



# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 1351

S.P. 419

In Senate, March 21, 2019

### **An Act To Allow for the Recovery and Redistribution of Food in Public Schools**

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Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator GUERIN of Penobscot.  
Cosponsored by Senators: CLAXTON of Androscoggin, GRATWICK of Penobscot, MOORE of Washington, Representatives: GRIFFIN of Levant, JAVNER of Chester, O'CONNOR of Berwick, PERRY of Calais, TALBOT ROSS of Portland.

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

2 **Sec. 1. 20-A MRSA §6602-A** is enacted to read:

3 **§6602-A. School food recovery and redistribution**

4 **1. State assistance.** To encourage public school food service programs to recover  
5 and redistribute surplus food and in furtherance of the food recovery hierarchy priority in  
6 Title 38, section 2101-B, the State shall assist public school food service programs in the  
7 recovery and redistribution of surplus food first to students attending the school where the  
8 food was originally purchased, prepared or served and then, if there is remaining surplus  
9 food, to local food banks, food pantries, soup kitchens and similar nonprofit  
10 organizations. For the purposes of this section, "surplus food" means edible food that  
11 would otherwise be wasted if not recovered or redistributed.

12 **2. Food safety rule variances.** The Department of Health and Human Services,  
13 Maine Center for Disease Control and Prevention and the Department of Agriculture,  
14 Conservation and Forestry shall jointly develop and implement procedures by rule to  
15 grant public school food service programs variances to requirements in food safety rules  
16 jointly adopted by those departments. A variance must allow:

17 **A.** A public school food service program to collect surplus food from a share table  
18 and redistribute that food to students through the food service line in accordance with  
19 any United States Department of Agriculture policy allowing such redistribution;

20 **B.** Students to take food items directly from a share table and consume the food in  
21 the same breakfast, lunch or snack period; bring the food to class for consumption in  
22 accordance with individual school policy on the consumption of food in classrooms;  
23 or, except in the case of foods that need to be stored at specific temperatures for  
24 safety, bring the food home for consumption;

25 **C.** Students to place food items on a share table at any time during the students'  
26 regular breakfast, lunch or snack periods; and

27 **D.** Under certain conditions as determined by rule, school staff members who are not  
28 school food service program staff to collect and redistribute food from a share table  
29 to students who may need or want additional food.

30 For the purposes of this subsection, "share table" means a cart or table on which students  
31 may place surplus food that is still in its original packaging or peel for consumption by  
32 other students or donation.

33 **Sec. 2. Rulemaking; Food Code.** By October 1, 2019, the Department of Health  
34 and Human Services, Maine Center for Disease Control and Prevention and the  
35 Department of Agriculture, Conservation and Forestry shall amend the rules jointly  
36 adopted by those departments, titled "State of Maine Food Code 2013," 10-144 C.M.R.  
37 Chapter 200 and 01-001 C.M.R. Chapter 331, to implement the provisions of this Act.

38 **Sec. 3. Food share tables; guidance for schools.** To encourage and facilitate  
39 the ability of public schools serving any grade from kindergarten to grade 12 to recover  
40 surplus food and redistribute it first to students in the school and then, if there is

1 remaining surplus food, to local food banks, food pantries, soup kitchens and similar  
2 nonprofit organizations, the Department of Education and the Department of Health and  
3 Human Services, Maine Center for Disease Control and Prevention shall collaborate to  
4 revise and disseminate, by October 1, 2019, to public school food service programs  
5 throughout the State the Department of Health and Human Services, Maine Center for  
6 Disease Control and Prevention's health inspection program guidance titled "Food  
7 Sharing Tables - Guidance for Schools." The revised guidance must include at a  
8 minimum:

9 1. Information on food waste in general and recommendations for how schools can  
10 reduce the volume of surplus food they generate, including, but not limited to, conducting  
11 food waste audits, eliminating trays in cafeterias, establishing longer lunch periods,  
12 scheduling lunch periods after recess and establishing "offer versus serve" policies that  
13 allow students to decline some of the food offered;

14 2. Guidance on how schools can create share tables in their cafeterias on which  
15 students may place surplus food that is still in its original packaging or peel for  
16 consumption by other students or donation;

17 3. Information related to allowing students to take food when they leave the cafeteria  
18 as long as that food does not require temperature control for safety;

19 4. Information on cost-effective, safe and sanitary means by which schools:

20 A. Through the use of appropriate signage and other means of communication, can  
21 ensure unwanted food is placed on a share table only if it is eligible for redistribution  
22 because it is a packaged food with the package unopened and intact or is a whole  
23 piece of produce with an entire peel that is undamaged;

24 B. Can maintain the safety of recovered food requiring temperature control through  
25 the use of refrigeration, ice baths or other means as determined by the Maine Center  
26 for Disease Control and Prevention; and

27 C. Can collect share table items and serve them again in another meal service the  
28 same or next day, including guidance that recovered food should be kept separate  
29 from other food service items and that foods requiring temperature control must be  
30 collected and stored in accordance with rules regulating food safety, and guidance  
31 that a record must be retained of the type, amount and, when appropriate, temperature  
32 of the food collected, the date and time the food was collected, how the food was  
33 stored and the date the food was redistributed;

34 5. Information related to allowing food on a share table to be redistributed to  
35 students outside the cafeteria but within the school by school personnel who are not  
36 school food service program staff, including teaching, administrative and nursing staff, as  
37 long as the food is:

38 A. Collected from the share table;

39 B. Transported to another room;

40 C. Stored and redistributed to students in a manner that protects the integrity and  
41 safety of the food, including such practices as:

1 (1) Rewashing of eligible produce by school food service program staff before it  
2 is taken out of the cafeteria;

3 (2) For packaged food, maintaining the integrity of packaging in an unopened  
4 state; and

5 (3) Properly storing whole fruits and vegetables in sanitary metal or plastic  
6 bowls or containers with lids or single-use products designed for such  
7 applications, all provided, cleaned and maintained by school food service  
8 program staff; and

9 D. For items requiring temperature control such as unopened milk, cheese or yogurt,  
10 stored in a refrigerator keeping the items at temperatures outlined in rules regulating  
11 food safety; and

12 6. Information relating to allowing donation of surplus food to food banks, food  
13 pantries, soup kitchens and similar nonprofit organizations.

14 **SUMMARY**

15 This bill requires the Department of Health and Human Services, Maine Center for  
16 Disease Control and Prevention and the Department of Education, by October 1, 2019, to  
17 collaborate to revise the Department of Health and Human Services, Maine Center for  
18 Disease Control and Prevention's health inspection program guidance titled "Food  
19 Sharing Tables - Guidance for Schools" and disseminate the new guidance to public  
20 schools in the State.

21 The bill requires the Department of Health and Human Services, Maine Center for  
22 Disease Control and Prevention and the Department of Agriculture, Conservation and  
23 Forestry to grant public school food service programs a variance under the departments'  
24 jointly adopted rules regulating food safety in order to allow public school food service  
25 programs to collect food that was taken from the food service line by students and placed  
26 on a share table and to redistribute that food through the food service line; to allow  
27 students to take food from a share table and consume that food in the same breakfast,  
28 lunch or snack period or at another time; to allow students to place unwanted, eligible  
29 food items on a share table at any time during their breakfast, lunch or snack period; and  
30 to allow school staff members under certain circumstances to collect and redistribute food  
31 from a share table.

32 The bill does not mandate the creation of share tables within schools or require  
33 schools to purchase additional food or materials.