

Senate Commerce Committee

Aaron Jones 271-2609

HB 307, relative to the food production area for homestead food.

Hearing Date: April 1, 2025

Time Opened: 9:40 a.m.

Time Closed: 10:03 a.m.

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

Members of the Committee Absent : None

Bill Analysis: This bill allows homestead food production in a food production area.

Sponsors:

Rep. Bixby

Rep. J. Aron

Rep. Aylward

Rep. Comtois

Rep. M. Murray

Sen. Avar

Sen. Innis

Sen. Pearl

Who supports the bill: Representative Peter Bixby, Representative Judy Aron, Robert Johnson II (NH Farm Bureau), Addie Leader-Zavos, Jane Smith, Daniel Richardson, Megan Haffner

Who opposes the bill: No one

Who is neutral on the bill: Erica Davis (DHHS), Michele Roberge (DHHS)

Summary of testimony presented in support:

Representative Peter Bixby

- If an individual produces homestead food, it must be produced in the kitchen of their residence.
- This bill came from a constituent who found there were situations where an individual might want to produce food in a different area of their home. If an individual had an open-planned kitchen, for example, they could have trouble controlling access. However, there is no option for this under existing statute.
- This bill would create an option to have an alternative food production area in the home. Certain sanitation equipment and conditions must be present in these areas to qualify. It must have a handwashing sink, appropriate equipment and

food storage capacity, cleanable food contact surfaces and floors, and pets must be excluded from the area.

- **Senator Fenton** asked if homestead food operations were subject to the meals and rooms tax.
 - **Representative Bixby** said they are not because they are not restaurants. This would be for someone who is making cakes and cookies in their home for sale at a farmers' market or a farmstand. This bill is about food production, not how it is sold. There would be certain restrictions on selling to wholesale retailers, but it did not involve the tax.
- **Senator McGough** asked if the terms in Lines 7, 9, 11, and 13 were defined elsewhere in statute.
 - **Representative Bixby** replied he was not sure. For regular food service licensing, it states that the Department shall take care of these things under rules. To make this bill work, he reiterated it needed to be defined in statute rather than rules.

Representative Judy Aron

- Many of these bills came from a study committee that examined the homestead food statutes.
- Representative Aron said instead of confining food production to the kitchen, they could use another area on their property.

Addie Leader-Zavos

- This bill would address problems faced by three types of producers: first, those who are expanding their business, and they need more space before they are ready for a commercial production facility; second, those who make intricate cakes and cookies; and finally, those who have tiny kitchens.
- Every item sold must be packaged, and it is necessary to have space to fully cool products to prevent condensation. She said they would like to use their dining room to cool bread instead of more shelving in their main kitchen.
- Individuals who make intricate cakes and cookies have a lucrative type of business based on skill, not volume. Their work must be dried in a particular way, and it can be difficult if there are children.
- This bill would allow individuals to have a separate space that is closed off that must meet the same sanitation requirements and goals of a kitchen.
- There are producers who come from all walks of life, and if they have a small kitchen, they might like to expand into their dining room or their spare bedroom.
- Mrs. Leader-Zavos said this bill has a lot of safety provisions.
- Home-based food production is treated similar to groceries because packaged food is sold.
- **Senator Fenton** asked if a restaurant would be subject to rooms and meals if they sold their own food that was packaged in a jar.

- **Senator Murphy** said if it is in a sealed container, it can be sold without tax.
- **Mrs. Leader-Zavos** said the difference was between ready-to-eat versus packaged food.
- There is a simple line in the sand when determining how big a producer can become. If an individual wanted to make something that must be refrigerated, they must be licensed and it must be done in a licensed facility.
- Outbuildings are not part of this bill; instead, it is restricted to primary residences. A barn, for example, could not be converted into a production kitchen.
- Mrs. Leader-Zavos said almost no food safety regulations are defined through statute; instead, they are defined through rules.
- While there are some definitions in statute, they are not applicable to home-based food producers. Homestead producers are excluded from the FDA Food Code because there are a lot of details related to production facilities, which make regulations more predictable for inspectors. These definitions are important for the safety elements in the bill because they are not defined elsewhere in statute or rules.

Summary of testimony presented in opposition: None

Neutral Information Presented:

Michele Roberge, Bureau Chief for Public Health Protection, and Erica Davis, Administrator for Food Protection, Department of Health and Human Services

- This bill would allow for food production to happen in areas outside of the homestead operators residential kitchen.
- Originally, the Department was concerned because requirements were not necessarily spelled out because there was no definition for kitchen. Ms. Davis said they worked with the sponsors to outline some of the sanitary requirements if production were moved into another space within the primary home.
- **Senator Murphy** asked at what point would a homestead food operation be subject to licensing and inspection if someone became successful and they kept adding onto their house.
 - **Ms. Davis** said unlicensed homestead operators are limited to where products can be sold. There are licensed homestead operators who can sell their food in retail stores or on the Internet. Once they have moved outside of the residential kitchen, they fall under the commercial processor license. This would be applicable to individuals who have converted a garage, basement, or outbuilding to meet sanitary requirements.

- **Senator McGough** asked if the definitions were only in the health rules, not in statute.
 - **Ms. Davis** replied that the definitions were in rules. Specifically, the sanitary production of food rules is He-P 2300. The Department also adopts the Federal Food Code.
- **Senator McGough** asked if separate definitions outside of He-P 2300 were needed.
 - **Ms. Davis** stated correct. Homestead food production is a separate category in statute, so they do not follow the retail food rules in He-P 2300.
 - **Ms. Roberge** said some homestead producers are exempted from licensure.

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Date Hearing Report completed: April 3, 2025