

## 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**(REPEALED)**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**(REPEALED)**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).

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