

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINTH LEGISLATURE

FIRST REGULAR SESSION

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12 MRSA § 2456, first sentence, as amended by PL 1975, c. 516, § 18, is further amended to read:

It shall be unlawful for any person to ~~hunt or~~ molest any wild bird or wild animal at any time from or with any motor vehicle, trailer, aircraft, motorboat or snowmobile ~~or by aid or use of any light or lights carried thereon, therein or attached thereto~~ except that migratory waterfowl may be hunted from a motorboat in accordance with federal regulations.

Effective September 14, 1979

CHAPTER 240

H. P. 1016 — L. D. 1286

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:

Sec. 1. 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, homogenizing or pulping or the mixing or blending of 2 or more foods which changes only the form of the food;
- C. The processing necessary to make the food edible or safe for human consumption or to preserve it by heating, pasteurizing, freezing, smoking, curing or the addition of water or salt;
- D. The peeling or seeding of fruits and vegetables, shelling of nuts, the removal of chaff and hull from grains;

E. The pressing of fruits and vegetables to express their juice or the pressing of seeds, nuts and other source materials to express their oil, provided such is done without the use of solvents, bleaches and dyes;

F. The separation of grains into their component parts, provided that each component has a nutrient density at least as great as that of the whole grain;

G. The partitioning of eggs into yolks and whites;

H. The separation of milk into skim milk and cream and its churning or fermenting, whether the fermentation is accomplished by naturally occurring organisms or by the addition of cultures; and

I. The addition of microorganisms approved by the Food and Drug Administration for use in food.

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. Two years after the appearance of flower buds in the case of woody perennial crops; and 3 years prior to the harvest of herbaceous perennial crops; or

B. Three years prior to seeding 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 added after harvesting.

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

3. Exemptions. Exempted from the provisions of this section are alcoholic beverages subject to the Federal Alcohol Administration Act of 1935; dietary supplements of vitamins, minerals or protein; and natural flavors and colors approved by the Food and Drug Administration for use in food.

§ 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. Microbiological products shall include, but are not limited to, raw manures, composted manures and inoculants and shall exclude chemically contaminated and uncomposted sludge;

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 or extension specialist 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 or extension specialist 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.

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 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 from 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 Procedure.

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. **Stores and restaurants**

This chapter does not prohibit the use of the term natural, organic or biological to identify a store or restaurant or any part of a store or a restaurant.

§ 562. **Enforcement obligations**

The Department of Agriculture has no affirmative obligation to enforce this chapter.

Sec. 2. Effective date. This Act shall take effect on January 1, 1980.