

Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1267

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AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 15-17-5-11, AS ADDED BY P.L.2-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 11. (a) **As provided in this section**, the board shall **exempt issue limited permits for** the operations of a **person an establishment that are exempt** from antemortem inspection and postmortem inspection and other requirements of this chapter if any of the following conditions exist:

(1) To the extent the operations would be exempt from the corresponding requirements under the federal Meat Inspection Act, Section 23 (21 U.S.C. 623), or the Poultry Products Inspection Act, Section 14 (21 U.S.C. 464), if the operations were conducted in or for interstate commerce.

(2) The state is designated under the federal acts as one in which the federal requirements apply to commerce in Indiana.

**A person operating an establishment under subsection (f) shall obtain a limited permit from the board.**

(b) **The board may enter and inspect the operation of an establishment described in subsection (a) to determine compliance with this chapter.** When the operation of an establishment ~~that is exempt under subsection (a)~~ appears to be a detriment to health and public welfare, the establishment may be brought under this chapter by executive order of the state veterinarian issued in compliance with

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IC 4-21.5.

(c) Livestock and poultry slaughtered according to the ritual requirements of a religious faith that prescribes a method of slaughter by which the livestock or poultry suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument is a humane method under this chapter. However, livestock must be slaughtered immediately following total suspension from the floor.

(d) Except as required in an agreement between the United States Department of Agriculture and the board, a person operating under the inspection program of the federal acts, as amended, is exempt from this chapter.

**(e) Except as provided in subsection (f), poultry products produced in an establishment operating under an exemption or limited permit described in subsection (a) must be labeled in accordance with rules adopted by the board and may only be distributed directly to a household consumer who:**

- (1) is the last person to purchase the poultry product; and**
- (2) does not resell the poultry.**

**Distribution directly to a household consumer includes sales at the farm, at a farmers market, at a roadside stand, and through delivery to the consumer.**

**(f) The board shall issue a limited permit to an establishment operating under subsection (a) and 9 CFR 381.10(a)(5) and 9 CFR 381.10(a)(6) to produce poultry products for distribution to retail stores, hotels, restaurants, and institutions that resell or serve the products to consumers, if the establishment meets the following additional requirements:**

- (1) The establishment notifies the board of its operating schedule.**
- (2) The establishment meets the standards in 9 CFR Part 416.**
- (3) The establishment creates a food safety plan for the operation that includes an analysis of food safety hazards that are reasonably likely to occur in the production process and identification of control measures the establishment can apply to control those hazards.**
- (4) There is at least one (1) person who is responsible for all periods of the establishment's operations who has successfully completed a course of instruction in the application of food safety principles to meat and poultry product production.**
- (5) The poultry products are labeled in accordance with rules adopted by the board.**



The board may conduct microbial testing for food safety at establishments operating under this subsection. The board's microbial testing may not be more stringent than the board's microbial testing at inspected establishments. The board may create and publish recommended standards for microbial testing by establishments operating under this subsection.

(g) The board may adopt rules under IC 4-22-2 to implement this section.

SECTION 2. IC 16-18-2-143.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 143.5. "Game animal" means an animal, the product of which is food, that is not:**

- (1) regulated under IC 15-17-5;
- (2) except for aquatic birds and mammals, an aquatic animal, including fish, crustaceans, mollusks, alligators, frogs, aquatic turtles, jellyfish, sea cucumbers, and sea urchins;
- (3) the roe from any aquatic animal described in subdivision (2); or
- (4) possessed or raised in violation of a state or federal law.

SECTION 3. IC 16-42-5-29, AS AMENDED BY P.L.202-2015, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 29. (a) Except as provided in subsection (h),** this section applies to an individual vendor of a **farmer's farmers** market or roadside stand.

(b) As used in this section, "end consumer" means a person who is the last person to purchase any food product and who does not resell the food product.

(c) An individual vendor of a **farmer's farmers** market or roadside stand is not considered to be a food establishment and is exempt from the requirements of this title that apply to food establishments if the individual vendor's food product:

- (1) is made, grown, or raised by an individual at the individual's primary residence, property owned by the individual, or property leased by the individual;
- (2) is not a potentially hazardous food product;
- (3) is prepared by an individual who practices proper sanitary procedures, including:
  - (A) proper hand washing;
  - (B) sanitation of the container or other packaging in which the food product is contained; and
  - (C) safe storage of the food product;
- (4) is not resold; and

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- (5) includes a label that contains the following information:
- (A) The name and address of the producer of the food product.
  - (B) The common or usual name of the food product.
  - (C) The ingredients of the food product, in descending order by predominance by weight.
  - (D) The net weight and volume of the food product by standard measure or numerical count.
  - (E) The date on which the food product was processed.
  - (F) The following statement in at least 10 point type: "This product is home produced and processed and the production area has not been inspected by the state department of health."
- (d) An individual vendor who meets the requirements in subsection (c) is subject to food sampling and inspection if:
- (1) the state department determines that the individual vendor's food product is:
    - (A) misbranded under IC 16-42-2-3; or
    - (B) adulterated; or
  - (2) a consumer complaint has been received by the state department.
- (e) If the state department has reason to believe that an imminent health hazard exists with respect to an individual vendor's food product, the state department may order cessation of production and sale of the food product until the state department determines that the hazardous situation has been addressed.
- (f) For purposes of this section, the state health commissioner or the commissioner's authorized representatives may take samples for analysis and conduct examinations and investigations through any officers or employees under the state health commissioner's supervision. Those officers and employees may enter, at reasonable times, the facilities of an individual vendor and inspect any food products in those places and all pertinent equipment, materials, containers, and labeling.
- (g) The state health commissioner may develop guidelines for an individual vendor who seeks an exemption from regulation as a food establishment as described in subsection (c). The guidelines may include:
- (1) standards for best safe food handling practices;
  - (2) disease control measures; and
  - (3) standards for potable water sources.
- (h) The department shall ~~adopt rules that~~ **exclude from the definition of food establishment the sale of products described in subsection (i):**



(1) exclude slaughtering and processing of poultry on a farm for the purpose of conducting limited sales under 9 CFR 381.10; as adopted by reference in 345 IAC 10-2.1-1, from the definition of food establishment if the slaughtered and processed poultry or poultry product is sold only to the end consumer on the farm where the poultry is produced; at a farmer's market; through delivery to the end consumer; or at a roadside stand;

(2) require that poultry processed under this section that is sold on a farm be refrigerated at the point of sale and labeled in compliance with the requirements of 9 CFR 381.10;

(1) by an individual vendor of a farmers market or roadside stand; and

(2) by a farmer selling directly to the end consumer on the farm where the product is produced and through delivery to the end consumer.

(i) Subsection (h) applies to the distribution of the following products:

(1) Poultry products produced under IC 15-17-5-11. Poultry products sold at a farmers market or roadside stand must be frozen at the point of sale. Poultry products sold on the farm where the product is produced must be refrigerated at the point of sale and through delivery.

(3) (2) allow Rabbits to be that are slaughtered and processed on a farm for the purpose of conducting limited sales on the farm, at a farmer's farmers market, and at a roadside stand. (4) require that rabbits processed under this section be frozen at the point of sale; and Rabbit meat sold at a farmers market or roadside stand must be frozen at the point of sale. Rabbit meat sold on the farm where the product is produced must be refrigerated at the point of sale and through delivery.

(5) require that poultry processed under this section that is sold at a farmer's market, through delivery to the end consumer, or at a roadside stand be frozen at the point of sale and labeled in compliance with the requirements of 9 CFR 381.10.

An individual vendor of a farmer's market or roadside stand operating under the exclusion provided in this subsection must slaughter and process poultry in compliance with the Indiana state board of animal health requirements for producers operating under 9 CFR 381.10. Poultry processed under the exclusion provided in this subsection must be used, sold, or frozen within seventy-two (72) hours of processing. Subsection (h) does not apply to the distribution of meat from a game animal.

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(j) An individual vendor of a ~~farmer's~~ **farmers** market or roadside stand that sells eggs that meet the requirements under IC 16-42-11 is not considered to be a food establishment and is exempt from the requirements of this title that apply to a food establishment relating to the sale of eggs.

(k) Notwithstanding any other law, a local unit of government (as defined in IC 14-22-31.5-1) may not by ordinance or resolution require any licensure, certification, or inspection of foods or food products of an individual vendor who meets the requirements in subsection (c), including an individual vendor who delivers the individual's food or food product directly to an end consumer.

SECTION 4. IC 16-42-5-31 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 31. A food establishment may sell or serve poultry products produced by an establishment operating under a limited permit issued under IC 15-17-5-11(f) only if the poultry products are produced and labeled in accordance with the requirements of IC 15-17-5-11(f).**



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Speaker of the House of Representatives

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President of the Senate

\_\_\_\_\_  
President Pro Tempore

\_\_\_\_\_  
Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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