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No. 1823

S.P. 739

In Senate, April 27, 2023

An Act to Respect and Protect the Right to Food

Reference to the Committee on Agriculture, Conservation and Forestry 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 HICKMAN of Kennebec.

Cosponsored by Representative FAULKINGHAM of Winter Harbor and

Senators: BENNETT of Oxford, BRAKEY of Androscoggin, President JACKSON of Aroostook, Representatives: BOYER of Poland, O'NEIL of Saco, PLUECKER of Warren, POIRIER of Skowhegan, Speaker TALBOT ROSS of Portland.

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

2 **Sec. 1. 3 MRSA §902, sub-§1-B**, as enacted by PL 2013, c. 153, §1, is amended to
3 read:

4 **1-B. Edible landscaping.** The commission shall arrange for and oversee the
5 development and implementation of a plan to incorporate food-producing plants, shrubs or
6 trees into the landscaping of a ~~portion of~~ Capitol Park. ~~Use of edible~~ Edible landscaping
7 must be consistent with the overall plan for the park under section 902-A, subsection 2 and
8 is subject to available funding for the park. The commission may seek and accept money
9 and food-producing seeds, plants, shrubs or trees from private and public sources for the
10 development and maintenance of edible landscaping throughout the park.

11 In the development and maintenance of the edible landscaping portions of Capitol Park,
12 the commission may collaborate with local, state or regional entities with expertise in the
13 design and maintenance of sustainable community gardens or permaculture.

14 For the purposes of this subsection, "permaculture" means sustainable landscape design
15 and ecosystems that produce more energy than they consume based on a diversified crop
16 of perennial trees, shrubs, herbs, vegetables, weeds, fungi and root systems that weave
17 together microclimate, annual and perennial plants, soils, water management, wildlife and
18 human needs into intricately connected, productive communities.

19 **Sec. 2. 7 MRSA §2, sub-§6, ¶D**, as enacted by PL 2021, c. 677, §1, is amended to
20 read:

21 D. Focusing on collective responsibility to amplify the voices of persons experiencing
22 food insecurity; ~~and~~

23 **Sec. 3. 7 MRSA §2, sub-§6, ¶E**, as enacted by PL 2021, c. 677, §1, is amended to
24 read:

25 E. Closing the equity gap in household food insecurity by addressing underlying
26 structural inequities; ~~and~~

27 **Sec. 4. 7 MRSA §2, sub-§6, ¶F** is enacted to read:

28 F. Protecting and respecting, by not interfering with, the right to food as declared in
29 the Constitution of Maine, Article I, Section 25.

30 **Sec. 5. 7 MRSA §219, sub-§5** is enacted to read:

31 **5. Annual report.** No later than April 1st of each year, the commissioner shall submit
32 to the joint standing committee of the Legislature having jurisdiction over agricultural
33 matters an annual report containing a compilation and summary of any information,
34 including, but not limited to, data about the implementation and progress of the farm labor
35 link network, the educational marketing campaign and the local purchases for food
36 programs as described in this section.

37 **Sec. 6. 7 MRSA §282**, as amended by PL 2021, c. 625, §§1 and 2, is further amended
38 to read:

39 **§282. Definitions**

40 As used in this chapter, unless the context otherwise indicates, the following terms
41 have the following meanings.

1 **1. Direct producer-to-consumer transaction.** "Direct producer-to-consumer
2 transaction" means ~~a face-to-face transaction involving~~ an exchange of food or food
3 products at the site of production of those food or food products directly between a food
4 producer and a consumer under mutually agreed-to terms.

5 **1-A. Consumer.** "Consumer" means a person who acquires food or food products
6 directly from a food producer under mutually agreed-to terms.

7 **2. Food or food products.** "Food or food products" means food or food products that
8 are grown, produced, processed or prepared for human consumption, including, but not
9 limited to, vegetables, fruit, milk or milk products, meat or meat products, poultry or
10 poultry products, fish or fish products, seafood or seafood products, cider or juice, acidified
11 foods ~~or~~, canned fruits or vegetables or any combination of those items and that are
12 provided in a direct producer-to-consumer transaction under mutually agreed-to terms.

13 **2-A. Food producer.** "Food producer" means a person who provides in a direct
14 producer-to-consumer transaction food or food products that the person grows, produces,
15 processes or prepares.

16 **4. Traditional foodways.** "Traditional foodways" means the cultural, social and
17 economic practices related to the production and consumption of food. "Traditional
18 foodways" includes customs of food production, preservation, preparation and
19 presentation; hunting, gathering, fishing, foraging, buying and selling of food; uses of food
20 products other than for eating; and food folklore.

21 **Sec. 7. 7 MRSA §283, first ¶,** as enacted by PL 2017, c. 314, §1, is amended to
22 read:

23 It is the policy of this State to encourage food self-sufficiency for its citizens. The
24 ~~department~~ State shall support policies that:

25 **Sec. 8. 7 MRSA §283, sub-§4,** as enacted by PL 2017, c. 314, §1, is amended to
26 read:

27 **4. Self-reliance and personal responsibility.** Promote self-reliance and personal
28 responsibility by ensuring the ability of individuals, families and other entities to prepare,
29 process, advertise and sell foods directly to customers intended solely for consumption by
30 the customers or their families; ~~and~~

31 **Sec. 9. 7 MRSA §283, sub-§5,** as enacted by PL 2017, c. 314, §1, is amended to
32 read:

33 **5. Rural economic development.** Enhance rural economic development and the
34 environmental and social wealth of rural communities; ~~and~~

35 **Sec. 10. 7 MRSA §283, sub-§6** is enacted to read:

36 **6. Right to food.** Protect and respect, by not interfering with, the right to food as
37 declared in the Constitution of Maine, Article I, Section 25.

38 **Sec. 11. 7 MRSA §283-A** is enacted to read:

39 **§283-A. Advancement of food sovereignty principles**

40 The Legislature finds that advancing the principles of food sovereignty will further the
41 preservation of rural life and values set forth in section 1-B and protect and respect, by not

1 interfering with, the individual right to food as declared in the Constitution of Maine,
2 Article I, Section 25. Food sovereignty:

3 1. **Focuses on the people.** Centers the right to sufficient, healthy and culturally
4 appropriate food for the people of the State in food, agriculture, livestock and fisheries
5 policies;

6 2. **Values food producers.** Values all those who grow, harvest and process food,
7 including women, small-scale farmers, herders, people who fish commercially, forest
8 dwellers, indigenous peoples and agricultural, migrant and fisheries workers;

9 3. **Localizes food systems.** Brings food producers and consumers closer together so
10 they can make joint decisions on food issues that benefit and protect the people of the State;

11 4. **Promotes local control.** Respects the right of food producers to have control over
12 their land, seeds and water and protects natural resources for the people of the State;

13 5. **Builds knowledge and skills.** Values the sharing of local knowledge and skills that
14 have been passed down over generations to safeguard traditional foodways and enhance
15 sustainable food production, free from technologies that undermine bodily health and well-
16 being; and

17 6. **Works with nature.** Focuses on production and harvesting methods that maximize
18 the contribution of ecosystems, avoid costly and toxic inputs and improve the resiliency of
19 local food systems in the face of drought and other extreme weather conditions.

20 **Sec. 12. 7 MRSA §284**, as amended by PL 2021, c. 625, §3, is further amended to
21 read:

22 **§284. Authority**

23 Pursuant to the home rule authority granted to municipalities by Title 30-A, section
24 3001 and by the Constitution of Maine, Article VIII, Part Second, pursuant to the authority
25 granted to plantations by Title 30-A, section 7051, and notwithstanding any provision of
26 law regulating food in this Title or Title 22 to the contrary, except as contained in section
27 285, a municipality or plantation may adopt ordinances regarding traditional foodways and
28 direct producer-to-consumer transactions and the State shall recognize such ordinances ~~by~~
29 ~~not enforcing those laws or implementing rules with respect to those direct producer-to-~~
30 ~~consumer transactions that are governed by the ordinance.~~

31 Pursuant to the authority granted to county commissioners by Title 30-A, section 7505
32 and notwithstanding any provision of law regulating food in this Title or Title 22 to the
33 contrary, except as contained in section 285, a county may adopt ordinances regarding
34 traditional foodways and direct producer-to-consumer transactions within one or more
35 unorganized territories within that county and the State shall recognize such an ordinance
36 ~~by not enforcing those laws or implementing rules with respect to those direct producer-to-~~
37 ~~consumer transactions that are governed by the ordinance.~~

38 **Sec. 13. 7 MRSA §284-A** is enacted to read:

39 **§284-A. State enforcement prohibited**

40 Except as provided in section 285, the State may not enforce any provision of this Title
41 or Title 22, including any rules adopted pursuant to the provisions of this Title or Title 22,
42 take an enforcement action of any kind against or interfere in any way with any activities

1 authorized pursuant to a local food ordinance, including, without limitation, a food
2 producer's conducting authorized activities or direct producer-to-consumer transactions as
3 authorized by section 284.

4 **Sec. 14. 7 MRSA §284-B** is enacted to read:

5 **§284-B. Application**

6 The provisions of this chapter apply to any local food ordinance adopted by a
7 municipality, including those local food ordinances adopted prior to October 31, 2017.

8 **Sec. 15. 7 MRSA §284-C** is enacted to read:

9 **§284-C. Ordinance construction**

10 To advance food sovereignty principles and the policy of the State as set forth in this
11 chapter, this chapter may not be construed to require a specific form or framework of any
12 municipal ordinance regarding traditional foodways and direct producer-to-consumer
13 transactions authorized pursuant to section 284, to require specific language to be contained
14 in those ordinances or to prohibit a municipality from establishing definitions different than
15 those specified in this chapter.

16 In accordance with Title 30-A, section 3001, subsections 1 and 3, any ordinance
17 regarding traditional foodways and direct producer-to-consumer transactions authorized
18 pursuant to section 284 must be liberally construed to effectuate the purpose of that
19 ordinance.

20 **Sec. 16. 7 MRSA c. 8-G** is enacted to read:

21 **CHAPTER 8-G**

22 **MAINE VEGETABLE GARDEN PROTECTION ACT**

23 **§291. Short title**

24 This chapter may be known and cited as "the Maine Vegetable Garden Protection Act."

25 **§292. Vegetable garden defined**

26 As used in this chapter, unless the context otherwise indicates, the term "vegetable
27 garden" means any plot of ground or elevated soil bed on residential property where annual
28 or perennial vegetables, herbs, fruits, flowers, pollinator plants, leafy greens or other food-
29 producing plants are cultivated.

30 **§293. Right to cultivate vegetable gardens**

31 Pursuant to the Constitution of Maine, Article I, Section 25 and notwithstanding any
32 provision of law to the contrary, a person may cultivate vegetable gardens on the person's
33 own property or on the private property of another with the permission of the owner of that
34 property, in any municipality, plantation, county, unorganized territory or other political
35 subdivision of this State.

36 **§294. Preclusion**

1 Pursuant to the Constitution of Maine, Article I, Section 25 and notwithstanding any
2 provision of law to the contrary, a political subdivision of the State may not preclude or
3 regulate vegetable gardens in a manner inconsistent with this chapter.

4 **§295. Home rule authority; construction**

5 Pursuant to the home rule authority granted to municipalities by Title 30-A, section
6 3001 and by the Constitution of Maine, Article VIII, Part Second, this chapter may not be
7 construed to prohibit the adoption of an ordinance of a general nature that does not solely
8 or specifically apply to vegetable gardens, including, but not limited to, ordinances relating
9 to setback, water use, fertilizer use, pesticide use or control of invasive species, so long as
10 the ordinance does not have the effect of prohibiting vegetable gardens in the municipality.

11 **Sec. 17. 7 MRSA §318, sub-§2**, as amended by PL 2003, c. 167, §1, is further
12 amended by enacting at the end a new first blocked paragraph to read:

13 To the extent practicable, the panel shall give priority consideration to applications from
14 persons who have an ancestral history of disinvestment or land dispossession in the United
15 States or applications from persons who are veterans.

16 **Sec. 18. 12 MRSA §1814**, as amended by PL 1999, c. 240, §1; PL 2011, c. 657, Pt.
17 W, §7; and PL 2013, c. 405, Pt. A, §24, is repealed and the following enacted in its place:

18 **§1814. Convey land**

19 **1. Generally.** Consistent with section 598-A, the bureau may sell and convey lands
20 under this subchapter and improvements on those lands. With the consent of the Governor
21 and the commissioner and subject to the provisions of section 598-A, the bureau may
22 convey interests in lands or lease the same. Any lease to the Federal Government requires
23 the approval of the Legislature. Any lease entered into must be canceled or revoked after
24 due notice of intention to cancel or revoke the lease by action of the bureau when the use
25 for which that lease was given has been abandoned or materially modified or whenever the
26 conditions imposed in any lease have been broken.

27 **2. Lease for cultivating edible crops, hay or pasturage for horses or dairy animals.**
28 With the consent of the Governor and the commissioner and subject to the provisions of
29 section 598-A, the bureau may lease the right to use parcels of land under this subchapter
30 for a period not exceeding 5 years for purposes of cultivating edible crops, hay or pasturage
31 for horses or dairy animals or other livestock. Each lease must contain a provision that
32 authorizes the bureau to terminate the lease at any time when the bureau in its sole
33 discretion determines that termination is in the best interests of the State. The bureau may
34 not issue any adjustment or compensation to any lessee under this subsection on account
35 of that termination. In establishing a lease under this subsection, the bureau shall give
36 preference to individuals:

37 A. Who have been subject to discrimination based upon the individual's identity as a
38 member of a group or class without regard to the content of the individual's character;

39 B. With a family history of land dispossession; or

40 C. Who are veterans.

41 **Sec. 19. 12 MRSA §1838, sub-§10** is enacted to read:

1 **10. Lease of nonreserved public land for agricultural purposes.** With the consent
2 of the Governor and the commissioner, the bureau may lease the right to use parcels of
3 nonreserved public land for a period not exceeding 5 years for purposes of cultivating
4 edible crops, hay or pasturage for horses or dairy animals or other livestock. Each lease
5 must contain a provision that authorizes the bureau to terminate the lease at any time when
6 the bureau in its sole discretion determines that termination is in the best interests of the
7 State. The bureau may not issue any adjustment or compensation to any lessee under this
8 subsection on account of that termination. In establishing a lease under this section, the
9 bureau shall give priority consideration to individuals:

10 A. Who have been subject to discrimination based upon the individual's identity as a
11 member of a group or class without regard to the content of the individual's character;

12 B. With a family history of land dispossession; or

13 C. Who are veterans.

14 **Sec. 20. 12 MRSA §1852, sub-§10** is enacted to read:

15 **10. Lease for cultivating edible crops, hay or pasturage for horses or dairy**
16 **animals.** With the consent of the Governor and the commissioner, the bureau may lease
17 the right to use parcels of public reserved land for a period not exceeding 5 years for
18 purposes of cultivating edible crops, hay or pasturage for horses or dairy animals or other
19 livestock. Each lease must contain a provision that authorizes the bureau to terminate the
20 lease at any time when the bureau in its sole discretion determines that termination is in the
21 best interests of the State. The bureau may not issue any adjustment or compensation to
22 any lessee under this subsection on account of that termination. In establishing a lease
23 under this subsection, the bureau shall give priority consideration to individuals:

24 A. Who have been subject to discrimination based upon the individual's identity as a
25 member of a group or class without regard to the content of the individual's character;

26 B. With a family history of land dispossession; or

27 C. Who are veterans.

28 **Sec. 21. 12 MRSA §6001, sub-§18-A** is enacted to read:

29 **18-A. Harvest, the verb.** The verb "harvest" means to gather, forage, catch, trap,
30 hunt, fish, take or kill for human consumption, sport, wildlife management or population
31 control.

32 **Sec. 22. 12 MRSA §10001, sub-§29-A** is enacted to read:

33 **29-A. Harvest, the verb.** The verb "harvest" means to gather, forage, catch, trap,
34 hunt, fish, take or kill for human consumption, sport, wildlife management or population
35 control.

36 **Sec. 23. 12 MRSA §10109**, as amended by PL 2021, c. 409, §5, is further amended
37 by amending the section headnote to read:

38 **§10109. Acquisition, lease and disposal of land**

39 **Sec. 24. 12 MRSA §10109, sub-§4**, as enacted by PL 2003, c. 414, Pt. A, §2 and
40 affected by c. 614, §9, is amended to read:

1 **4. Unneeded property.** The Governor, on recommendation of the commissioner, may
2 sell and convey on behalf of the State the interests of the State in property taken or acquired
3 by purchase under this Part and determined no longer necessary for the purposes of this
4 Part. The commissioner, with the approval of the Governor, may lease these same
5 properties. The proceeds from these sales or leases must be credited to the funds of the
6 department. To the extent practicable, the commissioner, with the approval of the
7 Governor, may give priority consideration to lease these same properties to persons who
8 have an ancestral history of disinvestment or land dispossession in the United States or to
9 persons who are veterans for the purposes declared in the Constitution of Maine, Article I,
10 Section 25. The proceeds from these leases must be credited to the funds of the department.

11 **Sec. 25. 12 MRSA §10109, sub-§6** is enacted to read:

12 **6. Lease of nonreserved public land for agricultural purposes.** With the consent
13 of the Governor, the commissioner may lease the right to use parcels of nonreserved public
14 land for a period not exceeding 5 years for purposes of cultivating edible crops, hay or
15 pasturage for horses or dairy animals or other livestock. Each lease must contain a
16 provision that authorizes the commission to terminate the lease at any time when the
17 commission in its sole discretion determines that termination is in the best interests of the
18 State. The commission may not issue an adjustment or compensation to any lessee under
19 this subsection on account of that termination. In establishing a lease under this section,
20 the commissioner shall give priority consideration to individuals:

21 A. Who have been subject to discrimination based upon the individual's identity as a
22 member of a group or class without regard to the content of the individual's character;

23 B. With a family history of land dispossession; or

24 C. Who are veterans.

25 **Sec. 26. 20-A MRSA §4710-C** is enacted to read:

26 **§4710-C. Maine food economics**

27 Maine food economics may be taught in and infused or integrated into the curriculum
28 of public and private elementary and secondary schools. The curriculum must be based on
29 the national standards of the state and national stakeholders associations of family and
30 consumer sciences and include the following:

31 **1. Nutrition and meals.** Basic nutrition, food preparation and meal management,
32 bodily health and well-being and culinary arts in the home;

33 **2. Gardens and agricultural fairs.** On-site learning opportunities at school gardens,
34 agricultural fairgrounds or other places that include lessons about livestock production,
35 fishing, hunting, foraging and processing of food; and

36 **3. Food production and consumption.** Consumer economics and resource
37 management related to food production and consumption.

38 **Sec. 27. 30-A MRSA §3112** is enacted to read:

39 **§3112. Edible landscaping, food forests and community gardens**

40 A municipality may develop and implement a program to promote permaculture to
41 establish edible landscaping, food forests and community gardens in public spaces,
42 including municipally owned properties, rights-of-way, school grounds, parks and parking

1 lots. A municipality that develops and implements a program under this section may seek
2 and accept money from private and public sources for the development and maintenance
3 of edible landscaping and food forests.

4 For the purposes of this section, "permaculture" means sustainable landscape design
5 and ecosystems that produce more energy than they consume based on a diversified crop
6 of perennial trees, shrubs, herbs, vegetables, weeds, fungi and root systems that weave
7 together microclimate, annual and perennial plants, soils, water management, wildlife and
8 human needs into intricately connected, productive communities.

9 **Sec. 28. Funding for Maine food economics curriculum development.** The
10 Department of Education shall implement the provisions of the Maine Revised Statutes,
11 Title 20-A, section 4710-C using existing resources and shall seek all available funds from
12 the Federal Government, nonprofit foundations or other appropriate public or private
13 sources to fund the costs of developing the Maine food economics curriculum and
14 providing the curriculum to the State's public and private schools.

15 SUMMARY

16 This bill makes the following changes regarding food and food sovereignty.

17 1. It requires the Commissioner of Agriculture, Conservation and Forestry to protect
18 and respect, by not interfering with, the right to food as declared in the Constitution of
19 Maine, Article I, Section 25.

20 2. It allows edible landscaping throughout Capitol Park and allows the use of money
21 from public and private sources to establish edible landscaping in the park.

22 3. It amends the Maine Food Sovereignty Act to:

23 A. Provide or amend definitions of "consumer"; "direct producer-to-consumer
24 transaction"; "food or food products"; "food producer"; and "traditional foodways";

25 B. Require the State, instead of the Department of Agriculture, Conservation and
26 Forestry, to support policies that encourage food self-sufficiency for its citizens and to
27 further encourage self-reliance, personal responsibility and rural economic
28 development and protect and respect, by not interfering with, the right to food;

29 C. Establish food sovereignty principles;

30 D. Prohibit the State from enforcing any law or rule, taking an enforcement action or
31 interfering in any way with the activities authorized by a local food ordinance, except
32 those State laws or rules that involve the State's meat and poultry products inspection,
33 registration and licensing program;

34 E. Apply the provisions of the Maine Food Sovereignty Act to all local food
35 ordinances, including those in place before the Act was enacted; and

36 F. Specify that the Maine Food Sovereignty Act does not require the use of specific
37 language or definitions in municipal food ordinances.

38 4. It establishes the Maine Vegetable Garden Protection Act to allow a person to
39 cultivate vegetable gardens on the person's own property or on the private property of
40 another with the permission of the owner of that property anywhere in the State and
41 prohibits interference by the State or a political subdivision of the State with the vegetable

1 garden. A municipality, county, village or plantation may adopt ordinances to regulate
2 matters related to the cultivation of vegetable gardens, including ordinances governing
3 height, setback, water use, fertilizer use or the control of invasive or unlawful species, as
4 long as the ordinance does not have the effect of prohibiting the cultivation of vegetable
5 gardens.

6 5. It allows the Department of Agriculture, Conservation and Forestry, Bureau of Parks
7 and Lands and the Department of Inland Fisheries and Wildlife to lease unneeded land and
8 parcels of land in parks and historic sites, nonreserved public land and public reserved land
9 for a period not exceeding 5 years for purposes of cultivating edible crops, hay or pasturage
10 for horses or dairy animals, and instructs those agencies to give preference to certain
11 individuals in establishing those leases.

12 6. It authorizes municipalities to develop and implement a program to establish edible
13 landscaping, food forests and community gardens in public spaces, including municipally
14 owned properties, rights-of-way, school grounds, parks and parking lots.

15 7. It provides, for purposes of the marine resources and inland fisheries and wildlife
16 statutes, a definition of the verb "to harvest."

17 8. It allows, as part of the curriculum for elementary and secondary schools, the
18 inclusion of Maine food economics, which provides instruction in basic nutrition, food
19 preparation and meal management; on-site learning opportunities, such as school gardens
20 and agricultural fairs; and consumer economics and resource management related to food
21 production and consumption. The Department of Education is required to use existing
22 resources and seek all available funds from the Federal Government, nonprofit foundations
23 or other appropriate public or private sources to fund the costs of developing the Maine
24 food economics curriculum and implementing the curriculum in the State's public schools.