

FOOD PREPARATION AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

House Sponsor: Andrew Stoddard

LONG TITLE

General Description:

This bill amends provisions of the Home Consumption and Homemade Food Act related to homemade food produced by minors.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ exempts a direct-to-sale farmers market comprising only minor producers or minor-operated businesses from certain regulations; and
- ▶ makes technical and conforming 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

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

4-5a-104, as enacted by Laws of Utah 2018, Chapter 377

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.

30 For purposes of this chapter:

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

33 (b) "Commercial establishment" does not include a:

34 (i) direct-to-sale location; or

35 (ii) direct-to-sale farmers market.

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

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

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

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

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

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

51 (b) does not resell the product; and

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

54 (7) "Minor-operated business" means a business that is operated by an individual who
55 is:

56 (a) under 18 years old; and

57 (b) not regularly engaged in selling items.

58 (8) "Minor producer" means a producer that is:

59 (a) an individual; and

60 (b) under 18 years old.

61 ~~[(7)]~~ (9) "Producer" means a person who harvests or produces homemade food or a
62 homemade food product.

63 Section 2. Section **4-5a-103** is amended to read:

64 **4-5a-103. Regulation of a direct-to-sale farmers market.**

65 (1) ~~[A]~~ Except as provided in Subsection (4), a direct-to-sale farmers market selling
66 homemade food under this chapter shall:

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

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

72 (2) If the direct-to-sale farmers market is in any way associated with a farmers market
73 as defined in Subsection ~~4-5-102~~(6), the direct-to-sale farmers market section selling
74 homemade food under this chapter shall comply with the following requirements:

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

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

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

83 (4) The requirements described in Subsection (1) do not apply to a direct-to-sale
84 farmers market comprising only minor producers or minor-operated businesses.

85 Section 3. Section **4-5a-104** is amended to read:

86 **4-5a-104. Home producer direct sales -- Exempt from regulation.**

87 (1) A producer is exempt from state, county, or city licensing, permitting, certification,
88 inspection, packaging, and labeling requirements, except as described in this section, related to
89 the preparation, serving, use, consumption, or storage of food and food products if:

90 (a) the producer complies with the requirements of this chapter; and

91 (b) the homemade food or homemade food product is:

92 (i) produced and sold within the state;

93 (ii) sold directly to an informed final consumer;

94 (iii) for personal or home consumption; and

95 (iv) not exempted under Subsection 4-5a-105(1).

96 (2) Notwithstanding Subsection (1), a producer shall comply with business license
97 requirements pursuant to Section 10-1-203.

98 (3) [~~Food~~] Except as provided in Subsection (6), food or food products sold under this
99 section shall be labeled with:

100 (a) the producer's name and address;

101 (b) a disclosure statement indicating that the product is:

102 (i) not for resale; and

103 (ii) processed and prepared without state or local inspection; and

104 (c) a statement listing whether the food or food product contains, or was prepared in a
105 location that also handles, common allergens including milk, soy, wheat, eggs, peanuts or tree
106 nuts, fish, or shellfish.

107 (4) (a) Except as provided in Subsection (4)(b), homemade food or a homemade food
108 product that is exempt from certain regulations as described in this chapter may not be sold to,
109 or used by, a restaurant or commercial establishment.

110 (b) A producer may sell a raw, unprocessed fruit or vegetable to a restaurant or
111 commercial establishment.

112 (5) A producer selling homemade food or homemade food products exempt under this
113 section shall inform the final consumer that the food or food product is not certified, licensed,

114 regulated, or inspected by the state or any county or city.

115 (6) The requirements described in Subsection (3) do not apply to a direct sale by a
116 home producer comprising only minor producers.