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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. **3121**

02/26/2018 Authored by Newberger, Munson and Poston
The bill was read for the first time and referred to the Committee on Agriculture Policy
03/21/2018 Adoption of Report: Amended and re-referred to the Committee on Commerce and Regulatory Reform

1.1 A bill for an act
1.2 relating to food safety; expanding cottage foods license exemption to include
1.3 limited liability companies; requiring limited liability companies to maintain certain
1.4 liability insurance; amending Minnesota Statutes 2016, section 28A.152, as
1.5 amended.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2016, section 28A.152, as amended by Laws 2017, chapter
1.8 88, article 2, section 53, is amended to read:

1.9 **28A.152 COTTAGE FOODS EXEMPTION.**

1.10 Subdivision 1. **Licensing provisions applicability.** (a) The licensing provisions of
1.11 sections 28A.01 to 28A.16 do not apply to the following:

1.12 (1) an ~~individual who~~ eligible entity that prepares and sells food that is not potentially
1.13 hazardous food, as defined in Minnesota Rules, part 4626.0020, subpart 62, if the following
1.14 requirements are met:

1.15 (i) the prepared food offered for sale under this clause is labeled to accurately reflect
1.16 the name and address of the ~~individual~~ eligible entity preparing and selling the food, the
1.17 date on which the food was prepared, and the ingredients and any possible allergens; and

1.18 (ii) the ~~individual~~ eligible entity displays at the point of sale a clearly legible sign or
1.19 placard stating: "These products are homemade and not subject to state inspection."; and

1.20 (2) an ~~individual who~~ eligible entity that prepares and sells home-processed and
1.21 home-canned food products if the following requirements are met:

2.1 (i) the products are pickles, vegetables, or fruits having an equilibrium pH value of 4.6
2.2 or lower;

2.3 (ii) the products are home-processed and home-canned in Minnesota;

2.4 (iii) the ~~individual~~ eligible entity displays at the point of sale a clearly legible sign or
2.5 placard stating: "These canned goods are homemade and not subject to state inspection.";
2.6 and

2.7 (iv) each container of the product sold or offered for sale under this clause is accurately
2.8 labeled to provide the name and address of the ~~individual who~~ eligible entity that processed
2.9 and canned the goods, the date on which the goods were processed and canned, and
2.10 ingredients and any possible allergens.

2.11 (b) An ~~individual who~~ eligible entity that qualifies for an exemption under paragraph
2.12 (a), clause (2), is also exempt from the provisions of sections 31.31 and 31.392.

2.13 Subd. 1a. **Definition.** For purposes of this section, "eligible entity" means a limited
2.14 liability company that satisfies the insurance requirements under subdivision 8, or an
2.15 individual.

2.16 Subd. 2. **Direct sales to consumers.** (a) An ~~individual~~ eligible entity qualifying for an
2.17 exemption under subdivision 1 may sell the exempt food:

2.18 (1) directly to the ultimate consumer at a community event or farmers' market;

2.19 (2) directly from the ~~individual's~~ eligible entity's home to the ultimate consumer, to the
2.20 extent allowed by local ordinance; or

2.21 (3) through donation to a community event with the purpose of fund-raising for an
2.22 individual, or fund-raising for an educational, charitable, or religious organization.

2.23 (b) If an exempt food product will be delivered to the ultimate consumer upon sale of
2.24 the food product, the ~~individual who~~ eligible entity that prepared the food product must be
2.25 the person who delivers the food product to the ultimate consumer.

2.26 (c) Food products exempt under subdivision 1, paragraph (a), clause (2), may not be
2.27 sold outside of Minnesota.

2.28 (d) Food products exempt under subdivision 1 may be sold over the Internet but must
2.29 be delivered directly to the ultimate consumer by the ~~individual who~~ eligible entity that
2.30 prepared the food product. The statement "These products are homemade and not subject
2.31 to state inspection." must be displayed on the Web site that offers the exempt foods for
2.32 purchase.

3.1 Subd. 3. **Limitation on sales.** An individual selling exempt foods under this section is
3.2 limited to total sales with gross receipts of \$18,000 or less in a calendar year.

3.3 Subd. 4. **Registration.** An ~~individual who~~ eligible entity that prepares and sells exempt
3.4 food under subdivision 1 must register annually with the commissioner. The annual
3.5 registration fee is \$50. An ~~individual~~ eligible entity with \$5,000 or less in annual gross
3.6 receipts from the sale of exempt food under this section is not required to pay the registration
3.7 fee.

3.8 Subd. 5. **Training.** (a) An ~~individual~~ eligible entity with gross receipts between \$5,000
3.9 and \$18,000 in a calendar year from the sale of exempt food under this section must complete
3.10 a safe food handling training course that is approved by the commissioner before registering
3.11 under subdivision 4. The training shall not exceed eight hours and must be completed every
3.12 three years while the ~~individual~~ eligible entity is registered under subdivision 4.

3.13 (b) An ~~individual~~ eligible entity with gross receipts of less than \$5,000 in a calendar
3.14 year from the sale of exempt food under this section must satisfactorily complete an online
3.15 course and exam as approved by the commissioner before registering under subdivision 4.
3.16 The commissioner shall offer the online course and exam under this paragraph at no cost
3.17 to the ~~individual~~ eligible entity.

3.18 Subd. 6. **Local ordinances.** This section does not preempt the application of any business
3.19 licensing requirement or sanitation, public health, or zoning ordinance of a political
3.20 subdivision.

3.21 Subd. 7. **Account established.** A cottage foods account is created as a separate account
3.22 in the agricultural fund in the state treasury for depositing money received by the
3.23 commissioner under this section. Money in the account, including interest, is appropriated
3.24 to the commissioner for purposes of this section.

3.25 Subd. 8. **Insurance required.** The commissioner must not register a limited liability
3.26 company under subdivision 4 unless the limited liability company furnishes sufficient proof
3.27 that it maintains liability insurance coverage of at least \$1,000,000. The insurance must
3.28 cover a period of time at least equal to the term of the registration. The commissioner must
3.29 immediately suspend the registration of a limited liability company that fails to maintain
3.30 the required insurance. The insurance policy must contain a provision requiring the insurance
3.31 company to notify the commissioner no later than ten days before the effective date of any
3.32 cancellation, termination, or other material change to the insurance coverage. If there is
3.33 recovery against the insurance, the limited liability company must secure additional coverage
3.34 if necessary to maintain coverage of at least \$1,000,000.