

§ 99B-12. Burden of proof in certain cases.

(a) A commodity producer shall be entitled to a rebuttable presumption that the commodity producer was not negligent when death or injury is proximately caused by the consumption of the producer's raw agricultural commodity if the producer (i) is certified by the United States Department of Agriculture Agricultural Marketing Service Good Agricultural Practices and Good Handling Practices Audit Verification Program or other third-party certification program designated by the Commissioner for purposes of this section; (ii) has a written food safety policy that complies with the certification program's standard and can provide evidence that the producer trains employees on the policy on an annual basis; (iii) has had no formal administrative findings or sanctions or legal judgments entered against the producer during the previous three years based on a claim that the commodity producer's negligence was the proximate cause of a plaintiff's death or injury; and (iv) has had no settlement agreements concluding litigation where the settlement exceeded twenty-five thousand dollars (\$25,000), or in which the producer admitted liability, during the previous three years based on a claim that the commodity producer's negligence was the proximate cause of a plaintiff's death or injury. This presumption may be overcome only by clear and convincing evidence that the commodity producer's negligence was the proximate cause of the death or injury.

(b) As used in this section:

- (1) Commodity producer means a producer of raw agricultural commodities.
- (2) Raw agricultural commodity means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing, and which is covered by the United States Department of Agriculture Agricultural Marketing Service Good Agricultural Practices and Good Handling Practices Audit Verification Program. (2013-265, s. 2.)