An Act to Respect and Protect the Right to Food

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

Presented by Senator HICKMAN of Kennebec.
Cosponsored by Representative FAULKINGHAM of Winter Harbor and Senators: BENNETT of Oxford, BRAKEY of Androscoggin, President JACKSON of Aroostook, Representatives: BOYER of Poland, O'NEIL of Saco, PLUECKER of Warren, POIRIER of Skowhegan, Speaker TALBOT ROSS of Portland.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 3 MRSA §902, sub-§1-B, as enacted by PL 2013, c. 153, §1, is amended to read:

1-B.  Edible landscaping. The commission shall arrange for and oversee the development and implementation of a plan to incorporate food-producing plants, shrubs or trees into the landscaping of a portion of Capitol Park. Use of edible landscaping must be consistent with the overall plan for the park under section 902-A, subsection 2 and is subject to available funding for the park. The commission may seek and accept money and food-producing seeds, plants, shrubs or trees from private and public sources for the development and maintenance of edible landscaping throughout the park.

In the development and maintenance of the edible landscaping portions of Capitol Park, the commission may collaborate with local, state or regional entities with expertise in the design and maintenance of sustainable community gardens or permaculture.

For the purposes of this subsection, "permaculture" means sustainable landscape design and ecosystems that produce more energy than they consume based on a diversified crop of perennial trees, shrubs, herbs, vegetables, weeds, fungi and root systems that weave together microclimate, annual and perennial plants, soils, water management, wildlife and human needs into intricately connected, productive communities.

Sec. 2. 7 MRSA §2, sub-§6, ¶D, as enacted by PL 2021, c. 677, §1, is amended to read:

D. Focusing on collective responsibility to amplify the voices of persons experiencing food insecurity; and

Sec. 3. 7 MRSA §2, sub-§6, ¶E, as enacted by PL 2021, c. 677, §1, is amended to read:

E. Closing the equity gap in household food insecurity by addressing underlying structural inequities; and

Sec. 4. 7 MRSA §2, sub-§6, ¶F is enacted to read:

F. Protecting and respecting, by not interfering with, the right to food as declared in the Constitution of Maine, Article I, Section 25.

Sec. 5. 7 MRSA §219, sub-§5 is enacted to read:

5. Annual report. No later than April 1st of each year, the commissioner shall submit to the joint standing committee of the Legislature having jurisdiction over agricultural matters an annual report containing a compilation and summary of any information, including, but not limited to, data about the implementation and progress of the farm labor link network, the educational marketing campaign and the local purchases for food programs as described in this section.

Sec. 6. 7 MRSA §282, as amended by PL 2021, c. 625, §§1 and 2, is further amended to read:

§282. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.
1. Direct producer-to-consumer transaction. "Direct producer-to-consumer transaction" means a face-to-face transaction involving an exchange of food or food products at the site of production of those food or food products directly between a food producer and a consumer under mutually agreed-to terms.

1-A. Consumer. "Consumer" means a person who acquires food or food products directly from a food producer under mutually agreed-to terms.

2. Food or food products. "Food or food products" means food or food products that are grown, produced, processed or prepared for human consumption, including, but not limited to, vegetables, fruit, milk or milk products, meat or meat products, poultry or poultry products, fish or fish products, seafood or seafood products, cider or juice, acidified foods or canned fruits or vegetables or any combination of those items and that are provided in a direct producer-to-consumer transaction under mutually agreed-to terms.

2-A. Food producer. "Food producer" means a person who provides in a direct producer-to-consumer transaction food or food products that the person grows, produces, processes or prepares.

4. Traditional foodways. "Traditional foodways" means the cultural, social and economic practices related to the production and consumption of food. "Traditional foodways" includes customs of food production, preservation, preparation and presentation; hunting, gathering, fishing, foraging, buying and selling of food; uses of food products other than for eating; and food folklore.

Sec. 7. 7 MRSA §283, first ¶, as enacted by PL 2017, c. 314, §1, is amended to read:

It is the policy of this State to encourage food self-sufficiency for its citizens. The department of agriculture shall support policies that:

Sec. 8. 7 MRSA §283, sub-¶4, as enacted by PL 2017, c. 314, §1, is amended to read:

4. Self-reliance and personal responsibility. Promote self-reliance and personal responsibility by ensuring the ability of individuals, families and other entities to prepare, process, advertise and sell foods directly to customers intended solely for consumption by the customers or their families; and

Sec. 9. 7 MRSA §283, sub-¶5, as enacted by PL 2017, c. 314, §1, is amended to read:

5. Rural economic development. Enhance rural economic development and the environmental and social wealth of rural communities; and

Sec. 10. 7 MRSA §283, sub-¶6 is enacted to read:

6. Right to food. Protect and respect, by not interfering with, the right to food as declared in the Constitution of Maine, Article I, Section 25.

Sec. 11. 7 MRSA §283-A is enacted to read:

§283-A. Advancement of food sovereignty principles

The Legislature finds that advancing the principles of food sovereignty will further the preservation of rural life and values set forth in section 1-B and protect and respect, by not
interfering with, the individual right to food as declared in the Constitution of Maine, Article I, Section 25. Food sovereignty:

1. **Focuses on the people.** Centers the right to sufficient, healthy and culturally appropriate food for the people of the State in food, agriculture, livestock and fisheries policies;

2. **Values food producers.** Values all those who grow, harvest and process food, including women, small-scale farmers, herders, people who fish commercially, forest dwellers, indigenous peoples and agricultural, migrant and fisheries workers;

3. **Localizes food systems.** Brings food producers and consumers closer together so they can make joint decisions on food issues that benefit and protect the people of the State;

4. **Promotes local control.** Respects the right of food producers to have control over their land, seeds and water and protects natural resources for the people of the State;

5. **Builds knowledge and skills.** Values the sharing of local knowledge and skills that have been passed down over generations to safeguard traditional foodways and enhance sustainable food production, free from technologies that undermine bodily health and well-being; and

6. **Works with nature.** Focuses on production and harvesting methods that maximize the contribution of ecosystems, avoid costly and toxic inputs and improve the resiliency of local food systems in the face of drought and other extreme weather conditions.

**Sec. 12. 7 MRSA §284, as amended by PL 2021, c. 625, §3, is further amended to read:**

§284. **Authority**

Pursuant to the home rule authority granted to municipalities by Title 30-A, section 3001 and by the Constitution of Maine, Article VIII, Part Second, pursuant to the authority granted to plantations by Title 30-A, section 7051, and notwithstanding any provision of law regulating food in this Title or Title 22 to the contrary, except as contained in section 285, a municipality or plantation may adopt ordinances regarding traditional foodways and direct producer-to-consumer transactions and the State shall recognize such ordinances by not enforcing those laws or implementing rules with respect to those direct producer-to-consumer transactions that are governed by the ordinance.

Pursuant to the authority granted to county commissioners by Title 30-A, section 7505 and notwithstanding any provision of law regulating food in this Title or Title 22 to the contrary, except as contained in section 285, a county may adopt ordinances regarding traditional foodways and direct producer-to-consumer transactions within one or more unorganized territories within that county and the State shall recognize such an ordinance by not enforcing those laws or implementing rules with respect to those direct producer-to-consumer transactions that are governed by the ordinance.

**Sec. 13. 7 MRSA §284-A is enacted to read:**

§284-A. **State enforcement prohibited**

Except as provided in section 285, the State may not enforce any provision of this Title or Title 22, including any rules adopted pursuant to the provisions of this Title or Title 22, take an enforcement action of any kind against or interfere in any way with any activities
authorized pursuant to a local food ordinance, including, without limitation, a food
producer's conducting authorized activities or direct producer-to-consumer transactions as
authorized by section 284.

Sec. 14.  7 MRSA §284-B is enacted to read:

§284-B. Application

The provisions of this chapter apply to any local food ordinance adopted by a
municipality, including those local food ordinances adopted prior to October 31, 2017.

Sec. 15.  7 MRSA §284-C is enacted to read:

§284-C. Ordinance construction

To advance food sovereignty principles and the policy of the State as set forth in this
chapter, this chapter may not be construed to require a specific form or framework of any
municipal ordinance regarding traditional foodways and direct producer-to-consumer
transactions authorized pursuant to section 284, to require specific language to be contained
in those ordinances or to prohibit a municipality from establishing definitions different than
those specified in this chapter.

In accordance with Title 30-A, section 3001, subsections 1 and 3, any ordinance
regarding traditional foodways and direct producer-to-consumer transactions authorized
pursuant to section 284 must be liberally construed to effectuate the purpose of that
ordinance.

Sec. 16.  7 MRSA c. 8-G is enacted to read:

CHAPTER 8-G

MAINE VEGETABLE GARDEN PROTECTION ACT

§291. Short title

This chapter may be known and cited as "the Maine Vegetable Garden Protection Act."

§292. Vegetable garden defined

As used in this chapter, unless the context otherwise indicates, the term "vegetable
garden" means any plot of ground or elevated soil bed on residential property where annual
or perennial vegetables, herbs, fruits, flowers, pollinator plants, leafy greens or other food-
producing plants are cultivated.

§293. Right to cultivate vegetable gardens

Pursuant to the Constitution of Maine, Article I, Section 25 and notwithstanding any
provision of law to the contrary, a person may cultivate vegetable gardens on the person's
own property or on the private property of another with the permission of the owner of that
property, in any municipality, plantation, county, unorganized territory or other political
subdivision of this State.

§294. Preclusion
Pursuant to the Constitution of Maine, Article I, Section 25 and notwithstanding any provision of law to the contrary, a political subdivision of the State may not preclude or regulate vegetable gardens in a manner inconsistent with this chapter.

§295. Home rule authority; construction

Pursuant to the home rule authority granted to municipalities by Title 30-A, section 3001 and by the Constitution of Maine, Article VIII, Part Second, this chapter may not be construed to prohibit the adoption of an ordinance of a general nature that does not solely or specifically apply to vegetable gardens, including, but not limited to, ordinances relating to setback, water use, fertilizer use, pesticide use or control of invasive species, so long as the ordinance does not have the effect of prohibiting vegetable gardens in the municipality.

Sec. 17. 7 MRSA §318, sub-§2, as amended by PL 2003, c. 167, §1, is further amended by enacting at the end a new first blocked paragraph to read:

To the extent practicable, the panel shall give priority consideration to applications from persons who have an ancestral history of disinvestment or land dispossession in the United States or applications from persons who are veterans.

Sec. 18. 12 MRSA §1814, as amended by PL 1999, c. 240, §1; PL 2011, c. 657, Pt. W, §7; and PL 2013, c. 405, Pt. A, §24, is repealed and the following enacted in its place:

§1814. Convey land

1. Generally. Consistent with section 598-A, the bureau may sell and convey lands under this subchapter and improvements on those lands. With the consent of the Governor and the commissioner and subject to the provisions of section 598-A, the bureau may convey interests in lands or lease the same. Any lease to the Federal Government requires the approval of the Legislature. Any lease entered into must be canceled or revoked after due notice of intention to cancel or revoke the lease by action of the bureau when the use for which that lease was given has been abandoned or materially modified or whenever the conditions imposed in any lease have been broken.

2. Lease for cultivating edible crops, hay or pasturage for horses or dairy animals. With the consent of the Governor and the commissioner and subject to the provisions of section 598-A, the bureau may lease the right to use parcels of land under this subchapter for a period not exceeding 5 years for purposes of cultivating edible crops, hay or pasturage for horses or dairy animals or other livestock. Each lease must contain a provision that authorizes the bureau to terminate the lease at any time when the bureau in its sole discretion determines that termination is in the best interests of the State. The bureau may not issue any adjustment or compensation to any lessee under this subsection on account of that termination. In establishing a lease under this subsection, the bureau shall give preference to individuals:

A. Who have been subject to discrimination based upon the individual's identity as a member of a group or class without regard to the content of the individual's character;

B. With a family history of land dispossession; or

C. Who are veterans.

Sec. 19. 12 MRSA §1838, sub-§10 is enacted to read:
10. **Lease of nonreserved public land for agricultural purposes.** With the consent of the Governor and the commissioner, the bureau may lease the right to use parcels of nonreserved public land for a period not exceeding 5 years for purposes of cultivating edible crops, hay or pasturage for horses or dairy animals or other livestock. Each lease must contain a provision that authorizes the bureau to terminate the lease at any time when the bureau in its sole discretion determines that termination is in the best interests of the State. The bureau may not issue any adjustment or compensation to any lessee under this subsection on account of that termination. In establishing a lease under this section, the bureau shall give priority consideration to individuals:

A. Who have been subject to discrimination based upon the individual's identity as a member of a group or class without regard to the content of the individual's character;  
B. With a family history of land dispossession; or  
C. Who are veterans.

**Sec. 20.** 12 MRSA §1852, sub-§10 is enacted to read:

10. **Lease for cultivating edible crops, hay or pasturage for horses or dairy animals.** With the consent of the Governor and the commissioner, the bureau may lease the right to use parcels of public reserved land for a period not exceeding 5 years for purposes of cultivating edible crops, hay or pasturage for horses or dairy animals or other livestock. Each lease must contain a provision that authorizes the bureau to terminate the lease at any time when the bureau in its sole discretion determines that termination is in the best interests of the State. The bureau may not issue any adjustment or compensation to any lessee under this subsection on account of that termination. In establishing a lease under this subsection, the bureau shall give priority consideration to individuals:

A. Who have been subject to discrimination based upon the individual's identity as a member of a group or class without regard to the content of the individual's character;  
B. With a family history of land dispossession; or  
C. Who are veterans.

**Sec. 21.** 12 MRSA §6001, sub-§18-A is enacted to read:

18-A. **Harvest, the verb.** The verb "harvest" means to gather, forage, catch, trap, hunt, fish, take or kill for human consumption, sport, wildlife management or population control.

**Sec. 22.** 12 MRSA §10001, sub-§29-A is enacted to read:

29-A. **Harvest, the verb.** The verb "harvest" means to gather, forage, catch, trap, hunt, fish, take or kill for human consumption, sport, wildlife management or population control.

**Sec. 23.** 12 MRSA §10109, as amended by PL 2021, c. 409, §5, is further amended by amending the section headnote to read:

§10109. **Acquisition, lease and disposal of land**

**Sec. 24.** 12 MRSA §10109, sub-§4, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:
4. Unneeded property. The Governor, on recommendation of the commissioner, may sell and convey on behalf of the State the interests of the State in property taken or acquired by purchase under this Part and determined no longer necessary for the purposes of this Part. The commissioner, with the approval of the Governor, may lease these same properties. The proceeds from these sales or leases must be credited to the funds of the department. To the extent practicable, the commissioner, with the approval of the Governor, may give priority consideration to lease these same properties to persons who have an ancestral history of disinvestment or land dispossession in the United States or to persons who are veterans for the purposes declared in the Constitution of Maine, Article I, Section 25. The proceeds from these leases must be credited to the funds of the department.

Sec. 25. 12 MRSA §10109, sub-§6 is enacted to read:

6. Lease of nonreserved public land for agricultural purposes. With the consent of the Governor, the commissioner may lease the right to use parcels of nonreserved public land for a period not exceeding 5 years for purposes of cultivating edible crops, hay or pasturage for horses or dairy animals or other livestock. Each lease must contain a provision that authorizes the commission to terminate the lease at any time when the commission in its sole discretion determines that termination is in the best interests of the State. The commission may not issue an adjustment or compensation to any lessee under this subsection on account of that termination. In establishing a lease under this section, the commissioner shall give priority consideration to individuals:

A. Who have been subject to discrimination based upon the individual's identity as a member of a group or class without regard to the content of the individual's character;

B. With a family history of land dispossession; or

C. Who are veterans.

Sec. 26. 20-A MRSA §4710-C is enacted to read:

§4710-C. Maine food economics

Maine food economics may be taught in and infused or integrated into the curriculum of public and private elementary and secondary schools. The curriculum must be based on the national standards of the state and national stakeholders associations of family and consumer sciences and include the following:

1. Nutrition and meals. Basic nutrition, food preparation and meal management, bodily health and well-being and culinary arts in the home;

2. Gardens and agricultural fairs. On-site learning opportunities at school gardens, agricultural fairgrounds or other places that include lessons about livestock production, fishing, hunting, foraging and processing of food; and

3. Food production and consumption. Consumer economics and resource management related to food production and consumption.

Sec. 27. 30-A MRSA §3112 is enacted to read:

§3112. Edible landscaping, food forests and community gardens

A municipality may develop and implement a program to promote permaculture to establish edible landscaping, food forests and community gardens in public spaces, including municipally owned properties, rights-of-way, school grounds, parks and parking
lots. A municipality that develops and implements a program under this section may seek and accept money from private and public sources for the development and maintenance of edible landscaping and food forests.

For the purposes of this section, "permaculture" means sustainable landscape design and ecosystems that produce more energy than they consume based on a diversified crop of perennial trees, shrubs, herbs, vegetables, weeds, fungi and root systems that weave together microclimate, annual and perennial plants, soils, water management, wildlife and human needs into intricately connected, productive communities.

Sec. 28. Funding for Maine food economics curriculum development. The Department of Education shall implement the provisions of the Maine Revised Statutes, Title 20-A, section 4710-C using existing resources and shall seek all available funds from the Federal Government, nonprofit foundations or other appropriate public or private sources to fund the costs of developing the Maine food economics curriculum and providing the curriculum to the State's public and private schools.

SUMMARY

This bill makes the following changes regarding food and food sovereignty.

1. It requires the Commissioner of Agriculture, Conservation and Forestry to protect and respect, by not interfering with, the right to food as declared in the Constitution of Maine, Article I, Section 25.

2. It allows edible landscaping throughout Capitol Park and allows the use of money from public and private sources to establish edible landscaping in the park.

3. It amends the Maine Food Sovereignty Act to:

   A. Provide or amend definitions of "consumer"; "direct producer-to-consumer transaction"; "food or food products"; "food producer"; and "traditional foodways";

   B. Require the State, instead of the Department of Agriculture, Conservation and Forestry, to support policies that encourage food self-sufficiency for its citizens and to further encourage self-reliance, personal responsibility and rural economic development and protect and respect, by not interfering with, the right to food;

   C. Establish food sovereignty principles;

   D. Prohibit the State from enforcing any law or rule, taking an enforcement action or interfering in any way with the activities authorized by a local food ordinance, except those State laws or rules that involve the State's meat and poultry products inspection, registration and licensing program;

   E. Apply the provisions of the Maine Food Sovereignty Act to all local food ordinances, including those in place before the Act was enacted; and

   F. Specify that the Maine Food Sovereignty Act does not require the use of specific language or definitions in municipal food ordinances.

4. It establishes the Maine Vegetable Garden Protection Act to allow a person to cultivate vegetable gardens on the person's own property or on the private property of another with the permission of the owner of that property anywhere in the State and prohibits interference by the State or a political subdivision of the State with the vegetable
garden. A municipality, county, village or plantation may adopt ordinances to regulate matters related to the cultivation of vegetable gardens, including ordinances governing height, setback, water use, fertilizer use or the control of invasive or unlawful species, as long as the ordinance does not have the effect of prohibiting the cultivation of vegetable gardens.

5. It allows the Department of Agriculture, Conservation and Forestry, Bureau of Parks and Lands and the Department of Inland Fisheries and Wildlife to lease unneeded land and parcels of land in parks and historic sites, nonreserved public land and public reserved land for a period not exceeding 5 years for purposes of cultivating edible crops, hay or pasturage for horses or dairy animals, and instructs those agencies to give preference to certain individuals in establishing those leases.

6. It authorizes municipalities to develop and implement a program to establish edible landscaping, food forests and community gardens in public spaces, including municipally owned properties, rights-of-way, school grounds, parks and parking lots.

7. It provides, for purposes of the marine resources and inland fisheries and wildlife statutes, a definition of the verb "to harvest."

8. It allows, as part of the curriculum for elementary and secondary schools, the inclusion of Maine food economics, which provides instruction in basic nutrition, food preparation and meal management; on-site learning opportunities, such as school gardens and agricultural fairs; and consumer economics and resource management related to food production and consumption. The Department of Education is required to use existing resources and seek all available funds from the Federal Government, nonprofit foundations or other appropriate public or private sources to fund the costs of developing the Maine food economics curriculum and implementing the curriculum in the State's public schools.