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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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SENATE RESOLUTION

RESPECTFULLY URGING CONGRESS TO REQUEST THAT THE FDA INVESTIGATES  
AMENDING THE QUALIFIED EXEMPTION LANGUAGE IN 21 CFR § 112.5(A)(2) TO  
EXCLUDE ANIMAL FEED PRODUCTS FROM THE DEFINITION OF "ALL FOOD"

Introduced By: Senators DiPalma, Sosnowski, Conley, Coyne, and Euer

Date Introduced: April 04, 2019

Referred To: Senate Environment & Agriculture

1           WHEREAS, The Rhode Island Department of Health (DOH) and the Department of  
2 Environmental Management (DEM) recently held meetings with Rhode Island's agricultural  
3 community as part of the implementation of the Standards for the Growing, Harvesting, Packing,  
4 and Holding of Produce for Human Consumption; and

5           WHEREAS, During these sessions, significant concern was raised regarding the  
6 formulation of the farm average annual monetary value regarding particular inclusions in "all  
7 food" as defined in Section 201(F) of the Federal Food, Drug, and Cosmetic Act; and

8           WHEREAS, Food for animal consumption is regulated under the Current Good  
9 Manufacturing Practice and Hazard Analysis and Risk-Based Preventive Controls for Food for  
10 Animals; and

11           WHEREAS, During the meetings, it was proposed that food for animal consumption  
12 should not count against a farm's annual monetary value as it pertains to the qualified exemption  
13 in 21 CFR § 112.5, as it does not impact the raw agricultural commodities grown for human  
14 consumption; and

15           WHEREAS, In May of 2018, at the request of the Rhode Island Senate Committee on  
16 Environment and Agriculture, the RI DEM Director, Janet Coit and RI DOH Director, Nicole  
17 Alexander-Scott wrote to the FDA Commissioner, Scott Gotlieb on behalf of the RI farm  
18 community requesting consideration for this minor language change to the Produce Safety Rule;  
19 and

1           WHEREAS, To date, neither Director has received any reply from the Commissioner or  
2 any other person at the FDA; and

3           WHEREAS, A query as to the need for an investigation on whether the FDA Produce  
4 Safety Rule found in 21 CFR §112.5 is ultra vires is also pertinent; now, therefore be it

5           RESOLVED, That this Senate of the State of Rhode Island and Providence Plantations  
6 hereby respectfully urges Congress to request the FDA to explore the feasibility of amending the  
7 qualified exemption language in 21 CFR §112.5(a)(2) to exclude animal feed products such as  
8 hay, straw, and silage corn from the definition of "all food" and to fully exempt that produce not  
9 covered pursuant to the Produce Safety Rule in section 112.2(a); and be it further

10          RESOLVED, That the Secretary of State be and hereby is authorized and directed to  
11 transmit duly certified copies of this resolution to the Rhode Island Congressional Delegation, the  
12 Governor of the State of Rhode Island, the Director of the DEM, and the Director of DOH.

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