

HB0232S01 compared with HB0232

~~{deleted text}~~ shows text that was in HB0232 but was deleted in HB0232S01.

inserted text shows text that was not in HB0232 but was inserted into HB0232S01.

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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 ~~{and clarifies the Home Consumption and Homemade Food Act}~~.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ~~{~~ → clarifies that homemade food can be consumed at the home of the producer;
- ~~}~~ ▶ 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 ~~{ }~~

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- 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:

~~{AMENDS:~~

~~———— 4-5a-102, as enacted by Laws of Utah 2018, Chapter 377~~

~~}ENACTS:~~

~~26-15b-101, Utah Code Annotated 1953~~

~~26-15b-102, Utah Code Annotated 1953~~

~~26-15b-103, Utah Code Annotated 1953~~

~~26-15b-104, Utah Code Annotated 1953~~

~~26-15b-105, Utah Code Annotated 1953~~

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

Section 1. Section ~~{4-5a-102 is amended to read:~~

~~———— 4-5a-102. Definitions:~~

~~———— [For purposes of] As used in this chapter:~~

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

~~———— (b) "Commercial establishment" does not include a:~~

~~———— (i) direct-to-sale location; or~~

~~———— (ii) direct-to-sale farmers market:~~

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

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

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

~~(5) "Homemade food product" means a food product that is prepared in a private home kitchen that can be used, or prepared for use, as food or nonalcoholic drink, subject to the limitation described in Subsection 4-5a-105(1).~~

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

~~(a) purchases the product directly from the producer;~~

~~(b) does not resell the product; and~~

~~(c) has been informed that the product is not certified, licensed, regulated, or inspected by the state.~~

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

~~Section 2. Section 26-15b-101 is enacted to read:~~

~~26-15b-101 is enacted to read:~~

CHAPTER 15b. AGRITOURISM FOOD ESTABLISHMENT ACT

26-15b-101. Title.

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

Section ~~3~~2. Section **26-15b-102** is enacted to read:

26-15b-102. Definitions.

As used in this chapter:

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

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

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

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

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

(6) "Food" means:

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

(b) chewing gum.

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

(8) "Operator" means a person who owns, manages, or controls, or who has the duty to manage or control, the farm.

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

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

Section ~~{4}~~3. Section **26-15b-103** is enacted to read:

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

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

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

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

Section ~~{5}~~4. Section **26-15b-104** is enacted to read:

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

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

(2) Nothing in this section prevents a local health department from revoking an agritourism food establishment permit issued by the local health department if the operation of

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the agritourism food establishment violates the terms of the permit or Section 26-15b-105.

Section ~~{6}~~5. Section **26-15b-105** is enacted to read:

26-15b-105. Permit requirements.

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

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

(i) raised, slaughtered, and prepared on the farm pursuant to the requirements of state

and federal law; or

(ii) purchased commercially;

(b) meat not described in Subsection (1)(a) that is served at the agritourism food establishment 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 to that act;

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

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

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

(2) A local health department shall:

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

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

(i) for an initial inspection ~~{ before issuing the permit; or~~

~~(ii), no more than one week before the agritourism food establishment is scheduled to begin operation;~~

(ii) for an unscheduled inspection:

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

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

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hours of the agritourism food establishment; or

(iii) for subsequent inspections if:

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

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

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

(3) An agritourism food establishment shall:

(a) take steps to avoid any potential contamination to:

(i) food;

(ii) equipment;

(iii) utensils; or

(iv) unwrapped single-service and single-use articles; and

(b) prevent an individual from entering the food preparation area while food is being prepared if the individual is known to be suffering from:

(i) symptoms associated with acute gastrointestinal illness; or

(ii) a communicable disease that is transmissible through food.

(~~f3~~4) When making standards and regulations for home kitchens under Subsection (2)(a), a local health department may not make standards and regulations regarding:

(a) hand washing facilities, except to require that a hand washing sink supplied with warm water is located in the toilet room;

(b) kitchen sinks and dish sanitation, except to require that the kitchen sink has hot and cold water and is fully operational;

(c) the individuals allowed access to the food preparation areas, food storage, and washing areas;

~~{~~ (d) smoking;

~~—~~ (e) employee consumption of food, alcohol, or tobacco products;

~~‡~~ (~~ff~~d) display guards, covers, or containers for display foods, except to require that any

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food on display that is not protected from the direct line of a consumer's mouth by an effective means is not served or sold to any subsequent consumer;

(fg)e outdoor display and sale of food;

(fh)f reuse of drinking cups and tableware for multiple portions;

(fi)g utensils and equipment, except to require that utensils and equipment used in the home kitchen retain their characteristic qualities under normal use conditions;

(fh)h food contact surfaces, except to require that these surfaces are smooth, easily cleanable, and in good repair;

(fk)i non-food contact surfaces if those surfaces are made of materials ordinarily used in residential settings;

(fi)j clean-in-place equipment;

(fm)k ventilation, except to require that gases, odors, steam, heat, grease, vapors, and smoke are able to escape the kitchen;

(fn)l fixed temperature measuring devices or product mimicking sensors for the holding equipment for time/temperature control food, except to require non-fixed-temperature measuring devices;

(fo)m fixed floor-mounted and table-mounted equipment;

(fp)n dedicated laundry facilities, except to require that linens used for the agritourism food establishment be laundered separately from any other laundry;

(fq)o water, plumbing, drainage, and waste, except to require that sinks be supplied with hot water;

(fr)p the number of, path of access to, and location of toilet facilities;

(fs)q lighting, except to require that food preparations are well lit by natural or artificial light whenever food is being prepared;

(ft)r designated dressing areas and storage facilities, except to require that items not ordinarily found in a home kitchen are placed or stored away from food preparation areas and that dressing takes place outside of the home kitchen;

(tu)s the presence and handling of animals, except to require that all animals other than service animals are kept outside of food preparation and service areas during food service and food preparation;

(vt)t food storage, floor, wall, ceiling, and toilet surfaces, except to require that

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surfaces are smooth, of durable construction, and easily cleanable;

~~{ (w) an evaluation or grading system;~~

~~{ (x)u) home kitchens open to living {and sleeping } areas, except to require that food is not prepared in designated sleeping quarters;~~

~~{ (y)v) submission of plans and specifications before construction or remodel of a home kitchen;~~

~~{ (z)w) the number and type of time/temperature controlled food offered for sale;~~

~~{ (aa)x) approved food sources, except those required by 9 C.F.R. 303.1;~~

~~{ (bb)y) the use of items produced under Section 4-5-9.5 and this chapter;~~

~~{ (cc)z) the use of an open air barbeque, grill, or outdoor wood-burning oven; or~~

~~{ (dd)aa) food safety certification, except {~~

~~— (i) the operator shall maintain a certificate as a food safety manager as required by Section 26-15a-106; and~~

~~— (ii) } any individual {, other than the operator, } who is involved in the preparation, storage, or service of food in the agritourism food establishment shall hold a food handler permit as defined in Section 26-15-5.~~

~~{ (4)5) An operator applying for an agritourism food establishment permit shall provide to the local health department:~~

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

~~(b) written standard operating procedures that include:~~

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

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

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

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

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

~~{ (5)6) In addition to a fee charged under Section 26-15b-103, if the local health department is required to inspect the farm as a source of an adulterated food or an outbreak of illness caused by a contaminated food and finds, as a result of that inspection, that the farm has produced an adulterated food or was the source of an outbreak of illness caused by a~~

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contaminated food, the local health department may charge and collect from the farm a fee for that inspection.

(~~6~~7) An agritourism food establishment permit:

(a) is nontransferable;

(b) is renewable on an annual basis;

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

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

(~~7~~8) This section does not prohibit an operator from applying for a different type of food event permit from a local health department.