

**Representative Keven J. Stratton** proposes the following substitute bill:

**UTAH WHOLESOME FOOD ACT REVISIONS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Keven J. Stratton**

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

**LONG TITLE**

**General Description:**

This bill modifies provisions related to wholesome food.

**Highlighted Provisions:**

This bill:

- ▶ addresses farm-to-fork events under the wholesome food provisions;
- ▶ addresses local government regulation of farm-to-fork events; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a coordination clause.

**Utah Code Sections Affected:**

**AMENDS:**

**4-5-102**, as renumbered and amended by Laws of Utah 2017, Chapter 345

**4-5a-103**, as enacted by Laws of Utah 2018, Chapter 377

**26-15-1**, as last amended by Laws of Utah 2017, Chapter 345

**ENACTS:**

**4-5-503**, Utah Code Annotated 1953



26 **Utah Code Sections Affected by Coordination Clause:**

27 **4-5-102**, as renumbered and amended by Laws of Utah 2017, Chapter 345



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

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

31 **4-5-102. Definitions.**

32 As used in this chapter:

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

35 (2) (a) "Color additive":

36 (i) means a dye, pigment, or other substance not exempted under the federal act that,  
37 when added or applied to a food, is capable of imparting color; and

38 (ii) includes black, white, and intermediate grays.

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

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

45 (b) "Consumer commodity" does not include:

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

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

49 (iii) a meat or meat product subject to the Federal Meat Inspection Act, 21 U.S.C. Sec.  
50 601 et seq.;

51 (iv) a poultry or poultry product subject to the Poultry Inspection Act, 21 U.S.C. Sec.  
52 451 et seq.;

53 (v) a tobacco or tobacco product; or

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

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

57 injurious agents.

58 (5) "Farm" means one or more parcels of land operated as a single unit that is used for  
59 the production of one or more agricultural commodities and that customarily produces or is  
60 capable of producing the commodities for sale and for home use of a gross annual value of not  
61 less than \$1,000.

62 (6) "Farm-to-fork event" means an event organized on a farm where prepared food is  
63 provided for immediate consumption to paying guests.

64 [~~(5)~~] (7) "Farmers market" means a market where producers of food products sell only  
65 fresh, raw, whole, unprocessed, and unprepared food items directly to the final consumer.

66 [~~(6)~~] (8) "Federal act" means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.  
67 Sec. 301 et seq.

68 [~~(7)~~] (9) "Food" means:

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

71 (b) chewing gum or its components; or

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

74 [~~(8)~~] (10) (a) "Food additive" means a substance, the intended use of which results in  
75 the substance becoming a component, or otherwise affecting the characteristics, of a food.

76 (b) (i) "Food additive" includes a substance or source of radiation intended for use in  
77 producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or  
78 holding food.

79 (ii) "Food additive" does not include:

80 (A) a pesticide chemical in or on a raw agricultural commodity;

81 (B) a pesticide chemical that is intended for use or is used in the production, storage, or  
82 transportation of a raw agricultural commodity; or

83 (C) a substance used in accordance with a sanction or approval granted pursuant to the  
84 Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq. or the Federal Meat Inspection Act,  
85 21 U.S.C. Sec. 601 et seq.

86 [~~(9)~~] (11) (a) "Food establishment" means a grocery store, bakery, candy factory, food  
87 processor, bottling plant, sugar factory, cannery, rabbit processor, meat processor, flour mill,

88 cold or dry warehouse storage, or other facility where food products are manufactured, canned,  
89 processed, packaged, stored, transported, prepared, sold, or offered for sale.

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

91 (i) a dairy farm, a dairy plant, or a meat establishment, which is subject to the Poultry  
92 Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Federal Meat Inspection Act, 21  
93 U.S.C. Sec. 601 et seq.; ~~[or]~~

94 (ii) a farmers market~~[-];~~ or

95 (iii) a farm when holding a farm-to-fork event meeting the requirements of Section  
96 4-5-503.

97 ~~[(10)]~~ (12) "Label" means a written, printed, or graphic display on the immediate  
98 container of an article of food.

99 ~~[(11)]~~ (13) "Labeling" means a label and other written, printed, or graphic display:

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

101 (b) accompanying the article of food.

102 ~~[(12)]~~ (14) "Official compendium" means the official documents or supplements to the:

103 (a) United States Pharmacopoeia;

104 (b) National Formulary; or

105 (c) Homeopathic Pharmacopoeia of the United States.

106 ~~[(13)]~~ (15) (a) "Package" means a container or wrapping in which a consumer  
107 commodity is enclosed for use in the delivery or display of the consumer commodity to retail  
108 purchasers.

109 (b) "Package" does not include:

110 (i) package liners;

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

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

117 ~~[(14)]~~ (16) (a) "Pesticide" means a substance intended:

118 (i) to prevent, destroy, repel, or mitigate a pest, as defined under ~~[Subsection]~~ Section

119 4-14-102[(20)]; or

120 (ii) for use as a plant regulator, defoliant, or desiccant.

121 (b) "Pesticide" does not include:

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

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

127 [(15)] (17) "Principal display panel" means that part of a label that is most likely to be  
128 displayed, presented, shown, or examined under normal and customary conditions of display  
129 for retail sale.

130 [(16)] (18) "Raw agricultural commodity" means a food in its raw or natural state,  
131 including all fruits that are washed, colored, or otherwise treated in their unpeeled, natural form  
132 prior to marketing.

133 [(17)] (19) "Registration" means the issuance of a certificate by the commissioner to a  
134 qualified food establishment.

135 Section 2. Section 4-5-503 is enacted to read:

136 **4-5-503. Farm-to-fork event.**

137 (1) Except as otherwise provided in Subsection (3), a farm is not a food establishment  
138 when holding a farm-to-fork event if:

139 (a) any poultry or meat from a rabbit that is served at the farm-to-fork event is raised,  
140 slaughtered, and prepared on the farm pursuant to the requirements of state and federal law;

141 (b) meat that is served is slaughtered and processed in compliance with the Federal  
142 Meat Inspection Act, 21 U.S.C. Sec. 601 et seq. and the applicable regulations issued pursuant  
143 to that act;

144 (c) any other food item that is served at the farm-to-fork event, including salads, side  
145 dishes, and desserts, is prepared:

146 (i) on the farm from ingredients the majority of which are produced on the farm; and

147 (ii) consistent with Section 4-5-501 and the requirements for a direct-to-sale location  
148 under Chapter 5a, Home Consumption and Homemade Food Act;

149 (d) a person at the farm-to-fork event on behalf of the farm holds a food handler's

150 permit; and

151 (e) the farm complies with the requirements of this section.

152 (2) A farm that holds a farm-to-fork event shall, before a guest consumes food, provide  
153 the guest with a written notice that states that no inspection was conducted of the farm or the  
154 food to be consumed by a state or local health department, except as otherwise provided in  
155 Subsection (1)(a) or (b).

156 (3) (a) The state or local health department may not inspect a farm that holds a  
157 farm-to-fork event, except the state or local health department may inspect a farm following a  
158 farm-to-fork event:

159 (i) to investigate a food item that may be considered to be adulterated pursuant to  
160 Section [4-5-103](#); or

161 (ii) if an outbreak or suspected outbreak of illness is known or suspected to be caused  
162 by a contaminated food item served at the farm-to-fork event.

163 (b) A farm shall cooperate with the state or local health department in an inspection  
164 under this Subsection (3).

165 (c) If as a result of an inspection the state or local health department determines that the  
166 farm has produced an adulterated food item or was the source of an outbreak of illness caused  
167 by a contaminated food item, the state or local health department may charge and collect from  
168 the farm a fee for the inspection.

169 (4) A farm may not hold a farm-to-fork event on more than 31 days of a calendar year.

170 (5) A county, city, or town may require that a farm holding a farm-to-fork event obtain  
171 an event or special use permit if the farm-to-fork event is at a location zoned in a residential  
172 area.

173 Section 3. Section **4-5a-103** is amended to read:

174 **4-5a-103. Regulation of a direct-to-sale farmers market.**

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

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

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

181 (2) If the direct-to-sale farmers market is in any way associated with a farmers market  
182 as defined in [~~Subsection 4-5-102(5)~~] [Section 4-5-102](#), the direct-to-sale farmers market  
183 section selling homemade food under this chapter shall comply with the following  
184 requirements:

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

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

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

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

194 **26-15-1. Definitions.**

195 As used in this chapter:

196 (1) (a) "Food handler" means any person working part-time or full-time in a food  
197 service establishment who moves food or food containers, prepares, stores, or serves food;  
198 comes in contact with any food, utensil, tableware or equipment; or washes the same. The term  
199 also includes owners, supervisors, and management persons, and any other person working in a  
200 food-service establishment. The term also includes any operator or person employed by one  
201 who handles food dispensed through vending machines; or who comes into contact with food  
202 contact surfaces or containers, equipment, utensils, or packaging materials used in connection  
203 with vending machine operations; or who otherwise services or maintains one or more vending  
204 machines.

205 (b) "Food handler" does not include a producer of food products selling food at a  
206 farmers market as defined in [~~Subsection 4-5-102(5)~~] [Section 4-5-102](#).

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

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

212 Section 5. **Coordinating H.B. 216 with H.B. 33 -- Substantive and technical**  
213 **amendments.**

214 If this H.B. 216 and H.B. 33, Utah Wholesome Food Act Amendments, both pass and  
215 become law, it is the intent of the Legislature that the Office of Legislative Research and  
216 General Counsel shall prepare the Utah Code database for publication by amending Subsection  
217 4-5-102(5) to read:

218 "(5) (a) "Farm" means an agricultural operation under management by one entity, that  
219 grows or harvests crops.

220 (b) "Farm" does not include an entity that is exempt under 21 C.F.R. Sec. 112.4(a), 21  
221 C.F.R. Sec. 112.5, or 21 C.F.R. Sec. 117.3.

222 (c) Notwithstanding the other provisions of this Subsection (5), for purposes of a  
223 farm-to-fork event, "farm" means one or more parcels of land operated as a single unit that is  
224 used for the production of one or more agricultural commodities and that customarily produces  
225 or is capable of producing the agricultural commodities for sale and for home use of a gross  
226 annual value of not less than \$1,000."