

CHAPTER 136
HB 177 – FINAL VERSION

04/18/13 1239s

2013 SESSION

13-0125
08/04

HOUSE BILL ***177***

AN ACT relative to licensing requirements for homestead food and organic processor or handler certification.

SPONSORS: Rep. C. McGuire, Merr 29; Rep. Comtois, Belk 7; Rep. Sad, Ches 1; Rep. Haefner, Hills 37; Rep. Jones, Straf 24

COMMITTEE: Environment and Agriculture

AMENDED ANALYSIS

This bill requires homestead food operations exempt from licensure to label their food.

This bill also sets fees for organic on-farm processor or handler certification in statute.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struck through~~].
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Thirteen

AN ACT relative to licensing requirements for homestead food and organic processor or handler certification.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 136:1 Homestead Food Operation; Definition. Amend RSA 143-A:12, I(a) to read as follows:

2 (a) “Homestead food operation” means a person who produces homestead food products,
3 excluding potentially hazardous food, only in the home kitchen of that person’s primary residence in
4 New Hampshire [~~and only for sale directly to the consumer from the homestead residence, the~~
5 ~~owner’s farm stand, or at farmers’ markets~~].

6 136:2 Homestead Food Products; Exemptions. Amend RSA 143-A:12, IV to read as follows:

7 IV. All homestead food products sold in packages from the home kitchen or farm stand of a
8 homestead food operation or at farmers’ markets shall have individual labels on each package
9 containing the following information: name, address, and phone number of the homestead food
10 operation; name of the homestead food product; the ingredients of the homestead product, in
11 descending order of predominance by weight; and allergy information. [~~Such~~] Products ***made by***
12 ***homestead food operations exempt from licensure*** shall also be clearly labeled with the
13 following statement: “This product is exempt from New Hampshire licensing and inspection.”
14 ***Products made by non-exempt homestead food operations shall also be clearly labeled with***
15 ***the following statement: “This product is made in a residential kitchen licensed by the***
16 ***New Hampshire Department of Health and Human Services.”***

17 136:3 Certification of Organic Products. Amend RSA 426:6-b to read as follows:

18 426:6-b Certification.

19 I. Any producer, processor, ***on-farm processor*** or handler of agricultural plant, animal,
20 food, or fiber commodities that are sold, labeled, or represented as “100 percent organic,” “organic,”
21 “made with organic,” or similar terms, shall be enrolled in a certification program which includes an
22 inspection made no less than annually, by a certifying agency accredited by the United States
23 Department of Agriculture in accordance with the Organic Foods Production Act of 1990, Public Law
24 101-624, and the United States Department of Agriculture’s National Organic Program, Final Rule,
25 7 CFR part 205, unless such producer, processor, or handler is exempted therein.

26 II. The commissioner may enter into a cooperative agreement with the United States
27 Department of Agriculture to become an accredited certifying agency as provided for by the Organic
28 Foods Production Act of 1990, Public Law 101-624, and the United States Department of

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Agriculture's National Organic Program, Final Rule, 7 CFR part 205, and to implement the provisions thereof.

III. The commissioner may employ inspectors to certify agricultural producers, processors, ***on-farm processors*** and handlers in this state, and to determine whether or not agricultural plant, animal, food, or fiber commodities are marked, branded, or labeled in accordance with the labeling requirements set forth in this chapter and in the Organic Foods Production Act of 1990, Public Law 101-624, and the United States Department of Agriculture's National Organic Program, Final Rule, 7 CFR part 205.

IV, V. [Repealed.]

VI. For purposes of this chapter "on-farm processor" means a processor who uses products grown or raised on his or her own farm.

136:4 Rulemaking; Fees. Amend RSA 426:8 to read as follows:

426:8 Rulemaking; Fees. The commissioner may adopt rules, pursuant to RSA 541-A, for carrying out the provisions of this chapter~~[including the fixing of fees for inspections and certifications authorized by RSA 426:6-b and RSA 426:7. Such fees shall be credited to the general fund of the state].~~

136:5 New Section; Fees; Organic Farmers and Farm Processors. Amend RSA 426 by inserting after section 8 the following new section:

426:8-a Organic Processors and Handlers; Fees.

I. Each applicant under RSA 426:6-b shall pay a certification fee as follows:

(a) Processors and handlers which are not on-farm processors shall pay:

(1) A \$250 fee for the primary facility; and

(2) A \$100 fee for each additional processing or handling facility.

(b) On-farm processors shall pay a \$50 fee.

II. Each applicant for organic processor, handler, or on-farm processor certification shall pay an inspection fee calculated by the department as follows:

(a) A rate of \$35 per hour of inspection time, including travel time, by the department's inspectors; and

(b) Travel expenses to and from the applicant's facility at a rate of \$0.55 per mile.

(c) The inspection fee shall be calculated after the inspection visit is completed and a subsequent inspection report has been filed with the department.

(d) The inspection fee shall be payable within 30 days of the billing date.

III. Such fees shall be credited to the general fund of the state.

136:6 Effective Date. This act shall take effect upon its passage

Approved: June 27, 2013

Effective Date: June 27, 2013