

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 247

6  
7 H.P. 213

House of Representatives, January 29, 1985

8 Submitted by the Department of Agriculture Food and Rural Resources  
pursuant to Joint Rule 24.

9 Reference to the Committee on Agriculture suggested and ordered  
10 printed.

EDWIN H. PERT, Clerk

Presented by Representative Tardy of Palmyra.

11 Cosponsored by Representative Daggett of Manchester, Senator  
Carpenter of Aroostook and Representative Michael of Auburn.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FIVE  
16

17 AN ACT Relating to the Adulteration of Food.  
18

19 Be it enacted by the People of the State of Maine as  
20 follows:

21 Sec. 1. 22 MRSA §2159, first ¶, as amended by PL  
22 1979, c. 731, §19, is further amended to read:

23 Whenever a duly authorized agent of the Commis-  
24 sioner of Agriculture, Food and Rural Resources finds  
25 or has ~~probable cause~~ reason to believe that any food  
26 is adulterated, or so misbranded as to be dangerous  
27 or fraudulent, within the meaning of this subchapter,  
28 he ~~shall~~ may issue an order detaining or embargoing  
29 that food to any person or persons with possession or  
30 control thereof, and may affix or require the person  
31 or persons to whom the order is directed to affix to  
32 such article a tag or other appropriate marking, giv-  
33 ing notice that such article is or is suspected of  
34 being adulterated or misbranded and has been detained  
35 or embargoed, and warning all persons not to remove  
36 or dispose of such article by sale or otherwise until

1 permission for removal or disposal is given by such  
2 agent or the court. It shall be unlawful for any per-  
3 son to remove or dispose of such detained or  
4 embargoed article by sale or otherwise without such  
5 permission. Orders relating to detention and embargo  
6 issued pursuant to this chapter shall not be consid-  
7 ered licensing or an adjudicatory proceeding, as  
8 those terms are defined by the Maine Administrative  
9 Procedure Act, Title 5, chapter 375.

10       Sec. 2. 22 MRSA §2166, first ¶ is amended to  
11 read:

12       Any person who violates any of the provisions of  
13 section 2155 shall be punished by a fine of not more  
14 than ~~§100~~ \$1,000 for the first offense and a fine of  
15 not more than ~~§200~~ \$2,000 for each subsequent of-  
16 fense, except that any intentional violation of sec-  
17 tion 2155, subsections 1, 2, 3, 6 and 7, which in-  
18 volve adulterated food, except as adulterated accord-  
19 ing to section 2156, subsection 2, shall be punished  
20 by a fine of not more than \$10,000 for the first of-  
21 fense and a fine of not more than \$20,000 for each  
22 subsequent offense. Carriers subject to jurisdiction  
23 of the Maine Public Utilities Commission or the In-  
24 terstate Commerce Commission shall not be subject to  
25 section 2155, subsection 3, by reason of their re-  
26 ceipt, carriage, holding or delivery of foods in the  
27 usual course of business as carriers.

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STATEMENT OF FACT

2           This bill provides greater flexibility and addi-  
3           tional authority to the Commissioner of Agriculture,  
4           Food and Rural Resources in emergency situations in-  
5           volving the adulteration of or tampering with food  
6           products, including a different fine schedule when  
7           adulteration is found to be intentional. The depart-  
8           ment does not now have adequate authority to protect  
9           the public from a potential health threat, especially  
10          the immediate removal from sale of adulterated or  
11          tampered products. The department's experience during  
12          1984 in the Girl Scout cookie matter demonstrated the  
13          need for this legislation. This bill will have no im-  
14          pact on state funding. It does substantially increase  
15          the penalty for violating provisions of the law.

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