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H.P. 914

House of Representatives, April 2, 2013

An Act To Deregulate Face-to-face Transactions between the People and Small Farms and Small Food Producers

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative HICKMAN of Winthrop.
Cosponsored by Representative LOCKMAN of Amherst, Senator SAVIELLO of Franklin and
Representatives: CHAPMAN of Brooksville, EVANGELOS of Friendship, JONES of
Freedom, KUMIEGA of Deer Isle, LIBBY of Waterboro, MAREAN of Hollis, TURNER of
Burlington, Senator: WHITTEMORE of Somerset.

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

2 **Sec. 1. 7 MRSA §411**, as amended by PL 1979, c. 731, §19 and PL 2011, c. 657,
3 Pt. W, §6, is further amended to read:

4 **§411. Definitions**

5 As used in this subchapter, the following terms shall have the following meanings.

6 **1. Commissioner.** "Commissioner" means the Commissioner of Agriculture,
7 Conservation and Forestry.

8 **2. Direct-marketing.** "Direct-marketing" means the marketing of agricultural
9 commodities by farmers directly to consumers.

10 **3. Agricultural producer.** "Agricultural producer" means a person who harvests or
11 produces a farm food product.

12 **4. Agritourism.** "Agritourism" means an activity or demonstration offered to
13 persons visiting a farm. "Agritourism" includes, but is not limited to, participating in the
14 harvesting of fruits and vegetables or the production of maple syrup, riding horses,
15 learning about animal husbandry and fiber production and shopping in farm gift shops
16 and at farm stands for local and regional farm and food products or handcrafted gifts.

17 **5. Farm food product.** "Farm food product" means any food product of the soil or
18 water, including, but not limited to, fruits, vegetables, eggs, dairy products, meat and
19 meat products, poultry and poultry products, fish and fish products, grain and grain
20 products, honey, nuts, maple products, apple cider and fruit juice.

21 **6. Farmers' market.** "Farmers' market" has the same meaning as in section 415,
22 subsection 1, paragraph A.

23 **7. Home kitchen producer.** "Home kitchen producer" means a person who
24 prepares food in a private home kitchen that is not licensed as a food establishment under
25 Title 22, chapter 551 when that food is sold, offered for sale or offered for consumption
26 outside the home.

27 **8. Homemade food.** "Homemade food" means food that is prepared in a private
28 home kitchen that is not licensed as a food establishment under Title 22, chapter 551.

29 **9. Informed end consumer.** "Informed end consumer" means, with regard to a farm
30 food product or homemade food, a person who:

31 A. Purchases or consumes the farm food product or homemade food;

32 B. Does not resell the farm food product or homemade food or process and sell food
33 prepared with the farm food product or homemade food; and

34 C. Has been informed that the farm food product or homemade food was not
35 produced in a food establishment licensed under Title 22, chapter 551 and that the
36 farm food product or homemade food has not been inspected.

1 **10. Traditional community social event.** "Traditional community social event"
2 means an event where people gather as part of a community for the benefit of those
3 gathering or for the benefit of the community, including but not limited to a:

4 A. Wedding;

5 B. Funeral;

6 C. Church or religious social;

7 D. School event;

8 E. Potluck;

9 F. Neighborhood gathering;

10 G. Ladies' or gentlemen's club meeting or social; or

11 H. Youth club meeting or social.

12 **Sec. 2. 7 MRSA §416** is enacted to read:

13 **§416. Purchasing food from known sources**

14 **1. License not required for sale of farm food products.** An agricultural producer
15 is exempt from licensing requirements under Title 22, chapter 551 for sales of farm food
16 products when the sales:

17 A. Are made directly to an informed end consumer; and

18 B. Occur at a farmers' market, on the farm where the farm food product originated or
19 at the home of the informed end consumer.

20 **2. License not required for sale or offering of homemade food.** A home kitchen
21 producer is exempt from licensing requirements under Title 22, chapter 551 for sales or
22 the offering of homemade food:

23 A. Directly to an informed end consumer; and

24 B. Occurring at a farmers' market, at the home of the home kitchen producer or at a
25 traditional community social event.

26 **3. Food exempt from inspection.** Farm food products and homemade food
27 produced and sold in this State or prepared and served in this State are not subject to
28 inspection by the department under section 446 or Title 22, section 2162 or 2164 when:

29 A. The transaction is between an agricultural producer or a home kitchen producer
30 and an informed end consumer; or

31 B. The farm food product or homemade food is sold or served at a traditional
32 community social event or an agritourism event.

33 **4. Commissioner's authority.** Notwithstanding subsection 3, when the
34 commissioner is investigating an outbreak of a foodborne illness and has reason to
35 believe that farm food products or homemade food is adulterated pursuant to Title 22,

1 section 2156, subsection 1, the commissioner shall inspect and may detain, embargo or
2 condemn those products in accordance with Title 22, section 2159.

3 **Sec. 3. 22 MRSA §2152, sub-§8** is repealed.

4 **Sec. 4. 22 MRSA §2152-A** is enacted to read:

5 **§2152-A. Application**

6 Except as provided in Title 7, section 416, subsection 4, this subchapter does not
7 apply to the sale of farm food products and homemade food to informed end consumers
8 as those terms are defined in Title 7, section 411.

9 **SUMMARY**

10 This bill facilitates direct sales between Maine farmers and consumers. It allows
11 persons preparing food in their own homes to sell directly to consumers or to offer
12 homemade food at certain events without being licensed as food establishments.