

Senate Commerce Committee

Aaron Jones 271-2609

HB 371, relative to the definition of occasional food service establishment.

Hearing Date: March 25, 2025

Time Opened: 10:43 a.m.

Time Closed: 10:58 a.m.

Members of the Committee Present: Senators Innis, Ricciardi, Murphy, McGough, Fenton and Reardon

Members of the Committee Absent : None

Bill Analysis: This bill expands the definition of occasional food service establishment.

Sponsors:

Rep. J. Aron

Rep. Aylward

Rep. Bixby

Rep. Comtois

Rep. Creighton

Rep. Pauer

Sen. Avard

Sen. Innis

Sen. Pearl

Sen. Watters

Who supports the bill: Representative Judy Aron, Representative Peter Bixby, Addie Leader-Zavos, Michael Williams

Who opposes the bill: No one

Who is neutral on the bill: Michelle Roberge (DHHS)

Summary of testimony presented in support:

Representative Judy Aron

- Representative Aron said many local food producers have expressed a desire to sell products on a weekly basis. The current definition of occasional food service, however, has been problematic because it is defined as “any food service establishment where food is served or provided for the public on the premises of the establishment whether or not there is a charge for such food, no more than 4 days during a 30-day period. Any part of a day shall be considered one full day for the purposes of this definition.”
- Food producers would like to offer clear messaging when their products are available, and this change would allow for more consistent offerings of products on an occasional basis.

- When selling a product is limited to 4 days in a 30-day period, it can be difficult for a producer to say they are open once a week for 4 weeks and closed the last week.
- By changing RSA 143-A:3, V to 4 days in a 28-day period, Representative Aron said the Legislature would be giving home-based food producers, small farmers, and budding entrepreneurs, the opportunity to build a larger customer base by providing clearer messaging and more reliable services.
- Changing the definition would not change food safety regulations nor would it allow for unsanitary practices. Under RSA 143-A:5, the Food Safety Division would retain their ability to “inspect when the Department has reason to suspect an imminent health hazard.”

Representative Peter Bixby

- Currently, food must be consumed on the premises of an establishment.
- For individuals who are providing an occasional food service out of their home, on-site consumption is limited.
- This bill would allow an individual to produce food for their neighbors, and the neighbors could bring it home.

Addie Leader-Zavos

- Currently, Mrs. Leader-Zavos said she could sell a slice of pumpkin pie only if she intended for it to be eaten on her property.
- Non-profits, community groups, and home-based producers who have access to capital and land can use the exemption; however, those who cannot buy new furniture, host on their farm, or accommodate cars in their driveway cannot use this exemption.
- Mrs. Leader-Zavos said consumers’ tastes have evolved, and they prefer taking food home.
- This bill ensured there was fairer access to the exemption for individuals without capital.
- Mrs. Leader-Zavos believed this change would make food safer. When an individual can focus in a calm kitchen environment, they are less likely to make mistakes.

Michael Williams

- DHHS does not have the manpower to enforce or inspect everyone; however, Mr. Williams was concerned the existing gray area could result in selective enforcement.
- This is an additional burden on small business owners in addition to producing, selling, and marketing.
- Mr. Williams supported the clarification of what is allowed in statute and how it is enforced.

Summary of testimony presented in opposition: None

Neutral Information Presented:

Michelle Roberge, Bureau Administrator for the Division of Public Health Protection, Department of Health and Human Services

- This bill would change the definition of an occasional food service establishment in RSA 143-A:3, V. This change would allow food to be provided to the public and served on-premises, or food provided to be taken off-premises.
- Under RSA 143-A:5, III, occasional food service establishments are exempt from food service licensure. As a result, the inspection authority of the Department is limited.
- The proposed changes would not have a fiscal impact on the Department nor would it increase foodborne illness investigations.

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Date Hearing Report completed: March 28, 2025