



Appendix J

Comments regarding the HB-630 report and cottage food proposal 2 May 2014

The Grow Montana coalition recently participated in the Montana Food Policy Modernization Project, an effort to streamline and improve food safety regulations as authorized by HB 630 (2013). We commend the intent of the project, because experience has showed us that burdensome and confusing food safety regulations are one of the biggest barriers to the development of a robust, vibrant local food system in Montana. We were glad to be asked to participate, and look forward to continued work and dialogue on this subject. However, we have some concerns about who was represented throughout the process, and with certain elements of the cottage food regulation proposal that is coming out of the advisory and steering committee. In the interest of better serving Montana's food producers, entrepreneurs, and food consumers, we offer the following comments:

Summary of comments and suggestions:

- A. Make up of advisory committee: essential to include a diverse range of stakeholders
- B. Comments regarding cottage food proposal:
 - I. Impact on producers currently selling under *MCA 50-50-202*
 - II. Allowed products: Strongly encourage expanded list of allowed products
 - III. Product registration: re-registration seems unnecessary
 - IV. Product labeling: a reasonable way to ensure public knowledge
 - V. Production in home vs. commercial kitchens: production should not be limited to only homes
- C. Poultry processing: input for implementation of 1000-bird exemption

A. Make up of the advisory committee

HB 630 mandated that the process be overseen by a broad-based stakeholder advisory board. Grow Montana was invited to be a part of this board, the only community group represented. In addition, there were two large producers, one processor, and the rest were sanitarians and other regulators. An institutional buyer was added halfway through the process. Given this makeup, the discussions and proposals tended towards favoring regulation. We feel a more diverse group of stakeholders, and a more conciliatory atmosphere towards critiques and new ideas, could have potentially resulted in a more innovative proposal.

We recommend: One suggestion from the project is the continuation of a stakeholder advisory committee, by replacing and updating the advisory council mandated under MCA 50-50-103.

Department authorized to adopt rules- advisory council. We support the move towards more stakeholder involvement, but feel it is essential that the group is truly diverse and better represents the wide array of actors in Montana's local food system, including producers, processors, purchasers, and local food advocates. This should be spelled out in statute, if necessary.

Grow Montana, a project of NCAT, is a broad-based coalition working on projects, research, and policies that help Montana retain more of the value of its agriculture within our communities, reconnect rural and urban economies, and improve access to healthy and nutritious food. Our steering committee members include representatives from Alternative Energy Resources Organization (AERO), Artemis Common Ground, Lake County Community Development Corporation, Montana Farmers Union, Missoula County Community Food & Agriculture Coalition, and the National Center for Appropriate Technology (NCAT). The coalition also welcomes input from state agencies.

B. Specific Comments Related to Cottage Food Proposal

These comments are based on the proposed cottage food regulation presented by DPHHS representatives at the HB 630 advisory committee. In general, we support the idea of expanding opportunities for small food businesses to produce and sell non-hazardous products made at home. However, the current proposal does not go far enough to expand market opportunities, and we feel that it may create unwanted burden on producers currently selling under the farmers' market exemption (50-50-202). Cottage food regulations vary widely between states, and we wish that the HB 630 process would have dug deeper into models and examples from other states to meet the needs of more producers. Our specific concerns include:

I. Impact on producers currently selling under 50-50-202

There are many producers who have been safely producing and selling baked goods and jellies at home and selling them at farmers markets under 50-50-202, with no fee, registration, or other requirements. The new proposal would cost labor, money, and time for these producers, while offering them only the ability to sell at other, direct-sale locations. There are likely a number of producers who would not gain additional markets, and for whom this would only be a burdensome regulation.

We recommend that a new Montana cottage food law be crafted in such a way that those who produce and sell only at farmers markets continue to be exempted from additional fees, or they gain the ability to expand their product line beyond what is already allowed or expand their sales beyond direct sales. (For instance, the new regulation could exist either alongside the current farmers market exemption, or contain an additional exemption from fees for those selling only baked goods and jellies at farmers markets. An example of a state with a graduated level of licensing for cottage foods, based on product and sales type, is California). We do not feel a one-time registration is a major burden (see comment on re-registrations, III below), but fees and required trainings may be.

II. Allowed products

The proposal from DPHHS would cover only goods currently exempted in 50-50-202, essentially baked goods and jellies. We strongly encourage an expanded product list, including pickles, sauces, and other non-hazardous goods, which are not time or temperature-sensitive.

We recommend: There are many states that allow cottage food production of pickles, sauces, and other such goods (including California, Texas, Alaska, Wisconsin, Maine, North Carolina, Utah, and Indiana). In fact, number of states do not have a list of "allowable" foods in their cottage food law, but instead allow any food that is below a certain pH and water activity (and thus, is not hazardous). There is ample precedent and models for how home production of such goods can be done affordably and safely, and we encourage Montana to expand our cottage food product list look to these states for examples of how to ensure safe products.

III. Product registration

We understand the need for cottage food companies to register. However, under the current proposal, cottage food producers would have to register each product, and re-register (paying another fee) for each time they want to add a recipe. We are concerned about the burden this would cause for producers as well as for local health departments who would need to process the re-registrations.

We recommend: there should be a *one-time* registration and fee. We do not see the need for additional registration and fees with new products, and also are concerned about the burden it would cause to county health offices.

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IV. Product labeling

Earlier versions of a cottage food proposal shown to the advisory committee included simple labeling requirements for the home-produced food. Labeling of home-produced products is a reasonable way to inform consumers and allow for cottage food production; Grow Montana hopes this remains in a final proposal.

V. Production in home kitchens vs. commercial kitchens

We are concerned about the restriction stating, “Cottage food products must be produced in a residential, home kitchen.” This excludes entrepreneurs who may want to use a commercial kitchen that they own or have access to from benefitting from the proposal, for instance a deli owner who might want to can jam and sell it directly to customers to take home, or an apartment-dweller who wants to start a small food business but needs slightly better, more sanitary facilities available at a community-based commercial kitchen.

We recommend: Cottage food rules should apply to everyone who is producing non-hazardous food for direct sale to the public (however, see notes above on the impact of the rule on current farmers market producers). There should not be an additional requirement that it *must* be produced in a home; production in a sanitary commercial-grade kitchen should be allowed.

VI. Elements of the proposal we commend

Some elements of the current proposal from DPHHS are good steps forward, and Grow Montana hopes they will remain in a future version of the bill:

- Avoiding home inspections will lessen burdens on county health departments and producers
- Including a provision to allow DPHHS to add additional products to the list of allowable foods could allow them to create more business opportunities for local food producers in the future. (However, if Montana adopted a pH and water activity standard instead of an allowed products list, as some states have, this may not be as necessary.)
- Cottage food licenses should be valid across all counties in the state. (We strongly encourage this for *all* food licenses, to improve consistency and lessen burdens for producers.)

C. Poultry processing

There is a strong demand in Montana for locally produced poultry, and a desire among producers to fill this demand. The best way to do so would be through the 1000-bird poultry exemption; we are pleased that the Department of Livestock is moving forward with writing rules for its implementation. We hope it is a public process, allowing for input from stakeholders. As they move forward with this process, we strongly encourage Department of Livestock to look to examples of states such as Massachusetts, where 1000-bird rules have been written in a way that protects the consumer, but also allow a variety of business models and sizes to exist without creating undue burden on producers. Grow Montana has conducted research into examples of innovative 1000-bird exemption rules from other states, and we also have connections with local producers who are interesting in engaging with the DOL on this issue. We would be happy to engage with Department of Livestock and share this information with them.

The Grow Montana Food Policy Coalition works to support our Montana's food and agricultural economy through common-sense solutions. One of the most common-sense things we can do to support local food in Montana right now is fix the tangled web of food regulations that local producers must navigate in order to bring their products to market. Doing so would keep more money in our communities and increase the availability of healthy, local food for all Montanans. We should take the opportunity afforded by the HB 630 process to ensure that any new food regulations in Montana truly serve the widest array of producers, consumers, and communities.

Thank you for considering our input,

A handwritten signature in black ink, appearing to read 'Stephanie Potts', with a long, sweeping underline.

Stephanie Potts, Grow Montana Coordinator

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