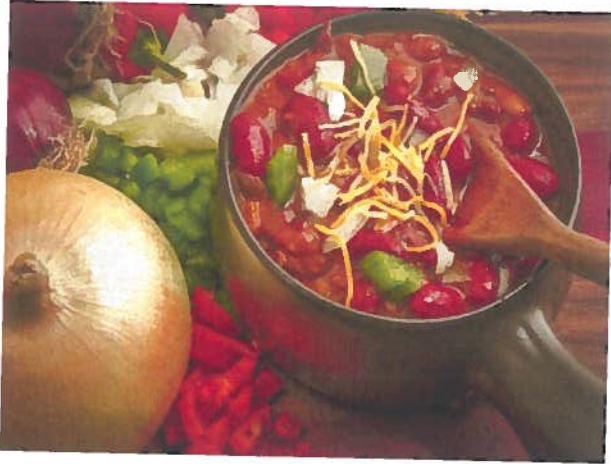


USDA Wrongly Targets Wyoming's Food Freedom Act

A raid last month targeted a vendor who was selling chili at a farmers market.

Baylen Linnekin | Oct. 8, 2016 7:31 am



Ehrlif | Dreamstime.com

Earlier this week, in one of several related announcements, the USDA proudly declared that its MyPlate, MyState program, which the agency bills as "an effort to celebrate homegrown pride, foods and recipes and bring communities together around healthy eating," was entering a new phase.

"Through MyPlate, MyState, USDA is working to make the connection between healthy eating and more than 160,000 farmers and ranchers nationwide that are selling into local markets through... farmers markets, farm stands and community supported agriculture (CSA) programs," reads an agency release the USDA emailed to me and others this

week.

You'd have to forgive some folks who sell their food at a small farmers market in Wyoming if this USDA self-promotion rings a bit hollow. That's because late last month, agents from the USDA's Food Safety Inspection Service (FSIS) showed up at a farmers market in Gillette, Wyoming, and ordered a food vendor at the market to destroy his food.

Specifically, the FSIS agents ordered John Thompson, who makes Big John's Chili and sells it at the market, to dump out all of his jars of chicken green chili. Thompson complied, despite the fact the inspectors failed to respond to at least one request to identify themselves, and ordered at least one person at the farmers market who was taping the raid to cease filming, lest FSIS cite him for intimidating federal agents.

What's the big deal with a guy selling jars of chili? In short, nothing. While details of the raid are still fuzzy, I'm not aware of any legal justification for the FSIS action.

To be certain, if Thompson hadn't been selling the chili but had been donating it, or making it for friends to serve at home, or serving it at a church dinner, the USDA food-safety inspectors would never have gotten on their high horse and traveled (rumors say all the way from Colorado) to

Wyoming. But because an impossibly small vendor decided to can and label the chili, it appears the USDA felt compelled to act.

But that doesn't mean the agency had the authority to act.

"In my opinion the FSIS didn't have the authority to inspect that food because it didn't involve interstate commerce," Wyoming State Rep. Tyler Lindholm told County 17, a local news site.

He's right. While federal law doesn't empower FSIS to act as it did, it's also true that Wyoming state law *protects* Thompson's right to sell his chicken chili at a farmers market, thanks to the state's Food Freedom Act.

State Rep. Lindholm knows a thing or two about the Wyoming Food Freedom Act. He co-sponsored the bi-partisan bill, which breezed through the state senate on its way to becoming law. It "allow[s] for the sale and consumption of homemade foods and to encourage the expansion of agricultural sales by farmers markets, ranches, farms and home based producers" who produce and sell food and drink agricultural products—including produce and poultry, but not pork, lamb, or beef—wholly within the state of Wyoming, and only for home consumption. The reason pork, lamb, and beef aren't sales aren't protected under the Wyoming law is that Congress, in the late 1960s, prohibited the commercial sale of those meats unless they were processed in a USDA-inspected facility.

In an older photo, one of the jars of Thompson's green chili appears to list pork as an ingredient. That could have raised agency red flags. Its sale wouldn't be protected under federal or state law.

But the food the USDA forced Thompson to dispose of was chicken chili, not pork chili.

I interviewed Lindholm in March 2015, shortly after the Food Freedom Act's passage. I also spoke with him this week.

"Maybe they haven't read the Wyoming Food Freedom Act," Lindholm suggested in a video he posted on Facebook after learning of the recent USDA action. Lindholm is also perplexed by the agency's actions because they run counter to what the USDA told him as he was drafting the bill that became the Food Freedom Act.

"A poultry producer could slaughter and process their own poultry without any controls and sell them at a farmers market and to other individuals as far as the USDA is concerned," said Lindholm in the Facebook video, while reading from a USDA letter on the Food Freedom Act.

I have no doubt the USDA fears the Wyoming law because, as I noted last year, the Food Freedom Act is doing what we want good laws to do: it's spreading to other states.

John Moody from the Farm-to-Consumer Legal Defense Fund argued recently that the Wyoming Food Freedom Act may turn out to be "a test case for how far the federal government will go to

stomp out food freedom in the individual states, and how far states and their communities will go to protect their freedoms and their folk from government run amok." I agree.

If this sounds like a story ripped from the pages of my book, *Biting the Hands that Feed Us: How Fewer, Smarter Laws Would Make Our Food System More Sustainable*— which I'll be discussing in a book talk and signing today at 1 p.m. at Politics & Prose, Washington, D.C.'s preeminent independent bookstore—that's because it is. Literally so.

In addition to highlighting Lindholm's work and Wyoming's Food Freedom Act, I also detail the many problems with federal meat inspection laws and regulations, along with overly aggressive farmers market regulations in several states that have taken the "farmer" out of the farmers market.

This latest USDA crackdown has rightly put farmers markets in other states, including South Dakota, on notice. But that doesn't mean a little levity isn't warranted.

"Watch out for chicken chili," Lindholm warns toward the end of his video. "Because it's rampant. It's out there. It's delicious."