

HB19-1114

Colorado Fruit and Vegetable Growers Association:

Testimony provided on Monday February 11, 2019 to the Colorado House Rural Affairs & Agriculture Committee

Thank-you Chairman Roberts and honorable committee members for the opportunity to testify on this important bill.

My name is Robert T. Sakata and our family owns and operates a vegetable farm in Brighton Colorado. Today I am here as the volunteer President for the Colorado Fruit & Vegetable Growers Association specifically representing fruit and vegetable growers small and large across the entire state of Colorado.

First and foremost let me assure you that food safety is of the utmost concern for us produce farmers, We don't want to make our families, our dedicated employees or consumers sick. And believe you me food safety is often what keeps us awake at night thinking about that grave responsibility.

The Colorado Fruit & Vegetable Growers Association also know by the acronym CFVGA, was started 5 years ago partly in response to the listeria outbreak that occurred on cantaloupe grown in Colorado. That outbreak even though our farm is 200 miles away from that incident and we don't even grow cantaloupe had our customers worried enough that they sent inspectors to our farm. After that we realized that it is important for all Colorado fruit and vegetable growers to work together on food safety issues to reduce the risk of having another major outbreak.

The FSMA or Food Safety Modernization Act was signed into law in 2011 and required the FDA to place significant responsibilities on farmers to prevent contamination. Since then CFVGA has worked with Colorado State University, & Rocky Mountain Farmers Union, to put on food safety trainings across the state. Another advantage of forming the CFVGA is our ability to partner with large fruit and vegetable associations like Western Growers who has been an invaluable

partner, United Fresh and the Produce Marketing Association, all who have experts in food safety that have been willing to help us and our members.

As farmers in Colorado we have many wonderful benefits, like wonderful Rocky Mountain snowpack water with which to irrigate, the fantastic people and beautiful mile high sunshine in the summer. And even though the freezing cold weather we have had over the last week helps kill lots of the pests we face, the huge disadvantage is that it shortens our growing season. While large operations in AZ, CA, and FL who can grow multiple crops a year can hire trained microbiologists to be their food safety staff few of us in Colorado can afford to do that. On the CFVGA crop calendar that we use to educate today's consumer about when crops are available in Colorado you can see how short a season many of the crops are in our state. That's why it is so important that we have training resources available to continually help our growers on what is new in food safety.

The CFVGA Board of directors met on Friday and we had an in depth discussion about the bill and unanimously voted to support the concept of delegating the Colorado Department of Agriculture the authority to enforce the FSMA Produce Safety Rule, so long as the Department would consider adding some language that would:

1. State that the purpose of this legislation is for the Colorado Department of Agriculture to have the goal of compliance of the FSMA Produce Safety Rule first through outreach and education.
2. To make it clear that farms that do not grow, pack, or store covered produce do not have to register with the state.

Today I have shared with them proposed language that I have included with my written testimony.

Why do we feel it is important for the Department to take the approach of Compliance through outreach and education? I have been extremely fortunate to have a family operation that allowed me to attend numerous food safety meetings across the country and over time at Sakata Farms we have developed our food safety plan which is this red binder containing over 500 pages of standard

operating procedures and policies. This doesn't include the reams of paper for all the associated record keeping that goes along with it as we have 45 clip boards across our operation that the people are instructed to fill out when we are harvesting produce to document what we are doing. Not all farms have been as fortunate as us so I think it will be tremendously important to reach out to those farmers that need help and provide that to them rather than only inspect them and then assess financial penalties against them. Fresh fruit and vegetables are important for all of us and it would be a shame for a farmer to go out of business just because of administrative penalties that they couldn't afford to pay if it was merely a paperwork violation. I am not saying that documentation of food safety practices aren't important, they very much are but we need to prioritize what we can accomplish over time based on the risk to public health that it presents.

Why do we feel the Colorado Department of Agriculture is in a perfect position to accomplish this? I have been in numerous meetings with FDA personnel and many of them openly admit they don't understand how farming works. Their expertise is in things like pharmaceuticals or medical equipment. I would much rather have somebody from CDA come inspect my farm than somebody from FDA because they understand that each farm is unique, the challenges we face with things like a short season, drought, diverse crop production.

I have had the privilege of working with Steve Bornmann and Cristy Dice at CDA with implementation of the Produce Rule over the last couple of years and like many farmers at first I was extremely skeptical of government when they say they are here to help! But over those two years they have shown me that they are sincere in sharing the goal of reducing the risks of a food borne outbreak through outreach and education. We understand that this Produce Safety Rule will have costs to the growers, not in fees paid to the department as specified in the bill but in time and money to become compliant with the rule.

Another reason that it will be important to have the Colorado Department of Agriculture involved with this program is because FDA is still revising important parts of the rule and it will probably continue to change over time. Our former Commissioner of Agriculture Don Brown played an important role with NASDA in

providing input to FDA. Christy and Steve played an invaluable role in convincing FDA officials from Washington D.C. to come Colorado last year to see how differently we farm not only across the state but in comparison to AZ, CA, and FL and how the rules can uniquely affect us. I am confident that Commissioner Greenberg with her experience of growing fresh vegetables will also have a keen interest in what FDA is doing.

If this bill is signed into law the Colorado Fruit and Vegetable Growers Association pledges to continue to help the Colorado Department of Agriculture with food safety trainings for growers across the state because we feel it is so important. I know that our proposal was very late in getting to them but I hope that CDA will consider adding our proposed language or something similar as the bill moves forward.

Thank-you committee members for this opportunity to testify today on HB19-1114.

Sincerely,

Robert T. Sakata

Colorado Fruit and Vegetable Growers President.

Colorado Fruit and Vegetable Growers Association language request for:

HB19-1114 Concerning the implementation under state law by the Commissioner of Agriculture of Federal Produce Safety Standards for Farms

- I. "The General Assembly finds, determines, and declares that safe fresh fruits and vegetables grown in Colorado provide important economic contributions to the state and important health benefits to its citizens. The purpose of Article 77 is to authorize the Commissioner to facilitate compliance of 21 CFR 112, concerning produce safety, through outreach and education by the Commissioner and to implement and enforce 21 CFR 112 under a cooperative agreement with the FDA, and in lieu of enforcement by the FDA or any other state agency."
- II. On Page 4, in line 17 add after the words "Section 35-77-103" insert: "or under the circumstances described under Sections 35-77-104 (3) or 35-77-104 (4)"
- III. On Page 5, in line 3 insert "(3) A Farm shall not be required to register under this section If all of the Produce Grown, packed or Held on that Farm meets one or more of the following criteria:
 - a. (a) the Produce is rarely consumed raw, specifically consisting of produce solely from the following exhaustive list: Asparagus; beans, black; beans, great Northern; beans, kidney; beans, lima; beans, navy; beans, pinto; beets, garden (roots and tops); beets, sugar; cashews; cherries, sour; chickpeas; cocoa beans; coffee beans; collards; corn, sweet; cranberries; dates; dill (seeds and weed); eggplants; figs; ginger; hazelnuts; horseradish; lentils; okra; peanuts; pecans; peppermint; potatoes; pumpkins; squash, winter; sweet potatoes; and water chestnuts;
 - b. (b) the Produce is produced by an individual for personal consumption; OR
 - c. (c) The Produce is produced for consumption on the farm or another farm under the same management.
 - d. (4) Farms Where the Real Property, Building or Facility used for covered activities is located solely outside of the state of Colorado Shall not be required to register under this SECTION."