

**Representative Marc K. Roberts** proposes the following substitute bill:

**HOME CONSUMPTION AND HOMEMADE FOOD ACT**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Marc K. Roberts**

Senate Sponsor: Daniel Hemmert

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**LONG TITLE**

**General Description:**

This bill modifies Title 4, Utah Agricultural Code.

**Highlighted Provisions:**

This bill:

- ▶ defines terms; and
- ▶ states that home-based producers may be exempt from certain state, county, or city regulations regarding the preparation, serving, use, consumption, or storage of food and food products that are:
  - produced and sold within the state;
  - sold directly to an informed final consumer; and
  - for home consumption.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**4-5a-101**, Utah Code Annotated 1953



- 26 [4-5a-102](#), Utah Code Annotated 1953
- 27 [4-5a-103](#), Utah Code Annotated 1953
- 28 [4-5a-104](#), Utah Code Annotated 1953
- 29 [4-5a-105](#), Utah Code Annotated 1953

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

32 Section 1. Section [4-5a-101](#) is enacted to read:

33 **CHAPTER 5a. HOME CONSUMPTION AND HOMEMADE FOOD ACT**

34 **4-5a-101. Title.**

35 This chapter is known as the "Home Consumption and Homemade Food Act."

36 Section 2. Section [4-5a-102](#) is enacted to read:

37 **4-5a-102. Definitions.**

38 For purposes of this chapter:

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

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

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

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

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

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

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

54 (5) "Homemade food product" means a substance that can be used, or prepared for use,  
55 as food or nonalcoholic drink, subject to the limitation described in Subsection [4-5a-105](#)(1).

56 (6) "Informed final consumer" means an individual who:

- 57 (a) purchases the product directly from the producer;
- 58 (b) does not resell the product; and
- 59 (c) has been informed that the product is not certified, licensed, regulated, or inspected
- 60 by the state.

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

63 Section 3. Section **4-5a-103** is enacted to read:

64 **4-5a-103. Regulation of a direct-to-sale farmers market.**

65 (1) A direct-to-sale farmers market selling homemade food under this chapter shall:

66 (a) display signage indicating to an informed final consumer that the homemade food  
 67 and food products sold by producers at the market have not been certified, licensed, regulated,  
 68 or inspected by state or local authorities; and

69 (b) only include products for sale that have not been certified, licensed, regulated, or  
 70 inspected by state or local authorities.

71 (2) If the direct-to-sale farmers market is in any way associated with a farmers market  
 72 as defined in Subsection 4-5-102(5), the direct-to-sale farmers market section selling  
 73 homemade food under this chapter shall comply with the following requirements:

74 (a) the direct-to-sale farmers market section shall be separated from the farmers market  
 75 section; and

76 (b) the separate direct-to-sale farmers market section shall include signs or other  
 77 markings clearly indicating which space is the farmers market space offering inspected items  
 78 for sale and which space is the direct-to-sale farmers market space offering items that are  
 79 uninspected.

80 (3) The department may make rules, in accordance with Title 63G, Chapter 3, Utah  
 81 Administrative Rulemaking Act, regarding the signage described in Subsection (1).

82 Section 4. Section **4-5a-104** is enacted to read:

83 **4-5a-104. Home producer direct sales -- Exempt from regulation.**

84 (1) A producer is exempt from state, county, or city licensing, permitting, certification,  
 85 inspection, packaging, and labeling requirements, except as described in this section, related to  
 86 the preparation, serving, use, consumption, or storage of food and food products if:

87 (a) the producer complies with the requirements of this chapter; and

88 (b) the homemade food or homemade food product is:  
89 (i) produced and sold within the state;  
90 (ii) sold directly to an informed final consumer;  
91 (iii) for home consumption; and  
92 (iv) not exempted under Subsection [4-5a-105\(1\)](#).  
93 (2) Food or food products sold under this section shall be labeled with:  
94 (a) the producer's name and address;  
95 (b) a disclosure statement indicating that the product is:  
96 (i) not for resale; and  
97 (ii) processed and prepared without state or local inspection; and  
98 (c) a statement listing whether the food or food product contains, or was prepared in a  
99 location that also handles, common allergens including milk, soy, wheat, eggs, peanuts, or tree  
100 nuts, fish, or shellfish.

101 (3) (a) Except as provided in Subsection (3)(b), homemade food or a homemade food  
102 product that is exempt from certain regulations as described in this chapter may not be sold to,  
103 or used by, a restaurant or commercial establishment.

104 (b) A producer may sell a raw, unprocessed fruit or vegetable to a restaurant or  
105 commercial establishment.

106 (4) A producer selling homemade food or homemade food products exempt under this  
107 section shall inform the final consumer that the food or food product is not certified, licensed,  
108 regulated, or inspected by the state or any county or city.

109 Section 5. Section **4-5a-105** is enacted to read:

110 **4-5a-105. Limitations.**

111 (1) This chapter does not apply to the sale of:

112 (a) raw dairy or raw dairy products; or

113 (b) meat products, with the following exceptions:

114 (i) the sale of poultry and poultry products if the producer:

115 (A) slaughters no more than 1,000 birds per year in accordance with the U.S.D.A.

116 1,000 bird exemption; and

117 (B) follows the United States Department of Agriculture, Food Safety and Inspection  
118 Service document titled "Guidance for Determining Whether A Poultry Slaughter or Processing

119 Operation is Exempt from Inspection Requirements of the Poultry Products Inspection Act; and  
120 (ii) the sale of domesticated rabbit meat, pending approval from the United States  
121 Department of Agriculture that the state's role in meat inspection is preserved.  
122 (2) Nothing in this chapter:  
123 (a) means that the department relinquishes its authority to administer the state's  
124 program at a standard level at least equal to the standards imposed under the Federal Meat and  
125 Poultry Products Inspection Act;  
126 (b) shall be construed to impede the Department of Health in an investigation of food  
127 borne illness;  
128 (c) prohibits a state agency from providing assistance, consulting, or inspecting when  
129 requested by a producer; or  
130 (d) affects the authority of the Department of Health or the Department of Agriculture  
131 and Food to certify, license, regulate, or inspect food or food products that are not exempt from  
132 certification, licensing, regulation, or inspection as described in this chapter.  
133 (3) The department may not, by rule, impose an additional limit, requirement, or  
134 restriction on a producer selling food or a food product under this chapter.