

Amendment to SB 491

1 Amend the bill by replacing section 1 with the following:

2  
3 1 New Chapter; Produce Safety. Amend RSA by inserting after chapter 426 the following new  
4 chapter:

5 CHAPTER 426-A  
6 PRODUCE SAFETY

7 426-A:1 Definitions.

8 I. "Commissioner" means the commissioner of the department of agriculture, markets, and  
9 food.

10 II. "Department" means the department of agriculture, markets, and food.

11 III. "Farm" means any farm engaged in the growing, harvesting, packing, or holding of  
12 produce pursuant to the Food Safety Modernization Act, 21 C.F.R. Part 112.3.

13 IV. "Produce" means any produce that is a raw agricultural commodity pursuant to the  
14 Food Safety Modernization Act, 21 C.F.R. Part 112.3.

15 V. "Qualified exemption" means a farm is eligible for a qualified exemption and associated  
16 modified requirements in a calendar year pursuant to the Food Safety Modernization Act, 21 C.F.R.  
17 Part 112.5.

18 426-A:2 Authority; Enforcement. Subject to sufficient federal funding, the department shall  
19 enforce the Food Safety Modernization Act, Public Law 111-353, codified at 21 U.S.C. section 301 et  
20 seq., for standards of growing, harvesting, packing, and holding of produce for human consumption,  
21 21 C.F.R. Part 112, as incorporated by reference including any subsequent amendments thereto.

22 426-A:3 Funding of Program. The commissioner is authorized to receive and expend federal  
23 funds appropriated for administration of this chapter.

24 426-A:4 Farm Inspections.

25 I. The department may inspect a farm during reasonable hours for the purpose of  
26 determining compliance with:

27 (a) The federal standards for growing, harvesting, packing, and holding of produce for  
28 human consumption, in accordance 21 C.F.R. Part 112; and

29 (b) Rules adopted under this chapter.

30 II. This section shall not limit the commissioner's authority to respond when an imminent  
31 health hazard is suspected in order to protect public health.

32 III. Upon successful inspection, the commissioner may issue a certificate at the request of

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1 the farm to include the name of the farm, date and place of inspection, and other information in  
2 compliance with the rules adopted by the commissioner pursuant to RSA 541-A.

3 IV. Failure to comply with the requirements of 21 C.F.R. Part 112, issued under section 419  
4 of the Food, Drug, and Cosmetic Act, is a prohibited act under section 301 (vv) of the Food, Drug,  
5 and Cosmetic Act.

6 V. A farm that is eligible for a qualified exemption in accordance with Part 112.5 shall  
7 establish and keep records as required pursuant to the Food Safety Modernization Act, 21 C.F.R.  
8 Part 112.7.

9 426-A:5 Records. The owner or operator of a produce farm shall maintain records required by  
10 the federal Food Safety Modernization Act, rules adopted thereunder, and rules adopted under this  
11 chapter pursuant to RSA 541-A and shall make those records available to the department upon  
12 request.

13 426-A:6 Rulemaking. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to  
14 the administration of this chapter.

15  
16 Amend RSA 184:90-a as inserted by section 18 of the bill by replacing it with the following:

17  
18 184:90-a Suspension. The commissioner may suspend a producer's permit if it is found after  
19 investigation that circumstances exist which threaten the health or safety of the public. If a  
20 producer's permit is suspended, the commissioner shall provide the permittee with written notice of  
21 the basis for the decision and shall, ~~[include a notification of the time and place of]~~ **upon request,**  
22 **schedule** a hearing before the milk sanitation board. ~~[The hearing following suspension]~~ **If a**  
23 **hearing is requested, it** shall be held within 10 ~~[working]~~ **business** days of the date ~~[of the~~  
24 ~~suspension]~~ **requested**. No milk producer shall operate during the pendency of any administrative  
25 proceeding following suspension of the producer's permit. If a producer demonstrates that the  
26 circumstances resulting in suspension have been corrected, and no longer constitute a threat to the  
27 health or safety of the public, the commissioner may reinstate the producer's permit without  
28 requiring a hearing before the milk sanitation board.

29  
30 Amend the bill by deleting section 20 and renumbering the original sections 21-25 to read as 20-24,  
31 respectively.

32  
33 Amend the bill by replacing all after section 22 with the following:

34  
35 23 Repeal. The following are repealed:

36 I. RSA 184:30-b, relative to original containers.

37 II. RSA 184:30-c, relative to exceptions.

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- 1        III. RSA 184:30-d, relative to the use of milk containers.
- 2        IV. RSA 184:30-e, relative to enforcement.
- 3        V. RSA 184:30-f, relative to penalties.
- 4        VI. RSA 184:30-g, relative to the definition and dating of retail containers of cream.
- 5        VII. RSA 184:30-h, I-II, relative to rulemaking.
- 6        VIII. RSA 184:46, relative to renovated or process butter, oleomargarine, etc.
- 7        IX. RSA 184:47, relative to marking.
- 8        X. RSA 184:48, relative to the definition of oleomargarine.
- 9        XI. RSA 184:48-a, relative to standard of identity and label statements.
- 10       XII. RSA 184:49, relative to the labeling butter substitutes.
- 11       XIII. RSA 184:53, relative to advertisements.
- 12       XIV. RSA 184:54, relative to penalties.
- 13       XV. RSA 184:55, relative to seizure and forfeiture.
- 14       XVI. RSA 184:56, relative to definitions.
- 15       XVII. RSA 184:57, relative to official duties.
- 16       XVIII. RSA 184:58, relative to connivance.
- 17       XIX. RSA 184:59, relative to definitions.
- 18       XX. RSA 184:60, relative to weight certificates for milk.
- 19       XXI. RSA 184:60-b, relative to rules, regulations, and fees.
- 20       XXII. RSA 184:60-c, relative to penalties.
- 21       XXIII. RSA 184:61, relative to inspection stations.
- 22       XXIV. RSA 184:62, relative to inspection of dairies.
- 23       XXV. RSA 184:63, relative to the testing of samples.
- 24       XXVI. RSA 184:64, relative to owners' records.
- 25       XXVII. RSA 184:65, relative to the notice of testing results.
- 26       XXVIII. RSA 184:66, relative to further tests.
- 27       XXIX. RSA 184:67, relative to who pays fees and expenses.
- 28       XXX. RSA 184:68, relative to reports of tests.
- 29       XXXI. RSA 184:69, relative to inspections of apparatus.
- 30       XXXII. RSA 184:70, relative to rules.
- 31       XXXIII. RSA 184:71, relative to station records.
- 32       XXXIV. RSA 184:72, relative to penalties.
- 33       XXXV. RSA 184:73, relative to statements for vendors.
- 34       XXXVI. RSA 184:74, relative to the inspection of returns; changes.
- 35       XXXVII. RSA 184:75, relative to annual reports.
- 36       XXXVIII. RSA 184:76, relative to testers' licenses.
- 37       XXXIX. RSA 184:78, relative to the division of dairy services.

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- 1           XL. RSA 184:87-a, relative to the requirement of reciprocity.
- 2           XLI. RSA 184:92, relative to inspections and inspectors.
- 3           XLII. RSA 184:99, relative to the application of statutes.
- 4           XLIII. RSA 184:104, relative to penalties.
- 5       24 Repeal; Effective 2021. RSA 426-A, relative to produce safety, is repealed.
- 6       25 Effective Date.
- 7           I. Section 24 of this act shall take effect June 30, 2021.
- 8           II. The remainder of this act shall take effect upon its passage.

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2018-1104s

AMENDED ANALYSIS

This bill:

- I. Requires the department of agriculture, markets, and food to enforce the federal Food Safety Modernization Act.
- II. Requires milk served at bona fide boarding houses to be pasteurized.
- III. Moves rulemaking from the milk sanitation board to the department of health and human services.
- IV. Defines cream, butter, and cheese.
- V. Reorganizes the milk sanitation board.
- VI. Repeals RSA 426-A relative to produce safety in 2021.