

## HB0232S02 compared with HB0232S01

~~text~~ shows text that was in HB0232S01 but was deleted in HB0232S02.

inserted text shows text that was not in HB0232S01 but was inserted into HB0232S02.

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

### **FOOD REVISIONS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Marc K. Roberts**

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

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#### **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

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- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

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

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

Section 1. Section **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 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 **non-commercial** kitchen ~~in a private residence which is~~ **facility** located on a farm where food is handled, stored, prepared, sold, or offered for sale **in connection with an agricultural tourism activity.**

(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.

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

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(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~~9) "Time/temperature control food" means food that requires time/temperature controls for safety to limit pathogenic microorganism growth or toxin formation.

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

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

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

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

(a) poultry ~~for meat from a rabbit~~ products that ~~is~~ are served at the agritourism ~~food~~ establishment ~~is~~ is:

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

~~— (ii) purchased commercially;~~ processed in compliance with the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., and the applicable regulations issued pursuant to that act;

(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 facility 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 at a time; and

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

(2) The department shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance requirements for agritourism food establishments.

~~(2)3~~ A local health department shall:

(a) ~~in accordance with Section 26A-1-121, make standards and regulations to inspect home kitchens;~~ ensure compliance with the rules described in Subsection (2) when inspecting a kitchen facility;

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

(i) for an initial inspection, 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

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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 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)~~4) 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.

~~(4)~~5) When making ~~standards and regulations for home kitchens under Subsection (2)(a), a local health~~ the rules described in Subsection (2), the department may not make ~~standards and regulations~~ rules regarding:

(a) hand washing facilities, except to require that a hand washing ~~sink~~ station supplied with warm water, soap, and disposable hand towels is conveniently located ~~in the toilet room~~;

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(b) kitchen sinks and dish sanitation, except to require that the kitchen sink has hot and cold water ~~and~~, a sanitizing agent, is fully operational, and that dishes are sanitized between each use;

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

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

(e) outdoor display and sale of food, except to require that food is maintained at proper holding temperatures;

(f) reuse by an individual of drinking cups and tableware for multiple portions;

(g) utensils and equipment, except to require that utensils and equipment used in the home kitchen;

(i) retain their characteristic qualities under normal use conditions;

(ii) are properly sanitized after use; and

(iii) are maintained in a sanitary manner between uses;

(h) food contact surfaces, except to require that ~~these~~ food contact surfaces are smooth, easily cleanable, ~~and~~ in good repair, and properly sanitized between tasks;

(i) non-food contact surfaces, if those surfaces are made of materials ordinarily used in residential settings, except to require that those surfaces are kept clean from the accumulation of residue and debris;

(j) clean-in-place equipment, except to require that the equipment is cleaned and sanitized between uses;

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

(l) fixed temperature measuring devices or product mimicking sensors for the holding equipment for time/temperature control food, except to require ~~non-fixed-temperature~~ non-fixed temperature measuring devices for hot and cold holding of food during storage, serving, and cooling;

(m) fixed floor-mounted and table-mounted equipment except to require that floor-mounted and table-mounted equipment be in good repair and sanitized between uses;

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(n) dedicated laundry facilities, except to require that linens used for the agritourism food establishment ~~to be~~are stored and laundered separately from ~~any other laundry~~household laundry and that soiled laundry is stored to prevent contamination of food and equipment;

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

(p) the number of ~~toilet~~ and path of access to ~~toilet~~ and location of ~~toilet~~ toilet facilities, except to require that toilet facilities are equipped with proper handwashing stations;

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

(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 facility, and that food items are stored in a manner that does not allow for contamination;

(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;

(t) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces are smooth, of durable construction, ~~and~~easily cleanable, and kept clean and free of debris;

(u) ~~home kitchens~~kitchen facilities open to living areas, except to require that food is ~~not~~only prepared, handled, or stored in ~~designated sleeping quarters~~kitchen and food storage areas;

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

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

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

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

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

(aa) food safety certification, except any individual 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.

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(~~5~~6) 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.

(~~6~~7) 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 contaminated food, the local health department may charge and collect from the farm a fee for that inspection.

(~~7~~8) 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.

(~~8~~9) This section does not prohibit an operator from applying for a different type of food event permit from a local health department.