

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND TENTH LEGISLATURE

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Legislative Document

No. 666

H. P. 588

House of Representatives, February 5, 1981

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

EDWIN H. PERT, Clerk

Presented by Representative Mahany of Easton.

Cosponsor: Representative Lisnik of Presque Isle.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

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**AN ACT Relating to Frozen Dessert Products.**

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

**Sec. 1. 7 MRSA § 2901, sub-§ 10-B**, as enacted by PL 1979, c. 672, Pt. A, § 30, is amended to read:

**10-B. Frozen dessert product mix.** "Frozen ~~dairy~~ **dessert** product mix" means any unfrozen mixture to be used in the manufacture of frozen ~~dairy~~ **dessert** products for sale or resale and shall contain in whole or in part the ingredients enumerated under the definition of frozen ~~dairy~~ **dessert** products.

**Sec. 2. 7 MRSA § 2901, sub-§ 10-C**, as enacted by PL 1979, c. 672, Pt. A, § 30, is amended to read:

**10-C. Frozen dessert products.** "Frozen ~~dairy~~ **dessert** products" means the frozen products made from cream or a mixture of milk and cream or a combination of dairy products of equivalent composition, sweetened with sugar or other suitable sweetening agent and containing natural or imitation flavoring. Frozen ~~dairy~~ **dessert** products include ice cream, frozen custard, ice milk, sherbet, ices and related food products, and frozen ~~dairy~~ **dessert** product mix. They may or may not contain egg yolk solids and ~~my~~ **may** be frozen with or without agitation. ~~They shall contain no fats or oils other than butter fat, except those necessarily contained in the flavoring~~

**Sec. 3. 7 MRSA § 2901, sub-§ 10-D**, as enacted by PL 1979, c. 672, Pt. A, § 30, is amended to read:

**10-D. Frozen dessert products' plant.** "Frozen ~~dairy~~ **dessert** products' plant" means any place, premises or establishment and any part thereof ~~were~~ **where** frozen ~~dairy~~ **dessert** products, such as ice cream, frozen custard, ice milk, sherbet, ices and related food products are assembled, processed, manufactured or converted into form for distribution or sale, and rooms or premises where such frozen ~~dairy~~ **dessert** products' manufacturing equipment is washed, sterilized or kept.

**Sec. 4. 7 MRSA § 2901, sub-§ 13-A**, as enacted by PL 1979, c. 672, Pt. A, § 31, is amended to read:

**13-A. Homemade or home maid.** "Homemade" or "home maid," or similar terminology applied to these frozen ~~dairy~~ **dessert** products, means frozen ~~dairy~~ **dessert** products manufactured and frozen under conditions normally found in the home.

**Sec. 5. 7 MRSA § 2901, sub-§ 22, first sentence**, as amended by PL 1979, c. 672, Pt. A, § 32, is further amended to read:

"Milk products" ~~means~~ **mean** cream, sour cream, milk, butter, evaporated milk, sweetened condensed milk, nonfat dry milk solids, half and half, reconstituted half and half, concentrated milk, skim milk, nonfat or fat-free milk, reconstituted milk and milk products, vitamin D milk and milk products, low-fat milk, fortified milk and milk products, homogenized milk, flavored milk, flavored dairy drink, eggnog, imitation eggnog, eggnog flavored milk, cultured buttermilk, cottage cheese, creamed cottage cheese, acidified milk and milk products, frozen ~~dairy~~ **dessert** products and frozen ~~dairy~~ **dessert** product mix, and any other products designated as milk products by the commissioner.

**Sec. 6. 7 MRSA § 2901, sub-§ 33**, as enacted by PL 1979, c. 672, Pt. A, § 33, is amended to read:

**33. Wholesale manufacturer.** "Wholesale manufacturer" means any person, firm, corporation, association or society which manufactures frozen ~~dairy~~ **dessert** products, any of which are sold to another for resale, or which manufactures frozen ~~dairy~~ **dessert** product mix within the State, or for sale within the State.

**Sec. 7. 7 MRSA § 2902, 3rd ¶**, as enacted by PL 1979, c. 672, Pt. A, § 35, is amended to read:

Each wholesale manufacturer of frozen ~~dairy~~ **dessert** products not licensed under this section as a milk dealer shall, during the month of June in each year, file with the commissioner an application for a license, upon a form prescribed by the commissioner.

**Sec. 8. 7 MRSA § 2902, 4th ¶, first and 3rd sentences**, as enacted by PL 1979, c. 672, Pt. A, § 35, are amended to read:

The application shall show the location of the plant at which frozen **dairy dessert** products or frozen **dairy dessert** product mix is to be manufactured and the name of the brand or brands, if any, under which the product or product mix is to be sold.

Each license shall cover one group of buildings constituting a frozen **dairy dessert** products' plant in one location.

**Sec. 9. 7 MRSA § 2902, 7th ¶**, as enacted by PL 1979, c. 672, Pt. A, § 36, is amended to read:

The fee for each wholesale license to sell or distribute frozen **dairy dessert** products shall be \$25.

**Sec. 10. 7 MRSA § 2903, 2nd ¶**, as enacted by PL 1979, c. 672, Pt. A, § 37, is amended to read:

No person may sell, advertise or offer or expose for sale any frozen **dairy dessert** product or frozen **dairy dessert** product mix unless the manufacturer of the product or mix is licensed under this chapter. No person may sell, offer for sale or advertise for sale any frozen **dairy dessert** product or frozen **dairy dessert** product mix if the label upon it or the advertising accompanying it gives a false indication of the origin, character, composition or place of manufacture, or is otherwise false or misleading in any particular. No person may sell, advertise or offer or expose for sale any frozen **dairy dessert** product for which a standard has not been established by the commissioner, regardless of trade name, brand or coined name. No person may sell or offer, advertise or expose for sale any frozen **dairy dessert** product or frozen **dairy dessert** product mix which does not conform to the standards of strength, quality, purity and identity now or hereafter fixed by the commissioner.

**Sec. 11. 7 MRSA § 2903, 4th ¶**, as amended by PL 1979, c. 672, Pt. A, § 38, is further amended to read:

It shall be unlawful for any milk dealer to sell any milk, or milk products as defined in sections 2901 to 2904 and 3101 to 3103, except frozen **dairy dessert** products, the container of which is not plainly marked or labelled with the name of the contents, the word "pasteurized" or the word "natural" in accordance with the quality therein contained and the name and address of the licensed dealer and sufficient information to identify the milk plant where packaged.

#### STATEMENT OF FACT

The 109th Legislature, as part of its sunset review legislation, repealed the Maine Frozen Dairy Products Law, Title 7, chapter 103, subchapter VII. In doing so, they inadvertently reenacted the provision that frozen dairy products contain no fats and oils other than butterfat, which they had repealed in Public Law 1979, chapter 188.

The purpose of this bill is to delete that specific provision. Since this change will permit the use of fats other than butterfat and there are federal standards regulating nondairy frozen desserts, the words "frozen dairy" are changed to "frozen dessert" throughout the laws.