

**House Committee on Agriculture, Food Resiliency, and Forestry Testimony 02/14/2024**  
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For my testimony today I want to cover a few key points about H.128 and its importance to increasing the economic viability of our farming community, particularly small farms, diversified farms, and farms that are exploring ways to diversify income streams that originate from their farm.

Act 143 of 2018 created the municipal land use category we know today as accessory on-farm businesses (AOFBs). Back in 2018 a group of Farm to Plate Network members which included agricultural organizations, farmers, town and regional land use planners, and environmentalists came together to create this new land use category in recognition of the changing nature of farming in Vermont, which could be characterized as a time of innovation of farm-based value-added enterprises, agritourism experiences, and emergent and evolving challenges posed by global commodity markets and industry consolidation.

The realization we came to as a state in 2018 in passing Act 143 was that farming today is different from farming of the past, and accessory on-farm businesses are an expression of this new reality. Farms today cannot comfortably rely on the production of one type of commodity to stay afloat, and with ever increasing market consolidation, farm viability is increasingly reliant on creative forms of diversification that in part are about bringing people to the farm to not only purchase and consume products but to have farm-based experiences.

Act 143 was successful in giving us a framework to standardize regulations of AOFBs at the municipal level across the state, with the goal of creating a regulatory environment where AOFBs could thrive in a responsible manner. Compromises were made, it wasn't perfect, but it created a foundation to build upon. Since 2018, farms, towns, planners and zoning officials, and state government have had direct experiences with the regulatory framework of Act 143, and naturally from those experiences improvements have been identified. H.128 incorporates learnings from the years since Act 143 was passed in a few important ways:

- First: It harmonizes state and municipal AOFB regulations by allowing defined AOFB activities to be added to Act 250's definition of farming and thus be exempt from Act 250 permitting. As mentioned above, farming has changed. What was accepted as the definition of farming 54 years ago when Act 250 passed no longer wholly represents the modern realities of farming today, and with that its appropriate to amend the farming definition of Act 250 to include AOFBs. In doing so farms will have more confidence in pursuing AOFB endeavors without fearing expensive permitting processes or litigation. Also, the rationale for amending Act 250 in this way is not an arbitrary exemption being handed to agriculture, but rather consistent with Act 250's original intent and purpose. In the words of Vermont Law Schools Richard Oliver Brooks "conserving, preserving and enhancing Vermont's complex pastoralism is Act 250's principle purpose (2) this pastoralism is composed of major landscape elements: mountains, rivers, lakes and streams, farms and forests, compact towns, scenic roads; (3) this landscape is a working landscape shaped by its residents and visitors in pursuit of their health, recreation and economic well-being...". Adding AOFBs to the Act 250 definition of farming provides the state with an additional tool to conserve our working landscape, or in Brooks' words, Vermont's complex pastoralism as Act 250 intended.

- Second: H.128 strengthens the original AOFB definition in subtle but critical ways. The allowance for qualifying products of the AOFB to be either 50 percent of total annual sales *or* total annual number of sold products from qualifying products that are produced on the farm is important. The number of sold products is a good equity component that acknowledges differences in value between farm products that may be produced by the farm and products it may be selling from others. For example, imagine a farm is operating a farm store, selling their own products plus products bought directly from other farms or an aggregator of farm products. Imagine that they're selling carrots and onions grown on their farm, and cheese and maple syrup from two nearby farms. Cheese and maple are on average more expensive, and if the AOFB definition for storage, preparation, processing, or sales was exclusively tied to value of sales some farms would unfairly be at a disadvantage for what they could do solely because of the unit value of the products they sell. The number of sold products stipulation provides more equity of opportunity to different farm types and also potentially allows for more mutually beneficial collaborations between farms. Also, there is widespread agreement that farms selling agricultural products from other farms is broadly beneficial in promoting farm viability and Vermont's working landscape.
- Third: the inclusion of the farm's merchandise as a qualifying product is not insignificant and better reflects the reality of how farms are marketing their business and diversifying income. This came up as a pain point stakeholder meetings this fall and winter – it has been both a point of confusion – can I sell merchandise at the farm store, if I do how would that compromise the AOFB designation - and something that was potentially inhibiting farms from investing with confidence in AOFB activity.
- Lastly, in testimony you may have already heard and will likely hear from others in the future, there is still reasonable debate around how clear Act.128 in its current form is in defining accessory farm events or even accessory farm restaurants. No definition is perfect or will make everyone happy, but a lack of clarity is not conducive to successful AOFBs or healthy relationships between regulators or in communities. I think there is a middle ground to strike that doesn't take options away from farms to be innovative and engage their communities in healthy ways through events and meals but also limits impacts and concerns of community members. And, what disagreements exist on this specific aspect should not keep us from advancing the other important improvements previously mentioned.

As there was in 2018, there is alignment amongst agricultural organizations, farmers, government agencies, the NRB, and planners that these are sensible changes to make, much of which you'll find in the NRB's 2023 report "Act 250 Jurisdiction over Agricultural Businesses: A report to the Vermont Legislature".

Overall, H.128 represents an important step forward in revising AOFB regulations for the better, modernizing Act 250's definition of farming in a way that reflects the practices and realities of our time, and helps us achieve our state food system and food security goals by creating opportunities for farms to be more economically viable which in turn enhances our rural economies and regional resiliency and self-reliance. Thank you for your time and I'm happy to answer any questions.