

**FOOD REVISIONS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Marc K. Roberts**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill creates permitting guidelines for agritourism food establishments and clarifies the Home Consumption and Homemade Food Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ clarifies that homemade food can be consumed at the home of the producer;
- ▶ grants administrative authority to local health departments to:
  - create and issue agritourism food establishment permits;
  - charge fees for issuing permits and inspecting premises;
  - create standards and regulations for inspecting agritourism food establishments;

and

- inspect agritourism food establishments, including inspecting the locations where food is prepared; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**



28 AMENDS:

29 **4-5a-102**, as enacted by Laws of Utah 2018, Chapter 377

30 ENACTS:

31 **26-15b-101**, Utah Code Annotated 1953

32 **26-15b-102**, Utah Code Annotated 1953

33 **26-15b-103**, Utah Code Annotated 1953

34 **26-15b-104**, Utah Code Annotated 1953

35 **26-15b-105**, Utah Code Annotated 1953



37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section **4-5a-102** is amended to read:

39 **4-5a-102. Definitions.**

40 [~~For purposes of~~] As used in this chapter:

41 (1) (a) "Commercial establishment" means a wholesale or retail business that displays,  
42 sells, manufactures, processes, packs, holds, or stores food, drugs, devices, or cosmetics.

43 (b) "Commercial establishment" does not include a:

44 (i) direct-to-sale location; or

45 (ii) direct-to-sale farmers market.

46 (2) "Direct-to-sale farmers market" means a public or private facility or area where  
47 producers gather on a regular basis to sell directly to an informed final consumer fresh food,  
48 locally grown products, and other food items that have not been certified, licensed, regulated,  
49 or inspected by state or local authorities.

50 (3) "Direct-to-sale location" means a farm, ranch, direct-to-sale farmers market, home,  
51 office, or any location agreed upon by both a producer and the informed final consumer where  
52 a producer sells a food or food product to an informed final consumer.

53 (4) "Home consumption" means the use or ingestion of homemade food or a  
54 homemade food product within a private home or the home of the producer by a family  
55 member, an employee, or a nonpaying guest.

56 (5) "Homemade food product" means a food product that is prepared in a private home  
57 kitchen that can be used, or prepared for use, as food or nonalcoholic drink, subject to the  
58 limitation described in Subsection **4-5a-105(1)**.

59 (6) "Informed final consumer" means an individual who:  
 60 (a) purchases the product directly from the producer;  
 61 (b) does not resell the product; and  
 62 (c) has been informed that the product is not certified, licensed, regulated, or inspected  
 63 by the state.

64 (7) "Producer" means a person who harvests or produces homemade food or a  
 65 homemade food product.

66 Section 2. Section **26-15b-101** is enacted to read:

67 **CHAPTER 15b. AGRITOURISM FOOD ESTABLISHMENT ACT**

68 **26-15b-101. Title.**

69 This chapter is known as the "Agritourism Food Establishment Act."

70 Section 3. Section **26-15b-102** is enacted to read:

71 **26-15b-102. Definitions.**

72 As used in this chapter:

73 (1) "Agricultural tourism activity" means the same as that term is defined in Section  
 74 [78B-4-512.](#)

75 (2) "Agritourism" means the same as that term is defined in Section [78B-4-512.](#)

76 (3) "Agritourism food establishment" means a kitchen in a private residence which is  
 77 located on a farm where food is handled, stored, prepared, sold, or offered for sale.

78 (4) "Agritourism food establishment permit" means a permit issued by a local health  
 79 department to the operator for the purposes of operating an agritourism food establishment.

80 (5) "Farm" means a working farm, ranch, or other commercial agricultural,  
 81 aquacultural, horticultural, or forestry operation.

82 (6) "Food" means:

83 (a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or  
 84 ingredient used or intended for use or for sale, in whole or in part, for human consumption; or

85 (b) chewing gum.

86 (7) "Local health department" means the same as that term is defined in Section  
 87 [26A-1-102.](#)

88 (8) "Operator" means a person who owns, manages, or controls, or who has the duty to  
 89 manage or control, the farm.

90 (9) "Private residence" means a home located on a farm that is occupied by the  
91 operator of the farm.

92 (10) "Time/temperature control food" means food that requires time/temperature  
93 controls for safety to limit pathogenic microorganism growth or toxin formation.

94 Section 4. Section **26-15b-103** is enacted to read:

95 **26-15b-103. Permitting -- Fees.**

96 (1) A farm may not operate an agritourism food establishment unless the farm obtains a  
97 permit from the local health department that has jurisdiction over the area in which the farm is  
98 located.

99 (2) In accordance with Section [26A-1-121](#), and subject to the restrictions of Section  
100 [26-15b-105](#), a local health department shall make standards and regulations relating to the  
101 permitting of an agritourism food establishment.

102 (3) In accordance with Section [26A-1-114](#), a local health department shall impose a fee  
103 for an agritourism food establishment permit in an amount that reimburses the local health  
104 department for the cost of regulating the agritourism food establishment.

105 Section 5. Section **26-15b-104** is enacted to read:

106 **26-15b-104. Safety and health inspections and permits.**

107 (1) A local health department with jurisdiction over an area in which a farm is located  
108 may grant an agritourism food establishment permit to the farm.

109 (2) Nothing in this section prevents a local health department from revoking an  
110 agritourism food establishment permit issued by the local health department if the operation of  
111 the agritourism food establishment violates the terms of the permit or Section [26-15b-105](#).

112 Section 6. Section **26-15b-105** is enacted to read:

113 **26-15b-105. Permit requirements.**

114 (1) A farm may qualify for an agritourism food establishment permit if:

115 (a) poultry or meat from a rabbit that is served at the agritourism food establishment is:

116 (i) raised, slaughtered, and prepared on the farm pursuant to the requirements of state  
117 and federal law; or

118 (ii) purchased commercially;

119 (b) meat not described in Subsection (1)(a) that is served at the agritourism food  
120 establishment is slaughtered and processed in compliance with the Federal Meat Inspection

121 Act, 21 U.S.C. Sec. 601 et seq., and the applicable regulations issued pursuant to that act;

122 (c) a home kitchen used to prepare food for the agritourism food establishment meets  
123 the home kitchen requirements established by the local health department; and

124 (d) the farm complies with the requirements of this section.

125 (2) A local health department shall:

126 (a) in accordance with Section 26A-1-121, make standards and regulations to inspect  
127 home kitchens;

128 (b) notwithstanding Section 26A-1-113, inspect the home kitchen of a farm that  
129 requests an agritourism food establishment permit only:

130 (i) for an initial inspection before issuing the permit; or

131 (ii) for subsequent inspections if:

132 (A) the local health department provides the operator with reasonable advanced notice  
133 about an inspection; or

134 (B) the local health department has a valid reason to suspect that the agritourism food  
135 establishment is the source of an adulterated food or of an outbreak of illness caused by a  
136 contaminated food; and

137 (c) document the reason for any inspection after the permitting inspection, keep a copy  
138 of that documentation on file with the agritourism food establishment's permit, and provide a  
139 copy of that documentation to the operator.

140 (3) When making standards and regulations for home kitchens under Subsection (2)(a),  
141 a local health department may not make standards and regulations regarding:

142 (a) hand washing facilities, except to require that a hand washing sink supplied with  
143 warm water is located in the toilet room;

144 (b) kitchen sinks and dish sanitation, except to require that the kitchen sink has hot and  
145 cold water and is fully operational;

146 (c) the individuals allowed access to the food preparation areas, food storage, and  
147 washing areas;

148 (d) smoking;

149 (e) employee consumption of food, alcohol, or tobacco products;

150 (f) display guards, covers, or containers for display foods, except to require that any  
151 food on display that is not protected from the direct line of a consumer's mouth by an effective

- 152 means is not served or sold to any subsequent consumer;  
153       (g) outdoor display and sale of food;  
154       (h) reuse of drinking cups and tableware for multiple portions;  
155       (i) utensils and equipment, except to require that utensils and equipment used in the  
156 home kitchen retain their characteristic qualities under normal use conditions;  
157       (j) food contact surfaces, except to require that these surfaces are smooth, easily  
158 cleanable, and in good repair;  
159       (k) non-food contact surfaces if those surfaces are made of materials ordinarily used in  
160 residential settings;  
161       (l) clean-in-place equipment;  
162       (m) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and  
163 smoke are able to escape the kitchen;  
164       (n) fixed temperature measuring devices or product mimicking sensors for the holding  
165 equipment for time/temperature control food;  
166       (o) fixed floor-mounted and table-mounted equipment;  
167       (p) dedicated laundry facilities, except to require that linens used for the agritourism  
168 food establishment be laundered separately from any other laundry;  
169       (q) water, plumbing, drainage, and waste, except to require that sinks be supplied with  
170 hot water;  
171       (r) the number of, path of access to, and location of toilet facilities;  
172       (s) lighting, except to require that food preparations are well lit by natural or artificial  
173 light whenever food is being prepared;  
174       (t) designated dressing areas and storage facilities, except to require that items not  
175 ordinarily found in a home kitchen are placed or stored away from food preparation areas and  
176 that dressing takes place outside of the home kitchen;  
177       (u) the presence and handling of animals, except to require that all animals other than  
178 service animals are kept outside of food preparation and service areas during food service and  
179 food preparation;  
180       (v) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces  
181 are smooth, of durable construction, and easily cleanable;  
182       (w) an evaluation or grading system;

183 (x) home kitchens open to living and sleeping areas, except to require that food is not  
184 prepared in designated sleeping quarters;

185 (y) submission of plans and specifications before construction or remodel of a home  
186 kitchen;

187 (z) the number and type of time/temperature controlled food offered for sale;

188 (aa) approved food sources, except those required by 9 C.F.R. 303.1;

189 (bb) the use of items produced under Section 4-5-9.5 and this chapter;

190 (cc) the use of an open air barbeque, grill, or outdoor wood-burning oven; or

191 (dd) food safety certification, except:

192 (i) the operator shall maintain a certificate as a food safety manager as required by  
193 Section 26-15a-106; and

194 (ii) any individual, other than the operator, who is involved in the preparation, storage,  
195 or service of food in the agritourism food establishment shall hold a food handler permit as  
196 defined in Section 26-15-5.

197 (4) An operator applying for an agritourism food establishment permit shall provide to  
198 the local health department:

199 (a) written consent to enter the premises where food is prepared, cooked, stored, or  
200 harvested for the agritourism food establishment; and

201 (b) written standard operating procedures that include:

202 (i) all food that will be stored, handled, and prepared;

203 (ii) the proposed procedures and methods of food preparation and handling;

204 (iii) procedures, methods, and schedules for cleaning utensils and equipment;

205 (iv) procedures and methods for the disposal of refuse; and

206 (v) a plan for maintaining time/temperature controlled food at the appropriate  
207 temperatures for each time/temperature controlled food.

208 (5) In addition to a fee charged under Section 26-15b-103, if the local health  
209 department is required to inspect the farm as a source of an adulterated food or an outbreak of  
210 illness caused by a contaminated food and finds, as a result of that inspection, that the farm has  
211 produced an adulterated food or was the source of an outbreak of illness caused by a  
212 contaminated food, the local health department may charge and collect from the farm a fee for  
213 that inspection.

- 214           (6) An agritourism food establishment permit:  
215           (a) is nontransferable;  
216           (b) is renewable on an annual basis;  
217           (c) is restricted to the location listed on the permit; and  
218           (d) shall provide the operator the opportunity to update the food types and products  
219 handled without requiring the operator to renew the permit.  
220           (7) This section does not prohibit an operator from applying for a different type of food  
221 event permit from a local health department.