

# SENATE BILL No. 232

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-42-5.5.

**Synopsis:** Preparation and sale of homemade food. Provides that the preparation, sale, and delivery of a livestock product, poultry product, or dairy product are not subject to inspection, oversight, certification, registration, licensing, permitting, packaging, or labeling requirements or regulations of the state or any political subdivision of the state if: (1) the sale and delivery of the product are directly between the producer of the product and an informed end consumer; (2) the preparation, sale, and delivery of the product are in accordance with a formal contract that meets certain requirements; (3) the product is prepared and sold exclusively for home consumption; and (4) the preparation, sale, and delivery of the product occur exclusively in Indiana and do not constitute interstate commerce.

**Effective:** July 1, 2019.

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## Walker

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January 3, 2019, read first time and referred to Committee on Agriculture.

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First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## SENATE BILL No. 232

A BILL FOR AN ACT to amend the Indiana Code concerning health.

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

1 SECTION 1. IC 16-42-5.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]:

4 **Chapter 5.5. Sale and Consumption of Homemade Foods**

5 **Sec. 1. (a) The state of Indiana shall uphold and protect the right**  
6 **of Indiana citizens to hunt, fish, gather, glean, forage, grow, raise,**  
7 **slaughter, process, prepare, and eat the homemade foods of their**  
8 **choosing without state inspection, oversight, registration,**  
9 **certification, licensing, permitting, packaging, or labeling**  
10 **requirements or regulation of any kind, provided that:**

11 (1) the citizens exercising this right do not infringe upon the  
12 rights of others; and

13 (2) inspection, oversight, licensing, or regulation is not needed  
14 to protect or sustain a public resource or a common natural  
15 resource.

16 (b) The purposes of this chapter are:

17 (1) to:



- 1           (A) allow for the formally contracted sale and home  
2           consumption of homemade foods; and  
3           (B) encourage the expansion of the sales of products by  
4           farms, ranches, and home based producers to informed  
5           end consumers;  
6           by facilitating the formally contracted purchase and  
7           consumption of fresh and local agricultural products;  
8           (2) to enhance the agricultural economy; and  
9           (3) to provide Indiana citizens with responsible access to  
10          healthy food from known sources.
- 11          (c) This chapter does not apply to the sale of food or drink in a  
12          commercial food establishment.
- 13          Sec. 2. (a) As used in this chapter, "commercial food  
14          establishment" means:  
15               (1) a building;  
16               (2) a place in or portion of a building; or  
17               (3) a vehicle;  
18          that is used by a wholesale or retail business for the purpose of the  
19          making, processing, packaging, storing, transporting, handling,  
20          displaying for sale, or selling of food or drink.
- 21          (b) The term does not include the following:  
22               (1) A farm, ranch, or private home kitchen operated  
23               exclusively in accordance with this chapter with respect to the  
24               preparation, sale, and delivery of products.  
25               (2) A producer or informed end consumer engaged in  
26               transactions concerning the preparation, sale, and delivery of  
27               products under this chapter.
- 28          Sec. 3. As used in this chapter, "delivery" means the transfer of  
29          a product from a producer or a producer's designated agent to an  
30          informed end consumer that occurs at a farm, ranch, farmers  
31          market, home, office, or any location agreed to by the producer  
32          and the informed end consumer according to a formal contract  
33          between the producer and the informed end consumer.
- 34          Sec. 4. As used in this chapter, "farmers market" means a  
35          market at which farmers, ranchers, and producers using private  
36          home kitchens sell products directly to consumers for home  
37          consumption.
- 38          Sec. 5. As used in this chapter, "formal contract" means a  
39          written agreement between a producer and an informed end  
40          consumer that includes the provisions required by section 14 of this  
41          chapter.
- 42          Sec. 6. As used in this chapter, "home consumption" means:



- 1           (1) the consumption of a product within a private home; or  
 2           (2) the consumption of a product that is:  
 3                (A) taken to or from a private home; and  
 4                (B) consumed exclusively by:  
 5                   (i) one (1) or more members of the family that reside in  
 6                   the private home; or  
 7                   (ii) employees or nonpaying guests of one (1) or more  
 8                   members of the family that reside in the private home.
- 9           **Sec. 7.** As used in this chapter, "homemade food" means food or  
 10          drink that is a product, or is made from a product, that was raised,  
 11          grown, slaughtered, processed, cooked, baked, or otherwise  
 12          prepared:  
 13                (1) on a farm or ranch; or  
 14                (2) in a private home kitchen.
- 15          **Sec. 8.** As used in this chapter, "informed end consumer" means  
 16          a person who:  
 17                (1) is informed under section 13 of this chapter that the  
 18                preparation, sale, and delivery of a product are not subject to  
 19                inspection, oversight, certification, registration, licensing,  
 20                permitting, packaging, or labeling requirements;  
 21                (2) purchases the product pursuant to a formal contract with  
 22                the producer;  
 23                (3) is the last person to purchase the product; and  
 24                (4) does not intend to resell the product.
- 25          **Sec. 9.** (a) For the purposes of this chapter, the "preparation"  
 26          of a product means the actions taken:  
 27                (1) on a farm or ranch; or  
 28                (2) in a private home kitchen;  
 29          to make the product ready for delivery to and consumption by an  
 30          informed end consumer.  
 31                (b) The term includes slaughtering, raising, growing, processing,  
 32          cooking, baking, and other actions taken to make a product ready  
 33          for consumption as food or drink.
- 34          **Sec. 10.** As used in this chapter, "producer" means a person  
 35          who:  
 36                (1) on a farm or ranch; or  
 37                (2) in a private home kitchen;  
 38          prepares a product for consumption as food or drink.
- 39          **Sec. 11.** As used in this chapter, "product" means:  
 40                (1) a livestock product;  
 41                (2) a poultry product;  
 42                (3) a derivative of one (1) or more livestock or poultry



- 1 products;  
 2 (4) a horticultural, viticultural, or dairy product;  
 3 (5) a product of bee raising;  
 4 (6) an edible product of forestry; or  
 5 (7) an item created from a product referred to in subdivisions  
 6 (1) through (6) that is suitable for consumption as food or  
 7 drink.

8 **Sec. 12. (a)** Notwithstanding any provision of IC 15, this article,  
 9 or any other law, the preparation, sale, and delivery of products in  
 10 compliance with subsection (b) and sections 13 through 14 of this  
 11 chapter are not subject to inspection, oversight, certification,  
 12 registration, licensing, permitting, packaging, or labeling  
 13 requirements or regulations of the state or any political subdivision  
 14 of the state. However, this chapter does not preclude a state agency  
 15 (as defined in IC 4-13-1-1) from providing assistance, consultation,  
 16 or inspection at the request of the producer.

17 (b) For the preparation, sale, and delivery of a product to be  
 18 exempt from the requirements referred to in subsection (a):

- 19 (1) the sale and delivery of the product must be directly  
 20 between the producer of the product and an informed end  
 21 consumer;  
 22 (2) the preparation, sale, and delivery of the product must be  
 23 in accordance with a formal contract that meets the  
 24 requirements of section 14 of this chapter;  
 25 (3) the product must be prepared and sold exclusively for  
 26 home consumption; and  
 27 (4) the preparation, sale, and delivery of the product:  
 28 (A) must occur exclusively in Indiana; and  
 29 (B) must not constitute interstate commerce subject to  
 30 federal regulation under Article I, Section 8 of the  
 31 Constitution of the United States.

32 **Sec. 13.** Before entering into a formal contract with an end  
 33 consumer, a producer must inform the end consumer that the  
 34 preparation, sale, and delivery of a product under this chapter are  
 35 not subject to inspection, oversight, certification, registration,  
 36 licensing, permitting, packaging, or labeling requirements or  
 37 regulations.

38 **Sec. 14. (a)** A formal contract between a producer and an  
 39 informed end consumer must include the following:

- 40 (1) A provision stating that the producer is not exempt from  
 41 potential liability under civil law for negligence or intentional  
 42 wrongdoing by the producer.



- 1           **(2) A provision stating that the informed end consumer**  
 2           **acknowledges and assumes the risk of consuming products**  
 3           **that are exempt under this chapter from inspection, oversight,**  
 4           **certification, registration, licensing, permitting, packaging,**  
 5           **and labeling requirements and regulations.**  
 6           **(3) A provision allowing the informed end consumer to**  
 7           **witness the preparation of the product to be delivered under**  
 8           **the formal contract.**  
 9           **(4) A description of the product in finished form as it will be**  
 10           **delivered to the informed end user.**  
 11           **(5) Provisions setting forth:**  
 12               **(A) a fixed period of time within which the product is to be**  
 13               **delivered;**  
 14               **(B) a fixed monetary amount to be paid for the product;**  
 15               **and**  
 16               **(C) the fixed quantity of the product to be delivered.**  
 17           **(6) A provision under which the date of delivery of the**  
 18           **product to the informed end consumer must be at least seven**  
 19           **(7) days after the date on which the producer or the informed**  
 20           **end consumer signs the formal contract (whichever is later)**  
 21           **under subsection (b).**  
 22           **(b) A formal contract must be signed by the producer and the**  
 23           **informed end consumer in the presence of a notary public. The**  
 24           **notary public must:**  
 25               **(1) indicate the dates of the signatures on; and**  
 26               **(2) affix the notary public's official seal to;**  
 27           **the formal contract.**  
 28           **Sec. 15. Nothing in this chapter may be construed:**  
 29               **(1) to impede the state department of health in any**  
 30               **investigation of food borne illness;**  
 31               **(2) to alter the requirements of this title for animal health**  
 32               **inspections; or**  
 33               **(3) to rescind or supersede any exemption from the licensing,**  
 34               **regulation, or inspection of food, food establishments, or food**  
 35               **producers arising under a law other than this chapter.**

