

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 654

S.P. 209

In Senate, February 8, 2005

**An Act To Require the Department of Agriculture, Food and Rural
Resources Accurately Identify Harmful and Nonharmful Bacteria
When Testing Food Products**

Reference to the Committee on Agriculture, Conservation and Forestry 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 NUTTING of Androscoggin.
Cosponsored by Representative PIOTTI of Unity and
Representatives: BRYANT-DESCHENES of Turner, CARR of Lincoln, PERCY of
Phippsburg, SMITH of Monmouth.

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

4 **Sec. 1. 7 MRSA §12**, as amended by PL 1983, c. 308, §§3 and
14, is further amended to read:

6 **§12. Rules and standards**

8 The commissioner shall adopt, consistent with the Maine
10 Administrative Procedure Act, Title 5, chapter 375, rules for
12 carrying out this Title and all other statutes delegating
14 responsibility to ~~him~~ the commissioner or the department. ~~He~~
16 Except as provided in section 13-A, the commissioner may fix
18 standards of purity, quality or strength when such standards are
not specified or fixed by law, and shall publish them together
with such other information concerning articles of commercial
feeding stuff, commercial fertilizer, drug or food as he the
commissioner may deem determine to be of public benefit.

20 **Sec. 2. 7 MRSA §13-A** is enacted to read:

22 **§13-A. Testing and enforcement of food safety laws**

24 Notwithstanding section 12, the commissioner may not
26 establish a standard for food products, including dairy products,
28 based on the presence of bacteria unless the standard provides
30 for the accurate identification of types of bacteria harmful to
humans. The commissioner may not order a person engaged in the
production of food for human consumption to cease production or
restrict sales based on the presence of a bacterium unless that
bacterium has been identified as harmful to humans.

32 **Sec. 3. Commissioner of Agriculture, Food and Rural Resources**
34 **directed to review procedures for detecting bacteria and make necessary**
36 **revisions.** The Commissioner of Agriculture, Food and Rural
38 Resources shall review procedures used to test for bacteria in
40 carrying out the department's responsibilities for food safety
42 under the Maine Revised Statutes, Title 7, sections 2903-B and
2910 and Title 22, chapters 551 and 562-A. The commissioner
shall ensure that testing procedures identify and distinguish
between bacteria that are harmful to human health and those that
are not. The commissioner shall take all actions necessary to
comply with Title 7, section 13-A, including amending rules and
revising testing procedures.

44 **SUMMARY**

46 This bill directs the Commissioner of Agriculture, Food and
48 Rural Resources to review departmental procedures for testing
50 food products for bacteria and requires the procedures be revised
to distinguish between types of bacteria that are harmful to

2 human health and those that are not. It prohibits restrictions
on production or sales of food products based on the presence of
4 a bacterium unless the bacterium has been identified as of a type
that is harmful to human health.