

Representative Marc K. Roberts proposes the following substitute bill:

FOOD REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marc K. Roberts

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates permitting guidelines for agritourism food establishments.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ 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:



26 ENACTS:

27 [26-15b-101](#), Utah Code Annotated 1953

28 [26-15b-102](#), Utah Code Annotated 1953

29 [26-15b-103](#), Utah Code Annotated 1953

30 [26-15b-104](#), Utah Code Annotated 1953

31 [26-15b-105](#), Utah Code Annotated 1953

32

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

34 Section 1. Section [26-15b-101](#) is enacted to read:

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

36 **26-15b-101. Title.**

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

38 Section 2. Section [26-15b-102](#) is enacted to read:

39 **26-15b-102. Definitions.**

40 As used in this chapter:

41 (1) "Agricultural tourism activity" means the same as that term is defined in Section
42 [78B-4-512](#).

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

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

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

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

50 (6) "Food" means:

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

53 (b) chewing gum.

54 (7) "Local health department" means the same as that term is defined in Section
55 [26A-1-102](#).

56 (8) "Operator" means a person who owns, manages, or controls, or who has the duty to

57 manage or control, the farm.

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

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

62 Section 3. Section **26-15b-103** is enacted to read:

63 **26-15b-103. Permitting -- Fees.**

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

67 (2) In accordance with Section [26A-1-121](#), and subject to the restrictions of Section
68 [26-15b-105](#), a local health department shall make standards and regulations relating to the
69 permitting of an agritourism food establishment.

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

73 Section 4. Section **26-15b-104** is enacted to read:

74 **26-15b-104. Safety and health inspections and permits.**

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

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

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

81 **26-15b-105. Permit requirements.**

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

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

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

86 (ii) purchased commercially;

87 (b) meat not described in Subsection (1)(a) that is served at the agritourism food

88 establishment is slaughtered and processed in compliance with the Federal Meat Inspection
89 Act, 21 U.S.C. Sec. 601 et seq., and the applicable regulations issued pursuant to that act;

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

92 (d) the farm operates the agritourism food establishment for no more than 14
93 consecutive days; and

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

95 (2) A local health department shall:

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

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

100 (i) for an initial inspection, no more than one week before the agritourism food
101 establishment is scheduled to begin operation;

102 (ii) for an unscheduled inspection:

103 (A) of an event scheduled to last no more than three days if the local health department
104 conducts the inspection within three days before or after the day on which the agritourism food
105 establishment is scheduled to begin operation; or

106 (B) of an event scheduled to last longer than three days if the local health department
107 conducts the inspection within three days before or after the day on which the agritourism food
108 establishment is scheduled to begin operation, or conducts the inspection during operating
109 hours of the agritourism food establishment; or

110 (iii) for subsequent inspections if:

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

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

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

- 119 (3) An agritourism food establishment shall:
120 (a) take steps to avoid any potential contamination to:
121 (i) food;
122 (ii) equipment;
123 (iii) utensils; or
124 (iv) unwrapped single-service and single-use articles; and
125 (b) prevent an individual from entering the food preparation area while food is being
126 prepared if the individual is known to be suffering from:
127 (i) symptoms associated with acute gastrointestinal illness; or
128 (ii) a communicable disease that is transmissible through food.
129 (4) When making standards and regulations for home kitchens under Subsection (2)(a),
130 a local health department may not make standards and regulations regarding:
131 (a) hand washing facilities, except to require that a hand washing sink supplied with
132 warm water is located in the toilet room;
133 (b) kitchen sinks and dish sanitation, except to require that the kitchen sink has hot and
134 cold water and is fully operational;
135 (c) the individuals allowed access to the food preparation areas, food storage, and
136 washing areas;
137 (d) display guards, covers, or containers for display foods, except to require that any
138 food on display that is not protected from the direct line of a consumer's mouth by an effective
139 means is not served or sold to any subsequent consumer;
140 (e) outdoor display and sale of food;
141 (f) reuse of drinking cups and tableware for multiple portions;
142 (g) utensils and equipment, except to require that utensils and equipment used in the
143 home kitchen retain their characteristic qualities under normal use conditions;
144 (h) food contact surfaces, except to require that these surfaces are smooth, easily
145 cleanable, and in good repair;
146 (i) non-food contact surfaces if those surfaces are made of materials ordinarily used in
147 residential settings;
148 (j) clean-in-place equipment;
149 (k) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and

- 150 smoke are able to escape the kitchen;
- 151 (l) fixed temperature measuring devices or product mimicking sensors for the holding
- 152 equipment for time/temperature control food, except to require non-fixed-temperature
- 153 measuring devices;
- 154 (m) fixed floor-mounted and table-mounted equipment;
- 155 (n) dedicated laundry facilities, except to require that linens used for the agritourism
- 156 food establishment be laundered separately from any other laundry;
- 157 (o) water, plumbing, drainage, and waste, except to require that sinks be supplied with
- 158 hot water;
- 159 (p) the number of, path of access to, and location of toilet facilities;
- 160 (q) lighting, except to require that food preparations are well lit by natural or artificial
- 161 light whenever food is being prepared;
- 162 (r) designated dressing areas and storage facilities, except to require that items not
- 163 ordinarily found in a home kitchen are placed or stored away from food preparation areas and
- 164 that dressing takes place outside of the home kitchen;
- 165 (s) the presence and handling of animals, except to require that all animals other than
- 166 service animals are kept outside of food preparation and service areas during food service and
- 167 food preparation;
- 168 (t) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces
- 169 are smooth, of durable construction, and easily cleanable;
- 170 (u) home kitchens open to living areas, except to require that food is not prepared in
- 171 designated sleeping quarters;
- 172 (v) submission of plans and specifications before construction or remodel of a home
- 173 kitchen;
- 174 (w) the number and type of time/temperature controlled food offered for sale;
- 175 (x) approved food sources, except those required by 9 C.F.R. 303.1;
- 176 (y) the use of items produced under Section 4-5-9.5 and this chapter;
- 177 (z) the use of an open air barbeque, grill, or outdoor wood-burning oven; or
- 178 (aa) food safety certification, except any individual who is involved in the preparation,
- 179 storage, or service of food in the agritourism food establishment shall hold a food handler
- 180 permit as defined in Section 26-15-5.

181 (5) An operator applying for an agritourism food establishment permit shall provide to
182 the local health department:

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

185 (b) written standard operating procedures that include:

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

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

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

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

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

192 (6) In addition to a fee charged under Section [26-15b-103](#), if the local health
193 department is required to inspect the farm as a source of an adulterated food or an outbreak of
194 illness caused by a contaminated food and finds, as a result of that inspection, that the farm has
195 produced an adulterated food or was the source of an outbreak of illness caused by a
196 contaminated food, the local health department may charge and collect from the farm a fee for
197 that inspection.

198 (7) An agritourism food establishment permit:

199 (a) is nontransferable;

200 (b) is renewable on an annual basis;

201 (c) is restricted to the location listed on the permit; and

202 (d) shall provide the operator the opportunity to update the food types and products
203 handled without requiring the operator to renew the permit.

204 (8) This section does not prohibit an operator from applying for a different type of food
205 event permit from a local health department.