

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1610

S.P. 606

In Senate, April 22, 1991

Reference to the Committee on Agriculture suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

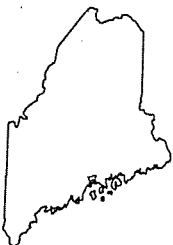
JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CLARK of Cumberland
Cosponsored by Representative NUTTING of Leeds, Representative PINES of Limestone
and Senator CAHILL of Sagadahoc.

STATE OF MAINE

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

An Act to Require Country of Origin Labeling on Fresh Produce and
Labeling of Produce Treated with Post-harvest Treatments.



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

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Sec. 1. 7 MRSA §530-A is enacted to read:

§530-A. Country of origin required

1. Label required. Fresh produce imported from a foreign country must be labeled in accordance with this section in order to protect the health, safety and welfare of the citizens of this State from the dangers of pesticides used or applied in a manner or at a rate disallowed in the United States.

A. Fresh produce sold or offered for retail sale in this State that was grown or raised in a foreign country designated by the commissioner by rule under subsection 2 must be identified by labeling with the country of origin as provided in paragraphs B to D.

B. Except as provided in paragraph D, each item of fresh produce offered for retail sale as an individual unit must be individually labeled in accordance with subsection 3.

C. Except as provided in paragraph D, fresh produce packaged in consumer units must be labeled in accordance with subsection 3. For purposes of this section, banana and grape clusters are a consumer unit.

D. Fresh produce that is not labeled in accordance with paragraph B or C may be sold at retail if the labeling information required by subsection 3 appears on a bin label or placard contiguous to the produce being displayed for retail sale or on the original shipping container if it contains the produce offered for sale.

2. Rules. The commissioner shall, by rule adopted in accordance with the Maine Administrative Procedure Act, require country of origin labeling for the retail sale of fresh produce that is grown or raised in foreign countries that allow application to produce of pesticides that are banned for use in the United States, or that are not banned but are applied at rates or in a manner not allowed in the United States under federal law, if the produce imported from the foreign country into the United States is sold for human consumption in this State and the residues of the pesticides have unknown effects on human health or have known adverse effects on human health. For purposes of this section, a foreign country is a jurisdiction that is not subject to pesticide regulation by the United States.

A. The findings supporting a rule must include, but are not limited to, the following findings.

2 (1) A foreign country allows application of a
4 pesticide that is banned for use with respect to
6 produce for human consumption in the United States
 under federal law or allows application of a pesticide
 not banned at rates or in a manner not allowed in the
 United States under federal law.

8 (2) Fresh produce from the foreign country may contain
10 residues of the pesticide that is banned for use with
12 respect to produce for human consumption in the United
14 States or may contain higher levels of residues of
 pesticides that are not banned than produce from the
 United States.

16 (3) The residues under subparagraph (2) have unknown
18 effects on human health or known adverse effects on
 human health.

20 B. The commissioner shall review the rules at least
22 annually in order to update the list of countries identified
 to be as inclusive as possible.

24 3. Label statement. The country of origin label must:

26 A. Clearly state the country in which the fresh produce was
28 raised or grown;

30 B. Be conspicuously and prominently placed so as to be
 easily seen by the consumer; and

32 C. Be as legible, indelible and permanent as the nature and
34 display of the product allow without causing adulteration to
 the product.

36 4. Educational program. The department shall institute an
38 educational program designed to inform the general public about
40 this section. This program must include, but is not limited to,
42 dissemination of information about the countries and produce
 affected and the pesticides, residues and known and potential
 adverse health effects of those pesticides. This dissemination
 must be made by at least the following:

44 A. Brochures to be made available to consumers through
46 retail outlets; and

48 B. Media coverage, such as public service announcements,
 press releases and press conferences.

2 5. Enforcement. If inspection personnel of the department
3 find that fresh produce is not properly labeled as required by
4 this section, the commissioner shall issue a stop order for the
5 product until it is labeled in accordance with this section.

6 6. Penalty. A person who fails to comply with the
7 provisions of this section commits a civil violation and may be
8 adjudged a fine not more than \$100. Each day in violation
9 constitutes a separate offense.

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11 **Sec. 2. 22 MRSA §2157, sub-§11,** as amended by PL 1985, c. 676,
12 **§2,** is further amended to read:

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14 **11. Artificial flavoring and coloring.** If it bears or
15 contains any artificial flavoring, artificial coloring or
16 chemical preservative, unless it bears labeling stating the fact.
17 If the artificial flavoring and artificial coloring declaration
18 does not refer to the entire contents of the package, the words
19 "artificial flavoring" and "artificial coloring" must follow
20 immediately each of the ingredients of the package containing one
21 or more of these substances. The common or usual name of any
22 chemical preservative must be immediately followed by the words
23 "chemical preservation". To the extent that compliance with the
24 requirements of this subsection is impracticable, exemptions
25 shall must be established by regulations promulgated by the
26 Commissioner of "Agriculture, Food and Rural Resources". This
27 subsection, and subsections 7 and 9, with respect to artificial
28 coloring, shall do not apply in the case of butter, cheese or ice
29 cream; or

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31 **Sec. 3. 22 MRSA §2157, sub-§13,** as enacted by PL 1989, c. 115,
32 is amended to read:

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34 **13. Monosodium glutamate, MSG.** If a person sells, offers
35 for sale or serves in any retail store, hotel, restaurant or
36 other public eating place any food or food product, whether or
37 not in package form, to which that person has added monosodium
38 glutamate, unless:

39
40 A. The package in which that food or food product is
41 offered for sale conspicuously bears a label or stamp
42 indicating that the food or food product contains monosodium
43 glutamate;

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45 B. When the food or food product is offered for consumption
46 and is not packaged, a conspicuous label or sign is placed
47 on the food, immediately next to the food, immediately next
48 to the food's listing on the menu, or in an open manner
49 where the food order or food product is obtained, indicating
50 that the food or food product contains monosodium glutamate;
or

2 C. There is a conspicuously displayed directory to which
4 customers can refer for information on the contents of
unpackaged products offered for sale; or

6 Sec. 4. 22 MRSA §2157, sub-§14-A is enacted to read:

8 14-A. Post-harvest treatments. If it is fresh produce that
10 is sold or offered for sale at a retail outlet, whether or not it
12 is packaged or in a container, and has been treated with a
post-harvest treatment, without meeting the requirements in
paragraphs A, B and C.

14 For purposes of this section, "post-harvest treatment" means a
16 treatment added or applied to fresh produce after harvest and
18 identified by rule as a post-harvest treatment and waxes that
contain one or more post-harvest treatments.

20 A. The owner or manager of a retail outlet shall ensure
22 that one conspicuous sign, measuring at least 20 inches by
24 30 inches, is displayed and reads: "Produce in this store
26 may have been treated after harvest with one or more
post-harvest treatments. The names of specific post-harvest
treatments and the items of produce treated are available
upon request."

28 B. The owner or manager of a retail outlet shall ensure
30 that information identifying the specific post-harvest
32 treatments used, and the specific items of produce that were
34 treated, is available to the public upon request, except
that the owner or manager of a retail outlet that has no
more than 5,000 square feet of interior customer selling
space, excluding back room storage, office and processing
space, shall provide information within 48 hours of a
request.

36 C. The owner or manager of a retail outlet shall ensure
38 that produce without post-harvest treatment, as determined
40 by the commissioner, is identified by a sign contiguous to
the specific produce.

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STATEMENT OF FACT

46 This bill places back into law similar statutes that are
48 repealed July 1, 1991. Section 2 differs from the original law
50 in that it mandates a minimum sign size, informs consumers of the
right to ask for more information and requires large stores to
provide the required information upon request.