

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

**Legislative Document**

**No. 1286**

H. P. 1016

House of Representatives, March 16, 1979

Referred to the Committee on Agriculture. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Michael of Auburn.

Cosponsor: Mr. D. Brown of Livermore Falls, Mr. Torrey of Poland and Mrs. Locke of Sebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

**AN ACT to Define What Foods May be Labeled or Advertised as Natural or Organic.**

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

7 MRSA c. 103, sub-c I-A is enacted to read:

**SUBCHAPTER I-A**

**FOODS LABELED AS NATURAL OR ORGANIC**

**§ 551. Definitions**

As used in this subchapter, unless the context indicates otherwise, the following terms shall have the following meanings.

1. **Minimal processing.** "Minimal processing" means any or all of the following:

A. The removal of inedible substances;

B. The application of physical processes such as cutting, grinding, drying or pulping which changes only the form of the food; and

C. Processing necessary to make the food edible or safe for human consumption or to preserve it by cooking or the addition of water.

2. Raw agricultural commodity. "Raw agricultural commodity" means an agricultural commodity which has not been colored or treated in the unpeeled form, except that it may have been rapidly heated or chilled, which has been produced, stored, processed and packaged without use of synthetically compounded fertilizers, herbicides, fungicides or pesticides for either:

A. One year prior to the appearance of flower buds, in the case of perennial crops; or

B. Three years prior to seed in the case of annual crops.

§ 552. Food labeled or advertised as natural

1. Artificial ingredients and pesticides. No food shall be labeled or advertised as "natural" unless it is free from any artificial flavoring, color additive or chemical preservative or any other artificial or synthetic ingredient.

2. Minimal processing. No food shall be labeled or advertised as "natural" if it has undergone any processing other than minimal processing.

§ 553. Labeling and advertising

Except as otherwise provided in this chapter, a food shall not be labeled or advertised as "organic," "organically grown," or "biologically grown" or by a similar term, unless the food is:

1. Types. One of the following:

A. A raw agricultural commodity. Microbiological products and materials consisting only of, or derived or extracted solely from, plant, animal or mineral-bearing rock substances may be used in the production, storing, processing or packaging of raw agricultural commodities in order to meet the requirements of this paragraph. For the purposes of this subsection, "synthetically compounded" means those products formulated by a process which chemically changes a material or substance extracted from naturally occurring plant, animal or mineral sources, excepting microbiological processes;

B. Processed or manufactured from a raw agricultural commodity which complies with the requirements of paragraph A;

C. Manufactured only from raw agricultural commodities which comply with the requirements of paragraph A, and foods processed in compliance with paragraph B;

D. Meat, poultry or fish produced without the use of any chemical or drug to stimulate or regulate growth or tenderness and without any drug or antibiotic administered or introduced to the animal by injection or ingestion, unless prescribed by a veterinarian for treatment of a specific disease or malady and

in no event administered or introduced within 90 days of the slaughter of the animal; at least the final 60% of the sale weight of each animal, bird or fish must have been raised on feed which is a raw agricultural commodity which complies with the requirements of paragraph A; or

E. Milk from animals or eggs from poultry which are raised on feed which is a raw agricultural commodity which complies with the requirements of paragraph A, or a feed which complies with the requirements of paragraph B, and into which animal or poultry no drug or antibiotic has been administered or introduced by injection or ingestion, unless prescribed by a veterinarian for treatment of a specific disease or malady, and in no event administered or introduced within 30 days prior to the production of that milk or those eggs; and

2. Other requirements. A food:

A. Which is free from any artificial flavoring, color additive or chemical preservative or any other artificial or synthetic ingredient; and

B. Which has no more than 10% of the level of any pesticide, fungicide or herbicide which the United States Food and Drug Administration regards as a safe level.

§ 554. Prohibition on labeling or advertising as “health food”

No food may be labeled or advertised as a “health food” or as containing “health foods.”

This section does not prohibit the use of the term “health food” to identify a store or restaurant or any part of a store or restaurant.

§ 555. Prohibition on certain claims of superiority

No food which is advertised as natural, organic, organically grown or biologically grown, or by a similar term, may be advertised as superior to any other food in nutrient content or safety because it is natural, organic, organically grown, biologically grown or similar to any of those terms.

§ 556. Certification

No food which is labeled or advertised as natural, organic, organically grown, biologically grown or by a similar term, may be labeled or advertised as “certified” unless the name of the person or organization which provides that certification is stated on the label or in the advertisement.

§ 557. Records

1. Growers. Every grower who sells a food which is derived from a crop which he or it has grown and which is identified as organic, organically grown or biologically grown, or by a similar term, shall keep accurate records of the location of the acreage used for growing that crop and the additions, excluding water, made to the soil or applied to that crop. These records shall be retained for 2 years after the food is sold and delivered by the grower.

2. **Processors and manufacturers.** Every person who processes or manufactures a food which is sold or identified as natural, organic, organically grown, biologically grown, or by a similar term, shall keep accurate records of the ingredients of that food and the names and addresses of persons for whom the ingredients were purchased. These records shall be retained for 2 years after the food is sold and delivered.

3. **Sellers.** Every person who sells a food subject to subsection 2, shall keep accurate records of the names and addresses of persons from whom that food was purchased. These records shall be retained for 2 years after the food is sold and delivered.

4. **Provision of information.** A grower, manufacturer or seller of any food subject to subsection 2 shall provide the Department of Agriculture, on demand, with the relevant information from the records required under this section.

#### § 558. Exemptions

The prohibitions contained in this chapter shall not apply to any person engaged in business as a wholesale or retail distributor of a food labeled or advertised as natural, organic, organically grown or biologically grown or by a similar term, except to the extent that that person:

1. **Manufacture, package or label.** Is engaged in the manufacturing, packaging or labeling of that food. The prohibitions contained in this chapter shall not apply to any such wholesale or retail distributor who in good faith makes the same representations on a package or label as have been made by the manufacturer, distributor or other person providing the food to that wholesale or retail distributor;

2. **Prescribe or specify means.** Prescribes or specifies by the specific means prohibited by this chapter, the manner in which that food is manufactured, packaged or labeled; or

3. **Has knowledge of violations.** Has knowledge of the violation of any provision of this chapter by any specific batch of that food and continues to sell or distribute that specific batch.

#### § 559. General penalty

Violation of any portion of this chapter is a Class E crime.

#### § 560. Injunctive relief

Any person, organization or public or private entity may bring an action in Superior Court pursuant to this section, and that court has jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of this chapter. Any proceeding under this section shall conform to the Maine Rules of Civil Procedures.

**That person, organization or entity seeking an injunction under this section shall not be required to allege:**

- 1. Facts. Facts necessary to show, or tending to show, lack of adequate remedy at law;**
- 2. Damage. To show or tending to show, irreparable damage or loss; or**
- 3. Unique or special injury. To show, or tending to show, unique or special individual injury or damages.**

**In addition to the injunctive relief provided in this section, the court may award to that person, organization or entity reasonable attorney's fees as determined by the court.**

#### **§ 561. Rules**

**The commissioner may, in accordance with Title 5, chapter 375, adopt any rule necessary to carry out this chapter.**

#### **STATEMENT OF FACT**

The bill sets standards for the definitions of natural and organic food. At the present time there is no official definition of natural or organic food.

Natural and organic foods demand premium prices and the resultant confusion has been harmful to consumers.

This bill is modeled after existing law in Oregon and legislation which was introduced in California, and follows the recommendations outlined in a recent staff report of the Federal Trade Commission on this subject.