

HB 1221-FN – AS INTRODUCED

2014 SESSION

14-2275  
08/05

HOUSE BILL

***1221-FN***

AN ACT

declaring New Hampshire fruit and vegetables exempt from the FDA Food Safety and Modernization Act.

SPONSORS:

Rep. Itse, Rock 10; Rep. Sandblade, Hills 18

COMMITTEE:

Environment and Agriculture

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ANALYSIS

This bill declares New Hampshire fruit and vegetables exempt from the FDA Food Safety and Modernization Act.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.



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1           3 Effective Date. This act shall take effect 60 days after its passage.

**HB 1221-FN - FISCAL NOTE**

AN ACT                    declaring New Hampshire fruit and vegetables exempt from the FDA Food Safety and Modernization Act.

**FISCAL IMPACT:**

The Judicial Branch, Department of Justice, Department of Corrections, and New Hampshire Association of Counties state this bill, **as introduced**, may increase state and county expenditures by an indeterminable amount in FY 2015 and each year thereafter. The Department of Agriculture, Markets and Food states this bill will have an indeterminable fiscal impact on state expenditures in FY 2015 and each year thereafter. There will be no fiscal impact on local expenditures, or state, county, and local revenue.

**METHODOLOGY:**

The Judicial Branch states this bill adds RSA 429:11 through 14 to exempt fruit and vegetables produced in New Hampshire from regulation by the FDA Food Safety Modernization Act of 2010. This bill also contains a class A misdemeanor for violations by a New Hampshire public servant and a class B felony for violations by an official, agent or employee of the United States government. The Branch has no information to estimate how many additional prosecutions may result but does have the average cost to process each type of case. The cost for a class A misdemeanor will be \$66.17 in FY 2015, and \$67.64 in FY 2016 and each year thereafter, and the cost for a class B felony, which is processed as an average routine criminal case, will be \$425.27 in FY 2015, and \$433.34 in FY 2016 and each year thereafter. The possibility for a case to be appealed increases the cost. All costs are estimated based on case weight information from the last needs assessment completed in 2005. Since that timeframe there have been various changes that may impact the costs, such as the creation of the circuit court, the increase in self-represented litigants, and the change to presume that an unspecified misdemeanor be treated as a class B misdemeanor.

The Department of Justice states the criminal offenses contained in this bill are typically prosecuted by the county attorney. The Department would handle any appeals for a conviction for such an offense. The Department may also need to defend this bill from any constitutional challenges that might occur if it were to become law. The Department does not have the information to determine the exact fiscal impact this bill might have on the Department's expenditures.

The Department of Corrections states it is not able to determine the fiscal impact of this bill because it does not have sufficient detail to predict the number of individuals who would be subject to this legislation. The Department of Corrections states the average annual cost of incarcerating an individual in the general prison population for the fiscal year ending June 30, 2013 was \$32,872. The cost to supervise an individual by the Department's division of field services for the fiscal year ending June 30, 2013 was \$570.

The New Hampshire Association of Counties states to the extent individuals are charged, convicted, and sentenced to incarceration in a county correctional facility, the counties will have expenditures. The Association is unable to determine the number of individuals who may be charged, convicted or incarcerated as a result of this bill to determine an exact fiscal impact. The average annual cost to incarcerate an individual in a county correctional facility is approximately \$35,000. There is no impact on county revenue.

The Judicial Council assumes that since all violations of this statute would take place within the context of a person's occupation and gainful employment, it would be unlikely that an individual would meet the eligibility standards for the appointment of counsel for indigent defense. The Council also assumes that because the violation would take place in the context of a person's work on behalf of the government, that person would be defended or indemnified by the government or by the individuals' employer. As a result, the Council states this bill will have no impact on the Council's expenditures.

The Department of Agriculture, Markets and Food states the fiscal impact of this bill is indeterminable as federal rules pertaining to the FDA Food Safety Modernization Act of 2010 are in proposed form and it is unclear the role in which agencies, such as the NH Department of Agriculture, Markets and Food and NH Department of Health and Human Services, will play in administering the regulations.

The Department of Health and Human Services does not anticipate a fiscal impact related to the bill.