must be provided to protect the animal from direct sunlight. As used in this paragraph, "caged" does not include farm fencing used to confine livestock. [PL 2007, c. 439, §27 (AMD).]

B. Except as provided in subsections 5, 5-A and 6, shelter from inclement weather must be as follows.

(1) An artificial shelter, with a minimum of 3 sides and a waterproof roof, appropriate to the local climatic conditions and for the species and breed of the animal must be provided as necessary for the health of the animal.

(2) If a dog is tied or confined unattended outdoors under weather conditions that adversely affect the health of the dog, a shelter must be provided in accordance with subsection 6, paragraph A to accommodate the dog and protect it from the weather and, in particular, from severe cold. Inadequate shelter may be indicated by the shivering of the dog due to cold weather for a continuous period of 10 minutes or by symptoms of frostbite or hypothermia. A metal barrel is not adequate shelter for a dog. [PL 2011, c. 76, §1 (AMD).]

C. [PL 2007, c. 702, §16 (RP).]
[PL 2011, c. 76, §1 (AMD).]

**3. Space standards.** Minimum space requirements for both indoor and outdoor enclosures shall include the following.

A. The housing facilities shall be structurally sound and maintained in good repair to protect the animal from injury and to contain the animal. [PL 1987, c. 383, §3 (NEW).]

B. Enclosures shall be constructed and maintained to provide sufficient space to allow each animal adequate freedom of movement. Inadequate space may be indicated by evidence of overcrowding, debility, stress or abnormal behavior patterns. [PL 1987, c. 383, §3 (NEW).]
[PL 1987, c. 383, §3 (NEW).]

**4. Humanely clean conditions.** Minimum standards of sanitation necessary to provide humanely clean conditions for both indoor and outdoor enclosures shall include periodic cleanings to remove excretions and other waste materials, dirt and trash to minimize health hazards.
[PL 1987, c. 383, §3 (NEW).]

**5. Livestock.** Livestock must be provided with shelter suitable for the health of the animal. Except as provided in subsection 5-A, livestock must have access to a constructed or natural shelter that is large enough to accommodate all livestock comfortably at one time. The shelter should be well drained and protect the livestock from direct sun, rain, wind and other inclement weather. Notwithstanding this subsection, shelter for equines must be provided in accordance with subsection 2, paragraph B, subparagraph (1). For purposes of this subsection, "livestock" includes large game as defined in section 1341, subsection 5 kept at a licensed commercial large game shooting area as defined in section 1341, subsection 1.
[PL 2011, c. 76, §2 (AMD).]

**5-A. Livestock maintained under a rotational grazing system.** Notwithstanding subsection 5, a person is not required to provide shelter for livestock while the animals are maintained under a rotational grazing system as long as the animals do not have injuries or infirmities that prevent them from accessing food and water and are in good body condition. For the purposes of this subsection, "rotational grazing system" means the practice of dividing up available pasture into multiple smaller areas during grazing season when pasture is available to meet the dietary requirements of the animals and subsequently moving the animals from one area to another after a number of days or weeks as determined by forage production and quality.
[PL 2011, c. 76, §3 (NEW).]

**6. Dogs confined by tethering for long time periods.** In addition to the requirements of subsection 2, paragraph B, subparagraph (2), when tethering is the primary means of confinement for a dog, the standards for shelter and tethering are as follows:

A. A shelter must be provided that is fully enclosed except for a portal. The portal must be of a sufficient size to allow the dog unimpeded passage into and out of the structure. For dogs other than arctic breeds, the portal must be constructed with a baffle or other means of keeping wind and precipitation out of the interior. The shelter must be constructed of materials with a thermal resistance factor of 0.9 or greater and must contain clean bedding material sufficient to retain the dog's normal body heat; and [PL 2007, c. 439, §28 (AMD).]

B. The chain or tether must be attached to both the dog and the anchor using swivels or similar devices that prevent the chain or tether from becoming entangled or twisted. The chain or tether must be attached to a well-fitted collar or harness on the dog. For dogs other than dogs kept as sled dogs or dogs used in competition, the chain or tether must be at least 5 times the length of the dog measured from the tip of its nose to the base of its tail. For dogs kept as sled dogs or dogs used in competition, the chain or tether must be:

(1) At least 2.5 times the length of the dog measured from the tip of its nose to the base of its tail if the anchor is stationary; or

(2) At least 1.5 times the length of the dog measured from the tip of its nose to the base of its tail if the anchor is a pivot point allowing a 360° area of movement. [PL 2009, c. 343, §23 (AMD).]

For the purposes of this subsection, "primary means of confinement" means the method used to confine a dog for periods of time that exceed 12 hours in a 24-hour period. For the purposes of this subsection, "arctic breeds" means Siberian Huskies, Alaskan Huskies, Alaskan Malamutes and other dogs with a double-layered coat and bred to live in an arctic climate and "dogs kept as sled dogs or dogs used in competition" means dogs regularly and consistently used in training or participation in competitive or recreational sled dog activities or other competition canine events.
[PL 2009, c. 343, §23 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1997, c. 456, §§7-9 (AMD). PL 1999, c. 765, §10 (AMD). PL 2005, c. 340, §§1,2 (AMD). PL 2007, c. 439, §§27, 28 (AMD). PL 2007, c. 702, §16 (AMD). PL 2009, c. 343, §23 (AMD). PL 2011, c. 76, §§1-3 (AMD).

**§4016. Violation**

**1. Penalty.** A person who violates this chapter commits a civil violation.

A. The court shall adjudge a civil fine of not less than $500 nor more than $5,000 for the first violation, none of which may be suspended, and a civil fine of not less than $1,000 nor more than $10,000 for a 2nd or subsequent violation of section 4011, none of which may be suspended. [PL 2019, c. 437, §5 (AMD).]

B. The court may order a person adjudicated as having violated the laws against cruelty to animals to pay the costs of the care, housing and veterinary medical treatment for the animal. [PL 2001, c. 425, §4 (NEW).]

C. The court, as part of the judgment, may prohibit a person adjudicated as having violated the laws against cruelty to animals from owning, possessing or having on the defendant's premises an animal for a period of time up to and including permanent relinquishment. [PL 2001, c. 425, §4 (NEW).]

D. The court, as part of the judgment, may order that the defendant submit to and complete a psychological evaluation for in camera review by the court. [PL 2001, c. 425, §4 (NEW).]

[PL 2019, c. 437, §5 (AMD).]

**1-A. Separate advocate.** In any proceeding brought under this section, the court may order, upon its own initiative or upon request of a party or counsel for a party, that a separate advocate be appointed to represent the interests of justice. A decision of the court denying a request to appoint a separate advocate to represent the interests of justice is not subject to appeal. An advocate appointed under this subsection must be appointed from a list provided to the court by the Maine State Bar Association pursuant to paragraph B.

A. The advocate may:

(1) Monitor the proceeding;

(2) Consult any individual with information that could aid the judge or fact finder and review records relating to the condition of the animal and the defendant's actions, including, but not limited to, records from animal control officers, veterinarians and law enforcement officers;

(3) Attend hearings; and

(4) Present information or recommendations to the court pertinent to determinations that relate to the interests of justice, as long as the information and recommendations are based solely on the duties undertaken pursuant to this subsection. [PL 2019, c. 547, §1 (NEW).]

B. The Maine State Bar Association shall maintain a list of attorneys with knowledge of animal issues and the legal system and a list of law schools that have students with an interest in animal issues and the legal system. Attorneys and law students serve on a voluntary basis as advocates under this subsection. [PL 2019, c. 547, §1 (NEW).]

[PL 2019, c. 547, §1 (NEW).]

**2. Criminal or civil prosecution.** A person may be arrested or detained for the crime of cruelty to animals under Title 17, chapter 42, subchapter III in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruelty to animals. The attorney for the State may elect to charge a defendant with either the crime of cruelty to animals under Title 17, chapter 42, subchapter III or the civil violation of cruelty to animals under this chapter. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in the election and determination are not elements of the criminal offense or civil violation of animal cruelty and are not subject to proof or disproof as prerequisites or conditions for conviction under Title 17, chapter 42, subchapter III or adjudication under this chapter.

[PL 2001, c. 425, §4 (NEW).]

**3. Affirmative defenses.** It is an affirmative defense to alleged violations of this chapter that the animal was kept as part of an agricultural operation and in compliance with best management practices for animal husbandry as determined by the department.

[PL 2007, c. 702, §17 (NEW).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1993, c. 81, §1 (AMD). PL 1997, c. 170, §1 (AMD). PL 1999, c. 254, §14 (AMD). PL 1999, c. 597, §2 (AMD). PL 2001, c. 425, §4 (RPR). PL 2007, c. 702, §17 (AMD). PL 2019, c. 437, §5 (AMD). PL 2019, c. 547, §1 (AMD).

**§4017. Rules**

The commissioner may adopt any rules necessary or useful to carry out this chapter pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375. [PL 1997, c. 690, §46 (AMD).]

SECTION HISTORY

PL 1987, c. 383, §3 (NEW). PL 1993, c. 468, §25 (AMD). PL 1997, c. 690, §46 (AMD).

**§4018. Report of suspected cruelty**

**1. Report by veterinarian.** Except as provided in subsection 1-A, a veterinarian licensed in accordance with Title 32, chapter 71-A who, while acting in a professional capacity, has reasonable cause to suspect that an animal is the subject of cruelty or neglect in violation of this chapter or Title 17, chapter 42 may report the suspected violation to the commissioner or the commissioner's designee. A veterinarian making a report under this section may appear and testify in a judicial or administrative proceeding concerning the condition or care of the animal.
[PL 2007, c. 702, §18 (AMD).]

**1-A. Report by veterinarian required.** A veterinarian licensed in accordance with Title 32, chapter 71-A who, while acting in a professional capacity, has reasonable cause to suspect that an animal is the subject of aggravated cruelty under Title 17, section 1031, subsection 1-B shall report the suspected violation to the commissioner or the commissioner's designee. A veterinarian making a report under this section may appear and testify in a judicial or administrative proceeding concerning the condition or care of the animal.
[PL 2007, c. 702, §19 (NEW).]

**2. Immunity.** A veterinarian reporting or testifying under this section is immune from criminal or civil liability or professional disciplinary action that might otherwise result from these actions. The immunity from liability for releasing confidential information applies only to the release of information to the court or to the department, an animal control officer, attorney for the State or law enforcement agency involved in the investigation.
[PL 2001, c. 422, §11 (NEW).]

SECTION HISTORY

PL 2001, c. 422, §11 (NEW). PL 2007, c. 702, §§18, 19 (AMD).

**§4019. Removal from unattended motor vehicle**

**1. Removal authorized.** A law enforcement officer, humane agent, animal control officer, firefighter as defined in Title 26, section 2101 or security guard licensed under Title 32, chapter 93, referred to in this section as "authorized persons," may take all steps that are reasonably necessary to remove an animal from a motor vehicle if the animal's safety, health or well-being appears to be in immediate danger from heat, cold or lack of adequate ventilation and the conditions could reasonably be expected to cause extreme suffering or death.
[PL 2019, c. 370, §6 (AMD).]

**2. Notice required.** A law enforcement officer, humane agent or animal control officer who removes an animal in accordance with subsection 1 shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing the officer's or agent's name and office and the address of the location where the animal may be claimed. A firefighter, first responder or security guard who removes an animal in accordance with subsection 1 shall, in a secure and conspicuous location on or within the motor vehicle, leave written notice bearing the person's name and the address of the location where the animal may be claimed. The owner may claim the animal only after payment of all charges that have accrued for the maintenance, care, medical treatment and impoundment of the animal.
[PL 2011, c. 288, §1 (AMD).]

**3. Immunity.** An authorized person who removes an animal from a motor vehicle pursuant to subsection 1 is immune from criminal or civil liability that might otherwise result from the removal.
[PL 2011, c. 288, §1 (AMD).]

SECTION HISTORY

PL 2007, c. 702, §20 (NEW). PL 2011, c. 288, §1 (AMD). PL 2019, c. 370, §6 (AMD).

**§4020. Cruel confinement of calves raised for veal and sows during gestation**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Calf raised for veal" means a calf of the bovine species kept for the purpose of producing the food product referred to as veal. [PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

B. "Covered animal" means a sow during gestation or calf raised for veal that is kept on a farm. [PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

C. "Enclosure" means a cage, crate or other structure used to confine a covered animal, including, but not limited to, what is commonly described as a "gestation crate" for sows or a "veal crate" for calves. [PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

D. "Farm" has the same meaning as in section 152. [PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

E. "Fully extending the animal's limbs" means fully extending all limbs without touching the side of an enclosure. [PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

F. "Sow during gestation" means a pregnant pig of the porcine species kept for the primary purpose of breeding. [PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

G. "Turning around freely" means turning in a complete circle without any impediment, including a tether, and without touching the side of an enclosure. [PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

[PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

**2. Prohibition.** A person may not tether or confine a covered animal for all or the majority of a day in a manner that prevents the animal from:

A. Lying down, standing up and fully extending the animal's limbs; and [PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

B. Turning around freely. [PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

[PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

**3. Exceptions.** Subsection 2 does not apply:

A. To an animal while it is the subject of scientific or agricultural research; [PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

B. During examination, testing, individual treatment of or operation on an animal for veterinary purposes; [PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

C. To an animal being transported; [PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

D. To an animal at a rodeo exhibition or state or county fair exhibition; [PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

E. To an animal at a 4-H event or similar exhibition; [PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

F. To the slaughter of an animal in accordance with Title 22, chapter 562-A, subchapter 4 and rules pertaining to the slaughter of animals; and [PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

G. To a sow during the 7-day period prior to the sow's expected date of giving birth and until the sow's litter is weaned. [PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

[PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

**4. Relation to other laws.** The provisions of this section are in addition to, and not in lieu of, any other laws protecting animal welfare. This section may not be construed to limit any state law or rules protecting the welfare of animals or to prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations.

The affirmative defense provisions in section 4016, subsection 3 do not apply to this section. It is not an affirmative defense to alleged violations of this section that the calf or sow was kept as part of an agricultural operation and in compliance with best management practices for animal husbandry.

[PL 2009, c. 127, §1 (NEW); PL 2009, c. 127, §3 (AFF).]

SECTION HISTORY

PL 2009, c. 127, §1 (NEW). PL 2009, c. 127, §3 (AFF).

## CHAPTER 741

## ANIMAL TRESPASS

### §4041. Animal trespass

**1. Definitions.**

[PL 1999, c. 254, §15 (RP).]

**1-A. Trespass.** An owner or keeper of an animal may not allow that animal to enter onto or remain on the property of another or unattended on any local, county or state road or highway after the owner or keeper has been informed by a law enforcement officer, authorized employee of the department or animal control officer that that animal was found on that property or on that local, county or state road or highway.

[PL 2011, c. 18, §1 (AMD).]

**2. Removal.** The owner or keeper of an animal is responsible, at the owner's or keeper's expense, for removing any animal found trespassing. An animal control officer, authorized employee of the department or law enforcement officer may, at the owner's or keeper's expense, remove and control an animal found trespassing if:

A. The owner or keeper fails to remove the animal after having been notified by an animal control officer, authorized employee of the department or law enforcement officer that the animal was trespassing; or [PL 2011, c. 18, §1 (AMD).]

B. The animal is an immediate danger to itself, persons or another's property. [PL 1999, c. 254, §15 (AMD).]

[PL 2011, c. 18, §1 (AMD).]

**3. Civil violation.** A person commits a civil violation if an animal owned or kept by that person is found trespassing and:

A. That person fails to remove the animal within 12 hours, or immediately if public safety or private or public property is threatened, after having been personally notified by an animal control officer, authorized employee of the department or law enforcement officer that the animal was trespassing; or [PL 2011, c. 18, §1 (AMD).]

B. [PL 1999, c. 254, §15 (RP).]

C. That person owns an animal or animals that have been found trespassing on 5 or more days within a 30-day period or 3 or more days within a 7-day period. [PL 2011, c. 18, §1 (NEW).]
[PL 2011, c. 18, §1 (AMD).]

**4. Fines.** A person who violates this section is subject to the following fines.

A. A person who violates this section commits a civil violation for which a fine of not less than $50 nor more than $500 must be adjudged. [PL 2013, c. 348, §1 (NEW).]

B. A person who violates this section after having been adjudicated as having committed a violation of this section commits a civil violation for which a fine of $1,000 must be adjudged. [PL 2013, c. 348, §1 (NEW).]

C. A person who violates this section after having been adjudicated as having committed 2 or more violations of this section commits a civil violation for which a fine of $2,500 must be adjudged. [PL 2013, c. 348, §1 (NEW).]
[PL 2013, c. 348, §1 (RPR).]

**4-A. Restitution; court costs and fees.** In addition to fines, the court may as part of the sentencing include an order of restitution for costs incurred in removing and controlling the animal. When appropriate, the court may order restitution to the property owner based on damage done and financial loss. Any restitution ordered and paid must be deducted from the amount of any judgment awarded in a civil action brought by the property owner against the owner or keeper of the animal based on the same facts. When an owner or keeper violates this section 3 or more times within a 90-day period, the court shall order restitution of all costs incurred by the department in responding to a violation of this section or assisting an animal control officer or law enforcement officer responding to a violation of this section. Upon application of the department, municipality or law enforcement agency enforcing this section, the owner or keeper of the animal must also pay reasonable court costs and attorney's fees of the department, municipality or law enforcement agency if the department, municipality or law enforcement agency is the prevailing party in any court proceeding.
[PL 2013, c. 348, §2 (NEW).]

**4-B. Forfeiture.** If the department, a municipality or a law enforcement agency determines that a repeated violation of this section by an owner or keeper of an animal jeopardizes the public health, welfare or safety of the community, the department, municipality or law enforcement agency may bring a forfeiture action in the county in which the violations occurred under Title 14, section 506. In an action brought under this subsection, the burden of proof is on the department, municipality or law enforcement agency. If a court determines that a repeated violation of this section jeopardizes the public health, welfare or safety of the community, the court may order any animal that is the subject of the violation sold in a commercially reasonable manner and apply the proceeds to any fine, fee, restitution or cost owed by the owner or keeper under this section with any remaining balance returned to the owner or keeper of the animal.
[PL 2013, c. 348, §2 (NEW).]

**5. Exemption.** A person is not liable under this section if, at the time of the alleged trespass, that person was licensed or privileged to allow the animal to be on the property.
[PL 1999, c. 254, §15 (AMD).]

**6. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Animal" does not include cats. [PL 2011, c. 18, §1 (NEW).]

B. "Authorized employee of the department" means a humane agent or any other employee of the department designated by the commissioner to assist with compliance and enforcement of this section. [PL 2011, c. 18, §1 (NEW).]
[PL 2011, c. 18, §1 (AMD).]

SECTION HISTORY

PL 1989, c. 91 (NEW). PL 1995, c. 351, §5 (AMD). PL 1997, c. 104, §1 (AMD). PL 1997, c. 690, §§47-49 (AMD). PL 1999, c. 254, §15 (AMD). PL 2001, c. 15, §1 (AMD). PL 2007, c. 439, §§29, 30 (AMD). PL 2009, c. 548, §§4, 5 (AMD). PL 2011, c. 18, §1 (AMD). PL 2013, c. 348, §§1, 2 (AMD).

**§4042. Stray livestock**

**1. Ownership of livestock unknown.** If the ownership of any stray livestock cannot be established, the livestock must be handled as a stray and an animal control officer shall seize, impound or restrain the livestock and:

A. Deliver the livestock to an animal shelter, farm or holding facility that is capable of safely containing the number, type and size of the livestock; or [PL 2019, c. 437, §6 (NEW).]

B. Arrange for the safe confinement of the livestock at a location designated by the municipality in which the livestock was found. [PL 2019, c. 437, §6 (NEW).]

[PL 2019, c. 437, §6 (NEW).]

**2. Municipal procedure for stray livestock.** A municipality shall retain custody of stray livestock under subsection 1 for a period of 10 days. The municipality is responsible for ensuring the proper care of the livestock while confined, including providing proper sustenance, shelter and necessary medical care. If ownership of the stray livestock is not claimed by any person, after 10 days, ownership of the livestock vests with the municipality or an animal shelter designated by the municipality, and the municipality or designated animal shelter may sell, adopt, give away or humanely euthanize the stray livestock. A municipality may reimburse a farm, holding facility or animal shelter for the care and housing of stray livestock pursuant to this section at the same rates as in section 3919-C. For purposes of this section, "municipality" includes a county under Title 30-A, section 7501 if the stray livestock has been found in the unorganized territory of that county.

[PL 2019, c. 437, §6 (NEW).]

For purposes of this section, "livestock" does not include feral swine or domesticated cervids. [PL 2019, c. 437, §6 (NEW).]

SECTION HISTORY

PL 2019, c. 437, §6 (NEW).

## CHAPTER 743

## EQUINE ACTIVITIES

**§4101. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1991, c. 779, §41 (NEW); PL 1991, c. 779, §60 (AFF).]

**1. Boarding stable.**

[PL 1999, c. 498, §2 (RP).]

**2. Commercial riding facility.**

[PL 1999, c. 498, §2 (RP).]

**3. Engage in an equine activity.**

[PL 1999, c. 498, §2 (RP).]

**4. Equine.** "Equine" means a horse, pony, mule, donkey or hinny.
[PL 1999, c. 498, §2 (AMD).]

**5. Equine activity.** "Equine activity" includes but is not limited to the following:

A. Riding or driving an equine or riding as a passenger on or in a vehicle powered by an equine; [PL 1999, c. 498, §2 (AMD).]

B. Equine training, teaching or testing activities; [PL 1999, c. 498, §2 (AMD).]

C. Boarding or keeping an equine, including, but not limited to, normal daily care of an equine; [PL 1999, c. 498, §2 (AMD).]

D. Riding, inspecting or evaluating an equine belonging to another person, whether or not the owner has received some monetary consideration or other thing of value for the use of the equine or is permitting a prospective purchaser of the equine to ride, inspect or evaluate the equine; [PL 1999, c. 498, §2 (AMD).]

E. Rides, trips, hunts or other equine activities of any type, however informal or impromptu, that are sponsored by an equine activity sponsor; [PL 1999, c. 498, §2 (AMD).]

F. Providing or assisting in the provision of hoof care, including, but not limited to, horseshoeing; [PL 1999, c. 498, §2 (NEW).]

G. Trailering, loading, unloading or transporting an equine; [PL 1999, c. 498, §2 (NEW).]

H. Providing or assisting in the provision of veterinary treatment or maintenance care for an equine; [PL 1999, c. 498, §2 (NEW).]

I. Conducting or assisting in the conducting of procedures necessary to breed an equine by means of artificial insemination or otherwise; [PL 1999, c. 498, §2 (NEW).]

J. Participating in an equine activity sponsored by an equine activity sponsor; [PL 1999, c. 498, §2 (NEW).]

K. Participating or assisting a participant in an equine activity at an equine event; [PL 1999, c. 498, §2 (NEW).]

L. Managing or assisting in the managing of an equine in an equine event; [PL 1999, c. 498, §2 (NEW).]

M. Showing or displaying an equine; [PL 1999, c. 498, §2 (NEW).]

N. Operating or assisting in the operation of an equine event; [PL 1999, c. 498, §2 (NEW).]

O. Providing or assisting in the provision of equine dental care; and [PL 1999, c. 498, §2 (NEW).]

P. Participating in racing. [PL 1999, c. 498, §2 (NEW).]
[PL 1999, c. 498, §2 (AMD).]

**6. Equine activity sponsor.** "Equine activity sponsor" means an individual, group, club, partnership, corporation or other entity, whether operating for profit or nonprofit, that sponsors, organizes or provides the facilities for an equine activity, including, but not limited to: pony clubs; 4-H clubs; field trial clubs; hunt clubs; riding clubs; classes or programs sponsored by a school or college; therapeutic riding programs; and operators, instructors and promoters of equine facilities at which equine activities are held, including, but not limited to, stables, clubhouses, ponyride strings, fairs and arenas.
[PL 1999, c. 498, §2 (AMD).]

**6-A. Equine event.** "Equine event" means an event in which an equine activity occurs, including, but not limited to, fairs, competitions, performances or parades that involve any breed of equine and

any of the equine disciplines, including, but not limited to, dressage, hunter and jumper horse shows, grand prix jumping, 3-day events, combined training, 4-H events, Pony Club events, rodeos, driving, pulling, cutting, reining, team penning, barrel racing, polo, steeplechasing, endurance or nonendurance trail riding, English and western performance riding, games, packing, recreational riding and hunting. [PL 1999, c. 498, §2 (NEW).]

**7. Equine professional.** "Equine professional" means a person engaged for compensation:

A. In instructing a participant or renting to a participant an equine for the purpose of riding, driving or being a passenger on the equine; [PL 1999, c. 498, §2 (AMD).]

B. In renting equipment or tack to a participant; [PL 1999, c. 498, §2 (AMD).]

C. In providing daily care of equines boarded at an equine facility; or [PL 1999, c. 498, §2 (NEW).]

D. In training an equine. [PL 1999, c. 498, §2 (NEW).]

[PL 1999, c. 498, §2 (AMD).]

**7-A. Inherent risks of equine activities.** "Inherent risks of equine activities" means those dangers and conditions that are an integral part of equine activities, including, but not limited to:

A. The propensity of an equine to behave in ways that may result in damages to property or injury, harm or death to persons on or around the equine. Such equine behavior includes, but is not limited to, bucking, shying, kicking, running, biting, stumbling, rearing, falling and stepping on; [PL 1999, c. 498, §2 (NEW).]

B. The unpredictability of an equine's reaction to such things as sounds, sudden movements and unfamiliar objects, persons or other animals; [PL 1999, c. 498, §2 (NEW).]

C. Certain hazards such as surface and subsurface conditions; [PL 1999, c. 498, §2 (NEW).]

D. Collisions with other equines or objects; and [PL 1999, c. 498, §2 (NEW).]

E. Unpredictable or erratic actions by others relating to equine behavior. [PL 1999, c. 498, §2 (NEW).]

[PL 1999, c. 498, §2 (NEW).]

**8. Participant.** "Participant" means a person, whether amateur or professional, who directly engages in an equine activity, whether or not a fee is paid to participate in the equine activity. [PL 1991, c. 779, §41 (NEW); PL 1991, c. 779, §60 (AFF).]

**9. Spectator.** "Spectator" means a person who is in the vicinity of an equine activity but who is not a participant. [PL 1999, c. 498, §2 (NEW).]

SECTION HISTORY

PL 1991, c. 779, §41 (NEW). PL 1991, c. 779, §60 (AFF). PL 1999, c. 498, §2 (AMD).

**§4102. Boarding stables and commercial riding facilities; equine activities**

**(REPEALED)**

SECTION HISTORY

PL 1991, c. 779, §41 (NEW). PL 1991, c. 779, §60 (AFF). PL 1993, c. 650, §§1,2 (AMD). PL 1999, c. 498, §3 (RP).

**§4103. Liability for equine activities**

**(REPEALED)**

SECTION HISTORY

PL 1991, c. 779, §41 (NEW). PL 1991, c. 779, §60 (AFF). PL 1993, c. 650, §3 (AMD). PL 1999, c. 498, §4 (RP).

**§4103-A. Liability for equine activities**

**1. Liability.** Except as provided in subsection 2, an equine activity sponsor, an equine professional or any other person engaged in an equine activity is not liable for any property damage or damages arising from the personal injury or death of a participant or spectator resulting from the inherent risks of equine activities. Except as provided in subsection 2, a person may not make any claim or recover from any person for any property damage or damages for personal injury or death resulting from the inherent risks of equine activities. Each participant and spectator in an equine activity expressly assumes the risk and legal responsibility for any property damage or damages arising from personal injury or death that results from the inherent risk of equine activities. Each participant has the sole responsibility for knowing the range of that person's ability to manage, care for and control a particular equine or perform a particular equine activity. It is the duty of each participant to act within the limits of the participant's own ability, to maintain reasonable control of the particular equine at all times while participating in an equine activity, to heed all warnings and to refrain from acting in a manner that may cause or contribute to the injury of any person or damage to property.
[PL 1999, c. 498, §5 (NEW).]

**2. Exceptions; participants.** Nothing in subsection 1 prevents or limits the liability of an equine activity sponsor, an equine professional or any other person engaged in an equine activity, if the equine activity sponsor, equine professional or person:

A. Provided the equipment or tack, and knew or should have known that the equipment or tack was faulty, and the equipment or tack was faulty to the extent that it did cause the injury; [PL 1999, c. 498, §5 (NEW).]

B. Owns, leases, rents or otherwise is in lawful possession and control of the land or facilities upon which the participant sustained injuries because of a dangerous latent condition that was known or should have been known to the equine activity sponsor, equine professional or person; [PL 1999, c. 498, §5 (NEW).]

C. Commits an act or omission that constitutes reckless disregard for the safety of others and that act or omission caused the injury. For the purposes of this section, "reckless" has the same meaning as "recklessly," defined in Title 17-A, section 35, subsection 3, paragraph A; or [PL 1999, c. 498, §5 (NEW).]

D. Intentionally injures the participant. [PL 1999, c. 498, §5 (NEW).]
[PL 1999, c. 498, §5 (NEW).]

**3. Assumption of risk.** In a personal injury action against an equine professional, a defense or immunity described in subsection 1 may be asserted only if the person injured in the course of an equine activity:

A. Had actual knowledge of the inherent risks of equine activities; [PL 1999, c. 498, §5 (NEW).]

B. Had professed to have sufficient knowledge or experience to be on notice of the inherent risks; or [PL 1999, c. 498, §5 (NEW).]

C. Had been notified of the inherent risks and the limitations of liability. [PL 1999, c. 498, §5 (NEW).]

For the purposes of this subsection, notice of the inherent risks of equine activity may be satisfied either by a statement signed by the person injured or by a sign or signs prominently displayed at the place where the equine activity was initiated. The statement or sign must contain at least the following information.

"WARNING

Under Maine law, an equine professional has limited liability for an injury or death resulting from the inherent risks of equine activities."

The message on a sign must be in black letters at least one inch in height and the sign or signs must be placed in a clearly visible location on or near stables, corrals or arenas where the equine professional conducts equine activities.
[PL 1999, c. 498, §5 (NEW).]

**4. Exceptions; persons who are not participants.** Nothing in subsection 1 prevents or limits the liability of an equine activity sponsor, an equine professional or any other person engaged in an equine activity, if that equine activity:

A. Causes injury or death to a person who is not a participant and who is in a place where a reasonable person would not expect an equine activity to occur; or [PL 1999, c. 498, §5 (NEW).]

B. Causes injury or death to a spectator and that spectator was in a place designated or intended by an activity sponsor as a place for spectators. [PL 1999, c. 498, §5 (NEW).]
[PL 1999, c. 498, §5 (NEW).]

SECTION HISTORY

PL 1999, c. 498, §5 (NEW).

**§4104. Equine professional; contracts**

**(REPEALED)**

SECTION HISTORY

PL 1991, c. 779, §41 (NEW). PL 1991, c. 779, §60 (AFF). PL 1993, c. 650, §4 (RP).

**§4104-A. Equine professional; contracts**

**(REPEALED)**

SECTION HISTORY

PL 1993, c. 650, §5 (NEW). PL 1999, c. 498, §6 (RP).

## CHAPTER 745

## SALE OF DOGS AND CATS

**§4151. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1995, c. 589, §1 (NEW).]

**1. Animal.** "Animal" means a dog, wholly of the species canis familiaris, or a cat, wholly or in part of the species felis domesticus.
[PL 2011, c. 100, §14 (AMD).]

**1-A. Animal rescue entity.** "Animal rescue entity" means a nonprofit organization having tax-exempt status under the United States Internal Revenue Code, Section 501(c)(3) whose mission and practice is, in whole or in significant part, the rescue and placement into permanent homes of animals and that does not breed animals.
[PL 2019, c. 544, §4 (NEW).]

**2. Breeder.** "Breeder" means a person, firm, partnership, corporation or association that breeds animals for direct or indirect sale to the public.
[PL 1995, c. 589, §1 (NEW).]

**3. Health problem.** "Health problem" means any disease, illness or any congenital or hereditary condition that would impair the health or function of an animal.
[PL 1995, c. 589, §1 (NEW).]

**3-A. Offer for sale.** "Offer for sale" means to sell, offer to transfer, offer for adoption, advertise for sale, barter, auction, give away or otherwise dispose of an animal.
[PL 2019, c. 544, §5 (NEW).]

**4. Pet dealer.**
[PL 2007, c. 702, §21 (RP).]

**4-A. Seller.** "Seller" means the owner or operator of a breeding kennel as defined in section 3907, subsection 8-A or the owner or operator of a grandfathered pet shop. "Seller" includes animal dealers required to be licensed by the United States Department of Agriculture. "Seller" does not include humane societies, nonprofit organizations performing the functions of humane societies or animal shelters licensed in accordance with section 3932-A. For purposes of this section, "grandfathered pet shop" has the same meaning as in section 3933.
[PL 2019, c. 544, §6 (AMD).]

**5. Veterinarian.** "Veterinarian" means a person licensed as a veterinarian in any state.
[PL 1995, c. 589, §1 (NEW).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 1997, c. 690, §50 (AMD). PL 2007, c. 439, §31 (AMD). PL 2007, c. 702, §§21, 22 (AMD). PL 2011, c. 100, §14 (AMD). PL 2019, c. 544, §§4-6 (AMD).

**§4152. Disclosure**

**1. Required disclosure.** A seller shall deliver to a purchaser of an animal a written disclosure containing the following:

A. An animal history that includes:

(1) For sellers licensed with the United States Department of Agriculture, the name, address and United States Department of Agriculture license number of the breeder and any broker who has had possession of the animal. For sellers licensed with the State, the name, address of the seller and the license number issued under section 3931-A, 3933 or 4163;

(2) The date of the animal's birth;

(3) The date the seller received the animal if the animal was not born on the seller's premises;

(4) The breed, sex, color and identifying marks of the animal. If the breed is unknown or mixed, that fact must be stated;

(5) The individual identifying tag, tattoo, microchip identification number or collar number;

(6) For pure bred animals that are advertised as eligible for registration, the name and registration number of the sire and dam and, if available, the litter number; and

(7) A record of inoculations, internal or external parasite treatments, medication or any veterinarian examination or treatment received by the animal while in the possession of the seller; [PL 2009, c. 403, §9 (AMD).]

B. A statement signed by the seller that the animal at time of delivery has no known health problem or a statement disclosing any known health problem.

The statement must include the date at which the seller is aware that the animal was last seen by a veterinarian; [PL 2007, c. 702, §23 (AMD).]

C. A seller who represents an animal as eligible for registration with an animal pedigree organization shall provide the retail purchaser with a notice stating that pedigree registration does not assure health or quality of an animal; and [PL 2007, c. 702, §23 (AMD).]

D. The seller shall indicate whether or not, to the seller's knowledge, the animal or its sire or dam is registered with, and whether the animal is certified by any organization that maintains a registry pertaining to congenital or hereditary problems and explain the meaning of these terms. [PL 2007, c. 702, §23 (AMD).]

[PL 2009, c. 403, §9 (AMD).]

**2. Optional disclosure.** The seller may provide the purchaser with a list of congenital or hereditary problems that are known to affect the breed being purchased and a list of any health problems for which the seller does not warranty the animal.

[PL 2007, c. 702, §23 (AMD).]

**3. Disclosure procedures.** The following disclosure procedures must be followed.

A. The disclosure required by subsection 1 must be made part of the statement of consumer rights set forth in section 4160. [PL 1995, c. 589, §1 (NEW).]

B. The written disclosure made pursuant to this section must be signed by both the seller certifying the accuracy of the statement and by the purchaser of the animal acknowledging receipt of the statement. [PL 2007, c. 702, §23 (AMD).]

C. The seller shall make a prospective purchaser aware that the purchaser may see this information prior to purchase. [PL 2007, c. 702, §23 (AMD).]

[PL 2007, c. 702, §23 (AMD).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 1997, c. 690, §51 (AMD). PL 2007, c. 702, §23 (AMD). PL 2009, c. 403, §9 (AMD).

**§4152-A. Documents necessary for breed registration**

**1. Requirement to provide.** A seller who states, promises or represents that an animal is registered or capable of registration with an animal pedigree organization shall provide the purchaser with the documents necessary for registration at the time of sale or within 90 days of the sale unless specified otherwise in a contractual agreement signed by the purchaser.

[PL 2009, c. 403, §10 (NEW).]

**2. Process to acquire documentation.** If the purchaser does not receive the necessary documents within the time period specified in subsection 1, the purchaser may send a written request for the documents to the seller via certified mail. Within 60 days of receiving the request, the seller must deliver the documents directly or send them by certified mail to the purchaser.

[PL 2009, c. 403, §10 (NEW).]

**3. Failure to provide documentation; resolution.** If the seller fails to provide the necessary documents in accordance with subsection 2, the purchaser is entitled to a partial refund of 50% of the purchase price. Upon payment of the refund, a seller is absolved of the requirement to provide the documents necessary for breed registration. Acceptance of the registration papers by the purchaser outside of the required time period waives the purchaser's right to a partial refund.

[PL 2009, c. 403, §10 (NEW).]

SECTION HISTORY

PL 2009, c. 403, §10 (NEW).

**§4153. Sale prohibited**

**1. Animal with disease, illness or condition.** Notwithstanding section 4152, a seller may not sell an animal that has any obvious clinical sign of infectious, contagious, parasitic or communicable disease or abnormality or has any disease, illness or condition that requires hospitalization or nonelective surgical procedures.
[PL 2019, c. 544, §7 (NEW).]

**2. Wolf hybrid.** A seller may not sell a wolf hybrid.
[PL 2019, c. 544, §7 (NEW).]

**3. Pet shop.** Except as provided in this subsection, a pet shop as defined in section 3907, subsection 23 may not offer an animal for sale.

A. A pet shop may provide space to an animal rescue entity to offer to the public animals for adoption for an adoption fee, as long as the pet shop does not have any ownership interest in the animals offered for adoption and does not receive any fee for providing space or for the adoption of any of the animals. [PL 2019, c. 544, §7 (NEW).]

B. A pet shop that lawfully offered animals for sale on the effective date of this paragraph may continue to offer animals for sale as long as the pet shop:

(1) Maintains a valid license under section 3933;

(2) Remains in the same ownership as existed on May 1, 2019; and

(3) Keeps for sale or offers for sale in any calendar year no greater a number of animals than were kept for sale or offered for sale by the pet shop in calendar year 2018.

In order to qualify for the exception allowed under this paragraph, a pet shop must provide to the department, in a form and manner prescribed by the department, documentation of the ownership of the pet shop on May 1, 2019 as well as the number of animals offered for sale in 2018 and annually thereafter. For purposes of this paragraph, "remains in the same ownership" means a static state of ownership in which no ownership interest changes after May 1, 2019, except, in the case of a pet shop that on May 1, 2019 was owned by a family, a transfer of an ownership interest to the spouse, domestic partner or one or more children of the oldest member of the family holding an ownership interest on May 1, 2019. For purposes of this paragraph, "family" means one person or a group of people whose relationship to the oldest person in the group is either spouse, domestic partner or child. In order to maintain a valid license, the pet shop must provide to the department, in a form and manner prescribed by the department, documentation of any transfer of ownership under this paragraph. If there is ambiguity as to whether a pet shop remains in the same ownership, the pet shop does not satisfy the requirements of subparagraph (2). [PL 2019, c. 544, §7 (NEW).]
[PL 2019, c. 544, §7 (NEW).]

**4. Penalties.** A person who violates subsection 3 commits a civil violation for which a fine of $500 may be adjudged and is subject to the suspension or revocation of the person's pet shop license pursuant to section 4162, subsection 2. Each offer for sale of an animal in violation of subsection 3 constitutes a separate violation.
[PL 2019, c. 544, §7 (NEW).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 2007, c. 702, §24 (AMD). PL 2011, c. 100, §15 (AMD). PL 2019, c. 544, §7 (RPR).

**§4154. Records**

**(REPEALED)**

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 1997, c. 690, §52 (RP).

**§4155. Rights of the purchaser**

**1. Unfit for sale.** If, within 10 days after receipt of the animal by the purchaser, a veterinarian states in writing that the animal has a health problem that existed in the animal at the time of delivery or if, within one year after receipt of the animal by the purchaser, a veterinarian states in writing that due to a hereditary or congenital defect the animal has died or has a condition that will shorten its life or will require constant treatment during its life, the animal is considered to have been unfit for sale at the time of sale.
[PL 1995, c. 589, §1 (NEW).]

**2. Death; remedies.** When an animal dies due to a health problem that would have rendered the animal unfit for sale pursuant to subsection 1, and that health problem existed in the animal at the time of delivery to the purchaser but was not disclosed under the provisions of section 4152, the seller shall provide the purchaser with one of the following remedies selected by the purchaser:

A. An animal of equal value, if available; or [PL 1995, c. 589, §1 (NEW).]

B. A refund of the full purchase price of the animal. [PL 1995, c. 589, §1 (NEW).]
[PL 2007, c. 702, §25 (AMD).]

**3. Health problem; remedies.** When an animal has a health problem that renders the animal unfit for sale pursuant to subsection 1, and that health problem existed in the animal at the time of delivery to the purchaser but was not disclosed under the provisions of section 4152, the seller shall provide the purchaser with one of the following remedies selected by the purchaser:

A. Return of the animal to the seller for a refund of the full purchase price of the animal; [PL 2007, c. 702, §26 (AMD).]

B. Exchange of the animal for an animal of the purchaser's choice of equivalent value, if a replacement is available; [PL 2019, c. 90, §1 (AMD).]

C. Retainment of the animal and reimbursement for 1/2 of the reasonable veterinary fees not to exceed 1/2 of the original purchase price of the animal; or [PL 2019, c. 90, §1 (AMD).]

D. For an animal with less than one year of life expectancy, as determined by a veterinarian pursuant to subsection 1, retainment of the animal and a full refund of the original purchase price of the animal. Reimbursement of veterinary fees by the seller is not required under this paragraph. [PL 2019, c. 90, §2 (NEW).]
[PL 2019, c. 90, §1, 2 (AMD).]

**4. Veterinary service; fees.** The fee for veterinary service is reasonable if the service is appropriate for the diagnosis and treatment of the health problem and the fee for the service is comparable to fees charged by other veterinarians who are in proximity to the treating veterinarian.
[PL 1995, c. 589, §1 (NEW).]

**5. Sellers not exempt.** Sellers may not, contractually or otherwise, exempt themselves from the remedies provided by this section for deaths or health problems in animals caused by infectious, contagious, parasitic or communicable disease or for deaths or health problems in animals caused by hereditary or congenital defects as described in subsection 1.
[PL 2019, c. 90, §3 (AMD).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 2007, c. 439, §32 (AMD). PL 2007, c. 702, §§25-27 (AMD). PL 2019, c. 90, §§1-3 (AMD).

**§4156. Responsibilities of purchaser**

To obtain the remedies provided in section 4155, the purchaser has the following responsibilities with respect to an animal with a health problem. [PL 1995, c. 589, §1 (NEW).]

**1. Veterinary diagnosis.** The purchaser must notify the seller, within 2 business days, of the diagnosis by a veterinarian of a health problem and provide the seller with the name and telephone number of the veterinarian and a copy of the veterinarian report on the animal.
[PL 2007, c. 702, §28 (AMD).]

**2. Refund.** If the purchaser wishes to receive a full refund for the animal, the purchaser must return the animal no later than 2 business days after receipt of a written statement from a veterinarian indicating that the animal is unfit due to a health problem. With respect to a dead animal, the purchaser must provide the seller with a written statement from a veterinarian indicating that the animal died from a health problem that existed on or before the receipt of the animal by the purchaser. This subsection does not apply to a refund requested pursuant to section 4155, subsection 3, paragraph D.
[PL 2019, c. 90, §4 (AMD).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 2007, c. 702, §§28, 29 (AMD). PL 2019, c. 90, §4 (AMD).

**§4157. Rights of seller**

**1. Refusal to sell.** A seller may refuse to sell an animal to a potential purchaser who appears not to accept or understand the provisions of this chapter.
[PL 2007, c. 702, §30 (AMD).]

**2. Exemption from purchaser remedies.** A refund, replacement or reimbursement of veterinary fees is not required if any one or more of the following conditions are met.

A. The health problem or death of the animal resulted from maltreatment, neglect or a disease contracted while in the possession of the purchaser or from an injury sustained subsequent to receipt of the animal by the purchaser. [PL 1995, c. 589, §1 (NEW).]

B. A disclosure statement was provided to the purchaser pursuant to section 4152 that disclosed the health problem for which the purchaser seeks to return the animal. [PL 1995, c. 589, §1 (NEW).]

C. The health problem is a hereditary or congenital one covered by section 4152. [PL 1995, c. 589, §1 (NEW).]

D. [PL 2007, c. 439, §33 (RP).]
[PL 2007, c. 439, §33 (AMD).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 2007, c. 439, §33 (AMD). PL 2007, c. 702, §30 (AMD).

**§4158. Contest**

**1. Demand for remedy; contest.** When a seller wishes to contest a demand for the remedy specified in section 4155, the seller may require the purchaser to produce all the veterinarian's records and the animal for examination or autopsy by a veterinarian designated by the seller. The veterinarian designated by the seller must be practicing at a veterinary clinic within 100 miles of the purchaser's residence. The seller shall pay the cost of this examination or autopsy. The seller has a right of recovery against the purchaser if the seller is not obligated to provide a remedy under section 4155.
[PL 2007, c. 702, §31 (AMD).]

**2. Right to court action.** If the seller does not provide the remedy selected by the purchaser set forth in section 4155, the purchaser may initiate a court action. The prevailing party in the court action has the right to recover costs and reasonable attorney's fees.
[PL 2007, c. 702, §32 (AMD).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 1997, c. 690, §53 (AMD). PL 2007, c. 702, §§31, 32 (AMD).

**§4159. Posted notice**

A seller whose facility has public access shall post, in a prominent location in the area to which a prospective purchaser would have access, a notice printed in a minimum of 48-point, bold-faced type and containing the following language:

"YOU ARE ENTITLED TO A STATEMENT OF CONSUMER RIGHTS AND DISCLOSURE OF YOUR ANIMAL'S HEALTH HISTORY AND THE WARRANTY ON YOUR ANIMAL. YOU MAY ASK TO SEE THESE ITEMS PRIOR TO PURCHASE. MAKE SURE YOU RECEIVE THESE ITEMS AT THE TIME OF PURCHASE." [PL 2007, c. 702, §33 (AMD).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 2007, c. 702, §33 (AMD).

**§4160. Notice of consumer rights**

**1. Written notice.** A seller shall provide the purchaser a written notice of rights, signed by the seller, certifying the accuracy of the information contained in the notice. The notice must be signed by the purchaser, acknowledging that the purchaser has reviewed and understood the written notice. A signed copy must be retained by the seller and one copy given to the purchaser. The notice must be in a minimum of 16-point, bold-faced type and must state the following:

"A STATEMENT OF MAINE LAW GOVERNING THE SALE OF DOGS AND CATS:

The sale of dogs and cats is subject to consumer protection regulations. Maine law also provides safeguards to protect sellers and animal purchasers. Attached is a copy of the Maine Revised Statutes, Title 7, chapter 745. Contained in this law is a statement of your consumer rights and remedies. Also attached is your pet's health history and specific warranty information."

[PL 2007, c. 702, §34 (AMD).]

**2. Oral notice.** In addition, all medical information required to be disclosed pursuant to this section must be orally disclosed to the purchaser by the seller prior to purchase.
[PL 2007, c. 702, §35 (AMD).]

The statement of consumer rights must also contain or have attached the disclosure required under section 4152 and the name and phone number of the state agency to be contacted in the event of perceived violations of this chapter. [PL 1995, c. 589, §1 (NEW).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 2007, c. 702, §§34, 35 (AMD).

**§4161. Limitation**

This chapter does not limit the rights or remedies that are otherwise available to a purchaser under any other law. [PL 1997, c. 690, §54 (AMD).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 1997, c. 690, §54 (AMD).

**§4162. Additional penalties**

**1. Civil violation.** A person who fails to meet a requirement of this chapter commits a civil violation for which a fine of not less than $50 or more than $500 per violation may be adjudged.
[PL 2009, c. 343, §24 (AMD).]

**2. Action against pet shops and breeding kennels.** The department may, in accordance with Title 5, chapter 375, subchapter 5, revoke or suspend the license of a pet shop or breeding kennel that

violates any provision of this chapter or rules adopted under section 3906-B, subsection 10 to implement this chapter.

A. [PL 1997, c. 690, §55 (RP).]

B. [PL 1997, c. 690, §55 (RP).]

C. [PL 1997, c. 690, §55 (RP).]

D. [PL 1997, c. 690, §55 (RP).]

E. [PL 1997, c. 690, §55 (RP).]

[PL 2009, c. 343, §24 (AMD).]

**3. Action against license.**

[PL 1997, c. 690, §55 (RP).]

SECTION HISTORY

PL 1995, c. 589, §1 (NEW). PL 1997, c. 690, §55 (RPR). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2009, c. 343, §24 (AMD).

**§4163. Dog or cat vendor's license**

A person may not advertise for sale, sell or exchange for value more than one cat or dog under the age of 6 months in a 12-month period unless that person has a valid animal shelter, kennel or breeding kennel license or a valid vendor's license issued under this section. [PL 2019, c. 544, §8 (AMD).]

**1. Vendor's license; fee.** A person may apply for a vendor's license by completing and submitting to the department an application form provided by the department. Upon receipt of a completed application, the department shall issue a vendor's license and an identifying license number that is valid for a period of 90 days from the date of issuance. A person is entitled to one vendor's license in a 12-month period at no charge. A fee of $25 must be submitted with each additional application for a vendor's license within a 12-month period.
[PL 2007, c. 702, §37 (AMD).]

**2. Advertising.** A person possessing a vendor's license issued under this section must include that vendor's license number in any form of advertising, brochure or sign that announces the availability of a dog or cat for sale or exchange. The vendor's name and license number must be provided to a person purchasing or otherwise receiving a dog or cat from the vendor.
[PL 2007, c. 439, §34 (NEW).]

**3. Violation.** A person who fails to comply with this section commits a civil violation for which a fine of not less than $50 nor more than $200 may be adjudged, none of which may be suspended.
[PL 2007, c. 439, §34 (NEW).]

SECTION HISTORY

PL 2007, c. 439, §34 (NEW). PL 2007, c. 702, §§36, 37 (AMD). PL 2019, c. 544, §8 (AMD).

## PART 10

## NUTRIENT MANAGEMENT

## CHAPTER 747

## NUTRIENT MANAGEMENT ACT

**§4201. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1997, c. 642, §2 (NEW).]

**1. Animal feeding operation.** "Animal feeding operation" means a lot or facility where animals are confined and fed for a total of at least 45 days in a 12-month period. "Animal feeding operation" does not include an aquatic animal production facility.
[PL 1997, c. 642, §2 (NEW).]

**2. Animal unit.** "Animal unit" means 1,000 pounds of animal body weight.
[PL 1997, c. 642, §2 (NEW).]

**3. Board.** "Board" means the Nutrient Management Review Board established in section 4203.
[PL 1997, c. 642, §2 (NEW).]

**4. Farm nutrient.** "Farm nutrient" means a substance or recognized plant nutrient, element or compound that is used or sold for its plant nutritive content or its claimed nutritive value for use in growing crops. The term includes, but is not limited to, livestock and poultry manures, compost as fertilizer, commercially manufactured chemical fertilizers, sewage sludge, residuals or combinations of these.
[PL 1997, c. 642, §2 (NEW).]

**5. Nutrient management plan.** "Nutrient management plan" means a written document that outlines how farm nutrients are stored, managed and utilized on the farm for which the plan is written.
[PL 1997, c. 642, §2 (NEW).]

**6. Regulated residual.** "Regulated residual" means a residual regulated by the Department of Environmental Protection pursuant to Title 38, chapter 13 that is used primarily for its nitrogen and phosphorous value as determined by the Department of Agriculture, Conservation and Forestry. "Regulated residual" does not include compost in quantities less than 100 tons per year or wood ash.
[PL 2003, c. 283, §1 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

**7. Residual.** "Residual" means any material generated as a byproduct of a nonagricultural production or treatment process that has value as a source of crop nutrients or soil amendment.
[PL 1997, c. 642, §2 (NEW).]

**8. Verified complaint of improper manure handling.** "Verified complaint of improper manure handling" means a complaint of improper manure handling investigated in accordance with Title 17, section 2701-B and resulting in a determination by the commissioner that the manure has been stored or handled in a manner that does not conform with best management practices.
[PL 1997, c. 642, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 642, §2 (NEW). PL 1999, c. 530, §1 (AMD). PL 2003, c. 283, §1 (AMD). PL 2011, c. 657, Pt. W, §5 (REV).

**§4202. Duties of the commissioner**

The commissioner shall implement a program to promote responsible use of farm nutrients in accordance with this chapter. The commissioner has the powers and duties as set forth in this section.
[PL 1997, c. 642, §2 (NEW).]

**1. Nutrient management plans.** In accordance with Title 5, chapter 375, the commissioner shall adopt rules to establish minimum requirements for nutrient management plans required under section 4204, a process for review of the nutrient management plans, periodic revisions to plans and determination of compliance with the plans. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. The commissioner shall maintain a list of

farms that have a nutrient management plan based on notification received pursuant to section 4204, subsection 3.
[PL 1997, c. 642, §2 (NEW).]

**2. Certification of persons to prepare nutrient management plans.** The commissioner shall develop a program to train and certify persons in the preparation of nutrient management plans. The commissioner may establish minimum educational requirements for persons eligible for certification. The commissioner may revoke a certification in accordance with section 4210.
[PL 1999, c. 530, §2 (AMD).]

**3. Livestock operations permits.** The commissioner shall issue livestock operations permits in accordance with section 4205. The commissioner may revoke a livestock operations permit in accordance with section 4211.
[PL 1999, c. 530, §2 (AMD).]

**4. Educational outreach.** The commissioner shall conduct an educational outreach program for the agricultural community to increase awareness of the provisions of this chapter and the need for nutrient management planning. The commissioner shall inform the public about manure-related issues and the department's efforts to address manure-related issues.
[PL 1997, c. 642, §2 (NEW).]

**5. Enforcement.** Whenever it appears to the commissioner that there is or has been a violation of this chapter, rules adopted under this chapter or the conditions of a permit or variance issued under this chapter, the commissioner may initiate an enforcement action.
[PL 1997, c. 642, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 642, §2 (NEW). PL 1999, c. 530, §2 (AMD).

**§4203. Nutrient Management Review Board**

The Nutrient Management Review Board is established pursuant to Title 5, section 12004-D, subsection 5. [PL 1997, c. 642, §2 (NEW).]

**1. Duties.** The board's duties are as follows:

A. The board shall review and approve all proposed amendments to the original rules adopted in accordance with this chapter; [PL 2003, c. 283, §2 (AMD).]

B. When an aggrieved party within 30 days of the commissioner's decision appeals a decision of the commissioner regarding a livestock operations permit under section 4205, a request for a variance under section 4204, subsection 8 or a certification under section 4210, the board shall hold a hearing in accordance with Title 5, chapter 375, subchapter 4. The board may affirm, amend or reverse a permit or certification decision made by the commissioner. The board's decision is a final agency action; and [PL 2003, c. 283, §2 (AMD).]

C. When an aggrieved party within 30 days of the commissioner's decision appeals a decision of the commissioner regarding site-specific best management practices prescribed for a farm or other issue governed under section 156 or Title 17, section 2701-B, the board shall hold a hearing in accordance with Title 5, chapter 375, subchapter 4. The board may affirm, amend or reverse a decision made by the commissioner. The board's decision is a final agency action. The board may also conduct an information-gathering meeting at the request of the department or any party with a legitimate interest to facilitate the complaint resolution process under section 156 or Title 17, section 2701-B. [PL 2007, c. 649, §4 (AMD).]
[PL 2007, c. 649, §4 (AMD).]

**2. Membership.** The board consists of 7 members appointed as follows:

A. One member from the University of Maine Cooperative Extension Service with expertise in agricultural production appointed by the Director of the Cooperative Extension Service; [PL 1997, c. 642, §2 (NEW).]

B. The Commissioner of Environmental Protection or the commissioner's designee; [PL 1997, c. 642, §2 (NEW).]

C. The commissioner or the commissioner's designee; and [PL 1997, c. 642, §2 (NEW).]

D. Four other persons appointed by the Governor, consisting of:

(1) One member with expertise in nutrient management or soil science;

(2) One member actively involved in a livestock production operation with less than 300 animal units;

(3) One member actively involved in a livestock production operation with more than 300 animal units; and

(4) One member with an interest in nutrient management issues representing the general public. [PL 1997, c. 642, §2 (NEW).]

[PL 1997, c. 642, §2 (NEW).]

**2-A. Temporary membership.** When the subject matter of an appeal or complaint resolution process under this section is other than manure or nutrient management, the commissioner may appoint up to 3 temporary board members for the purpose of hearing an appeal, conducting an information-gathering meeting or facilitating the complaint resolution process under section 156. At least one temporary member must have expertise with the subject matter of the complaint or problem and one temporary member must represent the agricultural sector involved. The terms for temporary members expire when the board determines that it has taken final action on the appeal or complaint resolution process.
[PL 2007, c. 649, §5 (AMD).]

**3. Terms of membership; chair.** Except for initial appointees, each member appointed by the Governor serves for a term of 4 years. In the case of a vacancy, the Governor shall appoint a member to fill the unexpired term. The Governor shall determine initial appointment terms to stagger term expirations. The board shall annually elect one of its members as chair.
[PL 1997, c. 642, §2 (NEW).]

**4. Compensation.** Members of the board are entitled to expenses only.
[PL 1997, c. 642, §2 (NEW).]

**5. Staff.** The department shall provide staff to the board.
[PL 1997, c. 642, §2 (NEW).]

**6. Meetings.** The board shall meet twice a year with the commissioner to discuss the implementation and enforcement of the provisions of this chapter and as needed to perform its duties.
[PL 1997, c. 642, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 642, §2 (NEW). PL 1999, c. 530, §3 (AMD). PL 2003, c. 283, §§2,3 (AMD). PL 2007, c. 649, §§4, 5 (AMD).

**§4204. Nutrient management plan**

**1. Nutrient management plan required.** A person who owns or operates a farm that meets the criteria established in subsection 2 shall have a nutrient management plan for that farm and shall implement the provisions in that plan by the dates specified for that category of farm in subsection 4, 5, 6 or 7. The nutrient management plan must be prepared by a person certified in accordance with

section 4202, subsection 2 and must address the storage and utilization of all farm nutrients generated on or transported to the farm. A nutrient management plan developed by a farm owner or operator is deemed to have been prepared by a certified nutrient management specialist if a certified nutrient management specialist reviews the plan for compliance with this chapter, signs the plan and notifies the department in accordance with subsection 3.

A. [PL 2003, c. 452, Pt. B, §24 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. [PL 2003, c. 452, Pt. B, §24 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. [PL 2003, c. 452, Pt. B, §24 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

D. [PL 2003, c. 452, Pt. B, §24 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

E. [PL 2003, c. 452, Pt. B, §24 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

F. [PL 2003, c. 452, Pt. B, §24 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

G. [PL 2003, c. 452, Pt. B, §24 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

H. [PL 2003, c. 452, Pt. B, §24 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2003, c. 452, Pt. B, §24 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

**1-A. Plan requirements.** For livestock farms, the nutrient management plan must address storage and utilization of farm nutrients for the entire farm operation including leased or rented land. For crop farms, the plan must address storage and utilization of farm nutrients on land on which manure is utilized or stored. A nutrient management plan must include or provide for:

A. Minimum distances between manure storage, stacking and spreading areas and property lines and surface water based on site-specific factors; [PL 2003, c. 452, Pt. B, §25 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. Manure storage for a minimum of 180 days; [PL 2003, c. 452, Pt. B, §25 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. Provisions for soil erosion control; [PL 2003, c. 452, Pt. B, §25 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

D. [PL 2005, c. 382, Pt. B, §2 (RP).]

E. Results of soil tests for land designated in the plan for manure spreading or manure irrigation; [PL 2003, c. 452, Pt. B, §25 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

F. Results of manure tests; [PL 2003, c. 452, Pt. B, §25 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

G. A statement of yield goals for land receiving farm nutrients; [PL 2003, c. 452, Pt. B, §25 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

H. Additional information established through rulemaking; [PL 2003, c. 452, Pt. B, §25 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

I. Site-specific dates recommended for the spreading of manure and spraying or irrigation of liquid manure. In compliance with section 4207, the plan may not recommend spreading between December 1st of a calendar year and March 15th of the following calendar year; and [PL 2003, c. 452, Pt. B, §25 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

J. A recommended timetable for implementing the plan. [PL 2003, c. 452, Pt. B, §25 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

[PL 2005, c. 382, Pt. B, §2 (AMD).]

**2. Farms requiring a nutrient management plan.** A farm that meets one or more of the following criteria is required to have a nutrient management plan:

A. A farm that confines and feeds 50 or more animal units at any one time; [PL 1997, c. 642, §2 (NEW).]

B. A farm that stores or utilizes more than 100 tons of manure per year not generated on that farm; [PL 2007, c. 240, Pt. ZZ, §1 (AMD).]

C. A farm that is the subject of a verified complaint of improper manure handling; or [PL 1999, c. 530, §4 (AMD).]

D. A farm that stores or utilizes regulated residuals. [PL 1997, c. 642, §2 (NEW).]
[PL 2007, c. 240, Pt. ZZ, §1 (AMD).]

**3. Responsibility of person preparing nutrient management plans.** Upon completion of a nutrient management plan, a person certified to prepare nutrient management plans in accordance with this chapter shall notify the department. The notification must include the name and address of the owner or operator of the farm and the location of the farm for which the plan was prepared. A person preparing a nutrient management plan required by this chapter shall adhere to rules adopted in accordance with this chapter pertaining to the preparation and requirements of the plan.
[PL 1997, c. 642, §2 (NEW).]

**4. Compliance date for farms operational on March 31, 1998.** Except for a farm requiring a livestock operations permit under section 4205 or as provided in subsection 8, an owner or operator of a farm that was operational on March 31, 1998 and meets the criteria established in subsection 2, paragraph A or B shall have a nutrient management plan prepared for that farm no later than January 1, 2001. Except as provided in subsection 8, the plan must be implemented no later than October 1, 2007.
[PL 2001, c. 64, §1 (AMD).]

**5. Compliance date for farms that were operational on March 31, 1998 that store or use regulated residuals.** An owner or operator of a farm that is required to have a nutrient management plan under subsection 2, paragraph D and that was operational on March 31, 1998 shall have that plan prepared by January 1, 2000. Except as provided in subsection 8, the plan must be implemented no later than January 1, 2000.
[PL 1999, c. 530, §4 (NEW).]

**6. Compliance date for farms becoming operational after March 31, 1998.** An owner or operator of a farm that is required to have a nutrient management plan under subsection 2 and that was not operational on March 31, 1998 shall have a nutrient management plan prepared before the farm becomes operational. Except as provided in subsection 8, the plan must be implemented at the time the farm becomes operational.
[PL 1999, c. 530, §4 (NEW).]

**7. Compliance date for farms subject of verified complaint.** When a farm is required to have a nutrient management plan under subsection 2, paragraph C, the commissioner shall establish a date by which the plan must be developed and a date for implementation of the plan.
[PL 1999, c. 530, §4 (NEW).]

**8. Variances.** For farms with compliance dates established in subsection 4, the commissioner may grant a variance from the date by which a nutrient management plan must be prepared and certified when the commissioner finds that technical assistance or resources are not available to complete and certify the plan by January 1, 2001. The commissioner may grant a variance from the implementation date in subsection 4, 5 or 6 when the commissioner finds that implementation of the plan would cause undue hardship. A person requesting a variance shall submit a request in writing to the commissioner at least 90 days prior to the applicable implementation date. The commissioner shall establish by rule criteria and a process for granting a variance. Factors considered must include protection of groundwater and surface water, cost of implementing the plan, availability of financial assistance to

implement the plan and availability of technical assistance or resources to complete and certify the plan. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. Notwithstanding the provisions of this subsection, a variance may not extend an implementation date beyond December 31, 2008. A person denied a variance by the commissioner may appeal that decision to the board.
[PL 2001, c. 64, §2 (AMD).]

**9. Violation.** The following are civil violations for which a fine of up to $1,000 plus up to an additional $250 per day for each day that the violation continues may be adjudged:

A. Failure to develop a nutrient management plan in accordance with this section; and [PL 2003, c. 452, Pt. B, §26 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. Failure to implement a nutrient management plan in accordance with this section or rules adopted pursuant to this section. Prior to the development of a plan, a person is not subject to a penalty for failure to implement a nutrient management plan. [PL 2003, c. 452, Pt. B, §26 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
[PL 2003, c. 452, Pt. B, §26 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**10. Nutrient management plan confidential.** A nutrient management plan prepared in accordance with this section is confidential and is not a public record as defined in Title 1, section 402, subsection 3. A copy of a nutrient management plan required under this section must be available to the commissioner or the commissioner's designee upon request.
[PL 2003, c. 452, Pt. B, §26 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1997, c. 642, §2 (NEW). PL 1999, c. 530, §4 (AMD). PL 1999, c. 723, §1 (AMD). PL 2001, c. 64, §§1,2 (AMD). PL 2003, c. 452, §§B24-26 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2005, c. 382, §B2 (AMD). PL 2007, c. 240, Pt. ZZ, §1 (AMD).

**§4205. Livestock operations permit**

**1. Operations requiring a livestock operations permit.** Beginning on January 1, 2000, a permit issued by the commissioner pursuant to subsection 2 is required for an animal feeding operation that meets one or more of the following criteria:

A. The operation is a concentrated animal feeding operation as defined by rules adopted pursuant to this section; [PL 1997, c. 642, §2 (NEW).]

B. The operation confines and feeds 300 or more animal units and prior to April 15, 1998 the operation did not confine and feed 300 or more animal units; or [PL 1997, c. 642, §2 (NEW).]

C. Proposes an expansion beyond the operation's manure storage capacity or land base used for spreading. [PL 1997, c. 642, §2 (NEW).]
[PL 1999, c. 530, §4 (AMD).]

**2. Criteria for issuing permits; rulemaking.** An applicant for a permit required under this section must submit to the commissioner a nutrient management plan that meets the requirements established pursuant to section 4204. A nutrient management plan submitted in accordance with this subsection is confidential and is not a public record as defined in Title 1, section 402, subsection 3. Prior to issuing a permit, the commissioner or a designee of the commissioner shall inspect the operation and determine that the operation is in compliance with the nutrient management plan. The commissioner may issue a provisional permit in accordance with subsection 3. The commissioner shall adopt rules in accordance with Title 5, chapter 375 to establish a process for application review and issuing permits required under this section. The rules may establish permit application fees, inspection requirements and procedures for review by the board of permitting decisions. Rules initially adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A. After July 1,

1999, rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.
[PL 1999, c. 530, §4 (AMD).]

**3. Provisional permit.** The commissioner may issue a provisional permit to an operation that is not in compliance with the farm's nutrient management plan at the time of inspection. In issuing a provisional permit, the commissioner shall consider existing nutrient management practices on the farm, the protection of groundwater and surface water, the cost of implementing the plan and the availability of financial assistance to implement the plan. A provisional permit must state the date by which the farm must be in compliance with the plan and may not be issued for a period of more than one year. Upon inspection and determination of compliance, the commissioner shall issue a permit in accordance with subsection 2 and the provisional permit expires. The commissioner shall adopt rules in accordance with Title 5, chapter 375 to establish a process for application review and issuing of provisional permits. Rules adopted in accordance with this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.
[RR 1999, c. 1, §6 (COR).]

**4. Violation.** The following are civil violations for which a fine of up to $1,000 plus up to an additional $250 per day for each day that the violation continues may be adjudged:

A. Failure to obtain a livestock operations permit in accordance with this section; and [PL 2003, c. 452, Pt. B, §27 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. Failure to comply with the conditions set forth in a livestock operations permit or a variance. [PL 2003, c. 452, Pt. B, §27 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]
[PL 2003, c. 452, Pt. B, §27 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1997, c. 642, §2 (NEW). RR 1999, c. 1, §6 (COR). PL 1999, c. 530, §4 (AMD). PL 2003, c. 452, §B27 (AMD). PL 2003, c. 452, §X2 (AFF).

**§4206. Rulemaking**

**(REPEALED)**

SECTION HISTORY

PL 1997, c. 642, §2 (NEW). PL 1999, c. 530, §5 (RP).

**§4207. Winter spreading of manure prohibited**

**1. Winter spreading prohibited.** Except pursuant to a variance granted under subsection 2, a person may not spread manure on agricultural fields between December 1st of a calendar year and March 15th of the following calendar year. This prohibition includes the spreading of manure and spraying or irrigation of liquid manure.
[PL 2003, c. 452, Pt. B, §28 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**2. Variance.** Upon application to the commissioner, the commissioner may grant a variance to allow a person to spread manure during the winter due to financial hardship or other circumstances that necessitate the application. In granting a variance, the commissioner shall impose restrictions to minimize potential environmental degradation and prescribe actions to ensure future compliance.
[PL 2003, c. 452, Pt. B, §28 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

**3. Violation.** A person who violates this section commits a civil violation for which a fine of up to $1,000 per day for each day that spreading occurs may be adjudged.
[PL 2003, c. 452, Pt. B, §28 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1997, c. 642, §2 (NEW). PL 2003, c. 452, §B28 (RPR). PL 2003, c. 452, §X2 (AFF).

**§4208. Nutrient Management Fund**

There is established the nonlapsing Nutrient Management Fund. The commissioner may accept funds from any source designated to be placed in the fund. The commissioner may authorize expenses from the fund as necessary to carry out the purposes of this Part. [PL 1997, c. 642, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 642, §2 (NEW).

**§4209. Penalties**

**(REPEALED)**

SECTION HISTORY

PL 1997, c. 642, §2 (NEW). PL 1999, c. 530, §6 (AMD). PL 2003, c. 283, §4 (AMD). PL 2003, c. 452, §B29 (RP). PL 2003, c. 452, §X2 (AFF). PL 2003, c. 688, §A7 (RP). PL 2003, c. 688, §A8 (AFF).

**§4210. Revocation of certification**

If the commissioner finds that a person certified to prepare nutrient management plans has failed to comply with section 4204, subsection 3, the commissioner may revoke that person's certification in accordance with this section. [PL 1999, c. 530, §7 (NEW).]

**1. Notice.** The commissioner shall give written notice of a revocation immediately following a decision to revoke. A notice of revocation must state the reason the certification is being revoked and the effective date of the revocation and must inform the person of the hearing provisions under subsection 2 and the appeals process before the board.
[PL 1999, c. 530, §7 (NEW).]

**2. Hearing.** A person receiving a notice of revocation under subsection 1 may request a hearing on that revocation. A request for a hearing must be in writing and must be made no later than 30 days after receipt of the revocation notice required under subsection 1. The commissioner shall notify the person of the date and location of the hearing.

A person may present evidence at a hearing that might justify reinstatement of the certification.
[PL 1999, c. 530, §7 (NEW).]

**3. Decisions; appeal.** Decisions of the commissioner must be in writing. The commissioner may reinstate the certification if the commissioner finds that the person has complied with section 4204, subsection 3. A person whose certification is revoked by the commissioner may appeal that decision to the board.
[PL 1999, c. 530, §7 (NEW).]

SECTION HISTORY

PL 1999, c. 530, §7 (NEW).

**§4211. Revocation of livestock operations permit**

If the commissioner finds that a person issued a livestock operations permit has failed to comply with the provisions of that permit, the commissioner may revoke that person's permit. [PL 1999, c. 530, §7 (NEW).]

**1. Notice.** The commissioner shall give written notice of a revocation immediately following a decision to revoke. A notice of revocation must state the reason the permit is being revoked and the effective date of the revocation and must inform the person of the hearing provisions under subsection 2 and the appeals process before the board.

[PL 1999, c. 530, §7 (NEW).]

**2. Hearing.** A person receiving a notice of revocation under subsection 1 may request a hearing on that revocation. A request for a hearing must be in writing and must be made not later than 30 days after receipt of the revocation notice required under subsection 1. The commissioner shall notify the person of the date and location of the hearing.

A person may present evidence at a hearing that might justify reinstatement of the permit.
[PL 1999, c. 530, §7 (NEW).]

**3. Decisions; appeal.** Decisions of the commissioner must be in writing. A person whose permit is revoked by the commissioner may appeal that decision to the board.
[PL 1999, c. 530, §7 (NEW).]

SECTION HISTORY

PL 1999, c. 530, §7 (NEW).

**§4212. Moratorium on swine feeding operation**

**(REPEALED)**

SECTION HISTORY

PL 1999, c. 530, §7 (NEW). MRSA T. 7 §4212 (RP).

**§4213. Annual report; Department of Agriculture, Conservation and Forestry**

**(REPEALED)**

SECTION HISTORY

PL 1999, c. 530, §7 (NEW). PL 2011, c. 657, Pt. W, §5 (REV). PL 2013, c. 29, §4 (RP).

**§4214. Nutrient management plans for fish hatcheries**

**1. Nutrient management plan required for fish hatcheries.** A person who owns or operates a fish hatchery, not including an off-shore marine aquaculture operation in estuarine or marine waters, must have and implement a nutrient management plan for the fish waste from the hatchery by the date specified in rules adopted pursuant to subsection 2. The commissioner shall maintain a list of fish hatcheries that have a nutrient management plan.
[PL 1999, c. 726, §1 (NEW).]

**2. Rules for fish hatcheries.** In accordance with Title 5, chapter 375, the commissioner shall adopt rules to establish requirements for nutrient management plans for fish hatcheries, compliance schedules for fish hatcheries, a process for review of the nutrient management plans, periodic revisions of plans and determination of compliance with the plans. A nutrient management plan for a fish hatchery must address storage, management and use of fish waste from the hatchery with the goal of improving water quality.

Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.
[PL 1999, c. 726, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 726, §1 (NEW).

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