

Title 22: HEALTH AND WELFARE
Chapter 551: PURE FOODS AND DRUGS GENERALLY

Table of Contents

Subtitle 2. HEALTH.....

Part 5. FOODS AND DRUGS.....

 Subchapter 1. FOODS..... 3

 Section 2151. SHORT TITLE..... 3

 Section 2152. DEFINITIONS..... 3

 Section 2153. POWERS OF COMMISSIONER..... 5

 Section 2153-A. CONFIDENTIALITY OF CERTAIN INFORMATION..... 6

 Section 2154. REGULATIONS..... 6

 Section 2155. PROHIBITIONS (REPEALED)..... 6

 Section 2155-A. PROHIBITIONS AND PENALTIES..... 7

 Section 2156. ADULTERATION..... 9

 Section 2157. MISBRANDED FOOD..... 10

 Section 2158. ADDITION OF CERTAIN SUBSTANCES LIMITED (WHOLE SECTION
TEXT EFFECTIVE UNTIL 12/13/18)..... 12

 Section 2158. ADDITION OF CERTAIN SUBSTANCES LIMITED (WHOLE SECTION
TEXT EFFECTIVE 12/31/18)..... 12

 Section 2159. ARTICLES DETAINED, EMBARGOED AND CONDEMNED..... 13

 Section 2160. NOTICE..... 14

 Section 2161. STORAGE AND TRANSPORTATION OF FROZEN FOODS..... 14

 Section 2162. PACKING OF FOOD; PERMIT; INSPECTION..... 15

 Section 2163. SALE OF HORSEMEAT..... 15

 Section 2164. ACCESS TO BUILDINGS..... 16

 Section 2165. INJUNCTIONS..... 16

 Section 2166. PENALTIES (REPEALED)..... 16

 Section 2167. LICENSE REQUIRED..... 16

 Section 2168. FEES..... 17

 Section 2169. ISSUANCE OF LICENSES..... 18

 Section 2170. EXCEPTION..... 18

 Section 2171. LICENSING CONDITIONS..... 19

 Section 2172. FINES AND PENALTIES..... 19

 Section 2173. SALE OF SMOKED ALEWIVES..... 21

 Section 2174. SALE OF BAKED GOODS AT FARMERS' MARKETS..... 21

 Section 2175. MAINE WILD MUSHROOM HARVESTING CERTIFICATION
PROGRAM..... 21

 Subchapter 2. DRUGS 22

 Section 2201. REGULATIONS (REPEALED)..... 22

 Section 2202. EQUIPMENT (REPEALED)..... 22

 Section 2203. CHEMICAL ANALYSIS (REPEALED)..... 22

 Section 2204. SALE OF POISONOUS DRUGS (REPEALED)..... 23

 Section 2204-A. LABELING OF PRESCRIPTIONS (REPEALED)..... 23

Section 2204-B. POSSESSION OF DRUG SAMPLES (REPEALED)..... 23

Section 2204-C. POSSESSION OF HARMFUL DRUGS (REPEALED)..... 23

Section 2204-D. ADVERTISING (REPEALED)..... 23

Section 2204-E. EXCEPTIONS (REPEALED)..... 23

Section 2204-F. POSTING PRICES (REPEALED)..... 23

Section 2205. PREPARATIONS CONTAINING COCAINE (REPEALED)..... 23

Section 2206. SALE OF OPIUM (REPEALED)..... 24

Section 2207. PRESCRIPTION OF OPIUM TO HABITUAL USERS FORBIDDEN
(REPEALED)..... 24

Section 2207-A. PERMISSIVE USE OF DRUGS (REPEALED)..... 24

Section 2208. SALE OF ARTICLES CONTAINING WOOD ALCOHOL, FOR
INTERNAL USE (REPEALED)..... 24

Section 2209. LABELING OF WOOD ALCOHOL CONTAINERS (REPEALED)..... 24

Section 2210. SALE OF BARBITURATES (REPEALED)..... 24

Section 2210-A. SALE OF AMPHETAMINES (REPEALED)..... 24

Section 2211. ADULTERATING AND SELLING DRUGS (REPEALED)..... 24

Section 2212. USING DRUGS NOT IN PRESCRIPTION (REPEALED)..... 25

Section 2212-A. REFILL PRESCRIPTIONS (REPEALED)..... 25

Section 2212-B. POSSESSION OF CERTAIN HALLUCINOGENIC DRUGS
(REPEALED)..... 25

Section 2212-C. EXCHANGE OR FURNISHINGS OF CERTAIN HALLUCINOGENIC
DRUGS (REPEALED)..... 25

Section 2212-D. RETURN OF DRUGS PROHIBITED (REPEALED)..... 25

Section 2212-E. SELLING OF CERTAIN HALLUCINOGENIC DRUGS
(REPEALED)..... 25

Section 2213. SALE BY CERTAIN METHODS PROHIBITED (REPEALED)..... 25

Section 2214. VIOLATION OF PROVISIONS RELATING TO OPIUM OR COCAINE
(REPEALED)..... 25

Section 2215. VIOLATIONS GENERALLY (REPEALED)..... 26

Section 2216. PRESCRIPTIONS WRITTEN ON HOSPITAL PRESCRIPTION BLANKS
(REPEALED)..... 26

Maine Revised Statutes
Title 22: HEALTH AND WELFARE
Chapter 551: PURE FOODS AND DRUGS GENERALLY

Subchapter 1: FOODS

§2151. SHORT TITLE

This subchapter shall be known and may be cited as the "Maine Food Law."

§2152. DEFINITIONS

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

As used in this subchapter, unless the context otherwise indicates, the following terms shall have the following meanings. [1979, c. 541, Pt. A, §146 (AMD).]

1. Advertisement. "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food.

1-A. Commissioner. "Commissioner" means the Commissioner of Agriculture, Conservation and Forestry or his duly authorized agents.

[1979, c. 731, §19 (AMD); 2011, c. 657, Pt. W, §6 (REV) .]

2. Contaminated with filth. "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.

3. Federal Act. "Federal Act" means the Federal Food, Drug and Cosmetic Act (Title 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.).

4. Food. "Food" means articles used for food or drink for man or other animals, chewing gum and articles used for components of any such article.

4-A. (TEXT EFFECTIVE UNTIL 12/13/18) Food establishment. "Food establishment" means a factory, plant, warehouse or store in which food and food products are manufactured, processed, packed, held for introduction into commerce or sold. "Food establishment" includes a primary caregiver, as defined in section 2422, subsection 8-A, and a registered dispensary, as defined in section 2422, subsection 6, that prepare food containing marijuana for medical use by a qualifying patient pursuant to chapter 558-C. The following establishments are not considered food establishments required to be licensed under section 2167:

A. Eating establishments, as defined in section 2491, subsection 7; [1995, c. 331, §1 (NEW) .]

B. Fish and shellfish processing establishments inspected under Title 12, section 6101, 6102 or 6856; [2005, c. 434, §13 (AMD).]

C. Storage facilities for native produce; [1995, c. 331, §1 (NEW) .]

D. Establishments such as farm stands and farmers' markets primarily selling fresh produce not including dairy and meat products; [1997, c. 96, §1 (AMD) .]

E. Establishments engaged in the washing, cleaning or sorting of whole produce, provided the produce remains in essentially the same condition as when harvested. The whole produce may be packaged for sale, provided that packaging is not by a vacuum packaging process or a modified atmosphere packaging process; [2011, c. 407, Pt. A, §2 (AMD).]

F. Establishments that are engaged in the drying of single herbs that are generally recognized as safe under 21 Code of Federal Regulations, Sections 182 to 189. The single herbs may be packaged for sale, provided that packaging is not by a vacuum packaging process or a modified atmosphere packaging process; and [2011, c. 407, Pt. A, §2 (AMD).]

G. A primary caregiver, as defined in section 2422, subsection 8-A, conducting an activity allowed in section 2423-A for a qualifying patient who is a member of the family, as defined in section 2422, subsection 5-A, or member of the household, as defined in section 2422, subsection 5-B, of the primary caregiver. [2011, c. 407, Pt. A, §2 (NEW).]

[2011, c. 407, Pt. A, §2 (AMD) .]

4-A. (TEXT EFFECTIVE 12/13/18) Food establishment. "Food establishment" means a factory, plant, warehouse or store in which food and food products are manufactured, processed, packed, held for introduction into commerce or sold. "Food establishment" includes a caregiver, as defined in section 2422, subsection 8-A, and a registered dispensary, as defined in section 2422, subsection 6, that prepare food containing marijuana for medical use by a qualifying patient pursuant to chapter 558-C. The following establishments are not considered food establishments required to be licensed under section 2167:

A. Eating establishments, as defined in section 2491, subsection 7; [1995, c. 331, §1 (NEW).]

B. Fish and shellfish processing establishments inspected under Title 12, section 6101, 6102 or 6856; [2005, c. 434, §13 (AMD).]

C. Storage facilities for native produce; [1995, c. 331, §1 (NEW).]

D. Establishments such as farm stands and farmers' markets primarily selling fresh produce not including dairy and meat products; [1997, c. 96, §1 (AMD).]

E. Establishments engaged in the washing, cleaning or sorting of whole produce, provided the produce remains in essentially the same condition as when harvested. The whole produce may be packaged for sale, provided that packaging is not by a vacuum packaging process or a modified atmosphere packaging process; [2011, c. 407, Pt. A, §2 (AMD).]

F. Establishments that are engaged in the drying of single herbs that are generally recognized as safe under 21 Code of Federal Regulations, Sections 182 to 189. The single herbs may be packaged for sale, provided that packaging is not by a vacuum packaging process or a modified atmosphere packaging process; and [2011, c. 407, Pt. A, §2 (AMD).]

G. A caregiver, as defined in section 2422, subsection 8-A, conducting an activity allowed in section 2423-A for a qualifying patient who is a member of the family, as defined in section 2422, subsection 5-A, or member of the household, as defined in section 2422, subsection 5-B, of the caregiver. [2017, c. 452, §1 (AMD).]

[2017, c. 452, §1 (AMD) .]

4-B. Food salvage establishment. "Food salvage establishment" means a food establishment engaged in reconditioning or by other means salvaging distressed merchandise and includes any food establishment that sells, buys, warehouses or distributes any salvaged merchandise.

[1989, c. 664, §1 (NEW) .]

5. Immediate container. "Immediate container" does not include the package liners but in the case of bottles shall include crowns or caps affixed thereto.

5-A. Irradiated food.

[1995, c. 276, §1 (RP) .]

6. Label. "Label" means a display of written, printed or graphic matter upon the immediate container of any article. A requirement made by or under authority of this subchapter, 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 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.

7. Labeling. "Labeling" means all labels and other written, printed or graphic matter upon an article or any of its containers or wrappers, or accompanying such article.

If an article is alleged to be misbranded because the labeling is misleading or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound or in any combination thereof, but the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.

7-A. Retail food establishment. "Retail food establishment" means a food establishment where food and food products are offered for sale to the consumer and intended for off-premise consumption.

[1979, c. 672, Pt. A, §53 (NEW) .]

7-B. Salvage broker. "Salvage broker" means a person, firm or corporation engaged in buying, selling, distributing or warehousing any distressed merchandise, whether or not in combination with other merchandise, which does not operate a food salvage establishment.

[1989, c. 664, §1 (NEW) .]

8. Selling of food. This subchapter regarding the selling of food shall be considered to include 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.

SECTION HISTORY

1979, c. 541, §A146 (AMD). 1979, c. 672, §§A51-53 (AMD). 1979, c. 731, §19 (AMD). 1981, c. 705, §C3 (AMD). 1987, c. 174, §1 (AMD). 1989, c. 664, §1 (AMD). 1995, c. 276, §1 (AMD). 1995, c. 331, §1 (AMD). 1997, c. 96, §1 (AMD). 2005, c. 434, §13 (AMD). 2009, c. 631, §4 (AMD). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. A, §2 (AMD). 2011, c. 657, Pt. W, §6 (REV). 2017, c. 452, §1 (AMD).

§2153. POWERS OF COMMISSIONER

The authority to promulgate, in a manner consistent with the Maine Administrative Procedure Act, regulations for the efficient enforcement of this subchapter is vested in the Commissioner of Agriculture, Conservation and Forestry. The commissioner is authorized to make the regulations promulgated under said subchapter conform in so far as practicable with those promulgated under the Federal Act. [1979, c. 731, §19 (AMD); 2011, c. 657, Pt. W, §6 (REV).]

Hearings authorized or required by this subchapter shall be conducted by the commissioner or such officer, agent or employee as the commissioner may designate for the purpose. [1977, c. 694, §§ 346, 347 (AMD).]

SECTION HISTORY

1977, c. 694, §§346,347 (AMD). 2011, c. 657, Pt. W, §6 (REV).

§2153-A. CONFIDENTIALITY OF CERTAIN INFORMATION

The following information is confidential and may not be disclosed to the public: [2009, c. 393, §9 (NEW).]

1. United States Department of Agriculture, Food Safety and Inspection Service. Information provided to the department or to any employee of the department by the United States Department of Agriculture, Food Safety and Inspection Service pursuant to 9 Code of Federal Regulations, Section 390.9 (2008) to the extent that the regulations designate the information confidential, the information is otherwise identified pursuant to the regulations as confidential or the regulations require the information to be protected from public disclosure; and

[2009, c. 393, §9 (NEW) .]

2. Food and Drug Administration. Information provided to the department or to any employee of the department by the United States Food and Drug Administration pursuant to 21 Code of Federal Regulations, Section 20.88 (2008) to the extent that the regulations designate the information confidential, the information is otherwise identified pursuant to the regulations as confidential or the regulations require the information to be protected from public disclosure.

[2009, c. 393, §9 (NEW) .]

SECTION HISTORY

2009, c. 393, §9 (NEW).

§2154. REGULATIONS

Whenever in the judgment of the Commissioner of Agriculture, Conservation and Forestry such action will promote honesty and fair dealing in the interest of consumers, the commissioner shall promulgate regulations fixing and establishing for any food or class of food a reasonable definition and standard of identity, or reasonable standard of quality or fill of container. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the commissioner shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. The definitions and standards so promulgated shall conform so far as practicable to the definitions and standards promulgated under authority of the Federal Act. [1979, c. 731, §19 (AMD); 2011, c. 657, Pt. W, §6 (REV).]

SECTION HISTORY

1979, c. 731, §19 (AMD). 2011, c. 657, Pt. W, §6 (REV).

§2155. PROHIBITIONS

(REPEALED)

SECTION HISTORY

1981, c. 470, §A86 (AMD). 1987, c. 174, §§2-4 (AMD). 1989, c. 376, (AMD). 1995, c. 276, §2 (AMD). 2003, c. 452, §X2 (AFF). 2003, c. 452, §K12 (RP).

§2155-A. PROHIBITIONS AND PENALTIES

1. Prohibitions. A person may not:

- A. Manufacture, sell or deliver, hold or offer for sale any food that is adulterated or misbranded; [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- B. Violate paragraph A after having previously violated this subsection; [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- C. Adulterate or misbrand any food; [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- D. Violate paragraph C after having previously violated this subsection; [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- E. Receive in commerce any food that is adulterated or misbranded, or deliver or proffer delivery of adulterated or misbranded food for pay or otherwise; [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- F. Violate paragraph E after having previously violated this subsection; [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- G. Disseminate any false advertisement; [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- H. Violate paragraph G after having previously violated this subsection; [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- I. Refuse to permit entry or inspection, or to permit the taking of a sample as authorized in section 2164; [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- J. Violate paragraph I after having previously violated this subsection; [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- K. Give a guaranty or undertaking that is false, except if the person relied on a guaranty or undertaking to the same effect signed by and containing the name and address of the person residing in the United States from whom the food was received in good faith; [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- L. Violate paragraph K after having previously violated this subsection; [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- M. Remove or dispose of a detained or embargoed article in violation of section 2159; [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- N. Violate paragraph M after having previously violated this subsection; [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- O. Alter, mutilate, destroy, obliterate or remove all or any part of the labeling of or do any other act with respect to a food if the act is done while the article is held for sale and results in the article being misbranded; [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- P. Violate paragraph O after having previously violated this subsection; [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]
- Q. Forge, counterfeit, simulate or falsely represent or without proper authority use any mark, stamp, tag, label or other identification device authorized or required by rules adopted under this subchapter; or [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

R. Violate paragraph Q after having previously violated this subsection. [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

2. Penalties. The penalties for violating subsection 1 are as follows.

A. Except as otherwise provided in this subsection, a person who violates subsection 1, paragraph A, C, E, G, I, K, M, O or Q commits a civil violation for which a fine of not more than \$1,000 may be adjudged. [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. Except as otherwise provided in this subsection, a person who violates subsection 1, paragraph B, D, F, H, J, L, N, P or R commits a civil violation for which a fine of not more than \$2,000 may be adjudged. [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

C. A person who intentionally violates subsection 1, paragraph A, C, E, K, M or O, involving adulterated food, except as adulterated according to section 2156, subsection 2, commits a civil violation for which a fine of not more than \$10,000 may be adjudged. [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

D. A person who intentionally violates subsection 1, paragraph B, D, F, L, N or P, involving adulterated food, except as adulterated according to section 2156, subsection 2, commits a civil violation for which a fine of not more than \$20,000 may be adjudged. [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

E. A person who violates subsection 1, paragraph B involving monosodium glutamate pursuant to section 2157, subsection 13 commits a civil violation for which a fine of not more than \$100 may be adjudged. [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

F. A person who violates subsection 1, paragraph A involving monosodium glutamate pursuant to section 2157, subsection 13 must be issued a warning only. [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF) .]

3. Exceptions. The following paragraphs are exceptions to the application of this section.

A. Carriers subject to the jurisdiction of the Public Utilities Commission or the Interstate Commerce Commission are not subject to subsection 1, paragraph E or F by reason of their receipt, carriage, holding or delivery of foods in the usual course of business as carriers. [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A person is not subject to the penalties prescribed under subsection 2 for having violated subsection 1, paragraph A, B, E or F if the person establishes a guaranty or undertaking signed by, and containing the name and address of, another person residing in this State from whom the person received in good faith the article, to the effect that the article is not adulterated or misbranded within the meaning of this subchapter, citing this subchapter. [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

C. A person who is a publisher, radio-broadcast licensee or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor or seller of the article to which a false advertisement relates, is not liable under this section by reason of the dissemination by the person of the false advertisement, unless the person has refused or neglected on the request of the Commissioner of Agriculture, Conservation and Forestry to furnish the commissioner the name and post office address of

the manufacturer, packer, distributor, seller or advertising agency residing in this State who caused the person to disseminate the advertisement. [2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF); 2011, c. 657, Pt. W, §6 (REV).]

[2003, c. 452, Pt. K, §13 (NEW); 2003, c. 452, Pt. X, §2 (AFF); 2011, c. 657, Pt. W, §6 (REV) .]

SECTION HISTORY

2003, c. 452, §K13 (NEW). 2003, c. 452, §X2 (AFF). 2011, c. 657, Pt. W, §6 (REV).

§2156. ADULTERATION

A food shall be deemed to be adulterated:

1. Poisonous or deleterious substance.

A. If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such food shall not be considered adulterated under this paragraph if the quantity of such substance in such food does not ordinarily render it injurious to health; or

B. If it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of section 2158; or

C. If it consists in whole or in part of a diseased, contaminated, filthy, putrid or decomposed substance or if it is otherwise unfit for food; or

D. 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 diseased, unwholesome or injurious to health; or

E. If it is the product of a diseased animal or an animal which has died otherwise than by slaughter or that has been fed upon the uncooked offal from a slaughterhouse; or

F. If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

2. Substances added or omitted.

A. If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or

B. If any substance has been substituted wholly or in part therefor; or

C. If damage or inferiority has been concealed in any manner; or

D. 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.

3. Substances in confectionery. If it is confectionery and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of 4/10 of 1%, harmless natural wax not in excess of 4/10 of 1%, harmless natural gum and pectin. This subsection does not apply to any confectionery by reason of its containing less than 1/2 of 1% by volume of alcohol derived solely from use of flavoring extracts or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances; or

[2009, c. 2, §51 (COR) .]

4. Coal-tar color. If it bears or contains a coal-tar color other than one from a batch which has been certified under authority of the Federal Act.

SECTION HISTORY

1981, c. 470, §A87 (AMD). RR 2009, c. 2, §51 (COR).

§2157. MISBRANDED FOOD

A food shall be deemed to be misbranded:

1. False or misleading label. If its labeling is false or misleading in any particular;

2. Sale under another name. If it is offered for sale under the name of another food or under a name not permitted by Title 12, section 6112, for products containing or consisting of surimi;

[1985, c. 622, §3 (AMD) .]

3. Imitation of another food. If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter the name of the food imitated;

4. Misleading container. If its container is so made, formed or filled as to be misleading;

5. Label for package form. If in package form, unless it bears a label containing:

A. The name and place of business of or sufficient information to identify the manufacturer, packer or distributor;

B. An accurate statement of the quantity of the contents in terms of weight, measure or numerical count. Reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the commissioner;

6. Statements on label placed conspicuously. If any word, statement or other information, required by or under authority of this subchapter to appear on the label or labeling, is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

7. Conformity with prescribed definition and standard. If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 2154, unless it conforms to such definition and standard, and, in so far as may be required by such regulations, the common names of optional ingredients, other than spices, flavoring and coloring, present in such food;

8. Quality below standard. If it purports to be or is represented as:

A. A food for which a standard of quality has been prescribed by regulations as provided by section 2154 and its quality falls below such standard, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standards; or

B. A food for which a standard or fill of container has been prescribed by regulations as provided by section 2154, and it falls below the standard or fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

9. Name of food and ingredients. If it is not subject to subsection 7, unless it bears labeling clearly giving:

A. The common or usual name of the food, if any there be, and

B. In case it is fabricated from 2 or more ingredients, the common or usual name of each such ingredient, except that spices, flavoring and colorings, other than those sold as such, may be designated as spices, flavoring and colorings without naming each. To the extent that compliance with the requirements of this paragraph is impractical or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Commissioner of Agriculture, Conservation and Forestry. The requirements of this paragraph shall not apply to a carbonated beverage, the ingredients of which have been fully and correctly disclosed in an affidavit subscribed and sworn to by the manufacturer or bottler thereof and filed with the commissioner; [1979, c. 731, §19 (AMD); 2011, c. 657, Pt. W, §6 (REV).]

[1979, c. 731, §19 (AMD); 2011, c. 657, Pt. W, §6 (REV) .]

10. Dietary properties. 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 the Commissioner of Agriculture, Conservation and Forestry determines to be, and by regulation prescribed as necessary in order to fully inform purchasers as to its value for such uses;

[1985, c. 676, §1 (AMD); 2011, c. 657, Pt. W, §6 (REV) .]

11. Artificial flavoring and coloring. If it bears or contains any artificial flavoring, artificial coloring or chemical preservative, unless it bears labeling stating the fact. If the artificial flavoring and artificial coloring declaration does not refer to the entire contents of the package, the words "artificial flavoring" and "artificial coloring" must follow immediately each of the ingredients of the package containing one or more of these substances. The common or usual name of any chemical preservative must be immediately followed by the words "chemical preservation." To the extent that compliance with the requirements of this subsection is impracticable, exemptions must be established by rules adopted by the Commissioner of Agriculture, Conservation and Forestry. This subsection, and subsections 7 and 9, with respect to artificial coloring, do not apply in the case of butter, cheese or ice cream; or

[2011, c. 2, §26 (COR) .]

12. Sulfite.

[1985, c. 676, §3 (NEW); T. 12, §2157, sub-§12 (RP) .]

13. Monosodium glutamate, MSG. 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, whether or not in package form, to which that person has added monosodium glutamate directly in crystal form, unless:

A. The package in which that food or food product is offered for sale conspicuously bears a label or stamp indicating that the food or food product contains monosodium glutamate; [1989, c. 115, (NEW) .]

B. When the food or food product is offered for consumption and is not packaged, a conspicuous label or sign is placed on the food, immediately next to the food, immediately next to the food's listing on the menu, or in an open manner where the food order or food product is obtained, indicating that the food or food product contains monosodium glutamate; or [1989, c. 115, (NEW) .]

C. There is a conspicuously displayed directory to which customers can refer for information on the contents of unpackaged products offered for sale. [1989, c. 115, (NEW) .]

[1991, c. 230, §1 (AMD) .]

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

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

A. The owner or manager of a retail outlet shall ensure that one conspicuous sign is displayed that reads: "Produce in this store may have been treated after harvest with one or more post-harvest treatments." [1991, c. 506, §5 (AMD).]

B. The owner or manager of a retail outlet shall ensure that information identifying the specific post-harvest treatments used, and the specific items of produce that were treated, is available to the public within 48 hours of a request. [1989, c. 339, §§1, 2 (NEW).]

C. The owner or manager of a retail outlet shall ensure that produce without post-harvest treatment, as determined by the commissioner, is identified by a sign contiguous to the specific produce. [1991, c. 506, §5 (AMD).]

[1991, c. 506, §5 (AMD) .]

SECTION HISTORY

1979, c. 731, §19 (AMD). 1981, c. 470, §A88 (AMD). 1985, c. 622, §5 (AMD). 1985, c. 676, §§1-3 (AMD). 1989, c. 115, (AMD). 1989, c. 339, §§1,2 (AMD). 1991, c. 230, §1 (AMD). 1991, c. 506, §5 (AMD). RR 2011, c. 2, §26 (COR). 2011, c. 657, Pt. W, §6 (REV).

§2158. ADDITION OF CERTAIN SUBSTANCES LIMITED

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE UNTIL 12/13/18)

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, must be deemed to be unsafe for purposes of the application of section 2156, subsection 1, paragraph B; but when such substance is so required or cannot be avoided, the Commissioner of Agriculture, Conservation and Forestry shall adopt rules limiting the quantity therein or thereon to such extent as the commissioner finds necessary for the protection of public health, and any quantity exceeding the limits so fixed must be deemed to be unsafe for purposes of the application of section 2156, subsection 1, paragraph B. While such a rule is in effect limiting the quantity of any such substance in the case of any food, such food may not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of section 2156, subsection 1, paragraph A. In determining the quantity of such added substance to be tolerated in or on different articles of food, the commissioner shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances. Goods that are prepared by a primary caregiver under section 2152, subsection 4-A, paragraph G or in a food establishment that is a licensed facility under section 2167 and that contain marijuana for medical use by a qualifying patient, pursuant to chapter 558-C, are not considered to be adulterated under this subchapter. [2011, c. 407, Pt. A, §3 (AMD); 2011, c. 657, Pt. W, §6 (REV).]

SECTION HISTORY

1979, c. 731, §19 (AMD). 2009, c. 631, §5 (AMD). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. A, §3 (AMD). 2011, c. 657, Pt. W, §6 (REV). 2017, c. 452, §2 (AMD).

§2158. ADDITION OF CERTAIN SUBSTANCES LIMITED

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

(WHOLE SECTION TEXT EFFECTIVE 12/31/18)

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, must be deemed to be unsafe for purposes of the application of section 2156, subsection 1, paragraph B; but when such substance is so required or cannot be avoided, the Commissioner of Agriculture, Conservation and Forestry shall adopt rules limiting the quantity therein or thereon to such extent as the commissioner finds necessary for the protection of public health, and any quantity exceeding the limits so fixed must be deemed to be unsafe for purposes of the application of section 2156, subsection 1, paragraph B. While such a rule is in effect limiting the quantity of any such substance in the case of any food, such food may not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of section 2156, subsection 1, paragraph A. In determining the quantity of such added substance to be tolerated in or on different articles of food, the commissioner shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances. Goods that are prepared by a caregiver under section 2152, subsection 4-A, paragraph G or in a food establishment that is a licensed facility under section 2167 and that contain marijuana for medical use by a qualifying patient, pursuant to chapter 558-C, are not considered to be adulterated under this subchapter. [2017, c. 452, §2 (AMD).]

SECTION HISTORY

1979, c. 731, §19 (AMD). 2009, c. 631, §5 (AMD). 2009, c. 631, §51 (AFF). 2011, c. 407, Pt. A, §3 (AMD). 2011, c. 657, Pt. W, §6 (REV). 2017, c. 452, §2 (AMD).

§2159. ARTICLES DETAINED, EMBARGOED AND CONDEMNED

Whenever a duly authorized agent of the Commissioner of Agriculture, Conservation and Forestry finds or has reason to believe that any food is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this subchapter, he may issue an order detaining or embargoing that food to any person or persons with possession or control thereof, and may affix or require the person or persons to whom the order is directed to affix to such article a tag or other appropriate marking, giving notice that such article is or is suspected of being adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission. Orders relating to detention and embargo issued pursuant to this chapter shall not be considered licensing or an adjudicatory proceeding, as those terms are defined by the Maine Administrative Procedure Act, Title 5, chapter 375. [1985, c. 49, §1 (AMD); 2011, c. 657, Pt. W, §6 (REV).]

When an article detained or embargoed under the preceding paragraph has been found by such agent to be adulterated or misbranded, he shall petition the proper officer of the District Court or Superior Court in whose jurisdiction the article is detained or embargoed for a libel for condemnation of such article. When such agent has found that an article so detained or embargoed is not adulterated or misbranded, he shall remove the tag or other marking.

If the court finds that a detained or embargoed article is adulterated or misbranded, such article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or his agent. When the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after such costs, fees and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the commissioner. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article on representation to the court by the commissioner that the article is no longer in violation of this subchapter, and that the expenses of such supervision have been paid.

Whenever the commissioner or any of the commissioner's authorized agents finds in any room, building, vehicle of transportation or other structure any meat, seafood, poultry, vegetable, fruit or other perishable articles that are unsound or contain any filthy, decomposed or putrid substance or that may be poisonous or deleterious to health or otherwise unsafe, the same being declared to be a nuisance, the commissioner or the commissioner's authorized agent shall forthwith condemn or destroy the same, or in any other manner render the same unsalable as human food. In the event that any food found on any vehicle of transportation is detained, embargoed, condemned or destroyed under any of the provisions of this section by the commissioner or the commissioner's authorized agents, the commissioner shall forthwith notify the consignor, consignee and the carrier of the action taken and the amount and kind of goods detained, embargoed, condemned or destroyed. [2009, c. 2, §52 (COR).]

SECTION HISTORY

1977, c. 694, §348 (AMD). 1979, c. 731, §19 (AMD). 1985, c. 49, §1 (AMD). RR 2009, c. 2, §52 (COR). 2011, c. 657, Pt. W, §6 (REV).

§2160. NOTICE

Nothing in this subchapter shall be construed as requiring the Commissioner of Agriculture, Conservation and Forestry to report for the institution of proceedings under said subchapter minor violations of said subchapter, whenever the commissioner believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning. [1979, c. 731, §19 (AMD); 2011, c. 657, Pt. W, §6 (REV).]

SECTION HISTORY

1979, c. 731, §19 (AMD). 2011, c. 657, Pt. W, §6 (REV).

§2161. STORAGE AND TRANSPORTATION OF FROZEN FOODS

No person, firm or corporation engaged in the business of freezing, storing or transporting frozen foods shall store or transport such foods within this State unless they are stored or transported under suitable refrigeration which shall insure good keeping qualities and under temperatures and holding conditions approved by the Commissioner of Agriculture, Conservation and Forestry. [1979, c. 731, §19 (AMD); 2011, c. 657, Pt. W, §6 (REV).]

The commissioner may, in a manner consistent with the Maine Administrative Procedure Act, after public hearings, make reasonable regulations for the storing and transportation of frozen foods, including temperature control, sanitation and other matters in accordance with recognized standards necessary for the protection of public health and the preservation of such foods in wholesome condition. [1977, c. 694, §349 (AMD).]

Any person, firm or corporation who shall violate this section or any regulation made hereunder shall be punished by a fine of not more than \$100 for the first offense, and by a fine of not less than \$100 nor more than \$500 for each subsequent offense.

Nothing in this section shall be construed to apply to delivery by a retailer to the home of the purchaser.

SECTION HISTORY

1977, c. 694, §349 (AMD). 1979, c. 731, §19 (AMD). 2011, c. 657, Pt. W, §6 (REV).

§2162. PACKING OF FOOD; PERMIT; INSPECTION

The Commissioner of Agriculture, Conservation and Forestry shall, upon application for permit and receipt of such fee as he deems necessary from any food packer or processor, inspect all operations of said packer or processor for compliance with this subchapter and shall cause the same law to be diligently enforced. Each such permit shall cover one group of buildings constituting a packing plant in one location. [1979, c. 731, §19 (AMD); 2011, c. 657, Pt. W, §6 (REV).]

Only the holder of such a permit may mark or label any food so inspected as packed or processed or inspected and passed under this subchapter.

Said commissioner may, in a manner consistent with the Maine Administrative Procedure Act as to adjudicatory proceedings, refuse to renew, and the District Court, in a manner consistent with the Maine Administrative Procedure Act, may revoke and permit whenever there is a lack of compliance with this subchapter. He shall establish such rules and regulations as he deems necessary. He shall make such charges as will be reasonable and as nearly as may be to cover the cost of the service rendered. All such fees and all such money thus collected for services rendered by the commissioner shall be paid by him to the Treasurer of State. Said fees and money are appropriated for the purposes of this section. [1977, c. 694, §350 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

The commissioner may employ such agents and assistants, subject to the Civil Service Law, and make such purchases as may be necessary in the performance of his duties. [1985, c. 785, Pt. B, §88 (AMD).]

SECTION HISTORY

1977, c. 694, §350 (AMD). 1979, c. 731, §19 (AMD). 1985, c. 785, §B88 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2011, c. 657, Pt. W, §6 (REV).

§2163. SALE OF HORSEMEAT

No person, firm, corporation or officer, agent or employee thereof within the State shall transport, receive for transportation, sell or offer for sale or distribution any equine meat or food products thereof unless said equine meat is plainly and conspicuously labeled, marked, branded and tagged "horsemeat" or "horsemeat products"; or shall serve, expose or offer for sale or distribution either in any public place or elsewhere, any equine meat or products containing equine meat unless such equine meat is conspicuously branded and labeled and a notice containing the words "horsemeat and horsemeat products sold here" is conspicuously displayed in said place of business to the end that the purchaser may have knowledge of the facts of the article purchased.

Whenever any person, firm or corporation within the State sells, ships or delivers to a purchaser within the State any equine meat or food products thereof, such person, firm or corporation shall deliver to the purchaser an invoice or bill showing thereon the character of such meat. This paragraph shall not apply to sales made at retail.

The Commissioner of Agriculture, Conservation and Forestry shall by adequate inspection see that the requirements of this section are carried out. [1979, c. 731, §19 (AMD); 2011, c. 657, Pt. W, §6 (REV).]

Any person, firm or corporation who shall violate any of the provisions of this section shall be punished by a fine of not more than \$100 for the first offense and by a fine of not more than \$200 for each subsequent offense, and the District and Superior Courts shall have concurrent jurisdiction of the offense.

SECTION HISTORY

1979, c. 731, §19 (AMD). 2011, c. 657, Pt. W, §6 (REV).

§2164. ACCESS TO BUILDINGS

The Commissioner of Agriculture, Conservation and Forestry or his duly authorized agent shall have free access at all reasonable hours to any factory, warehouse or establishment in which foods are manufactured, processed, packed or held for introduction into commerce, or to enter any vehicle being used to transport or hold such foods in commerce for the purpose: [1979, c. 731, §19 (AMD); 2011, c. 657, Pt. W, §6 (REV).]

1. Inspection. Of inspecting such factory, warehouse, establishment or vehicle to determine if any of the provisions of this subchapter are being violated; and

2. Examination of samples. To secure samples or specimens of any food after paying or offering to pay for such sample.

It shall be the duty of the commissioner to make or cause to be made examination of samples secured under this section to determine whether or not any provision of this subchapter is being violated.

3. Notification of samples taken.

[1981, c. 470, Pt. A, §89 (RP) .]

In the event that any samples or specimens of food are removed from any vehicle of transport, it shall be the duty of the commissioner to notify the consignor, consignee and the carrier of the action taken and of the amount and kind of sample or specimen taken. [1981, c. 470, Pt. A, §90 (NEW).]

SECTION HISTORY

1979, c. 731, §19 (AMD). 1981, c. 470, §§A89,A90 (AMD). 2011, c. 657, Pt. W, §6 (REV).

§2165. INJUNCTIONS

In addition to the remedies provided, the Commissioner of Agriculture, Conservation and Forestry is authorized to apply to the Superior Court and such court has jurisdiction upon hearing and for cause shown to grant a preliminary or permanent injunction restraining any person from violating any provision of section 2155-A. [2003, c. 2, §72 (COR); 2011, c. 657, Pt. W, §6 (REV).]

SECTION HISTORY

RR 2003, c. 2, §72 (COR). 2011, c. 657, Pt. W, §6 (REV).

§2166. PENALTIES

(REPEALED)

SECTION HISTORY

1979, c. 731, §19 (AMD). 1985, c. 49, §2 (AMD). 1991, c. 230, §2 (AMD). 2003, c. 452, §X2 (AFF). 2003, c. 452, §K14 (RP).

§2167. LICENSE REQUIRED

A person, firm, corporation or copartnership may not operate a food establishment or a food salvage establishment or act as a salvage broker unless licensed for that purpose by the commissioner. In the case of retail food establishments, licenses issued must be made available at the retail food establishment for inspection by customers or other persons using the retail food establishment. [2011, c. 535, §2 (AMD).]

In addition to the sanctions authorized in section 2172, a person, firm, corporation or copartnership that violates this licensing requirement or any condition placed on a license commits a civil violation for which a fine of not more than \$500 may be adjudged for each offense and, in addition, the commissioner may suspend, revoke or refuse to renew any such license in accordance with Title 5, chapter 375, subchapter 5. [2003, c. 452, Pt. K, §15 (AMD); 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

1979, c. 672, §A54 (NEW). 1987, c. 374, (AMD). 1989, c. 664, §2 (AMD). 1991, c. 837, §A47 (AMD). 2003, c. 452, §K15 (AMD). 2003, c. 452, §X2 (AFF). 2011, c. 535, §2 (AMD).

§2168. FEES

1. Application and renewal. Each application for, or renewal of, a license to operate a food establishment must be accompanied by a fee determined by the commissioner in accordance with subsection 5.

A. [2007, c. 539, Pt. GGGG, §4 (RP).]

B. [2007, c. 539, Pt. GGGG, §4 (RP).]

C. [2007, c. 539, Pt. GGGG, §4 (RP).]

A license may be issued for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee.

[2007, c. 539, Pt. GGGG, §4 (AMD) .]

2. Food salvage. Each application for, or renewal of, a license to operate a food salvage establishment or to act as a salvage broker must be accompanied by a fee determined by the commissioner in accordance with subsection 5. A license may be issued for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee.

[2007, c. 539, Pt. GGGG, §5 (AMD) .]

3. Refunds and transfers; General Fund. No fee is refundable. A license is not assignable or transferable. Fees collected by the commissioner pursuant to this section must be deposited in the General Fund.

[1989, c. 888, §7 (NEW) .]

4. Reinspection required for violations. If, upon inspection, the commissioner finds a licensee under this subchapter to be in violation of requirements of this subchapter or rules adopted under this subchapter, the commissioner shall issue a written citation describing the violation, the required corrective action to be taken by the licensee and the date by which the correction must be made. If the corrective action has not been taken within the specified period and a 3rd inspection is required in any one year, the commissioner may charge the licensee a reinspection fee not to exceed \$50. The commissioner shall notify the licensee in writing about the reinspection fee at the time the original citation is issued.

[1991, c. 837, Pt. A, §48 (NEW) .]

5. Rules. The commissioner shall adopt rules to establish a schedule of fees for licenses issued under this chapter. Fees must be appropriate to the size of the establishment. Notwithstanding Title 5, section 8071, subsection 3, paragraph B, rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2007, c. 539, Pt. GGGG, §6 (NEW) .]

SECTION HISTORY

1979, c. 672, §A55 (NEW). 1989, c. 664, §3 (AMD). 1989, c. 888, §7 (RPR). 1991, c. 837, §A48 (AMD). 1997, c. 454, §10 (AMD). 2007, c. 539, Pt. GGGG, §§4-6 (AMD).

§2169. ISSUANCE OF LICENSES

The commissioner shall, within 30 days following receipt of application for a license to operate a food establishment or a food salvage establishment or to act as a salvage broker, issue the appropriate license if the applicant is in compliance with this chapter and any rules adopted by the commissioner. When any applicant, upon inspection by the commissioner, is found not to meet the requirements of this chapter or rules adopted under this chapter, the commissioner may issue either a temporary license for a specified period not to exceed 90 days, during which time corrections specified by the commissioner must be made by the applicant for compliance, or a conditional license setting forth conditions that must be met by the applicant to the satisfaction of the commissioner. [1989, c. 664, §4 (AMD).]

A license may be issued for a period of up to 3 years. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee. The prescribed fee must accompany the application for license. Licenses may be renewed upon application and payment of the fees, subject to the commissioner's rules and regulations. Licenses erroneously issued by the commissioner are considered void and must be returned to the commissioner on demand. [1999, c. 598, §1 (AMD); 1999, c. 598, §4 (AFF).]

Beginning August 1, 2000, each one-, 2- or 3-year license or license renewal issued expires on December 31st of the appropriate year except that, beginning January 1, 2010, each one-year, 2-year or 3-year license or license renewal expires on the date of issuance of the appropriate year. When an initial license is issued or when a license is renewed between August 1, 2000 and August 1, 2003, the license fee is prorated based on the number of months the license is valid and the annual fee. When a license is renewed between January 1, 2010 and January 1, 2011, the period of time that the license is valid may be increased by up to 11 months and the license fee is prorated based on the number of months the license is valid and the annual fee. [2009, c. 393, §10 (AMD).]

The commissioner shall notify license holders not less than 30 days prior to the expiration of their licenses and provide them with any necessary relicensure forms. [1979, c. 672, Pt. A, §56 (NEW).]

SECTION HISTORY

1979, c. 672, §A56 (NEW). 1989, c. 664, §4 (AMD). 1997, c. 454, §11 (AMD). 1999, c. 598, §1 (AMD). 1999, c. 598, §4 (AFF). 2009, c. 393, §10 (AMD).

§2170. EXCEPTION

Any establishment subject to this chapter and chapter 562 shall be required to have only one license and that license shall be issued on the predominate portion of the establishment's business. [1979, c. 672, Pt. A, §57 (NEW).]

SECTION HISTORY

1979, c. 672, §A57 (NEW).

§2171. LICENSING CONDITIONS

Notwithstanding any other provisions of this chapter, the commissioner may issue a license required under section 2167 on the basis of an inspection performed by an inspector who works for and is compensated by the municipality in which the establishment is located, but only if the following conditions have been met. [1979, c. 672, Pt. A, §58 (NEW).]

1. Adopted rules, regulations; code of standards. The municipality involved has adopted a set of rules and regulations, ordinances or other code of standards for the establishments, which has been approved by the commissioner and which is consistent with the regulations used by the commissioner for the issuance of the licenses in effect at the time of inspection.

[1979, c. 672, Pt. A, §58 (NEW) .]

2. Inspection to ascertain intent. The commissioner may from time to time inspect the municipally-inspected establishments to ascertain that the intent of these statutes is being followed.

[1979, c. 672, Pt. A, §58 (NEW) .]

3. Inspection reports. The municipalities shall furnish the commissioner copies of its inspection reports relating to the inspection on a monthly basis.

[1979, c. 672, Pt. A, §58 (NEW) .]

4. Charge. Municipalities may not charge the commissioner for performing the inspections.

[1979, c. 672, Pt. A, §58 (NEW) .]

5. License fee. When a license is issued on the basis of a municipal inspection as specified in this section, the requirement for payment of a license fee to the commissioner as set forth in section 2168 shall be waived. The licensee shall be required to pay the commissioner a sum not to exceed \$5 to support the costs of mailing and handling.

[1979, c. 672, Pt. A, §58 (NEW) .]

6. Licenses. Licenses issued under this section shall be displayed, renewed and in every other way treated the same as licenses issued under this subchapter on the basis of inspection by the commissioner.

[1979, c. 672, Pt. A, §58 (NEW) .]

SECTION HISTORY

1979, c. 672, §A58 (NEW).

§2172. FINES AND PENALTIES

1. Authorization. The department is authorized to impose one or more of the following sanctions when a violation of this chapter, or rules enacted pursuant to this chapter, occurs and the department determines that a sanction is necessary and appropriate to ensure compliance with state licensing rules or to protect the public health.

A. The department may impose penalties for violations of this chapter, or the rules adopted pursuant to this chapter, on any food establishment or food salvage establishment. The penalties may not be greater than \$50 for each violation. Each day that the violation remains uncorrected may be counted as a separate offense. Penalties may be imposed for each violation of the rules. [1991, c. 837, Pt. A, §49 (NEW).]

B. The department may direct a food establishment or food salvage establishment to correct any violations in a manner and within a time frame that the department determines is appropriate to ensure compliance with state rules or to protect the public health. Failure to correct violations within the time frame constitutes a separate violation for which a fine may be imposed. [1991, c. 837, Pt. A, §49 (NEW).]

C. A person, corporation, firm or copartnership may not operate a food establishment or food salvage establishment without first obtaining a license as required by this chapter. Violation of this paragraph is a civil violation for which a fine of not less than \$10 and not more than \$100 may be adjudged. Each day of operation without a license constitutes a separate offense. [2003, c. 452, Pt. K, §16 (AMD); 2003, c. 452, Pt. X, §2 (AFF).]

C-1. A person, corporation, firm or copartnership may not operate a food establishment or food salvage establishment without first obtaining a license as required by this chapter after having previously violated paragraph C. Violation of this paragraph is a civil violation for which a fine of not less than \$100 may be adjudged. Each day of operation without a license constitutes a separate offense. [2003, c. 452, Pt. K, §17 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

D. In the event of any violation of this section or any rule adopted pursuant to this chapter, the Attorney General may seek to enjoin a further violation, in addition to any other remedy. [1991, c. 837, Pt. A, §49 (NEW).]

[2003, c. 452, Pt. K, §§16, 17 (AMD); 2003, c. 452, Pt. X, §2 (AFF) .]

2. Schedule of penalties. The department shall establish a schedule of penalties according to the nature and duration of the violation.

[1991, c. 837, Pt. A, §49 (NEW) .]

3. Enforcement and appeal. Enforcement and appeal of this section is as follows.

A. The department may impose any fine in conformity with the Title 5, chapter 375, subchapter IV, if the department has provided the licensee with the opportunity for an administrative hearing. [1991, c. 837, Pt. A, §49 (NEW).]

B. Licensees that are fined pursuant to this chapter are required to pay the department the amount of the penalties. If a licensee has not paid any collectible fine by the time of license renewal, the department may collect the fine by requiring payment prior to the processing of any license renewal application. An appeal of the department's decision to fine a licensee stays the collection of the fine. Interest accrues on a fine at the rate specified in Title 14, section 1602-B prior to the completion of any appeal. After the completion of any appeal process or after any appeal period has passed, interest accrues pursuant to Title 14, section 1602-C. [2003, c. 460, §10 (AMD).]

[2003, c. 460, §10 (AMD) .]

SECTION HISTORY

1991, c. 837, §A49 (NEW). 2003, c. 452, §§K16,17 (AMD). 2003, c. 452, §X2 (AFF). 2003, c. 460, §10 (AMD).

§2173. SALE OF SMOKED ALEWIVES

Smoked alewives offered for sale need not be free of viscera prior to processing. A person who sells or offers for sale alewives smoked with the viscera shall post a clearly legible sign at the point of display of the alewives that states, "This product is not fully cooked. Eating prior to fully cooking poses a health risk." [1997, c. 439, §1 (NEW).]

SECTION HISTORY

1997, c. 439, §1 (NEW).

§2174. SALE OF BAKED GOODS AT FARMERS' MARKETS

Notwithstanding section 2156 and rules adopted under section 2153, a person licensed under this subchapter and offering baked goods for sale at a farmers' market as defined in Title 7, section 415 may display and sell unpackaged baked goods in a manner that allows customers to directly select baked goods for purchase. For the purposes of this section, "baked goods" means breads, rolls, buns, flatbreads, cakes, cookies, pies and other pastries. [2009, c. 547, §3 (NEW).]

SECTION HISTORY

2009, c. 547, §3 (NEW).

§2175. MAINE WILD MUSHROOM HARVESTING CERTIFICATION PROGRAM

1. Program established; training approval. The Maine Wild Mushroom Harvesting Certification Program is established to ensure that properly trained persons harvest, broker and sell wild mushrooms in order to protect public health and the safety of the food supply. The program is administered by the Department of Health and Human Services for the purpose of establishing training and certification requirements for persons who commercially harvest, broker or sell wild mushrooms in this State. The Commissioner of Health and Human Services shall approve training programs provided by persons or entities outside the department.

[2013, c. 533, §21 (AMD) .]

2. Certification of wild mushroom harvesters, brokers or sellers. The Commissioner of Health and Human Services shall certify persons with appropriate training in mushroom harvesting, brokering or selling to sell, transfer or otherwise deliver wild mushrooms within the State. Certification is valid for a period not to exceed 5 years, unless the Department of Health and Human Services, by rule, establishes another certification period.

[2013, c. 533, §21 (AMD) .]

3. Refusal to certify; revocation of certification. The Department of Health and Human Services may decline to certify any person determined to lack the appropriate training to safely harvest, broker or sell wild mushrooms, in accordance with rules adopted by the Department of Health and Human Services pursuant to this section. The Department of Health and Human Services may revoke, in accordance with the Maine Administrative Procedure Act, the certification of any person in accordance with rules adopted by the Department of Health and Human Services pursuant to this section.

[2013, c. 533, §21 (AMD) .]

4. Registry. The Department of Health and Human Services shall maintain a registry of all applicants for certification and of all certificates issued by the Department of Health and Human Services under this section.

[2011, c. 412, §2 (NEW) .]

4-A. Advisory role of Director of the Maine Center for Disease Control and Prevention. The Director of the Maine Center for Disease Control and Prevention within the Department of Health and Human Services shall advise the Commissioner of Health and Human Services on the following:

A. Certification of individuals who have completed approved training to engage in the harvesting, brokering or selling of wild mushrooms in this State; and [2013, c. 533, §22 (NEW).]

B. Wild mushroom harvesting training programs and certification. [2013, c. 533, §22 (NEW).]

[2013, c. 533, §22 (NEW) .]

5. Maine Wild Mushroom Harvesting Advisory Committee.

[2013, c. 533, §23 (RP) .]

6. Wild Mushroom Harvesting Fund.

[2011, c. 587, §1 (RP) .]

7. Fees. The certification fees may not exceed \$20 and must be established by the Department of Health and Human Services by rule. Revenues from applicants for certification pursuant to subsection 2 must be deposited into a special revenue account dedicated to a health inspection program.

[2011, c. 587, §1 (AMD) .]

8. Rules. The Department of Health and Human Services may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2011, c. 412, §2 (NEW) .]

SECTION HISTORY

2011, c. 412, §2 (NEW). 2011, c. 587, §1 (AMD). 2011, c. 657, Pt. W, §5 (REV). 2013, c. 533, §§21-23 (AMD).

Subchapter 2: DRUGS

§2201. REGULATIONS

(REPEALED)

SECTION HISTORY

1975, c. 499, §27 (AMD). 1987, c. 710, §2 (RP).

§2202. EQUIPMENT

(REPEALED)

SECTION HISTORY

1971, c. 282, §13 (AMD). 1987, c. 710, §2 (RP).

§2203. CHEMICAL ANALYSIS

(REPEALED)

SECTION HISTORY

1977, c. 78, §147 (RP).

§2204. SALE OF POISONOUS DRUGS

(REPEALED)

SECTION HISTORY

1987, c. 710, §2 (RP).

§2204-A. LABELING OF PRESCRIPTIONS

(REPEALED)

SECTION HISTORY

1971, c. 282, §1 (NEW). 1987, c. 710, §2 (RP).

§2204-B. POSSESSION OF DRUG SAMPLES

(REPEALED)

SECTION HISTORY

1971, c. 282, §1 (NEW). 1987, c. 710, §2 (RP).

§2204-C. POSSESSION OF HARMFUL DRUGS

(REPEALED)

SECTION HISTORY

1971, c. 282, §1 (NEW). 1971, c. 566, (RP).

§2204-D. ADVERTISING

(REPEALED)

SECTION HISTORY

1975, c. 257, (NEW). 1977, c. 696, §188 (AMD). 1987, c. 710, §2 (RP).

§2204-E. EXCEPTIONS

(REPEALED)

SECTION HISTORY

1975, c. 257, (NEW). 1977, c. 696, §189 (AMD). 1987, c. 710, §2 (RP).

§2204-F. POSTING PRICES

(REPEALED)

SECTION HISTORY

1975, c. 257, (NEW). 1987, c. 710, §2 (RP).

§2205. PREPARATIONS CONTAINING COCAINE

(REPEALED)

SECTION HISTORY

1975, c. 499, §28 (RP).

§2206. SALE OF OPIUM

(REPEALED)

SECTION HISTORY

1967, c. 390, §1 (AMD). 1969, c. 443, §2 (AMD). 1971, c. 487, §1 (RP).

§2207. PRESCRIPTION OF OPIUM TO HABITUAL USERS FORBIDDEN

(REPEALED)

SECTION HISTORY

1975, c. 499, §29 (RP).

§2207-A. PERMISSIVE USE OF DRUGS

(REPEALED)

SECTION HISTORY

1975, c. 499, §30 (NEW). 1977, c. 609, §§1,2 (AMD). 1979, c. 731, §19 (AMD). 1987, c. 710, §2 (RP).

§2208. SALE OF ARTICLES CONTAINING WOOD ALCOHOL, FOR INTERNAL USE

(REPEALED)

SECTION HISTORY

1987, c. 710, §2 (RP).

§2209. LABELING OF WOOD ALCOHOL CONTAINERS

(REPEALED)

SECTION HISTORY

1987, c. 710, §2 (RP).

§2210. SALE OF BARBITURATES

(REPEALED)

SECTION HISTORY

1965, c. 359, §2 (AMD). 1967, c. 390, §2 (AMD). 1971, c. 621, §1 (AMD). 1975, c. 499, §29 (RP).

§2210-A. SALE OF AMPHETAMINES

(REPEALED)

SECTION HISTORY

1971, c. 621, §2 (NEW). 1975, c. 499, §29 (RP).

§2211. ADULTERATING AND SELLING DRUGS

(REPEALED)

SECTION HISTORY

1987, c. 710, §2 (RP).

§2212. USING DRUGS NOT IN PRESCRIPTION

(REPEALED)

SECTION HISTORY

1967, c. 390, §3 (AMD). 1971, c. 282, §12 (AMD). 1975, c. 499, §31 (RPR). 1987, c. 710, §2 (RP).

§2212-A. REFILL PRESCRIPTIONS

(REPEALED)

SECTION HISTORY

1967, c. 390, §4 (NEW). 1971, c. 282, §2 (AMD). 1975, c. 499, §32 (RPR). 1981, c. 221, (AMD). 1987, c. 710, §2 (RP).

§2212-B. POSSESSION OF CERTAIN HALLUCINOGENIC DRUGS

(REPEALED)

SECTION HISTORY

1967, c. 390, §5 (NEW). 1969, c. 443, §3 (AMD). 1971, c. 487, §2 (RPR). 1975, c. 499, §33 (RP).

§2212-C. EXCHANGE OR FURNISHINGS OF CERTAIN HALLUCINOGENIC DRUGS

(REPEALED)

SECTION HISTORY

1971, c. 282, §3 (NEW). 1971, c. 487, §3 (NEW). 1971, c. 621, §3 (AMD). 1971, c. 622, §74 (RP). 1975, c. 499, §34 (RP).

§2212-D. RETURN OF DRUGS PROHIBITED

(REPEALED)

SECTION HISTORY

1971, c. 622, §75 (NEW). 1987, c. 710, §2 (RP).

§2212-E. SELLING OF CERTAIN HALLUCINOGENIC DRUGS

(REPEALED)

SECTION HISTORY

1971, c. 621, §4 (NEW). 1975, c. 499, §35 (RP).

§2213. SALE BY CERTAIN METHODS PROHIBITED

(REPEALED)

SECTION HISTORY

1987, c. 710, §2 (RP).

§2214. VIOLATION OF PROVISIONS RELATING TO OPIUM OR COCAINE

(REPEALED)

SECTION HISTORY

1975, c. 499, §36 (RP).

§2215. VIOLATIONS GENERALLY

(REPEALED)

SECTION HISTORY

1965, c. 359, §3 (AMD). 1967, c. 390, §6 (AMD). 1971, c. 282, §13 (AMD). 1971, c. 621, §5 (AMD). 1975, c. 499, §36 (RP).

§2216. PRESCRIPTIONS WRITTEN ON HOSPITAL PRESCRIPTION BLANKS

(REPEALED)

SECTION HISTORY

1983, c. 203, (NEW). 1987, c. 710, §2 (RP).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the Second Special Session of the 128th Maine Legislature and is current through November 1, 2018. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.
