

Food Freedom and Family Farm

Home Rule takes a beating as Maine defeats food freedom bills

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In the state that made international news this year when three towns passed a [food sovereignty ordinance](#), two bills that would have bolstered them at the state level met with defeat in Maine's legislative Agriculture, Conservation and Forestry Committee.

Sponsored by Rep. Walter Kumiega, [LD 366](#) was rejected by the Ag Committee on May 11. The raw milk bill would have obviated licensing for the direct sale from farmer to consumer and protected small operations from overly burdensome rules recently imposed at the bureaucratic level.

"Requiring someone with two cows or a handful of goats to invest ten thousand dollars or more to build an inspectable facility doesn't make economic sense," Kumiega told [Food Freedom](#). "Hand milking is a perfectly acceptable method and does not need the same facilities that a machine milking operation does. LD 366 seeks to restore an exemption that was a standard practice up until two years ago, when it was changed by an administrative decision."

In response to the Ag Committee's issuance of a Majority Ought Not to Pass report on LD 366, Kumiega requested a roll call, which showed that by a vote of 80-70, the House accepted the Ag Committee's recommendation not to pass the bill.

The bill goes to the Senate now, and will come back to the House for another vote, he said, advising that he may work on an amendment with a member of the Ag Committee and run it again.

Also sponsored by Rep. Kumiega, [LD 330](#), "An Act To Exempt Farm Food Products and Homemade Food Offered for Sale or for Consumption at Certain Events from Certain Licensing Requirements," [died](#) in committee on April 7th.

Not just small farms are affected by government intrusion via hyper-regulation. Church suppers, potlucks, bake sales, Scout sales, lemonade stands, community picnics, and all traditional food sharing events must now follow strict "safety" protocols. All food producers must be licensed, and all food must be sterilized and packaged, according to the federal Food Safety Modernization Act (FSMA).

"This violates hundreds of years of tradition," local farmer Deborah Evans told the [Food Rights Hour](#) on April 16th. Evans was part of the group who spearheaded the food sovereignty ordinances.

Home Rule vs. Corporations

Prior to passage of the FSMA, Canada Health whistle blower Shiv Chopra [warned](#) it “would preclude the public’s right to grow, own, trade, transport, share, feed and eat each and every food that nature makes. It will become the most offensive authority against the cultivation, trade and consumption of food and agricultural products of one’s choice. It will be unconstitutional and contrary to natural law or, if you like, the will of God.” It looks like he was right.

But, if any state has a chance of succeeding in bucking the FSMA, it’s Maine, with one of the strongest [Home Rule](#) traditions in the nation, backed up by Constitutional and statutory authority. “Home Rule” states allow local municipalities self-government on community issues.

Not only did a Maine town become the first local government outside California to [ban GMO crops](#), but Maine towns have also passed ordinances [banning corporate water extraction](#). A hotbed of “radicals” – you know, people who protect their environment – would naturally be the first in the nation to assert food sovereignty.

Though the food sovereignty ordinance passed unanimously in Sedgwick and Penobscot, with just a handful of nays in Blue Hill, in March and April, it was defeated in Brooksville by a vote of 161-152.

Brooksville was the only town to vote on the ordinance by ballot, rather than by a show of hands. Outrageously, the [ballot](#) was printed with the recommendation to vote against all proposed ordinances in the referendum. The biased ballot has prompted demands for a revote.

However, Maine, like all states, limits home rule through bureaucratic rule making. The [Community Environmental Legal Defense Fund](#) explains that Home Rule is defeated in practice by “regulatory boards and agencies controlled by state legislatures and ‘special districts’ that are responsive to interested industries, but not community constituents.”

As if to prove CELDF’s point, Maine regulators openly scoffed at the food sovereignty election outcomes. Hal Prince, director of the Division of Quality Assurance and Regulation at the Maine Department of Agriculture, told [Down East](#), “A town can’t pass an ordinance that frustrates state and federal laws.”

Apparently, the state loses inspection funding if it does not impose federal laws on food production and processing. The towns received [a letter](#) from the Maine Dept. of Agriculture, Food and Rural Resources informing them that state law pre-empts the ordinances:

“[P]ersons who fail to comply will be subject to enforcement, including the removal from sale of products from unlicensed sources and/or the imposition of fines.”

But a closer look at Maine’s constitution, statutes and case law indicates that governance over local food production that is sold locally easily falls within Home Rule. A legal analysis prepared by Charles Bussell, [Local Regulation of Genetically Modified Crops](#), concludes that Maine, California and several other states have strong enough Home Rule protections to pass such ordinances.

Surely, banning biotech is a hell of a lot harder than rejecting state intrusion on how local food sold locally is prepared.

When Montville banned genetically modified crops in 2008, the state sent a letter in that instance, too, claiming the ordinance is invalid – get this – on the grounds that **GM corn is not a plant but a pesticide**, and therefore regulated by the Board of Pesticide Control. The state also claimed the ordinance violated Maine’s Right to Farm law by regulating “best management practices.” The city asserted that it is not banning a farming operation but a farming product. Meanwhile, GM crops are no longer grown in Montville. (See [pp. 12-21](#) for the ordinance, those letters, and background info of this State of Maine biotech collection.)

In its [constitution](#) at Article VIII, part 2, § 1, Maine grants municipalities home rule on matters “which are local and municipal in character.” But an enabling statute, [Title 30-A, §3001](#), extends Home Rule beyond that which is “local and municipal in character” explains Bussell, who then cites a 1993 Maine Supreme Judicial Court ruling, *School Committee of York v. Town of York*, which bolstered Home Rule.

Bussell notes, “The statute makes clear that the power of municipalities in Maine is strong—their power is to be construed liberally with a rebuttable presumption that a municipal ordinance is valid.”

Maine statutes also specifically and strongly support small family farms, which Montville detailed in its [ordinance](#) banning GM crops, naming Title 7, Sections 1-A and 1-B. Here’s a tiny sampling of the language:

“The survival of the family farm is of special concern to the people of the State, and the ability of the family farm to prosper, while producing an abundance of high quality food and fiber, deserves a place of high priority in the determination of public policy.”

Requiring small family operations with just a few animals to build high tech facilities clearly abrogates public policy to allow family farms to prosper. That [bureaucratic rule making](#) defeats democracy is no surprise to Home Rule proponents. Despite the clear intent of the state legislature to protect the economy and character of small farms, the state Ag department has invoked food “safety” rules that small operations cannot afford. And that’s the point. Food “safety” is corpogov speak for destroying factory farm competition from small, family farms.

Deborah Evans also told [Food Rights Hour](#) that potentially hazardous foods – basically anything that requires refrigeration – must be made in a commercially licensed kitchen, which can cost \$150-200,000 to build.

Another ordinance organizer, Bob St. Peter, told [Food Chain Radio](#) on April 9th that farms with less than a thousand chickens, previously exempt, now face a slurry of regulations including a ban on outdoor slaughter.

The new rules violate thousands of years of practice, not just in Maine but throughout the world, in favor of an industrialized system that has proven lethal and ecocidal. It is the centralized factory farm model which causes food poisoning and which is destroying the environment.

“I’m not willing to become a scapegoat for a system that seems to be breaking down and making people sick,” St. Peter objected. People patronize traditional farms because “it’s

time tested to be safe and good for our communities.”

Rep. Kumiega agrees. “The great push for food safety regulations from the FDA and USDA is misguided and, by hurting small, local food producers, will in the end make our food supply less safe,” he told [Food Freedom](#).

“These regulations are needed to make *large* food producers more safe, although they are arguably a failure, since studies show a majority of supermarket meats are contaminated with diseases ranging from E coli to MRSA.”

Since food “safety” rules violate Maine’s constitutional requirement to support family farms, as well as Home Rule (which is constitutionally and statutorily granted), Evans foresees the validity of the food sovereignty ordinance being decided at the Supreme Court.

One final note: a [Food and Farm Freedom Rally](#) is being held in Washington, D.C. on Monday, May 16 at 10 AM at the Upper Senate Park. Though initially organized in support of Dan Allgyer, one of many victims of [FDA raids](#) on raw dairy operations, the event has gained national momentum. Speakers include Sally Fallon Morell of Weston A. Price Foundation, author David Gumpert, and Mark McAfee of Organic Pastures Dairy.

In response to FDA actions, Congress Member Ron Paul has [introduced HR 1830](#) to permit raw milk and dairy sales across state lines.

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