

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 1230

H. P. 951

House of Representatives, March 6, 1969

Referred to Committee on Business Legislation. Sent up for concurrence and ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Gauthier of Sanford.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT Relating to Truth in Packaging.

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

R. S., T. 7, c. 101, sub-c. V, additional. Chapter 101 of Title 7 of the Revised Statutes is amended by adding a new subchapter V to read as follows:

SUBCHAPTER V

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."

§ 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 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.

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.

§ 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.

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.

3. Consumer commodity. "Consumer commodity" except as specifically provided by this subchapter, means any food, as defined by the Maine Food Law, 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.

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 purchase.

§524. Requirements and prohibitions

No person shall distribute or cause to be distributed in commerce any package 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:

On 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;

On a random package shall be expressed in terms of the pound carried out to not more than 2 decimal places;

On 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;

On 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.

§ 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.

§ 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.

§ 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. Before promulgating any regulations the sealer shall give appropriate notice of the proposal and the time and place of a hearing. 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 its promulgation. Such promulgation may be amended or repealed in the same manner as is provided for its adoption, except that in the case of a regulation amending or repealing any such regulation, the sealer, to such an extent as he deems necessary in order to prevent undue hardships may disregard notice, hearing or effective date. 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. Promulgation of regulations shall follow the procedure and be subject to Title 5, sections 2351 to 2354. The sealer, among other things, may give consideration to:

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;
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;

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;

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.

§ 528. Exemptions

Neither this subchapter nor regulations promulgated under this subchapter shall preclude the continued use of returnable or reusable glass containers for beverages in inventory with the trade as of the effective date of this subchapter, nor shall any regulation or this subchapter preclude the orderly disposal in inventory or with the trade as of the effective date of such regulation.

All packages of consumer commodities which have been labeled in accordance with federal regulations established by the United States Secretary of Health, Education and Welfare, the Federal Trade Commission or by the United States Department of Agriculture shall not be included under this subchapter.

§ 529. Penalties

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, shall be punished by a fine of not more than \$100 for the first offense, nor more than \$200 for each subsequent offense.

STATEMENT OF FACTS

Sufficient funds to administer this legislation are included in the executive budget. This legislation is complementary to the Federal Fair Packaging and Labeling Act of 1966 (P. L. 89-755)