



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
OFFICE OF THE COMMISSIONER
22 STATE HOUSE STATION
AUGUSTA, MAINE 04333

AMANDA E. BEAL
COMMISSIONER

TESTIMONY BEFORE THE JOINT COMMITTEE ON AGRICULTURE,
CONSERVATION AND FORESTRY

In Opposition to LD 1947

An Act to Amend the Food Sovereignty Act

May 22, 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 1947, "*An Act to Amend the Food Sovereignty Act.*"

The Department shares many of the food sovereignty principles articulated in LD 1947. We value those who grow, harvest, and process food. We support systems that bring food producers and consumers closer together. We recognize the importance of local knowledge and skills passed down over generations to safeguard traditional foodways and enhance sustainable food production.

In furtherance of those values, the Department supports Maine's current Food Sovereignty Act (FSA). Under the FSA, a municipality may adopt ordinances covering direct producer-to-consumer transactions. When a town adopts a food sovereignty ordinance, most food sales are not subject to state food laws requiring licensing or inspection.

Central to the current FSA statute is the requirement that food-sovereign 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." As noted in our testimony on LD 1873, this Committee worked diligently and intentionally in 2017 to craft language to allow for the direct producer-to-consumer sale of foods in communities electing food sovereignty. We think that language allows Maine people to value and support local producers while also being able to make informed decisions for themselves and their families regarding quality and the risks of foodborne illness.

LD 1947 eliminates the requirement that transactions must happen face-to-face and that they must occur at the site of production. Instead, LD 1947 would require only that the "exchange of

HARLOW BUILDING
18 ELKINS LANE
AUGUSTA, MAINE



PHONE: (207) 287-3200
FAX: (207) 287-2400
WEB: WWW.MAINE.GOV/DACF

food or food products” happen “directly between a food producer and a consumer under mutually agreed-to terms.” From a food safety perspective, we find this standard overly broad and troublingly vague. What does “exchange” or “directly” or “mutually agreed-to terms” mean in practice? Would an internet purchase fulfilled by a producer in a food-sovereign municipality constitute a direct producer-to-consumer transaction?¹ Would any payment from any location signal that the buyer and seller have reached “mutually agreed-to terms,” regardless of what information may or may not have been available to the consumer? A possible reading of LD 1947 would suggest that anyone would be able to sell a food product anywhere a food sovereignty ordinance exists so long as the exchange takes place “under mutually agreed-to terms.” The lack of any check on these exchanges means that restaurants could be precluded from health inspections, or seafood processing facilities that ship nationally avoid inspection.

These far-reaching consequences also impact traceability. The current FSA requires face-to-face transactions at the site of production. Hence, if someone does become ill from a foodborne illness, tracing the cause of the illness is more likely. This becomes more complicated when food exchanges can now occur under essentially any situation.

Expanding the scope of the Maine Food Sovereignty Act so broadly that essentially anyone can sell almost any product² to anyone anywhere enhances the scale of risk to Maine residents as well as the tens of millions of visitors we welcome each year. That has the potential to negatively impact Maine’s reputation for producing high-quality food and as a food destination, and devalues food licensing and regulation that has existed for decades to ensure safe products in our marketplace.

To my testimony today, I have attached our Department overview of the Food Sovereignty Act. Among other things, it underscores why the current language as structured strikes the right balance between consumer choice and consumer protection.

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.

¹ Note that if a product is purchased and taken out of Maine, this is interstate commerce and would be subject to federal regulations. For instance, low acid canned foods sold in interstate commerce cannot be processed in a home-based kitchen (21 CFR Part 113 and 9 CFR Parts 318.300-.311 and 381.300-.311).

² Meat and poultry remain exempt, per federal preemption.



Maine Food Sovereignty Act Overview

What is the Maine Food Sovereignty Act?

- The Maine Food Sovereignty Act (MFSA) became law in 2017. 7 MRS §§ 281-286
- Under the MFSA, municipalities can adopt local food sovereignty ordinances that supersede certain state food laws. The local ordinances apply only to “direct producer-to-consumer transactions” that are “face-to-face transactions involving food or food products at the site of production.”
- For example, if your municipality has a food sovereignty ordinance and you sell homemade jams or jellies at your farm, that activity would not be subject to state oversight. Normally, a Home Food license would be required.

What Can I Sell if I am a Producer in a Food Sovereign Municipality?

- You can sell any product from your site of production that normally would need a state license except for meat and poultry products. Meat and poultry products were specifically exempted from the MFSA, and you will still need to meet state and/or federal licensing and inspection requirements, as applicable.
- You will still need to be licensed if you want to sell your products beyond your site of production (i.e., in other towns or at other off-premise locations).
- Please check with your insurance agent to make sure your liability insurance will cover claims relating to unlicensed products sold at your site of production.

Does the MFSA Apply to Farmers' Markets?

- Sales of products requiring a license are not permitted at Farmers' Markets, restaurants,, or other off-site locations (including online venues). The Department does not interpret such locations as consumer-to-producer transactions at the site of production under the MFSA.

What is Food Sovereignty?

- La Via Campesina, a global farmer advocacy movement, launched the concept of food sovereignty in 1996 at the World Food Summit, which is broadly seen as people's right to define their agricultural and food policy.
- In 2003, La Via Campesina stated that food sovereignty includes: the right of peoples to define their own food and agriculture; to protect and regulate domestic agricultural production and trade in order to achieve sustainable development objectives; to determine the extent to which they want to be self-reliant; to restrict the dumping of products in their markets, and; to provide local fisheries-based communities the priority in managing the use of and the rights to aquatic resources. Food sovereignty does not negate trade, but rather, it promotes the formulation of trade policies and practices that serve the rights of peoples to safe, healthy, and ecologically sustainable production.
- **Food safety was included** within La Via Campesina's food sovereignty concept, including "Establish[ing] national mechanisms for quality control of all food products so that they comply with high environmental, social and health quality standards; and, Ensur[ing] that all food inspection functions are performed by appropriate and independent government bodies, and not by private corporations or contractors."
- The DACF values these tenets of food sovereignty while simultaneously ensuring necessary and important food safety mechanisms.

Why is Food Safety Important?

- Consumers expect that the food that they are purchasing is safe to eat and that it was produced under sanitary conditions. Any contaminated products may affect the health of consumers and provides a potential liability for a business.
 - Following basic food safety and food handling practices ensure a safe final product. Examples of these practices include frequent hand washing and washing and sanitizing of food contact surfaces, among other activities.
- Certain food products can be potentially hazardous. In particular, any food products that must be refrigerated or frozen to ensure product safety (such as dairy and meat products).
 - These foods must be kept at appropriate temperatures to prevent foodborne illness.
 - Shelf stable, canned, dried, and other preserved products must be checked to ensure the proper pH or water activity are maintained, the products are properly processed to destroy microorganisms, and adequately packaged.
 - Improperly processed food products can lead to severe and sometimes deadly foodborne illness.
- If you have questions or concerns about certain rules or inspection requirements, please give the Department a call. Staff would be happy to speak to you and provide

technical assistance and access to other educational resources. Call us at 287-3841 or visit us at https://www.maine.gov/dacf/qar/permits_and_licenses/index.shtml

Is it Hard to Get Licensed?

- No. The Department strives to provide technical assistance that allows producers to become licensed. Staff will answer questions and even provide a free pre-inspection of an applicant's kitchen if desired to help ensure a smooth inspection process. The average home kitchen typically passes inspection. Stainless steel appliances and food contact surfaces are NOT required.
- Annual license fees are low (\$20 or \$30), and not all licenses require annual inspections.

Where Can I Learn More About Licensing?

- Department staff are available to answer any questions you may have about the various types of licenses available and are ready to work with you to successfully get licensed. Please call us at 287-3841 or visit us at https://www.maine.gov/dacf/qar/permits_and_licenses/index.shtml
- For more information about growing your own home-based food business, the University of Maine Cooperative Extension is an excellent resource. Visit them online:
 - <https://extension.umaine.edu/publications/3101e/>
 - <https://extension.umaine.edu/food-health/food-safety/services/>
 - <https://extension.umaine.edu/food-health/food-safety/training/>
 - <https://extension.umaine.edu/business/specialty-foods/>