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Resolve, To Require the Department of Health and Human Services To Request a Waiver To Prohibit the Use of Food Supplement Benefits for the Purchase of Taxable Food Items

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the intent of the federal Supplemental Nutrition Assistance Program, or SNAP, is to provide recipients with the means to purchase food; and

Whereas, under the program as administered by the State in accordance with the requirements established by the United States Department of Agriculture, the use of benefits to purchase all foods, including those with little to no nutritional value, is permitted; and

Whereas, the purchase of unhealthy products is antithetical to the purpose of the program; and

Whereas, the State may prohibit the purchase of foods with little to no nutritional value, which are generally taxable under state law, only through obtaining a waiver from the United States Department of Agriculture, a process that may be time-consuming; and

Whereas, the process should be started quickly so that the ban on the use of SNAP benefits for the purchase of foods with little to no nutritional value may take place as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1 Waiver to prohibit use of benefits for taxable food. Resolved: That the Department of Health and Human Services shall request a waiver from the United States Department of Agriculture to permit the State to prohibit the use of benefits under the federal Supplemental Nutrition Assistance Program for the purchase of food items that are otherwise subject to the state sales tax and for bulk purchases of grocery staples that, if purchased in smaller quantities, would be subject to the state sales tax. The department shall request the waiver no later than October 1, 2013; and be it further

Sec. 2 Rulemaking; notice. Resolved: That, within 60 days of the granting of the waiver by the United States Department of Agriculture under section 1, the Department of Health and Human Services shall amend its rules to prohibit the use of federal Supplemental Nutrition Assistance Program benefits for the purchase of food items that are subject to the state sales tax and for bulk purchases of grocery staples that, if purchased in smaller quantities, would be subject to the state sales tax. The department shall inform retailers in the State participating in the statewide food supplement program pursuant to the Maine Revised Statutes, Title 22, section 3104 of the rule change. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This resolve requires the Department of Health and Human Services to request a waiver from the United States Department of Agriculture to allow Maine to prohibit the use of federal Supplemental Nutrition Assistance Program benefits for the purchase of certain food items.