

## HB0216S01 compared with HB0216

~~{deleted text}~~ shows text that was in HB0216 but was deleted in HB0216S01.

Inserted text shows text that was not in HB0216 but was inserted into HB0216S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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: \_\_\_\_\_

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#### 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;
- ▶ ~~{restricts}~~addresses local government regulation of farm-to-fork events; and
- ▶ makes technical changes.

##### Money Appropriated in this Bill:

None

##### Other Special Clauses:

~~{None}~~ This bill provides a coordination clause.

##### Utah Code Sections Affected:

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### 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

### Utah Code Sections Affected by Coordination Clause:

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

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

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

**4-5-102. 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":

(i) 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; and

(ii) 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.;

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(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 injurious agents.

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

(~~5~~6) "Farm-to-fork event" means an event organized on a farm where prepared food is provided for immediate consumption to paying guests.

~~(5)~~ (~~6~~7) "Farmers market" means a market where producers of food products sell only fresh, raw, whole, unprocessed, and unprepared food items directly to the final consumer.

~~(6)~~ (~~7~~8) "Federal act" means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

~~(7)~~ (~~8~~9) "Food" means:

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

(b) chewing gum or its components; or

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

~~(8)~~ (~~9~~10) (a) "Food additive" means a substance, the intended use of which results in the substance becoming a component, or otherwise affecting the characteristics, of a food.

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

(ii) "Food additive" does not include:

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

(B) a pesticide chemical that is intended for use or is used in the production, storage, or

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transportation of a raw agricultural commodity; or

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

~~(9)~~ ~~(10)~~ ~~11~~ (a) "Food establishment" means a grocery store, bakery, candy factory, food processor, bottling plant, sugar factory, cannery, rabbit processor, meat processor, flour mill, cold or dry warehouse storage, or other facility where food products are manufactured, canned, processed, packaged, stored, transported, prepared, sold, or offered for sale.

(b) "Food establishment" does not include:

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

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

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

~~(10)~~ ~~(11)~~ ~~12~~ "Label" means a written, printed, or graphic display on the immediate container of an article of food.

~~(11)~~ ~~(12)~~ ~~13~~ "Labeling" means a label and other written, printed, or graphic display:

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

(b) accompanying the article of food.

~~(12)~~ ~~(13)~~ ~~14~~ "Official compendium" means the official documents or supplements to the:

(a) United States Pharmacopoeia;

(b) National Formulary; or

(c) Homeopathic Pharmacopoeia of the United States.

~~(13)~~ ~~(14)~~ ~~15~~ (a) "Package" means a container or wrapping in which a consumer commodity is enclosed for use in the delivery or display of the consumer commodity to retail purchasers.

(b) "Package" does not include:

(i) package liners;

(ii) shipping containers or wrapping used solely for the transportation of consumer

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commodities in bulk or in quantity to manufacturers, packers, processors, or wholesale or retail distributors; or

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

~~[(14)]~~ ~~(15)~~ 16 (a) "Pesticide" means a substance intended:

(i) to prevent, destroy, repel, or mitigate a pest, as defined under ~~[Subsection]~~ Section 4-14-102~~[(20)]~~; or

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

(b) "Pesticide" does not include:

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

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

~~[(15)]~~ ~~(16)~~ 17 "Principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

~~[(16)]~~ ~~(17)~~ 18 "Raw agricultural commodity" means a 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.

~~[(17)]~~ ~~(18)~~ 19 "Registration" means the issuance of a certificate by the commissioner to a qualified food establishment.

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

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

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

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

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

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to that act ~~{ may be served at a farm-to-fork event under this section }~~;

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

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

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

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

~~{d}~~e) the farm complies with the requirements of this section.

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

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

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

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

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

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

(4) A ~~{ farm-to-fork event is exempt from }~~ farm may not hold a farm-to-fork event on more than 31 days of a calendar year.

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

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

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

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

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

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

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

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

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

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

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

### **26-15-1. Definitions.**

As used in this chapter:

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

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machines.

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

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

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

### Section 5. Coordinating H.B. 216 with H.B. 33 -- Substantive and technical amendments.

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

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

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

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