

FOOD SAFETY

State and Federal Standards and Regulations

Maine

1999

A Project of the

**National Association of State Departments of Agriculture
Research Foundation**

through the

National Center for Agricultural Law Research and Information

This publication was made possible by a financial grant from the National Association of State Departments of Agriculture (NASDA), Washington, D.C., through funds made available from the United States Food and Drug Administration (FDA).

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MAINE

Maine Food Law¹¹⁷⁶

- ! “Contaminated with filth” applies to any food not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.
- ! “Federal Act” means the Federal Food, Drug and Cosmetic Act (Title 21, U.S.C. 301 et seq.; 52 Stat. 1040 et. seq.).
- ! “Food” means articles used for food or drink for man or other animals, chewing gum and articles used for components of any such article.
- ! “Label” means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of the Food Law that any word, statement or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.
- ! “Selling of food” includes the manufacture, production, processing, packing, exposure, offer, possession and holding of any such article for sale; and the sale, dispensing and giving of any such article, and the supplying or applying of any such articles in the conduct of any food establishment.¹¹⁷⁷

The Commissioner of Agriculture, Food and Rural Resources is authorized to make

¹¹⁷⁶ ME. REV. STAT. ANN. tit. 22 § 2151 et seq. (West 1992 & Supp. 1998).

¹¹⁷⁷ § 2152.

regulations promulgated under the Food Act so long as and as practicable, they conform to those promulgated under the Federal Act.¹¹⁷⁸

The following acts are prohibited:

- (1) the manufacture, sale, or delivery any food that is adulterated or misbranded ;
- (2) the adulteration or misbranding of any food;
- (3) the receipt in commerce of any food which is adulterated or misbranded;
- (4) the dissemination of any false advertisement;
- (5) the refusal to permit, during normal business hours, entry to, inspection of or taking of a sample or access to or copying of any record at a food establishment.
- (6) the removal or disposal of a detained or embargoed food article;
- (7) the alteration, mutilation, destruction, obliteration or removal of the whole or any part of the labeling of a food or the doing of any other act with respect to a food, if the act is done while the food is held for sale and results in the food being misbranded;
- (8) the forging, counterfeiting, simulation, falsely representing or using without proper authority any mark, stamp, tag, label or other identification device authorized or required under the act.¹¹⁷⁹

Adulteration of Food

Food is deemed adulterated:

- (1) if it bears or contains any poisonous or deleterious substance which may render it

¹¹⁷⁸ § 2153.

¹¹⁷⁹ § 2155.

injurious to health; but in case the substance is not an added substance, such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health;

- (2) if it bears or contains any added poisonous or added deleterious substance which is unsafe;
- (3) if it consists in whole or in part of any diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food;
- (4) if it has been produced, prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health;
- (5) if it is in whole or in part the product of a diseased animal or of an animal which has died otherwise than by slaughter or has been fed upon the uncooked offal from a slaughter house;
- (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;
- (7) if any valuable constituent has been in whole or in part omitted or abstracted therefrom;
- (8) if any substance has been substituted wholly or in part therefor;
- (9) if damage or inferiority has been concealed in any manner;
- (10) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear

better or of greater value than it is.¹¹⁸⁰

Meat and meat products are deemed to be adulterated if any sodium sulphite, sodium bisulphite or any drug, chemical, chemical compound or preservative from which sulphur dioxide can be liberated has been added thereto or mixed therewith.¹¹⁸¹

Misbranded Food

A food is deemed misbranded:

- (1) if its labeling is false or misleading in any particular;
- (2) if it is offered for sale under the name of another food;
- (3) if it is an imitation of another food, unless its label bears, in prominent type of uniform size, the word “imitation” and immediately thereafter the name of the food imitated;
- (4) if its container is so made, formed, or filled as to be misleading;
- (5) if in package form, unless it bears a label containing:
 - (i) the name and place of business of the manufacturer, packer, or distributor;
and
 - (ii) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count;
- (6) if it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by federal regulations, unless it conforms to such definition and standard; and its label bears the name of the food specified in the

¹¹⁸⁰ § 2156(2).

¹¹⁸¹ ME. REV. STAT. ANN. tit. 7 § 483(2).

definition and standard, and, in so far as may be required by regulation, the common names of optional ingredients, other than spices, flavoring, and coloring present in such food;

- (7) if it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as necessary in order to fully inform purchasers as to its value for such uses;
- (8) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations promulgated;
- (9) if a person sells, offers for sale or serves in any retail store, hotel, restaurant or other public eating place any food or food product to which that person has added monosodium glutamate directly in crystal form.¹¹⁸²

Poisonous or deleterious substance

Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe.¹¹⁸³

Embargo and condemnation

Whenever a duly authorized agent of the Commissioner of Agriculture, Food and Rural Resources finds or has reason to believe that any food is adulterated, or so misbranded as to be

¹¹⁸² Tit. 22 § 2157.

¹¹⁸³ § 2158.

dangerous or fraudulent, he may issue an order detaining or embargoing that food to any person with possession or control thereof. He may affix a tag giving notice of such article being adulterated or misbranded. It is unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without permission of the Commissioner.¹¹⁸⁴

Horsemeat

Equine meat or food products may not be sold or offered for sale unless it is plainly and conspicuously labeled and tagged “horsemeat” or “horsemeat products.” Violations result in monetary fines.¹¹⁸⁵

Penalties

Anyone violating provisions of the Pure Food and Drug Act is subject to warnings and fines of up to \$10,000 for the first offense.¹¹⁸⁶

Eggs

- ! “Candling” means the common practice of examining the interior of an egg by holding and twirling the same before a light passing through an aperture in an opaque shield.
- ! “Restricted egg” means any check, dirty egg, incubator reject, inedible, leaker or loss.¹¹⁸⁷
- ! “Processed eggs” refers to any shell eggs which in a way other than storage have been so treated as to keep them from natural deterioration.
- ! “Storage eggs” refers to any shell eggs that for a period of 30 days or over have been held

¹¹⁸⁴ § 2159.

¹¹⁸⁵ § 2163.

¹¹⁸⁶ § 2166.

¹¹⁸⁷ 7 ME. REV. STAT. ANN. § 631.

in storage at a temperature of 45 degrees Fahrenheit, or less.¹¹⁸⁸

All eggs sold or offered for sale for human consumption must be labeled with the grade and size designation as set forth in the Maine consumer grades.¹¹⁸⁹ Standards of quality for shell eggs are Grade AA, Grade A, and Grade B. The final determination of the grades is made by candling.¹¹⁹⁰ The terms “fresh eggs,” “strictly fresh eggs,” “hennery eggs,” “new-laid eggs,” “farm fresh eggs,” “selected eggs,” “quality certified eggs,” “nearby eggs,” “native eggs” or words or descriptions of similar import shall not be used on any eggs not meeting the minimum requirements for Maine consumer Grade A.¹¹⁹¹

Anyone selling in a public place or elsewhere, any shell eggs which have been in storage or which have been processed in any way, must provide or display a notice containing the words “cold storage eggs” or “processed eggs.”¹¹⁹²

Milk

! “Acidified milk products” means milk products obtained by the direct acidification with food grade acids of milk products. When direct acidification is used to make cottage cheese or to make the cottage cheese used in creamed cottage cheese the label shall bear the statement “Curd set by direct acidification.” When direct acidification is used to make sour milk products the label shall bear the statement “Soured by direct acidification.”

¹¹⁸⁸ § 640.

¹¹⁸⁹ § 632.

¹¹⁹⁰ § 633.

¹¹⁹¹ § 635.

¹¹⁹² § 641.

- ! “Adulterated and misbranded milk and milk products” means milk or milk products which are found to contain added water or which contain any unwholesome substance or residues. Milk or milk products shall be deemed to be misbranded if the labeling is false, improper or misleading in any particular, or the labeling does not comply with the requirements promulgated by the Commissioner.
- ! “Commercial dairy farm” means any farm which sells milk to a milk dealer.
- ! “Commissioner” means the Commissioner of Agriculture, Food and Rural Resources or his duly authorized agents.
- ! “Concentrated milk” means the fluid product, unsterilized and unsweetened, resulting from the removal of a considerable portion of the water from milk.
- ! “Cream” means the portion of milk which contains not less than 18% milkfat.
- ! “Dairy” or “dairy farm” means any place where one or more cows are kept, a part or all of the milk or cream from which is offered for sale.
- ! “Evaporated milk” is the liquid food made by evaporating sweet milk to such point that it contains not less than 7.9% of milk fat and not less than 25.9% of total milk solids.
- ! “Fortified milk” means milk other than vitamin D milk, the vitamin, mineral, or nonfat dry milk solid content of which have been increased by a method and in an amount approved by the Commissioner. Milk fortified with nonfat dry milk solids shall contain not less than 9.0% and not more than 12.0% of nonfat dry milk solids.
- ! “Homogenized milk” means milk which has been treated in such a manner as to insure break up of the fat globules to such an extent that, after 48 hours of quiescent storage, no visible cream separation occurs on the milk and the fat percentage of the top 100

milliliters of milk in a quart bottle, or of proportionate volume in containers of other sizes, does not differ by more than 10% of itself from the fat percentage of the remaining milk as determined after thorough mixing.

- ! “Low fat milk” means milk which contains at least .5% and not more than 2.5% of milk fat. Low fat milk shall contain not less than 8.5% of milk solids, not fat.
- ! “Milk” means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. It shall contain not less than 11.75% milk solids, and not less than 3.25% milk fat. The word “milk” shall be interpreted to include goat milk.
- ! “Milk dealer” means any person who owns or operates a milk plant or any person who owns or operates a dairy farm where sales of milk or cream are made as a business other than to a licensed dealer or a subdealer.
- ! “Milk plant” means any place, premises or establishment where milk or milk products are collected, handled, processed, pasteurized, bottled or otherwise prepared for distribution.
- ! “Milk producer” means any person who owns or controls one or more cows, a part or all of the milk or cream from which is sold or offered for sale.
- ! “Nonfat” or “fat-free milk” means skim milk which contains not more than 0.1% milk fat.
- ! “Pasteurized” means the process of heating every particle of milk, cream or milk products to at least 145 degrees Fahrenheit, and holding it at such temperature continuously for at least 30 minutes, or to at least 161 degrees Fahrenheit, and holding it at such temperature continuously for at least 15 seconds.
- ! “Skim milk” means milk which contains less than 0.5% milk fat and not less than 8.5%

milk solids-not-fat.

- ! “Sub-dealer” means any person who obtains for distribution all milk and cream in the final container from a licensed milk dealer.
- ! “Vitamin D milk” means milk, the vitamin D content of which have been increased by a method approved by the Commissioner to at least 400 U.S.P. units per quart.
- ! “Wholesale manufacturer” means any person, firm, corporation, association or society which manufactures frozen dessert, any of which are sold to another for resale, or which manufactures frozen dessert mix within the State, or for sale within the state.¹¹⁹³

No milk dealers may sell milk or cream without obtaining a license from the Commissioner.¹¹⁹⁴ No person may sell any milk or milk product if the label accompanying it gives a false indication of the origin, character, composition, or place of manufacture or production, or shall be otherwise false or misleading. It is unlawful for any milk dealer to have in his possession any milk or milk products, the sources of which have not been approved by the Commissioner. It is unlawful for any person to sell, offer or expose for sale, any milk or milk product which is adulterated or misbranded. It is unlawful to sell or serve any milk which has not been maintained while in sellers possession, at a storage temperature of 40 degrees Fahrenheit, or less, in dry storage. Wet storage is specifically prohibited. It is unlawful for any milk dealer to neglect, fail or refuse to thoroughly clean and subject effectively to bactericidal treatment any cans, bottles, utensils or equipment prior to each use in the production, handling, storage, transportation and sale of milk or milk products. It is unlawful to keep any room or

¹¹⁹³ Tit. 7 § 2901.

¹¹⁹⁴ *Id.* § 2902.

place where milk or milk products are stored, bottled or handled in any other way than in a clean and sanitary condition.¹¹⁹⁵

Only pasteurized milk shall be sold to the State, any public hospital, any school lunch program, or any charitable or educational institution which is supported in whole or in part by aid granted by the State or any municipality.¹¹⁹⁶ Violations of milk statutes result in monetary fines.¹¹⁹⁷

The Commissioner inspects the production, manufacture, transportation, storage and sale of milk, cream, butter and all other dairy products. The Commissioner has free access at all reasonable hours to any dairy farm, milk plant, vehicle, establishment, premises or place where milk or milk products are or may be produced, collected, handled, processed, pasteurized, bottled, packaged, stored, sold or otherwise prepared for distribution for the purpose of inspection. The Commissioner may seize without warrant any containers or equipment used in the production, handling, processing, pasteurizing, bottling or used in the purchase or sale of milk as may be needed as evidence of violation of any milk provision.¹¹⁹⁸

Pasteurization standards

The standard plate count of raw milk shall not be more than 50,000 colonies of bacteria per milliliter. The standard plate count of raw cream shall not be more than 50,000 colonies per gram. The standard plate count of all pasteurized milk shall not be more than 20,000 colonies of

¹¹⁹⁵ § 2903.

¹¹⁹⁶ § 2905.

¹¹⁹⁷ § 2908 (1989 & Supp. 1998).

¹¹⁹⁸ § 3101.

bacteria per milliliter or gram. All pasteurized milk and pasteurized milk products shall show efficient pasteurization as evidenced by a satisfactory phosphatase test. ¹¹⁹⁹

¹¹⁹⁹ § 3103.