

MAINE STATE LEGISLATURE

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Potatoes: Misbranding
7 M.R.S.A. § 953

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DEPARTMENT OF THE ATTORNEY GENERAL
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June 6, 1978

To: Joseph Williams, Commissioner of the Department of Agriculture
From: Sarah Redfield, Assistant Attorney General
Re: Potato Misbranding

This is in response to your oral request for an opinion of the Attorney General's Office as to the potential illegality of the importation into Maine of Canadian seed potatoes properly marked as such and the repacking in Maine of such potatoes in potato bags labeled "U.S. Grade No. 1 Maine Potatoes," which potatoes are ultimately destined for sale as table stock. Such repacking and labeling of Canadian potatoes as Maine potatoes is in violation of the laws of the State of Maine and may also be in violation of certain federal statutes.

In particular, Title 7 M.R.S.A. § 953 provides in pertinent part that

"It shall be unlawful for any person, firm, association, organization or corporation to expose for sale or sell at wholesale or retail, to ship, deliver or confine, 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. . . ."

Preparing potatoes for market by placing Canadian seed potatoes in containers labeled as Maine potatoes would be false and misleading and would, accordingly, subject any person violating this section to the penalty provisions of Title 7 M.R.S.A. § 957 and the possibility of seizure of the mislabelled potatoes pursuant to Title 7 M.R.S.A. § 954-A.

In addition to the above-described violation of the Maine Potato Branding Law, there are other unfair trade laws which may be violated, e.g., the State Unfair Trade Practices Act, Title 5 M.R.S.A. § 207; the State

Uniform Deceptive Trade Practices Act, Title 10 M.R.S.A. § 1211, et seq.;
and provisions of the State Criminal Code concerning fraud, Title 17-A
M.R.S.A. § 901.1.

I hope this information will be helpful to you. If you should have
any further questions, please feel free to let me know.

Sarah Redfield

SARAH REDFIELD
Assistant Attorney General

SR/ec
cc: Carl Brown