

Bill as Introduced

HB 1402 - AS INTRODUCED

2012 SESSION

12-2648
08/04

HOUSE BILL

1402

AN ACT

relative to the sale of homemade food.

SPONSORS:

Rep. Comtois, Belk 5; Rep. Groen, Straf 1; Rep. S. Palmer, Hills 6; Rep. Okerman,
Rock 4

COMMITTEE:

Environment and Agriculture

ANALYSIS

This exempts producers of homemade food from licensure by the department of health and human services.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through~~].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to the sale of homemade food.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Homestead Food Sales. RSA 143-A:12-13 are repealed and reenacted to read as follows:

2 143-A:12 Homestead Food License Required.

3 I. In this subdivision, "homestead" means a residential, non-commercial kitchen where
4 home-made foods are manufactured or processed, or both, primarily for retail sales within the state.

5 II. Homestead produced food may be sold to customers who have been informed that neither
6 the homestead producer nor its products are licensed and have not been tested or inspected by the
7 department of health and human services.

8 143-A:13 Rulemaking. The commissioner, in consultation with the commissioner of the
9 department of agriculture, markets, and food shall adopt rules, pursuant to RSA 541-A, relative to:

10 I. Determining an outbreak of a food borne illness.

11 II. Procedures for determining the homestead food producer the commissioner determines to
12 have that been the source of an outbreak of a food borne illness.

13 III. Procedures for inspecting and detaining any food product that is suspected of causing an
14 outbreak of a food borne illness.

15 2 New Paragraph; Homestead Food Sales; Exemption from Licensing. Amend RSA 143-A:5 by
16 inserting after paragraph VI the following new paragraph:

17 VII. Homestead food producers as described under RSA 143-A:12-13.

18 3 Effective Date. This act shall take effect 60 days after its passage.

HB 1402 - AS AMENDED BY THE HOUSE

15Feb2012... 0624h

2012 SESSION

12-2648

08/04

HOUSE BILL **1402**

AN ACT relative to the sale of homemade food and licensing of certain milk producer-distributors.

SPONSORS: Rep. Comtois, Belk 5; Rep. Groen, Straf 1; Rep. S. Palmer, Hills 6; Rep. Okerman, Rock 4

COMMITTEE: Environment and Agriculture

AMENDED ANALYSIS

This bill exempts certain homestead food operations and homestead food products from licensure by the department of health and human services.

This bill allows for direct sales of raw milk products without a milk producer-distributor license for certain small scale dairy producer-distributors.

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to the sale of homemade food and licensing of certain milk producer-distributors.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1. New Paragraph; Homestead Food Operations; Exemption. Amend RSA 143-A:5 by inserting
2 after paragraph VI the following new paragraph:

3 VII. Homestead food operations selling less than a maximum annual gross sales of \$10,000
4 of food, excluding potentially hazardous food as defined in RSA 143-A:12, I from the homestead
5 residence, at the owners's farm stand, or at a farmers' markets.

6 2. Homestead Food License Required. RSA 143-A:12 is repealed and reenacted to read as
7 follows:

8 143-A:12 Homestead Food License Required.

9 I. In this subdivision:

10 (a) "Homestead food operation" means a person who produces homestead food products,
11 excluding potentially hazardous food, only in the home kitchen of that person's primary residence in
12 New Hampshire and only for sale directly to the consumer from the homestead residence, the
13 owner's farm stand, or at farmers' markets.

14 (b) "Potentially hazardous food" means foods requiring temperature control for safety
15 because they are capable of supporting the rapid growth of pathogenic or toxigenic microorganisms,
16 and the growth of toxin production of clostridium botulinum. Potentially hazardous foods also
17 include processed acidified and low acid canned foods.

18 (c) "Homestead food products" means all food except potentially hazardous food, and as
19 defined in rule by the commissioner of the department of health and human services through
20 rulemaking under RSA 143-A:13.

21 II. Homestead food operations selling less than a maximum annual gross sales of \$10,000 of
22 food, excluding potentially hazardous food, from the homestead residence at the owner's own farm
23 stand, or at farmers' markets are exempt from licensure under this subdivision.

24 III. Homestead food operations that exceed the \$10,000 maximum annual gross sales limit
25 or homestead food operations who wish to sell food products, excluding potentially hazardous food, to
26 restaurants or other retail food establishments, over the Internet, by mail order, or to wholesalers,
27 brokers or other food distributors who will resell the homestead product shall be licensed under
28 RSA 143-A:4.

29 IV. All homestead food products sold in packages from the home kitchen or farm stand of a

1 homestead food operation or at farmers' market shall have individual labels on each package
2 containing the following information: name, address, and phone number of the homestead food
3 operation; name of the homestead food product; the ingredients of the homestead product, in
4 descending order of predominance by weight; and allergy information. Such products shall also be
5 clearly labeled with the following statement: "This product is exempt from New Hampshire licensing
6 and inspection."

7 3 Rulemaking. RSA 143-A:13 is repealed and reenacted to read as follows:

8 143-A:13 Rulemaking. The commissioner, in consultation with the commissioner of the
9 department of agriculture, markets, and food shall adopt rules, pursuant to RSA 541-A, relative to:

10 I. Foods which may be made in a homestead food operation and potentially hazardous foods,
11 which shall not be made in a homestead food operation.

12 II. Content and format of all labeling requirements.

13 III. Licensing requirements for homestead food operations exceeding the annual maximum
14 gross sales limit or homestead food operations who wish to sell food products, excluding potentially
15 hazardous foods, to restaurants or other retail food establishments, over the Internet, by mail order,
16 or to wholesalers, brokers, or other food distributors who will resell the homestead food product.

17 IV. Content and format of all forms required under this subdivision.

18 V. Fees for non-exempt homestead food operation licenses, including application fees and
19 fees for renewal.

20 4 New Paragraph; Milk Sanitation Code. Amend RSA 184:84 by inserting after paragraph IV
21 the following new paragraph.

22 V. A milk producer-distributor who daily produces for sale less than 20 gallons of raw milk
23 or processes less than 20 gallons of raw milk into cheese aged at least 60 days, yogurt, cream, butter,
24 or kefir shall not require a milk producer-distributor license, provided these products are offered as
25 direct sales from the producer-distributor's own farm, farm stand, or at a farmers' market to the food
26 consumer within the state of New Hampshire only.

27 (a) Any product containing raw milk from the milk producer-distributor's farm or farm
28 stand or at farmers' markets shall be clearly labeled. If the product is sold in containers provided by
29 the producer-distributor, the individual container shall have a label which contains the name,
30 address, and phone number of the milk producer-distributor's farm; the name of the product; and the
31 following statement: "This product is made with raw milk and is exempt from New Hampshire
32 licensing and inspection."

33 (b) A milk producer-distributor selling raw milk products under this paragraph shall
34 place a sign at the point of sale which contains the name, address, and phone number of the milk
35 producer-distributor's farm; and the following statement: "Products from this farm made from raw
36 milk are exempt from New Hampshire licensing and inspection."

37 5 Effective Date. This act shall take effect upon its passage.

HB 1402 - FINAL VERSION

15Feb2012... 0624h
17May2012... 1946EBA

2012 SESSION

12-2648
08/04

HOUSE BILL **1402**

AN ACT relative to the sale of homemade food and licensing of certain milk producer-distributors.

SPONSORS: Rep. Comtois, Belk 5; Rep. Groen, Straf 1; Rep. S. Palmer, Hills 6; Rep. Okerman, Rock 4

COMMITTEE: Environment and Agriculture

AMENDED ANALYSIS

This bill exempts certain homestead food operations and homestead food products from licensure by the department of health and human services.

This bill allows for direct sales of raw milk products without a milk producer-distributor license for certain small scale dairy producer-distributors.

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears [~~in brackets and struck through~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 1402 - FINAL VERSION

15Feb2012... 0624h
17May2012... 1946EBA

12-2648
08/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to the sale of homemade food and licensing of certain milk producer-distributors.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Paragraph; Homestead Food Operations; Exemption. Amend RSA 143-A:5 by inserting
2 after paragraph VI the following new paragraph:

3 VII. Homestead food operations selling less than a maximum annual gross sales of \$10,000
4 of food, excluding potentially hazardous food as defined in RSA 143-A:12, I(b), from the homestead
5 residence, at the owner's farm stand, or at farmers' markets.

6 2 Homestead Food License Required. RSA 143-A:12 is repealed and reenacted to read as
7 follows:

8 143-A:12 Homestead Food License Required.

9 I. In this subdivision:

10 (a) "Homestead food operation" means a person who produces homestead food products,
11 excluding potentially hazardous food, only in the home kitchen of that person's primary residence in
12 New Hampshire and only for sale directly to the consumer from the homestead residence, the
13 owner's farm stand, or at farmers' markets.

14 (b) "Potentially hazardous food" means foods requiring temperature control for safety
15 because they are capable of supporting the rapid growth of pathogenic or toxigenic microorganisms,
16 and the growth of toxin production of clostridium botulinum. Potentially hazardous foods also
17 include processed acidified and low acid canned foods.

18 (c) "Homestead food products" means all food except potentially hazardous food, and as
19 defined in rule by the commissioner of the department of health and human services through
20 rulemaking under RSA 143-A:13.

21 II. Homestead food operations selling less than a maximum annual gross sales of \$10,000 of
22 food, excluding potentially hazardous food, from the homestead residence, at the owner's own farm
23 stand, or at farmers' markets are exempt from licensure under this subdivision.

24 III. Homestead food operations that exceed the \$10,000 maximum annual gross sales limit
25 or homestead food operations who wish to sell food products, excluding potentially hazardous food, to
26 restaurants or other retail food establishments, over the Internet, by mail order, or to wholesalers,
27 brokers, or other food distributors who will resell the homestead product shall be licensed under
28 RSA 143-A:4.

1 IV. All homestead food products sold in packages from the home kitchen or farm stand of a
2 homestead food operation or at farmers' markets shall have individual labels on each package
3 containing the following information: name, address, and phone number of the homestead food
4 operation; name of the homestead food product; the ingredients of the homestead product, in
5 descending order of predominance by weight; and allergy information. Such products shall also be
6 clearly labeled with the following statement: "This product is exempt from New Hampshire licensing
7 and inspection."

8 3 Rulemaking. RSA 143-A:13 is repealed and reenacted to read as follows:

9 143-A:13 Rulemaking. The commissioner, in consultation with the commissioner of the
10 department of agriculture, markets, and food shall adopt rules, pursuant to RSA 541-A, relative to:

11 I. Foods which may be made in a homestead food operation and potentially hazardous foods,
12 which shall not be made in a homestead food operation.

13 II. Content and format of all labeling requirements.

14 III. Licensing requirements for homestead food operations exceeding the annual maximum
15 gross sales limit or homestead food operations who wish to sell food products, excluding potentially
16 hazardous foods, to restaurants or other retail food establishments, over the Internet, by mail order,
17 or to wholesalers, brokers, or other food distributors who will resell the homestead food product.

18 IV. Content and format of all forms required under this subdivision.

19 V. Fees for non-exempt homestead food operation licenses, including application fees and
20 fees for renewal.

21 4 New Paragraph; Milk Sanitation Code. Amend RSA 184:84 by inserting after paragraph IV
22 the following new paragraph.

23 V. A milk producer-distributor who daily produces for sale less than 20 gallons of raw milk
24 or processes less than 20 gallons of raw milk into cheese aged at least 60 days, yogurt, cream, butter,
25 or kefir shall not require a milk producer-distributor license, provided these products are offered as
26 direct sales from the producer-distributor's own farm, farm stand, or at a farmers' market to the food
27 consumer within the state of New Hampshire only.

28 (a) Any product containing raw milk from the milk producer-distributor's farm or farm
29 stand or at farmers' markets shall be clearly labeled. If the product is sold in containers provided by
30 the producer-distributor, the individual container shall have a label which contains the name,
31 address, and phone number of the milk producer-distributor's farm; the name of the product; and the
32 following statement: "This product is made with raw milk and is exempt from New Hampshire
33 licensing and inspection."

34 (b) A milk producer-distributor selling raw milk products under this paragraph shall
35 place a sign at the point of sale which contains the name, address, and phone number of the milk
36 producer-distributor's farm; and the following statement: "Products from this farm made from raw
37 milk are exempt from New Hampshire licensing and inspection."

HB 1402 - FINAL VERSION
- Page 3 -

1 5 Effective Date. This act shall take effect upon its passage.

Committee Minutes

**AMENDED
SENATE CALENDAR NOTICE
HEALTH AND HUMAN SERVICES**

Printed: 04/09/2012 at 1:26 pm

Senator Jeb Bradley Chairman
Senator Tom De Blois V Chairman
Senator Molly Kelly
Senator Gary Lambert
Senator Andy Sanborn

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: April 9, 2012

HEARINGS

Thursday

4/19/2012

HEALTH AND HUMAN SERVICES

LOB 102

1:00 PM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

Comments: Please note the addition of HB 234-FN-A, HB 1217, and HB 1560.

1:00 PM	HB1402	(New Title) relative to the sale of homemade food and licensing of certain milk producer-distributors.
1:15 PM	HB1725-FN	prohibiting health care practitioner self-referrals for medical devices.
1:30 PM	HB234-FN-A	(New Title) relative to food service licensure and establishing a committee to study the regulation of food service establishments.
1:45 PM	HB1217	relative to the form for executing advance directives for health care decisions.
2:00 PM	HB1560	relative to the interstate Health Care Compact.

Sponsors:

HB1402

Rep. Guy Comtois

Rep. Warren Groen

Rep. Stephen Palmer

Rep. Richard Okerman

HB1725-FN

Rep. Shawn Jasper

Rep. David Hess

Rep. Gene Chandler

Rep. David Bettencourt

Rep. Gary Richardson

Rep. David Pierce

Rep. Joseph Hagan

Rep. William O'Brien

Sen. Gary Lambert

Sen. Jim Luther

Rep. Janet Wall

HB234-FN-A

Rep. Rich DiPentima

Rep. Alida Millham

HB1217

Rep. Daniel Itse

Rep. Carol McGuire

Rep. Dan McGuire

Rep. Paul Ingbretson

HB1560

Rep. David Bettencourt

Sen. Chuck Morse

Robyn Dangora 271-4154

Sen. Jeb Bradley

Chairman

Health and Human Services Committee

Hearing Report

TO: Members of the Senate

FROM: Robyn Dangora, Legislative Aide

RE: Hearing report on HB 1402 – (New Title) relative to the sale of homemade food and licensing of certain milk producer-distributors.

HEARING DATE: April 19, 2012

MEMBERS OF THE COMMITTEE PRESENT: Sen. Bradley
Sen. De Blois, Sen. Kelly, Sen. Lambert, Sen. Sanborn

MEMBERS OF THE COMMITTEE ABSENT: None

Sponsor(s): Rep. Comtois, Belk 5; Rep. Groen, Straf 1; Rep. S. Palmer, Hills 6; Rep. Okerman, Rock 4

What the bill does: This bill exempts certain homestead food operations and homestead food products from licensure by the department of health and human services.

This bill allows for direct sales of raw milk products without a milk producer-distributor license for certain small scale dairy producer-distributors.

Who supports the bill: Rep. Comtois, Belk 5; Kate Frey, Dept. Health & Human Services; Dina Farrell, Janice Mistler, and Allan Mistler, Microfarmers of NH; JB Brown; Rep. Babson, NH Farm Bureau; Rep. S. Palmer, Hills 6; Ed Comeau, governmentoversight.com; Rep. Sad, Ches 2; Joel & Kathey Wotton, Wotton Farm; Bob Streeter, Red Bables Farm; Rep. Owen, Merr 4; Dan Holmes, Sunnyfield Farm; Rep. Itse, Rock 9; Sharon, Tony & Willie Matras; Rep. Horrigan, Straf 7; Don Walker; Carter Cincote; Kristina Aditant; Johnathan Nason; Kelly & Woody Rodgers; Joyce Crocco

Who opposes the bill: None

Summary of testimony received:

Hearing opened at 1:03 PM

Rep. Comtois, Belk 5

•Prime sponsor, this bill started in June 2011 as an effort to help farm stands as a focus on the homestead kitchen license. Our farm stand could not

have others bake for us, it became too costly, they had to use the state's standardized recipes, and they'd have to submit our customers list to Health and Human Services. I started by trying to ease those regulations so small farmers and bakers could make a little extra money. I then learned that the raw milk distributors who could sell 20 gallons of raw milk a day were making cheese but could not sell it without a permit. I therefore added provisions in the bill to help them as well. The dept. of Health and Human Services has helped in this effort and even wrote the amendment.

- This bill allows people to bake non-hazardous foods up to \$10,000 gross a year as long as the food has a label stating you are unlicensed and the food was uninspected and includes ingredients and allergens. You will have to sell them yourself at home or at a farmer's market. Separately, the bill deals with the raw milk. Now farmers can take the 20 gallons of raw milk they can sell each day and either continue to sell it as raw milk, or now they can sell it as aged cheese, yogurt, kefir, cream or butter. That also has to be labeled and state that you are unlicensed. Since some people bring their own containers for the milk, we added signage requirements on the farm. This was voted favorably unanimously in the House. This will provide immediate relief for the small farmers in New Hampshire. This is a consumer-driven bill and these people do not advertise; they are sought out. Farmers who wish to sell to restaurants still need a license.

- Sen. Sanborn: Why can they only sell up to \$10,000 a year?

-Rep. Comtois: Health and Human Services provided that figure.

Everyone who showed up at the hearing was okay with the amount.

We can revisit this in the future as prices go up.

Kate Frey, Dept. Health & Human Services

- In support, the department worked closely with the sponsor, the House committee, and the public to craft a bill that reduces regulations on homemade foods and dairy products while balancing food safety concerns. This exempts some homestead operations and products from licensure and allows the direct sale of some raw milk products without a milk producer-distributor license.

- Examples of nonhazardous foods permitted under this bill include jams, fruit pies, cakes, cookies, brownies, breads, muffins, dry mixes, coffee, candy, etc. Currently, there are two levels of homestead licensure. Level one relates to those who want to sell these nonhazardous products at their residence, farm stand, or a farmers market; level two allows licensees to sell products at retail stores and restaurants. HB 1402 allows those falling into level one to sell up to \$10,000 worth of products without a license. The bill clearly defines potentially hazardous foods and does not permit them to be made in a homestead kitchen.

- To add to what Rep. Comtois mentioned about milk sales, we specifically permitted aged cheese, aged up to 60 days, and not soft cheese because the commissioner believes strongly that soft cheese is more likely to be contaminated. HB 1402 enables micro-farmers to pursue entrepreneurial efforts without spending a considerable amount on compliance.

• Sen. Sanborn: \$10,000 a year is only \$250 a week, how did you come up with the threshold?

-Ms. Frey: To make it clear, this only relates to the homestead food products not the milk. The original amount was \$5,000; \$10,000 seemed like the natural next step according to the House committee. We are happy to revisit that, but we are talking about things like cookies and cakes and they do not cost a lot.

Rep. Babson, NH Farm Bureau

• In support, five years ago I chaired the Agriculture committee and saw that the Division of Food safety's regulations were so restrictive that people were giving up making these products. One farm in NH that had 27 varieties of jams gave up purchasing berries in NH because every jar of jam they made would have to be sent to a lab in Maine at a \$35 fee to be tested. At the time we drafted the Homestead license and it was a relief for growers, but now it is an albatross for them because of the increased demand. I thought we were lucky to get \$10,000 and if you would like to increase it to \$20,000, the Farm Bureau would say go ahead.

Dina Farrell, Micro Farmers of NH

• In support, this is a new group that was formed in January because both farmers and consumers believed there was real need for de-regulation on farmers. The milk producers were making dairy products and they were going to waste and to their pigs. As a full time farmer it is hard to bring in a complete income and the more money we are allowed to make, the better chance we can keep the farm running.

Hearing closed at 1:21 PM

Funding: N/A

Action: The committee voted Ought to Pass 5-0. The committee voted to place this bill on the consent calendar 5-0. Sen. Lambert wrote the blurb.

rmd

[file: HB 1402 report]

Date: 4/20/12

Speakers

Testimony



NEW HAMPSHIRE FARM BUREAU FEDERATION

295 Sheep Davis Road • Concord, New Hampshire 03301-5747 • (603) 224-1934 • Fax (603) 228-8432 • www.nhfarmbureau.org

April 19, 2012

Senate Health and Human Services Committee
c/o The Honorable Jeb Bradley, Chairman
Legislative Office Building, Room 102
33 North State Street
Concord, NH 03301

Re: **HB 1402**, relative to the sale of homemade food and licensing of certain milk producer-distributors

Dear Mr. Chairman and Members of the Committee:

The New Hampshire Farm Bureau (NHFB) is a federation of the ten New Hampshire county Farm Bureau organizations and consists of 3,000 Farm Bureau member families statewide. Our mission is to advocate on the issues important to the farmers and rural residents of New Hampshire.

Farm Bureau stands in support of **HB 1402**. The bill provides reasonable exemptions from homestead food licensing requirements for homestead operations (defined as a residential, non-commercial kitchen) with gross sales of non-potentially hazardous foods of up to \$10,000 a year. Non-potentially hazardous foods include baked items (such as breads, muffins and cookies), candy, jams and jellies. Potentially hazardous foods, which require temperature control for safety, are not included. Nor are processed acidified and low acid canned foods, which are also classified as potentially hazardous.

The bill also expands current law by providing in addition to selling a limited amount of raw fluid milk, the option to a milk "producer-distributor" (someone milking livestock and selling the milk) to process and sell raw milk products: cheese aged 60 days, yogurt, cream, butter and kefir. This option would be allowed provided the producer-distributor stays under the current limit of an average of 20 gallons of raw fluid milk in total a day.

This legislation will allow small-sized farm operations to get started in direct marketing products without having to spend considerable money complying with regulations. Food safety concerns are minimized based on the limited volume of product exempted and the requirement that sales are limited to those made directly from the operators homestead, farm stand or at a farmer's market. These sales will be made directly to consumers who will have sought-out these operations and who will have the opportunity to see first-hand the conditions the products are produced. In addition, the law contains specific labeling or signage requirements.

For these reasons **Farm Bureau supports HB 1402** and we ask the Committee to recommend it Ought-to-Pass. We thank you for your time and consideration.

Respectfully submitted,

Robert Johnson, II, Executive Director

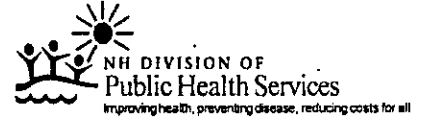


Nicholas A. Toumpas
Commissioner

José Thier Montero
Director

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES

29 HAZEN DRIVE, CONCORD, NH 03301-6527
603-271-4593 1-800-852-3345 Ext. 4593
Fax: 603-271-4827 TDD Access: 1-800-735-2964



Senate Health and Human Services Committee
Testimony on House Bill 1402
April 19, 2012

My name is Kate Frey, and I am the Legislative Liaison for New Hampshire Division of Public Health Services (DPHS) within the Department of Health and Human Services, which oversees the Food Protection Section.

I am here today to speak in support of HB 1402, relative to the sale of homemade food and licensing of certain milk producer-distributors, as amended in the House. The Division worked closely with the bill sponsor, Rep Comtois, the Environment and Agriculture committee, and constituents to make HB 1402 an effective piece of legislation which reduces the regulation of homemade foods and certain dairy products while balancing food safety concerns. This has been a very collaborative process and has resulted in timely topic considering this committee had related conversations when discussing HB 234, relative to food protection, last fall.

This bill exempts certain homestead food operations and homestead food products from licensure by the department. It also allows for direct sales of raw milk products without a milk producer-distributor license for certain small-scale dairy producer-distributors.

The following changes included in HB1402 are;

- Under RSA 143-A:5, an exemption is added to the Food Service Licensure statute to allow homestead food operations selling less than \$10,000 in annual gross sales, of non-potentially hazardous food from the homestead residence, farm stand, or at a farmers' markets. Examples of non potentially hazardous foods include; jams, jellies, double crusted fruit pies, cakes (including wedding and birthday cakes), cookies, brownies, breads, muffins, scones, biscotti, whoopie pies, tarts, packaged spice blends, dry mixes (soups and dips), roasted coffee, candy, chocolates, caramels, lollipops, fudge, popcorn, granola, vanilla, olive oil (rebottling), hot sauce and mustards.

Currently there are 2 levels of homestead licensure. Level 1 allows non-potentially hazardous food to be sold at the license holder's residence, farm stand or farmers market. Level 2 licenses allow the licensee to sell their products at retail stores and restaurants. Under HB 1402 those producers who have sales under \$10,000 and wish to only sell their product from their homes, farms or farms stands, do not need to obtain a license.

- Requires homestead food operations that exceed the \$10,000 maximum annual gross sales limit or wish to sell food non-potentially hazardous foods products at retail to be licensed under RSA 143-A:4.
- Under RSA 143-A:12, the bill defines foods that are potentially hazardous food and therefore are not allowed to be made in a homestead kitchen. A potentially hazardous food is food requiring temperature control for safety because the food is capable of supporting the rapid growth of pathogenic or toxigenic microorganisms or the growth of toxin production of *Clostridium botulinum*—the bacteria that causes botulism.

- Amends RSA 184 to allow milk producer-distributors who produce for sale milk products made from less than 20 gallons of raw milk; such as cheese aged at least 60 days, yogurt, cream, butter, or kefir to do so without a license, provided these products are offered as direct sales from the producer-distributor's own farm, farm stand, or at a farmers' market to the consumer and within the state of New Hampshire only. The current law only allows for the sale of raw milk under these circumstances. HB 1402 allows for the sale of other raw milk products with a license.
- Both raw milk and homestead food will be required to meet labeling requirements outlined in HB 1402, including a statement that these products are exempt from New Hampshire licensing and public health inspection.

This legislation does not eliminate licensing entirely and if a producer wishes to be licensed they can do so. The intent of the legislation is to enable micro farmers to pursue entrepreneurial efforts without having to spend a considerable amount of money to comply. The Division is supportive of these efforts provided the consumer is aware the products are exempt from licensing and inspection.

Thank you for this opportunity to address the committee on this bill. I have a staff member from the Food Protection Section here today, Colleen Smith, and we can answer any follow-up questions you may have.

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE
FOR THE CONSENT CALENDAR

Date: 4/20/12

THE COMMITTEE ON Health and Human Services

to which was referred House Bill 1402

AN ACT (New Title) relative to the sale of homemade food and
licensing of certain milk producer-distributors.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS

BY A VOTE OF: 5-0

AMENDMENT # s

CONSENT CALENDAR VOTE: 5-0

Senator Gary E. Lambert for the Committee

This bill exempts certain homestead food operations and products from licensure by the Department of Health and Human Services. It also allows for the direct sale of raw milk products without a milk producer-distributor license on sales up to \$10,000. This legislation is good for our local farmers and good for the economy.

Robyn Dangora 271-4154

New Hampshire General Court - Bill Status System

Docket of HB1402

Docket Abbreviations

Bill Title: (New Title) relative to the sale of homemade food and licensing of certain milk producer-distributors.

Official Docket of HB1402:

Date	Body	Description
11/22/2011	H	Introduced 1/4/2012 and Referred to Environment and Agriculture; HJ 7 , PG.354
12/21/2011	H	Public Hearing: 1/10/2012 11:00 AM LOB 303
1/10/2012	H	Subcommittee Work Session: 1/17/2012 9:30 AM LOB 303
1/17/2012	H	Subcommittee Work Session: 1/25/2012 1:00 PM LOB 303
1/25/2012	H	Subcommittee Work Session: 1/31/2012 9:30 AM LOB 303
1/31/2012	H	Subcommittee Work Session: 2/2/2012 9:30 AM LOB 303
1/31/2012	H	Executive Session: 2/7/2012 10:00 AM LOB 303
2/8/2012	H	Committee Report: Ought to Pass with Amendment #0624h(NT) for Feb 15 (Vote 13-0; CC); HC 11 , PG.685
2/8/2012	H	Proposed Committee Amendment #2012-0624h (New Title); HC 11 , PG.726-727
2/15/2012	H	Amendment #0624h(NT) Adopted, VV; HJ 16 , PG.917-918
2/15/2012	H	Ought to Pass with Amendment #0624h(NT): MA VV; HJ 16 , PG.917-918
2/15/2012	H	Referred to Commerce and Consumer Affairs; HJ 16 , PG.917-918
2/22/2012	H	Public Hearing: 3/6/2012 11:15 AM LOB 302
3/13/2012	H	Full Committee Work Session: 3/20/2012 10:15 AM LOB 302
3/13/2012	H	Executive Session: 3/20/2012 1:15 PM LOB 302
3/20/2012	H	Committee Report: Ought to Pass for Mar 28 (Vote 13-0; CC); HC 25 , PG.1502
3/28/2012	H	Ought to Pass: MA VV; HJ 30 , PG.1744
3/28/2012	S	Introduced and Referred to Health and Human Services
4/5/2012	S	Hearing: 4/19/12, Room 102, LOB, 1:00 p.m.; SC14
4/20/2012	S	Committee Report: Ought to Pass, 4/25/12; Vote 5-0; CC; SC16A
4/25/2012	S	Ought to Pass: MA, VV; OT3rdg
5/16/2012	S	Enrolled Bill Amendment #1946e Adopted
5/17/2012	H	Enrolled Bill Amendment #2012-1946e Adopted
5/23/2012	S	Enrolled
5/30/2012	H	Enrolled [Recessed from 5/17/2012 Session]

NH House

NH Senate

Other Referrals

COMMITTEE REPORT FILE INVENTORY

HB 402 ORIGINAL REFERRAL _____ RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- HANDOUTS FROM THE PUBLIC HEARING
- PREPARED TESTIMONY AND OTHER SUBMISSIONS
- SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

____ - AMENDMENT # _____ ____ - AMENDMENT # _____
____ - AMENDMENT # _____ ____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED AS AMENDED BY THE HOUSE
 FINAL VERSION AS AMENDED BY THE SENATE

____ OTHER (Anything else deemed important but not listed above, such as amended fiscal notes): _____

DATE DELIVERED TO SENATE CLERK _____

BY COMMITTEE AIDE