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TESTIMONY BEFORE THE JOINT COMMITTEE ON AGRICULTURE,
CONSERVATION AND FORESTRY

In Opposition to LD 1823

LD 1823, An Act to Respect and Protect the Right to Food

May 10, 2023

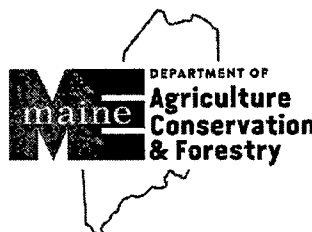
Senator Ingwersen, Representative Pluecker, and members of the Joint Standing Committee on Agriculture, Conservation and Forestry, I am Craig Lapine, Director of the Bureau of Agriculture, Food and Rural Resources in the Department of Agriculture, Conservation and Forestry. I am here today to speak in Opposition to LD 1823, *“An Act to Respect and Protect the Right to Food”*

Current Law

The Department supports Maine’s current Food Sovereignty Act (FSA). Under the FSA, a municipality may adopt ordinances regarding direct producer-to-consumer transactions where members of the public may purchase goods produced on-site that are not subject to state food laws. Meat and poultry transactions are exempted from the Act. The Department believes current law allows consumers to make informed decisions to support local producers in food-sovereign towns. As of 2021, 113 Maine towns had adopted local food sovereignty ordinances.¹

Central to the current law is the requirement that these transactions involve a direct producer-to-consumer interaction, defined as “a face-to-face transaction involving food or food products at the site of production of those food or food products.” In 2017, this Committee worked diligently and intentionally to craft language to allow for the direct producer-to-consumer sale of foods in communities adopting food sovereignty ordinances. We think that language establishes an appropriate sphere where consumers can reasonably be expected to have the pertinent information for themselves and their families regarding any risks of foodborne illness.

¹ See localfoodrules.org



Removal of Direct Producer-to-Consumer Requirement

LD 1823 vastly expands that definition of a direct producer-to-consumer transaction. As a result, anyone would be able to sell a food product anywhere a food sovereignty ordinance has been enacted as long as the exchange takes place “under mutually agreed-to terms.”

Eliminating the direct producer-to-consumer requirement could undermine the ability of the consumer to make an informed decision regarding the safety and quality of the product when a purchase does not occur at the production site. Furthermore, the new definition of direct producer-to-consumer transaction could be broadly construed to allow the adoption of local ordinances allowing food sales by internet, mail, or other means that don't require a face-to-face interaction between the producer and consumer and which would significantly limit the ability of DACF and other agencies to enforce food establishment licensing, inspection, and food safety requirements.

State Regulatory Scheme

The State's food safety and processing statutes, rules, and regulations have been developed over time to assure Maine consumers of the safety of our food supply and that our farmers and food producers have the necessary processes and measures to protect their businesses from food-borne diseases or adulteration. We believe that the over 7,000 local food businesses currently licensed and assisted by the Department are a testament to the fact that we have a high-quality, business-friendly, and safe food system where businesses thrive and consumers feel confident when buying Maine-grown and processed food.

As a reminder, no license is required to grow or sell produce. Many other licenses are relatively easy and affordable to acquire. The licenses to sell milk and dairy products, prepared foods, and prepared beverages are sometimes criticized as burdensome. In practice, the Department regularly works one-on-one with applicants, offering technical assistance, answering questions, and explaining the fundamentals of food safety, sanitation, and facility requirements. We aim to provide education and technical assistance to ensure the success and safety of every food business we work with – the value of this direct support far exceeds the cost of any license.

For instance, a home processing permit costs \$20 annually and requires one initial inspection to assess water quality, septic capacity, and suitability of surfaces. Should any of these not meet minimum standards, the Department works with the producer to find the most cost-effective solutions. After that, the Department may only have to reinspect if we receive a complaint.

Food Access & Consumer Confidence

The Department does not regulate exchanges of food between family, neighbors, or friends. Nor does the Department regulate gleaned food or food that charitable individuals and groups distribute for free. However, eliminating existing licensing requirements for certain food producers (such as home kitchens or mobile licenses) does not necessarily make food more affordable, and it could decrease overall consumer confidence.

Additional Issues to Note

Section 4 of the LD amends the DACF Commissioner's duties under 7 M.R.S.A. Section 2 to add “Protecting and respecting, by not interfering with, the right to food as declared in the Constitution of Maine, Article I, Section 25.” We are concerned this could conflict with the Commissioner's duty to enforce other laws for which she is responsible.

We are not opposed to the sections amending Title 12 to permit leasing land for agricultural uses except to note that they are redundant Title 12 already allows the Department to lease state park land and certain public lands for 'commercial purposes,' which include agriculture, indeed, we have several such leases

We are not opposed to considering versions of the land lease sections and the Land for Maine's Future sections that create preferences for some historically marginalized communities

We note that hemp is considered food under current law The bill establishes the Maine Vegetable Garden Protection Act, and its provisions might impede the State's ability to license or regulate hemp

We flag that the definition of "traditional foodways" may impede the enforcement of hunting and fishing laws and licensing requirements On this point, we yield to agencies with greater expertise and involvement in these issues

Thank you for your time I would be happy to answer your questions I and other staff can also be available to answer questions during the work session