

FARMERS MARKET EXEMPTIONS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ronda Rudd Menlove

Senate Sponsor: Darin G. Peterson

LONG TITLE

General Description:

This bill exempts farmers markets from certain regulation and permits local governments to operate farmers markets.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ exempts farmers markets from the definition of food establishment;
- ▶ exempts farmers markets from the definition of food handler; and
- ▶ allows counties and municipalities to:
 - operate farmers markets; and
 - indemnify farmers market participants.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-5-2, as last amended by Chapter 358, Laws of Utah 2004

26-15-1, as last amended by Chapter 112, Laws of Utah 1991

ENACTS:

10-8-85.8, Utah Code Annotated 1953

17-50-323, Utah Code Annotated 1953

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

Section 1. Section **4-5-2** is amended to read:

4-5-2. Definitions.

As used in this chapter:

(1) "Advertisement" means a representation, other than by labeling, made to induce the purchase of food.

(2) (a) "Color additive" means a dye, pigment, or other substance not exempted under the federal act that, when added or applied to a food, is capable of imparting color. "Color" includes black, white, and intermediate grays.

(b) "Color additive" does not include a pesticide chemical, soil or plant nutrient, or other agricultural chemical which imparts color solely because of its effect, before or after harvest, in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of any plant life.

(3) (a) "Consumer commodity" means a food, as defined by this act, or by the federal act.

(b) "Consumer commodity" does not include:

(i) a commodity subject to packaging or labeling requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Sec. 136 et seq.;

(ii) a commodity subject to Title 4, Chapter 16, Utah Seed Act;

(iii) a meat or meat product subject to the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.;

(iv) a poultry or poultry product subject to the Poultry Inspection Act, 21 U.S.C. Sec. 451 et seq.;

(v) a tobacco or tobacco product; or

(vi) a beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act, 27 U.S.C. Sec. 201, et seq.

(4) "Contaminated" means not securely protected from dust, dirt, or foreign or

58 injurious agents.

59 (5) "Farmers market" means a market where producers of food products sell only fresh,
60 raw, whole, unprocessed, and unprepared food items directly to the final consumer.

61 [~~5~~] (6) "Federal act" means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.
62 Sec. 301 et seq.

63 [~~6~~] (7) "Food" means:

64 (a) an article used for food or drink for human or animal consumption or the
65 components of the article;

66 (b) chewing gum or its components; or

67 (c) a food supplement for special dietary use which is necessitated because of a
68 physical, physiological, pathological, or other condition.

69 [~~7~~] (8) (a) "Food additive" means a substance, the intended use of which results in the
70 substance becoming a component, or otherwise affecting the characteristics, of a food. "Food
71 additive" includes a substance or source of radiation intended for use in producing,
72 manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding
73 food.

74 (b) "Food additive" does not include:

75 (i) a pesticide chemical in or on a raw agricultural commodity;

76 (ii) a pesticide chemical that is intended for use or is used in the production, storage, or
77 transportation of a raw agricultural commodity; or

78 (iii) a substance used in accordance with a sanction or approval granted pursuant to the
79 Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq. or the Federal Meat Inspection Act,
80 21 U.S.C. Sec. 601 et seq.

81 [~~8~~] (9) (a) "Food establishment" means a grocery store, bakery, candy factory, food
82 processor, bottling plant, sugar factory, cannery, rabbit processor, meat processor, flour mill,
83 cold or dry warehouse storage, or other facility where food products are manufactured, canned,
84 processed, packaged, stored, transported, prepared, sold, or offered for sale.

85 (b) "Food establishment" does not include:

86 (i) a dairy farm, a dairy plant, or a meat establishment, which is subject to the Poultry
87 Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Federal Meat Inspection Act, 21
88 U.S.C. Sec. 601 et seq.; or

89 (ii) a farmers market.

90 [~~(9)~~] (10) "Label" means a written, printed, or graphic display on the immediate
91 container of an article of food. The department may require that a label contain specific written,
92 printed, or graphic information which is:

93 (a) displayed on the outside container or wrapper of a retail package of an article; or

94 (b) easily legible through the outside container or wrapper.

95 [~~(10)~~] (11) "Labeling" means a label and other written, printed, or graphic display:

96 (a) on an article of food or its containers or wrappers; or

97 (b) accompanying the article of food.

98 [~~(11)~~] (12) "Official compendium" means the official documents or supplements to the:

99 (a) United States Pharmacopoeia;

100 (b) National Formulary; or

101 (c) Homeopathic Pharmacopoeia of the United States.

102 [~~(12)~~] (13) (a) "Package" means a container or wrapping in which a consumer
103 commodity is enclosed for use in the delivery or display of the consumer commodity to retail
104 purchasers.

105 (b) "Package" does not include:

106 (i) package liners;

107 (ii) shipping containers or wrapping used solely for the transportation of consumer
108 commodities in bulk or in quantity to manufacturers, packers, processors, or wholesale or retail
109 distributors; or

110 (iii) shipping containers or outer wrappings used by retailers to ship or deliver a
111 consumer commodity to retail customers, if the containers and wrappings bear no printed
112 information relating to the consumer commodity.

113 [~~(13)~~] (14) (a) "Pesticide" means a substance intended:

114 (i) to prevent, destroy, repel, or mitigate a pest, as defined under Subsection
115 4-14-2(20); or

116 (ii) for use as a plant regulator, defoliant, or desicant.

117 (b) "Pesticide" does not include:

118 (i) a new animal drug, as defined by 21 U.S.C. Sec. 321, that has been determined by
119 the United States Secretary of Health and Human Services not to be a new animal drug by
120 federal regulation establishing conditions of use of the drug; or

121 (ii) animal feed, as defined by 21 U.S.C. Sec. 321, bearing or containing a new animal
122 drug.

123 ~~[(14)]~~ (15) "Principal display panel" means that part of a label that is most likely to be
124 displayed, presented, shown, or examined under normal and customary conditions of display
125 for retail sale.

126 ~~[(15)]~~ (16) "Raw agricultural commodity" means a food in its raw or natural state,
127 including all fruits that are washed, colored, or otherwise treated in their unpeeled, natural form
128 prior to marketing.

129 ~~[(16)]~~ (17) "Registration" means the issuance of a certificate by the commissioner to a
130 qualified food establishment.

131 Section 2. Section **10-8-85.8** is enacted to read:

132 **10-8-85.8. Indemnification of farmers markets.**

133 A municipality may:

134 (1) operate a farmers market, as defined in Section 4-5-2, on municipality-owned
135 property in order to promote economic development;

136 (2) indemnify a food producer participating in the farmers market; and

137 (3) define the scope of the indemnification in an agreement with the food producer.

138 Section 3. Section **17-50-323** is enacted to read:

139 **17-50-323. Indemnification of farmers markets.**

140 A county may:

141 (1) operate a farmers market, as defined in Section 4-5-2, on county-owned property in

142 order to promote economic development;

143 (2) indemnify a food producer participating in the farmers market; and

144 (3) define the scope of the indemnification in an agreement with the food producer.

145 Section 4. Section **26-15-1** is amended to read:

146 **26-15-1. Definitions.**

147 As used in this chapter:

148 (1) (a) "Food handler" means any person working part-time or full-time in a food
149 service establishment who moves food or food containers, prepares, stores, or serves food;
150 comes in contact with any food, utensil, tableware or equipment; or washes the same. The term
151 also includes owners, supervisors, and management persons, and any other person working in a
152 food-service establishment. The term also includes any operator or person employed by one
153 who handles food dispensed through vending machines; or who comes into contact with food
154 contact surfaces or containers, equipment, utensils, or packaging materials used in connection
155 with vending machine operations; or who otherwise services or maintains one or more vending
156 machines.

157 (b) "Food handler" does not include a producer of food products selling food at a
158 farmers market as defined in Subsection 4-5-2(5).

159 (2) "Pest" means a noxious, destructive, or troublesome organism whether plant or
160 animal, when found in and around places of human occupancy, habitation, or use which
161 threatens the public health or well being of the people within the state.

162 (3) "Vector" means any organism, such as insects or rodents, that transmits a pathogen
163 that can affect public health.