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THE SENATE  
STATE OF NEW YORK



DARREL J. AUBERTINE  
SENATOR, 48<sup>TH</sup> DISTRICT

903 LEGISLATIVE OFFICE BUILDING  
ALBANY, NEW YORK 12247  
(518) 455-2761  
FAX (518) 426-6946

DULLES STATE OFFICE BUILDING  
317 WASHINGTON ST.  
WATERTOWN, NY 13601  
(3125) 782-3418  
FAX (315) 782-6357

EMAIL: AUBERTIN@SENATE.STATE.NY.US

February 26, 2009

Thomas J. Vilsack, Secretary  
U.S. Department of Agriculture  
1400 Independence Ave., S.W.  
Washington, DC 20250

Re: USDA interpretation of “*de minimis* handling and processing of agricultural products”

Dear Secretary Vilsack:

We write today on behalf of New York State’s farmers and school children. As you are aware, agriculture is often a forgotten industry and in need of a stimulus as well. One simple approach is promoting “Farm to Fork” programs which open up markets for farmers to sell local milk, meat, and produce in urban centers and schools.

The Farm Bill’s Fresh Fruit and Vegetable Program gives New York’s farmers the opportunity to sell healthy and locally grown fruits and vegetables in our schools. In doing so, our children receive healthy local food, which in New York State is subject to the highest standards for safety and security. Our aim is to make sure that these highest quality foods are easily and readily accessible to school children across New York.

This letter is in reference to USDA’s interpretation of “*de minimis* handling and processing of agricultural products.” Under current law, schools can give geographic preference in the procurement process to locally grown and raised agricultural products. However, a recent clarifying document released by USDA indicates that pre-cut fruits and vegetables would be considered processed, preventing schools from considering them fresh and local.

We believe it goes against the intention of giving schools the right to use geographic preference if locally grown fruits and vegetables are considered processed simply because these fruits and vegetables have been washed, sliced and bagged. Nothing has been added. It has not been cooked. Rather it has been cut and bagged for easy snacking by our children and should not be considered processed. These programs benefit our children and our economy. It is unreasonable to take this market opportunity away from New York’s farmers for making their healthy and safe fruits and vegetables more attractive and easier to serve.

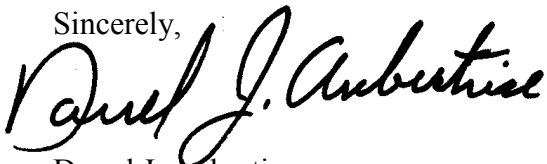
In the Joint Explanatory Statement for the Farm Bill, it states: “The Managers do not intend [to] interpret the term ‘unprocessed’ literally, but rather intend that it be logically implemented. In specifying the term ‘unprocessed,’ the Managers’ use of the term intends to preclude the use of geographic preference for agricultural products that have significant value added components. The Managers do not intend to preclude *de minimis* handling and preparation such as may be necessary to present an agricultural product to a school food authority in a useable form, such as washing vegetables, bagging greens.” (Joint Explanatory Statement, p. 106-107).

The Fresh Fruit and Vegetable Program requires these snacks be served outside of standard school meal programs. Therefore, it is illogical to prohibit local produce as “processed” simply because it is in a form that can be served to students outside of the lunchroom.

This program and others like it help our farmers, which creates wealth and leads to increased employment, creating a ripple effect that strengthens our struggling rural communities. Additionally, locally grown and distributed food is likely to be fresher and more nutritious, a key to fighting childhood public health problems from obesity to diabetes.

We ask that you remain mindful of the vitality and value of New York's farms, the health of our school children, and the positive benefits of promoting local agriculture when determining how to implement the geographic preference provisions of the farm bill and its use in relation to the Fresh Fruit and Vegetable program. One immediate and effective way to do this would be to reverse the USDA’s reinterpretation of “*de minimis*” handling of agriculture products to allow locally grown precut and bagged produce to be served to our school children. We appreciate your consideration and thank you for your attention to our concerns.

Sincerely,



Darrel J. Aubertine  
State Senator

Sincerely,



Kirsten Gillibrand  
U.S. Senator

U.S.S.

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