# CHAPTER 721

# MILK HANDLING FEE

## §4901. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2005, c. 396, §8 (NEW).]

**1. Basic price.** "Basic price" means the minimum Class I price of milk established pursuant to Title 7, chapter 603 including that part of the Class I price that exceeds the applicable Class I price established pursuant to the northeast marketing area milk marketing order, but does not include that part of the Class I price established by the Maine Milk Commission to reflect the cost factors provided in Title 7, section 2954, subsection 2 or the increased costs of production pursuant to Title 7, section 2954, subsection 2, paragraph A.
[PL 2005, c. 396, §8 (NEW).]

**2. Fee period.** "Fee period" means the period beginning on the Sunday closest to the first day of the month and continuing through the Saturday prior to the Sunday closest to the first day of the subsequent month.
[PL 2005, c. 396, §8 (NEW).]

**3. Handler.** "Handler," with respect to a particular container of packaged milk, means the wholesale handler or, if none, the producer-handler or the retail handler. If more than one wholesale handler handles a particular container of packaged milk in this State, "handler" means the wholesale handler that first handles a particular container of packaged milk.
[PL 2011, c. 125, §1 (AMD).]

**4. Milk.** "Milk" has the same meaning as in Title 7, section 2951, subsection 6.
[PL 2005, c. 396, §8 (NEW).]

**5. Packaged milk.** "Packaged milk" means milk that has been processed and placed in containers for ultimate sale to consumers.
[PL 2005, c. 396, §8 (NEW).]

**6. Person.**
[PL 2009, c. 434, §61 (RP).]

**7. Producer-handler.** "Producer-handler" means a person who produces milk and packages that milk or part of that milk for retail sale either by that person or by another retail handler.
[PL 2005, c. 396, §8 (NEW).]

**8. Retail handler.** "Retail handler" means a person who handles packaged milk in this State that is next sold in this State subject to the minimum retail prices established pursuant to Title 7, chapter 603.
[PL 2005, c. 396, §8 (NEW).]

**9. Wholesale handler.** "Wholesale handler" means a person who handles packaged milk in this State that is next sold in this State subject to the minimum wholesale prices paid to dealers established pursuant to Title 7, chapter 603.
[PL 2005, c. 396, §8 (NEW).]

SECTION HISTORY

PL 2005, c. 396, §8 (NEW). PL 2009, c. 434, §61 (AMD). PL 2011, c. 125, §1 (AMD).

## §4902. Milk handling fee

**1. Fee.** Upon notification by the Maine Milk Commission in accordance with Title 7, section 2954, subsection 16, the assessor shall levy and impose a fee at the rate established in subsection 2-A on the handling in this State of packaged milk for sale in this State. With respect to the handling in this State of a particular container of packaged milk for sale in this State, the fee must be paid by the handler, but in no event may a container of packaged milk for sale in this State be subject to more than one handling fee. There is no fee on the handling in this State of packaged milk for sale in containers of less than one quart or more than 20 quarts in volume, or packaged milk that is sold to an institution that is owned and operated by the State or the Federal Government.
[PL 2011, c. 125, §2 (AMD).]

**2. Rate.**

[PL 2007, c. 240, Pt. PPP, §2 (RP); PL 2007, c. 269, §2 (RP).]

**2-A. Rate.** The rate of the fee levied under this chapter is established for each fee period on the basis of the basic price of milk in effect on the Sunday following the first Sunday of the fee period in accordance with this subsection:

A. If the basic price is $21.00 per hundredweight and above, the rate of the milk handling fee is 4¢ per gallon; [PL 2009, c. 468, §1 (AMD).]

B. [PL 2009, c. 468, §1 (RP).]

C. [PL 2009, c. 468, §1 (RP).]

D. [PL 2009, c. 468, §1 (RP).]

E. If the basic price is $20.00 to $20.99 per hundredweight, the rate of the milk handling fee is 8¢ per gallon; [PL 2007, c. 240, Pt. PPP, §3 (NEW); PL 2007, c. 269, §3 (NEW).]

F. If the basic price is $19.50 to $19.99 per hundredweight, the rate of the milk handling fee is 12¢ per gallon; [PL 2009, c. 468, §1 (AMD).]

G. [PL 2009, c. 468, §1 (RP).]

H. If the basic price is $19.00 to $19.49 per hundredweight, the rate of the milk handling fee is 16¢ per gallon; [PL 2009, c. 468, §1 (AMD).]

I. If the basic price is $18.50 to $18.99 per hundredweight, the rate of the milk handling fee is 20¢ per gallon; [PL 2009, c. 468, §1 (AMD).]

J. If the basic price is $18.00 to $18.49 per hundredweight, the rate of the milk handling fee is 24¢ per gallon; [PL 2009, c. 468, §1 (AMD).]

K. If the basic price is $17.50 to $17.99 per hundredweight, the rate of the milk handling fee is 28¢ per gallon; [PL 2009, c. 468, §1 (AMD).]

L. If the basic price is $17.00 to $17.49 per hundredweight, the rate of the milk handling fee is 32¢ per gallon; and [PL 2009, c. 468, §1 (AMD).]

M. If the basic price is $16.50 to $16.99 per hundredweight, the rate of the milk handling fee is 36¢ per gallon. [PL 2009, c. 468, §1 (AMD).]

If the basic price falls below $16.50 per hundredweight, for each 50¢ decrease in the basic price, the rate of the milk handling fee increases by 4¢ per gallon until the handling fee reaches a maximum of 84¢ per gallon.

For any container other than a gallon, the fee is computed on a gallon-equivalent basis.
[PL 2009, c. 468, §1 (AMD).]

**3. Fee calculation.** Handlers shall pay the fee for each fee period on all milk subject to the fee sold during the fee period and are either:

A. Subject to the minimum wholesale prices paid to dealers established by the Maine Milk Commission pursuant to Title 7, chapter 603; or [PL 2005, c. 396, §8 (NEW).]

B. Not subject to minimum wholesale prices paid to dealers but subject to minimum retail prices established by the Maine Milk Commission pursuant to Title 7, chapter 603. [PL 2005, c. 396, §8 (NEW).]

In calculating the amount of packaged milk handled for sale in this State during each fee period, the handler shall deduct from that amount any packaged milk returned to the handler during that fee period.
[PL 2005, c. 396, §8 (NEW).]

**4. Fee; additional.** The fee imposed and collected under this chapter is in addition to any taxes imposed or collected under any other law of the State.
[PL 2005, c. 396, §8 (NEW).]

**5. Records, reports and administration.** Every handler subject to the fee imposed under subsection 1 shall register with the assessor within 5 business days of becoming subject to the fee on forms provided by the assessor. The list of registered handlers must be available to the public. By the 25th day of each calendar month, every handler subject to the fee imposed under subsection 1 shall report to the assessor the quantity of packaged milk handled in this State for sale in this State during the preceding fee period, the quantity of packaged milk handled that was subject to the milk handling fee and any other information the assessor determines necessary or useful in the administration of this chapter and enforcement of the milk handling fee. The assessor may share information with the Maine Milk Commission in accordance with section 191, subsection 2, paragraph DD.
[PL 2005, c. 396, §8 (NEW).]

**6. Due dates.** Handlers shall pay to the assessor the fee due for the preceding fee period not later than the 25th day of each calendar month and submit the information required by the assessor on the forms provided.
[PL 2005, c. 396, §8 (NEW).]

**7. Presumption.** In a proceeding against a retail handler for collection of the fee with respect to a particular container of packaged milk, there is a rebuttable presumption that that retail handler did not purchase that container in a transaction subject to the minimum wholesale prices paid to dealers established pursuant to Title 7, chapter 603. The burden is on the retail handler to show that the retail handler purchased that container of packaged milk in a transaction subject to minimum wholesale prices paid to dealers established pursuant to Title 7, chapter 603.
[PL 2005, c. 396, §8 (NEW).]

**8. General Fund.** The assessor shall immediately pay all funds received from the milk handling fee to the Treasurer of State to be deposited in the General Fund. The funds may not be dedicated to a particular purpose and may be used for all purposes of State Government.
[PL 2005, c. 396, §8 (NEW).]

**9. Exception.** A producer-handler who sells less than 10,000 hundredweight per year is not subject to the fee imposed under subsection 1.
[PL 2005, c. 396, §8 (NEW).]

SECTION HISTORY

PL 2005, c. 396, §8 (NEW). PL 2007, c. 240, Pt. PPP, §§1-3 (AMD). PL 2007, c. 269, §§1-3 (AMD). PL 2009, c. 468, §1 (AMD). PL 2011, c. 125, §2 (AMD).

**§4903. Credit or refund for fee paid for packaged milk**

**1. Credit or refund allowed.** A handler or handler's designee may claim a credit or refund for a fee paid pursuant to this chapter on packaged milk that is subsequently exported from this State by a customer of the handler or the handler's designee for sale out of state.

[PL 2011, c. 125, §3 (NEW).]

**2. Handler's claim for credit or refund.** A handler claiming a credit or refund under subsection 1 must file a claim with the assessor. The credit or refund must be claimed on the report required under section 4902, subsection 5. A handler may not claim a credit or refund under this section for any sales occurring before October 1, 2011.
[PL 2011, c. 125, §3 (NEW).]

**3. Designee's claim for credit or refund.** A handler's designee claiming a credit or refund under subsection 1 must file a claim with the assessor. The credit or refund must be claimed on a report required under section 4902, subsection 5 or other form as prescribed by the assessor. A handler's designee may not claim a credit or refund under this section for any sales occurring before October 1, 2011.
[PL 2011, c. 125, §3 (NEW).]

SECTION HISTORY

PL 2011, c. 125, §3 (NEW).

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