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Testimony of the Maine Center for Disease Control and Prevention
Maine Department of Health and Human Services

Before the Joint Standing Committee on Committee

In opposition to LD 124, "*An Act to Protect the Right to Food*"

Sponsor: Senator Hickman
Hearing Date: February 11, 2025

Senator Talbot Ross, Representative Pluecker and members of the Joint Standing Committee on Agriculture, Conservation and Forestry, my name is Tera Pare, and I serve as the Manager of Policy and Compliance within the Maine Center for Disease Control and Prevention (Maine CDC) in the Maine Department of Health and Human Services. I am here today to testify in opposition of LD 124, "*An Act to Protect the Right to Food*".

This bill amends the Maine Food Sovereignty Act to establish or amend definitions; requires the State, versus the Department of Agriculture, Conservation and Forestry (DACF), to support policies that encourage food self-sufficiency for its citizens by not interfering with the right to food; establishes food sovereignty principles; prohibits the State from implementing rules with respect to traditional foodways governed by a local food sovereignty ordinance; and applies the provisions of the Maine Food Sovereignty Act to all local food ordinances.

The Maine Center for Disease Control and Prevention (Maine CDC) has concerns about the unintended consequences of LD 124, if enacted. As the State's public health agency, Maine CDC offers the following comments for your consideration.

LD 124 proposes to add a new definition of "Traditional foodways" which is extremely broad and expands the definition of "Food or food products" to include, among other things, "sandwiches or other meals." People and entities that prepare and serve food in ready-to-eat condition for immediate consumption are licensed by Maine CDC as eating establishments. Under the eating establishment definition, 22 MRS §2492, "Eating establishment means any place where food or drink is prepared and served or served to the public for consumption on the premises or prepared and served or served ready to eat to the public for consumption off the premises." Clarifying the intent of LD 124 and its definitions in terms of impacts and contradictions to current food safety regulations is necessary.

Additionally, Maine CDC is currently defending against litigation based on the current version of the Maine Food Sovereignty Act and has limited capacity to conduct the extra work that would be required. Impacts potentially include tracking and monitoring the municipal ordinances of 23

cities, 430 towns and 29 plantations, interpreting these ordinances, determining whether they involve “traditional foodways,” and determining the extent they conflict with state laws. To properly track and assess these ordinances would require a significant increase in State resources. Maine’s Legislature has explicitly recognized the importance of ensuring “statewide uniformity in health standards.” See 22 M.R.S. §1499. Nevertheless, as written and without additional clarification, this bill’s applicability and interpretation will be challenged, likely resulting in extensive litigation for regulators charged with ensuring health and safety across the State.

Of most concern is the potential to impact broadly provisions of Title 22 that touch on food safety in any way. These may potentially include provisions that regulate restaurants, schools, vending machines, daycares, nursing homes, and other facilities where food is served, as well as other providers of food sold for public consumption, possibly including manufacturers of edible cannabis products. To guard against this, Maine CDC requests, at a minimum, that the bill be amended to state with specificity the provisions of Title 22 it is intended to affect.

Across the U.S., every year, around 1 in 6 people experience foodborne illness, or 48 million cases, leading to 3,000 deaths, 128,000 hospitalizations and many days lost to illness. Foods associated with some of the common foodborne illnesses include raw meat, poultry, fish, vegetables, fruits, unpasteurized milk, untreated water, rice and root crops. In January 2022, the National Environmental Health Association, representing more than 7,000 governmental, private, and other environmental health professionals in the U.S., its territories, and internationally, adopted a policy statement on Food Freedom Operations¹. In this policy statement, it stated that uninspected home kitchens present a health risk to the public. Where the same things that can go wrong in a restaurant kitchen can go wrong in a home kitchen, LD 124 defines broadly a *kitchen* as “a room, area, site, or location where food or food products are produced, processed or prepared for a direct producer-to-consumer transaction, and permits, for example, making food in an open parking lot and selling it to the public for consumption without requiring standards established by State departments currently authorized to oversee such conduct.

Ensuring that food purchased and consumed by the general public is as safe as possible continues to be a major public health and safety concern and a priority for Maine CDC. In Maine, State laws and authorities govern producers and sellers of food, and LD 124 threatens to weaken standards put in place by the Legislature and enforced by licensing authorities’ rules. Eating establishments, for example, must be licensed by the Health Inspection Program (HIP) and health inspectors visit these establishments to ensure that all food is prepared, maintained, and served in safe and sanitary conditions. Public health inspectors identify and investigate cases and outbreaks of foodborne illness, make recommendations for improved food safety where lapses are identified, and conduct other activities to ensure the proper sourcing, handling, preparation, and serving of food to protect people in Maine from foodborne illnesses and maintain the public’s confidence in our food industry.

¹ Food freedom refers to the reduction and/or exemption of governmental regulations in the production and sale of food. NEHA supports regulations and requirements as appropriate for FFOs to control foodborne illness disease and protect public health. Source: <https://www.neha.org/Images/resources/NEHA-Policy-Statement-Food-Freedom-Operations-Final-Jan-2022.pdf>

Maine residents deserve and expect to be protected from illness coming from food, regardless of whether that food is from a market, a restaurant, or another source and whether the food is served in our homes; our daycares, nursing home or assisted living facilities; children's foster care homes; or hospitals, etc. Licensure and inspection are commonly accepted methods for ensuring the safety of prepared foods. The Maine Food Code (10-144 CMR chapter 200, administered jointly with the Department of Agriculture, Conservation and Forestry), which is the primary food safety rule applied in the State, requires that all food come from an approved source. The Maine Food Code (MFC) further provides a system of prevention and overlapping safeguards designed to minimize foodborne illness; ensure employee health; ensure employee knowledge of food safety measures; ensure nontoxic and cleanable equipment and surfaces; and ensure acceptable levels of sanitation in eating establishments. By potentially allowing municipalities to "opt out" of HIP licensing and inspection and the public health protections provided by the MFC, this bill will have an adverse impact on consumer confidence and public health. The State would be left without the proper authority to intervene when a known foodborne illness outbreak threatens lives.

In summary, Maine CDC opposes this bill. It creates a special class of food that is not subject to the same protections already in place for other food sold in the State, posing a risk to the public from foodborne illness from a variety of food types. In addition, it provides a false sense of security to those who obtain food from these unlicensed, unregulated purveyors. The changes to laws will increase the risk of foodborne illnesses, and in extreme cases, could result in more deaths, which would erode the public's confidence in the safety of Maine's food industry, overall. LD 124 introduces terms and concepts that pose potential challenges for regulators of public health and safety. If enacted, the only effective and reasonable way to implement LD 124, is to amend it explicitly and identify which sections of Maine's laws are specifically impacted. There are significant ramifications that will impede state departments' ability to regulate essentially all places where people are served food as a way to protect public health and safety. The bill carries wide-range implications and, as such, Maine CDC encourages this Committee to consider the experience of similar legislation proposed in past sessions and the benefit of coordinating with the committee having jurisdiction over health and human services matters.

Thank you for your time and attention. I would be happy to answer any questions you may have and to make myself available for questions at the work session.