

OFFICE OF POLICY AND LEGAL ANALYSIS

To: Members, Joint Standing Committee on Agriculture, Conservation and Forestry
From: Danielle Fox on behalf of Karen S. Nadeau, Legislative Analyst
Date: April 22, 2021
Subj: **LD 954** An Act To Provide Equal Access to the Benefits of the Maine Food Sovereignty Act

LD 954 amends the Maine Food Sovereignty Act to include plantations and unorganized territories, providing them the authority to adopt ordinances governing direct producer-to-consumer transaction and requiring the state to recognize those ordinances.

The bill also amends a provision of Title 30-A governing plantations. Current law provides plantations with the same authority as municipality to adopt ordinances governing animal control, the use of fireworks, and garbage/trash/discarded materials on private property. This bill adds to that provision by adding ordinances governing direct producer-to-consumer transactions under the Maine Food Sovereignty Act.

This bill also directs counties to provide the direct producer-to-consumer provisions of the Food Sovereignty Act to for the residents of unorganized territories and further directs the county commissioners to contract for the provision of municipal services to carry out the provisions of the Maine Food Sovereignty Act.

TESTIMONY

Proponents: *Department of Agriculture, Conservation and Forestry; Farmer from Penobscot; written only: Maine County Commissioners Association; Residents of Sangerville, Washington, Waldoboro, Brooklin, Bowdoinham and Porter*

- The 2017 legislation inadvertently left out plantations and unorganized territories under the municipal home rule authority and compliance provisions of the Maine Food Sovereignty Act.
- Under Maine's Food Sovereignty Act, communities may pass local ordinances that allow direct producer-to-consumer sale of food, some of which, absent that local ordinance, would otherwise be regulated by the State.
- DACF recognizes the need for this existing law to applied equally for all residents regardless of where they physically reside or conduct business within the State.

Opponents: *Maine Farm Bureau*

- Concerned about any expansion of the Maine Food Sovereignty Law

NFNA: *None*

POTENTIAL ISSUES OR ADDITIONAL INFORMATION:

Drafting issues:

- Sec. 1: Committee may want to clarify if the change on line 6 of the bill removing the reference to department having authority to implement and enforce laws governing preparation of livestock and poultry for human consumption was intended.
- Sec. 1: The bill cites the Municipal Home Rule provision of the Constitution (Article VIII, Part 2d) as the authority to grant plantations and unorganized territories the authority to adopt ordinances governing direct producer to consumer transactions. Committee may want to consider

drafting the authority for plantations and unorganized territories in a new, separate section as the Home Rule only applies to a municipality's authority to amend its own charter.

- Sec. 2: This section refers to the plantation or unorganized territory as the entity that adopts the ordinance under the Food Sovereignty Act. However, other parts of the bill require the county to provide the direct producer-to-consumer provisions. It may be helpful to clarify which entity is adopting the ordinance, the county or the plantation/UT.

LD 574 – AA To Clarify the Maine Food Sovereignty Act

- Proposes to provide counties with the same authority as municipalities to adopt direct producer-to-consumer ordinances under the Maine Food Sovereignty Act.

LEGISLATIVE HISTORY

128th Legislature, First Regular Session

LD 725, AA To Recognize Local Control Regarding Food and Water Systems (SLG Committee)

The 128th Legislature enacted

PL 2017, chapter 215 – AA To Recognize Local Control Regarding Food Systems

Signed by the Governor 6/16/17 and effective 11/1/17

USDA Food Safety and Inspection Service (FSIS) sent a letter to the Commissioner of ACF Questioning the State's authority under PL 2017, c. 215 to enforce requirements of the State's meat and poultry products inspection and licensing program set forth in 22 MRSA chapter 562-A (Preparation of Livestock and Poultry Product for Human Consumption) in a manner that is at least equal to standards imposed and enforced under federal acts.

128th Legislature, Special Session

LD 1648, AA To Amend the Law Recognizing Local Control Regarding Food Systems and Require Compliance with Federal and State Food Safety Regulations

128th Legislature enacted as emergency legislation

PL 2017, chapter 314 – signed by the Governor and effective 10/31/17

RELEVANT SECTION OF LAW:

Maine Constitution Article VIII. Part Second.

Municipal Home Rule.

Section 1. Power of municipalities to amend their charters. The inhabitants of any municipality shall have the power to alter and amend their charters on all matters, not prohibited by Constitution or general law, which are local and municipal in character. The Legislature shall prescribe the procedure by which the municipality may so act.

Section 2. Construction of buildings for industrial use. For the purposes of fostering, encouraging and assisting the physical location, settlement and resettlement of industrial and manufacturing enterprises within the physical boundaries of any municipality, the registered voters of that municipality may, by majority vote, authorize the issuance of notes or bonds in the name of the municipality for the purpose of purchasing land and interests therein or constructing buildings for industrial use, to be leased or sold by the municipality to any responsible industrial firm or corporation.

30-A MRSA §7051 General powers and duties (Chapter 301 – Plantations)

Plantations have the same powers and duties, and are subject to the same restrictions, as a municipality under the following provisions of this Title:

11. Ordinances. Chapter 141, but only with respect to animal control ordinances, subject to Title 7, section 3950, the sale and use of consumer fireworks within the plantation, subject to Title 8, section 223-A, and the accumulation of garbage, refuse, rubbish or trash or unwanted or discarded material of any kind or source on private property.

30-A MRSA §7501 Municipal services authorized (Chapter 305 – Municipal Services in Unorganized Areas)

The county commissioners of each county may provide or contract for the provision of the following municipal services for the residents of the unorganized territory in their county:

6. Other services. Any other service that a municipality may provide for its inhabitants and that is not provided by the State;

PRELIMINARY FISCAL IMPACT STATEMENT: Not yet determined.