



127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 526

S.P. 195

In Senate, February 26, 2015

**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)

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator KATZ of Kennebec.
Cosponsored by Representative HICKMAN of Winthrop and
Senators: COLLINS of York, LANGLEY of Hancock, SAVIELLO of Franklin,
Representatives: FREDETTE of Newport, MAKER of Calais, McCABE of Skowhegan,
TIMBERLAKE of Turner.

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

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

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

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

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

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

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

21 **Sec. 1. Waiver to prohibit use of benefits for taxable food. Resolved:**
22 That the Department of Health and Human Services shall request a waiver from the
23 United States Department of Agriculture to permit the State to prohibit the use of benefits
24 under the federal Supplemental Nutrition Assistance Program for the purchase of food
25 items that are otherwise subject to the state sales tax and for bulk purchases of grocery
26 staples that, if purchased in smaller quantities, would be considered prepared food and
27 therefore would be subject to the state sales tax. The department shall request the waiver
28 no later than October 1, 2015; and be it further

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

