

2009 FOOD SYSTEM SUMMIT THE NEW NORMAL

Food Animal Well – Being Breakout Session

The Eroded Consumer Trust and Its Impact On Decision Makers and Regulatory Pressures

**Presenter: State Representative Wendy Pieh
House Chair, Joint Standing Committee on Agriculture, Conservation,
and Forestry**

Agriculture in Maine

- Around 7500 working farms, 2500 of those self-sustaining
- Large and increasing number of organic farmers
- Large potato and wild blueberry industries
- 300+ dairies in Maine, largest milks 1400 cows
- No real Concentrated Animal Feeding Operations (CAFO)
- Five USDA slaughter facilities, seven Maine Meat Act slaughter facilities
- Very rural; the culture is of a neighbor-to-neighbor network
- Farmers struggling to survive, looking toward niche and value added opportunities
- Has a reputation for strong animal welfare laws

Paths to Legislation

- In Maine, two bodies, House and Senate (only Nebraska has a single, or unicameral, body)
- Legislation may be proposed by legislators or the governor, often at the request of a group or an individual
- Proposed legislation is called a Legislative Document (LD), is given a number, and is referred to an oversight committee. Agricultural issues in Maine are referred to the Joint Standing Committee on Agriculture, Conservation, and Forestry
- Committee reviews proposed legislation by holding a public hearing and one or more workshops on each referred LD
- Committee recommends action to the full Legislature, ranging from Ought Not to Pass (ONTP), to a Divided Report to a unanimous Out to Pass (OTP). House and Senate then vote on the LD. Both bodies must agree for the LD to become law, and the governor must approve it. What ends up in the law books is seldom the same as the wording in the original LD. It is much easier kill proposed legislation than it is to approve it.

Examples of Three Legislative Documents from the 123rd and 124th Legislatures of the State of Maine

LD 9, An Act To Prohibit the Force-feeding of Birds

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this legislation needs to take effect before the expiration of the 90-day period in order to end the practice of force-feeding birds as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA §4011, sub-§1, ¶I, as amended by PL 2007, c. 702, §11, is further amended to read:

I. Kills or tortures an animal to frighten or intimidate a person or forces a person to injure or kill an animal; or

Sec. 2. 7 MRSA §4011, sub-§1, ¶J, as enacted by PL 2007, c. 702, §12, is amended to read:

J. Confines an animal in a building, enclosure, car, boat, vehicle or vessel of any kind when extreme heat or extreme cold will be harmful to its health; or

Sec. 3. 7 MRSA §4011, sub-§1, ¶K is enacted to read:

K. Force-feeds a bird, including a duck or goose, for the purpose of enlarging the bird's liver beyond its normal size in order to produce the food product known as foie gras. Force-feeding methods include, but are not limited to, delivering feed through a tube or other device inserted into the bird's esophagus, and these methods may not be considered in compliance with best management practices for animal husbandry.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill makes force-feeding birds in order to produce the food product known as foie gras a civil violation.

Testimony/Pressures

- United States Humane Society, Maine Friends of Animals, individuals in Support
- Local Chefs, Foie Gras Producers, Farm Bureau, Department of Agriculture, farmers in Opposition

Result

- Committee voted unanimously Ought Not To Pass

LD 1021 An Act To Prohibit Cruel Confinement of Calves Raised for Veal and Sows during Gestation

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA §4020 is enacted to read:

§ 4020. Cruel confinement of calves raised for veal and sows during gestation

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Calf raised for veal" means a calf of the bovine species kept for the purpose of producing the food product referred to as veal.

B. "Covered animal" means a sow during gestation or calf raised for veal that is kept on a farm.

C. "Enclosure" means a cage, crate or other structure used to confine a covered animal, including, but not limited to, what is commonly described as a "gestation crate" for sows or a "veal crate" for calves.

D. "Farm" has the same meaning as in section 152.

E. "Fully extending the animal's limbs" means fully extending all limbs without touching the side of an enclosure.

F. "Sow during gestation" means a pregnant pig of the porcine species kept for the primary purpose of breeding.

G. "Turning around freely" means turning in a complete circle without any impediment, including a tether, and without touching the side of an enclosure.

2. Prohibition. A person may not tether or confine a covered animal for all or the majority of a day in a manner that prevents the animal from:

A. Lying down, standing up and fully extending the animal's limbs; and

B. Turning around freely.

3. Exceptions. Subsection 2 does not apply:

A. To an animal while it is the subject of scientific or agricultural research;

B. During examination, testing, individual treatment of or operation on an animal for veterinary purposes;

C. To an animal being transported;

D. To an animal at a rodeo exhibition or state or county fair exhibition;

- E. To an animal at a 4-H event or similar exhibition;
- F. To the slaughter of an animal in accordance with Title 22, chapter 562-A, subchapter 4 and rules pertaining to the slaughter of animals; and
- G. To a sow during the 7-day period prior to the sow's expected date of giving birth.

4. Relation to other laws. The provisions of this section are in addition to, and not in lieu of, any other laws protecting animal welfare. This section may not be construed to limit any state law or rules protecting the welfare of animals or to prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations.

The affirmative defense provisions in section 4016, subsection 3 do not apply to this section. It is not an affirmative defense to alleged violations of this section that the calf or sow was kept as part of an agricultural operation and in compliance with best management practices for animal husbandry.

Sec. 2. 17 MRSA §1039 is enacted to read:

§ 1039. Cruel confinement of calves raised for veal and sows during gestation

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

- A. "Calf raised for veal" means a calf of the bovine species kept for the purpose of producing the food product referred to as veal.
- B. "Covered animal" means a sow during gestation or calf raised for veal that is kept on a farm.
- C. "Enclosure" means a cage, crate or other structure used to confine a covered animal, including, but not limited to, what is commonly described as a "gestation crate" for sows or a "veal crate" for calves.
- D. "Farm" has the same meaning as in section 152.
- E. "Fully extending the animal's limbs" means fully extending all limbs without touching the side of an enclosure.
- F. "Sow during gestation" means a pregnant pig of the porcine species kept for the primary purpose of breeding.
- G. "Turning around freely" means turning in a complete circle without any impediment, including a tether, and without touching the side of an enclosure.

2. Prohibition. A person may not tether or confine a covered animal for all or the majority of a day in a manner that prevents the animal from:

- A. Lying down, standing up and fully extending the animal's limbs; and
- B. Turning around freely.

3. Exceptions. Subsection 2 does not apply:

A. To an animal while it is the subject of scientific or agricultural research;

B. During examination, testing, individual treatment of or operation on an animal for veterinary purposes;

C. To an animal being transported;

D. To an animal at a rodeo exhibition or state or county fair exhibition;

E. To an animal at a 4-H event or similar exhibition;

F. To the slaughter of an animal in accordance with Title 22, chapter 562-A, subchapter 4 and rules pertaining to the slaughter of animals; and

G. To a sow during the 7-day period prior to the sow's expected date of giving birth.

4. Relation to other laws. The provisions of this section are in addition to, and not in lieu of, any other laws protecting animal welfare. This section may not be construed to limit any state law or rules protecting the welfare of animals or to prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations.

5. Penalty. A violation of subsection 2 is a Class D crime.

6. Criminal or civil prosecution. A person may be arrested or detained for a violation of subsection 2 in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruel confinement under Title 7, section 1039. The attorney for the State may elect to charge a defendant with a criminal violation under this section or a civil violation under Title 7, section 4020. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in the election and determination are not elements of the criminal offense or civil violation of cruel confinement and are not subject to proof or disproof as prerequisites or conditions for conviction under this section or adjudication under Title 7, section 4020.

It is not an affirmative defense to prosecution under this section that the sow or calf is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry.

Sec. 3. Effective date. This Act takes effect January 1, 2011.

SUMMARY

This bill prohibits the cruel confinement of calves raised for veal and sows during gestation.

Testimony/Pressures

- United States Humane Society, Maine Friends of Animals, individuals in Support
- Farm Bureau, Farmers in Opposition
- Department of Agriculture takes No Position

Result

- Committee unanimously supports scaled down version of the original LD

Reasoning

- No gestation crates currently in use in Maine
- Farmer who is going to use them supported the type defined in the LD
- Those in opposition and the Department of Agriculture supported the final language

FINAL ENACTMENT

An Act To Prohibit Cruel Confinement of Calves Raised for Veal and Sows during Gestation

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA §4020 is enacted to read:

§ 4020. Cruel confinement of calves raised for veal and sows during gestation

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Calf raised for veal" means a calf of the bovine species kept for the purpose of producing the food product referred to as veal.

B. "Covered animal" means a sow during gestation or calf raised for veal that is kept on a farm.

C. "Enclosure" means a cage, crate or other structure used to confine a covered animal, including, but not limited to, what is commonly described as a "gestation crate" for sows or a "veal crate" for calves.

D. "Farm" has the same meaning as in section 152.

E. "Fully extending the animal's limbs" means fully extending all limbs without touching the side of an enclosure.

F. "Sow during gestation" means a pregnant pig of the porcine species kept for the primary purpose of breeding.

G. "Turning around freely" means turning in a complete circle without any impediment, including a tether, and without touching the side of an enclosure.

2. Prohibition. A person may not tether or confine a covered animal for all or the majority of a day in a manner that prevents the animal from:

A. Lying down, standing up and fully extending the animal's limbs; and

B. Turning around freely.

3. Exceptions. Subsection 2 does not apply:

A. To an animal while it is the subject of scientific or agricultural research;

B. During examination, testing, individual treatment of or operation on an animal for veterinary purposes;

C. To an animal being transported;

D. To an animal at a rodeo exhibition or state or county fair exhibition;

E. To an animal at a 4-H event or similar exhibition;

F. To the slaughter of an animal in accordance with Title 22, chapter 562-A, subchapter 4 and rules pertaining to the slaughter of animals; and

G. To a sow during the 7-day period prior to the sow's expected date of giving birth and until the sow's litter is weaned.

4. Relation to other laws. The provisions of this section are in addition to, and not in lieu of, any other laws protecting animal welfare. This section may not be construed to limit any state law or rules protecting the welfare of animals or to prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations.

The affirmative defense provisions in section 4016, subsection 3 do not apply to this section. It is not an affirmative defense to alleged violations of this section that the calf or sow was kept as part of an agricultural operation and in compliance with best management practices for animal husbandry.

Sec. 2. 17 MRSA §1039 is enacted to read:

§ 1039. Cruel confinement of calves raised for veal and sows during gestation

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Calf raised for veal" means a calf of the bovine species kept for the purpose of

producing the food product referred to as veal.

B. "Covered animal" means a sow during gestation or calf raised for veal that is kept on a farm.

C. "Enclosure" means a cage, crate or other structure used to confine a covered animal, including, but not limited to, what is commonly described as a "gestation crate" for sows or a "veal crate" for calves.

D. "Farm" has the same meaning as in section 152.

E. "Fully extending the animal's limbs" means fully extending all limbs without touching the side of an enclosure.

F. "Sow during gestation" means a pregnant pig of the porcine species kept for the primary purpose of breeding.

G. "Turning around freely" means turning in a complete circle without any impediment, including a tether, and without touching the side of an enclosure.

2. Prohibition. A person may not tether or confine a covered animal for all or the majority of a day in a manner that prevents the animal from:

A. Lying down, standing up and fully extending the animal's limbs; and

B. Turning around freely.

3. Exceptions. Subsection 2 does not apply:

A. To an animal while it is the subject of scientific or agricultural research;

B. During examination, testing, individual treatment of or operation on an animal for veterinary purposes;

C. To an animal being transported;

D. To an animal at a rodeo exhibition or state or county fair exhibition;

E. To an animal at a 4-H event or similar exhibition;

F. To the slaughter of an animal in accordance with Title 22, chapter 562-A, subchapter 4 and rules pertaining to the slaughter of animals; and

G. To a sow during the 7-day period prior to the sow's expected date of giving birth and until the sow's litter is weaned.

4. Relation to other laws. The provisions of this section are in addition to, and not in lieu of, any other laws protecting animal welfare. This section may not be construed to limit any state law or rules protecting the welfare of animals or to prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations.

5. Penalty. A violation of subsection 2 is a Class D crime.

6. Criminal or civil prosecution. A person may be arrested or detained for a violation of subsection 2 in accordance with the rules of criminal procedure. A person may not be arrested or detained for the civil violation of cruel confinement under Title 7, section 1039. The attorney for the State may elect to charge a defendant with a criminal violation under this section or a civil violation under Title 7, section 4020. In making this election, the attorney for the State shall consider the severity of the cruelty displayed, the number of animals involved, any prior convictions or adjudications of animal cruelty entered against the defendant and such other factors as may be relevant to a determination of whether criminal or civil sanctions will best accomplish the goals of the animal welfare laws in the particular case before the attorney for the State. The election and determination required by this subsection are not subject to judicial review. The factors involved in the election and determination are not elements of the criminal offense or civil violation of cruel confinement and are not subject to proof or disproof as prerequisites or conditions for conviction under this section or adjudication under Title 7, section 4020.

It is not an affirmative defense to prosecution under this section that the sow or calf is kept as part of an agricultural operation and in compliance with best management practices for animal husbandry.

Sec. 3. Effective date. This Act takes effect January 1, 2011.

LD 57, An Act Regarding the Slaughter of Animals

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA §306-A, as enacted by PL 1999, c. 72, §5, is amended to read:

§ 306-A. Agricultural Development Fund

1. Agricultural Development Fund. The commissioner shall establish an agricultural development fund to accelerate new market development, adoption of advantageous technologies and promotion of state agricultural products by state producers and to facilitate compliance with Title 22, section 2521 by commercial slaughterhouses and custom slaughterhouses as defined in Title 22, section 2511.

2. Fund operation. The commissioner shall utilize the agricultural development fund under subsection 1 to:

- A. Provide grants to individuals, firms or organizations to conduct market research or to undertake market promotion activities for the purpose of expanding existing markets and developing new markets for state agricultural products; ~~and~~
- B. Test and demonstrate new technologies related to the production, storage and processing of state agricultural commodities; and
- C. Provide grants to commercial slaughterhouses and custom slaughterhouses to modify their facilities to comply with Title 22, section 2521.

3. Rulemaking. The commissioner shall establish, by rule, in a manner consistent with Title 5, chapter 375, subchapter ~~H-A2-A~~ criteria for the allocation of grant money, application requirements consistent with the provisions of this section, a schedule for accepting and reviewing applications, reporting requirements on grant expenditures and project results and any other administrative requirements necessary for the efficient implementation of this program. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A2-A~~. The commissioner is guided by the following criteria:

- A. Applications may be submitted by individuals, firms or organizations;
- B. At least 25% of the total cost of any project must be funded by the applicant or applicants and at least 10% of the total cost must be funded from nonpublic sources. A single grant may not exceed 20% of the total funds available to be granted in a given year; however, in no case may a single grant exceed \$30,000;
- C. Information relative to market research or development activities provided to the commissioner prior to formal application, included in grant applications or provided to the commissioner to fulfill reporting requirements is confidential information and may not be publicly disclosed by the commissioner as long as:

- (1) The person to whom the information belongs or pertains has requested that certain

information be designated as confidential; and

(2) The commissioner has determined that the information gives the person making the request opportunity to obtain business or competitive advantage over another person who does not have access to the information or will result in loss of business or other significant detriment to the person making the request if access is provided to others; and

D. When possible, the commissioner shall award grants to applicants representing diverse agricultural enterprises and geographic areas of the State.

4. Advisory committee. The commissioner shall establish the Agricultural Development Committee to evaluate market and production development grant applications and review project results.

Sec. 2. 22 MRSA §2521, as enacted by PL 1999, c. 777, §1, is amended by adding at the end a new paragraph to read:

Beginning January 1, 2009, the slaughtering of livestock or presence of dead livestock within sight of another livestock animal is prohibited in commercial slaughterhouses and custom slaughterhouses.

Sec. 3. Priority in awarding grants from the agricultural development fund. Notwithstanding criteria established in the Maine Revised Statutes, Title 7, section 306-A, subsection 3 and rules adopted in accordance with that subsection, for the 2 grant cycles of the agricultural development fund under that section following enactment of this Act, the Commissioner of Agriculture, Food and Rural Resources shall give priority to applicants seeking funds to modify slaughterhouse facilities so that dead animals and the slaughter of animals are not visible to other livestock.

SUMMARY

This bill enacts a prohibition on slaughtering livestock in sight of other livestock. This prohibition becomes effective January 1, 2009 and applies to custom and commercial slaughterhouses. The bill also amends the statutes governing the distribution of grants from the agricultural development fund to specify that the fund may be used to modify slaughterhouse facilities to comply with statutory provisions for humane slaughter. The bill also directs the Commissioner of Agriculture, Food and Rural Resources to give priority in the next 2 grant cycles to applicants proposing to modify slaughterhouses to comply with the prohibition.

Testimony/Pressures

- Prior to public hearing, Department of Agriculture organized a conference call with Temple Grandin and the sponsor (me) to suggest an alternative solution – having Temple Grandin come to Maine to see our smaller slaughterhouses and how they could be managed in the most humane manner – an amendment suggesting this solution was presented at the public hearing

- Farm Bureau, processors, farmers in opposition to original language, in support of amendment
- No opposition to amendment

Results

- Committee unanimously supported new language
- Temple Grandin came to Maine to work with processors/farmers/ department/legislators

FINAL ENACTMENT

Resolve, To Develop and Promote Enhanced Humane Livestock Handling and Slaughtering Practices

Sec. 1 Commissioner of Agriculture, Food and Rural Resources to develop enhanced humane livestock handling and slaughtering practices. Resolved: That the Commissioner of Agriculture, Food and Rural Resources, referred to in this resolve as "the commissioner," shall engage an animal behaviorist specializing in the design of slaughtering facilities and methods of slaughter to conduct a workshop on enhanced humane livestock handling and slaughtering practices. The commissioner shall notify commercial and custom slaughtering facilities licensed under the Maine Revised Statutes, Title 22, section 2514 and livestock producers throughout the State of the location and date for the workshop. The purpose of the workshop is to serve as an educational forum and a step in the development of enhanced voluntary guidelines for humane slaughter. The Department of Agriculture, Food and Rural Resources shall develop enhanced voluntary humane handling and slaughter guidelines, to be known as "Maine Humane," and report on the guidelines to the Joint Standing Committee on Agriculture, Conservation and Forestry no later than January 2, 2008. The commissioner also shall provide the committee with a proposed strategy for voluntary implementation of the guidelines; and be it further

Sec. 2 Legislation authorized. Resolved: That the Joint Standing Committee on Agriculture, Conservation and Forestry may submit legislation regarding enhanced humane livestock handling and slaughtering practices and certification and labeling of meat products from slaughterhouses adhering to these voluntary practices to the Second Regular Session of the 123rd Legislature; and be it further

Sec. 3 Priority in awarding grants from the Agricultural Development Fund. Resolved: That, notwithstanding criteria established in the Maine Revised Statutes, Title 7, section 306-A, subsection 3 and rules adopted in accordance with that subsection, for the 2 grant cycles of the Agricultural Development Fund under that section following the effective date of this resolve, the commissioner shall give priority to applicants seeking funds to modify or construct slaughterhouse facilities to comply with the voluntary guidelines for enhanced humane handling and slaughtering practices developed under this resolve.

Steps Moving Forward in Building Consumer Trust

- Consumers do not want information on the slaughter process, they want reassurance that the process is humane and that animals have had a happy life
- Collaborate with animal rights groups
- Submit legislation with groups such as the United States Humane Society
- Do not be hesitant in taking a stand to support the raising and slaughtering of food animals in a humane manner