
SENATE BILL NO. 206—SENATORS FORD, KIHUEN, DENIS, JONES,
SMITH; ATKINSON, CEGAVSKE, PARKS, SETTELMAYER,
SPEARMAN AND WOODHOUSE

MARCH 1, 2013

JOINT SPONSORS: ASSEMBLYMEN SPIEGEL, FRIERSON,
HEALEY; BUSTAMANTE ADAMS AND DUNCAN

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to food establishments.
(BDR 40-935)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to food establishments; revising the definition of
“food establishment” for purposes of provisions
regulating such establishments; and providing other
matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires a person to obtain a permit to operate a food
2 establishment and to comply with various other requirements in the operation of the
3 food establishment. (NRS 446.870) Existing law defines the term “food
4 establishment” for those purposes and specifically excludes certain entities from the
5 definition, including private homes where the food that is prepared or manufactured
6 in the home is not provided for compensation or other consideration of any kind.
7 (NRS 446.020) This bill adds to the list of entities that are excluded from the
8 definition of “food establishment” a cottage food operation that: (1) manufactures
9 or prepares certain food items for sale; and (2) meets certain requirements relating
10 to the preparation, labeling and sale of those food items. This bill also prohibits a
11 local government from adopting any ordinance or other regulation that prohibits a
12 person from conducting a cottage food operation within the person’s private home.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 446 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *A cottage food operation which manufacturers or prepares*
4 *a food item by any manner or means whatever for sale, or which*
5 *offers or displays a food item for sale, is not a “food*
6 *establishment” pursuant to paragraph (h) of subsection 2 of NRS*
7 *446.020 if each such food item is:*

8 (a) *Sold at the private home of the natural person who*
9 *manufactures or prepares the food item or at a farmers’ market*
10 *licensed pursuant to chapter 244 or 268 of NRS;*

11 (b) *Sold to a natural person for his or her consumption and*
12 *not for resale;*

13 (c) *Affixed with a label which complies with the federal*
14 *labeling requirements set forth in 21 U.S.C. § 343(w) and 9 C.F.R.*
15 *Part 317 and 21 C.F.R. Part 101 and which has been approved by*
16 *the health authority if the food item is sold at a farmers’ market;*

17 (d) *Labeled with “MADE IN A COTTAGE FOOD*
18 *OPERATION THAT IS NOT SUBJECT TO ROUTINE*
19 *GOVERNMENT FOOD SAFETY INSPECTIONS” printed*
20 *prominently on the label for the food item;*

21 (e) *Prepackaged in a manner that protects the food item from*
22 *contamination during transport, display, sale and acquisition by*
23 *consumers;*

24 (f) *Prepared and processed in the kitchen of the private home*
25 *of the natural person who manufactures or prepares the food*
26 *item:*

27 (1) *Without any domestic activities occurring in the kitchen*
28 *simultaneously;*

29 (2) *Without any children or pets being present in the*
30 *kitchen;*

31 (3) *Using only noncommercial types of kitchen equipment*
32 *and utensils; and*

33 (4) *In which all food contact surfaces, equipment and*
34 *utensils used for the preparation and processing of the food item*
35 *are washed, rinsed and sanitized before each use;*

36 (g) *Prepared and stored only in areas that are maintained free*
37 *of rodents and insects;*

38 (h) *Prepared and processed only by persons who:*

39 (1) *Are excluded from the preparation and processing of*
40 *any food item when ill;*

41 (2) *Wash their hands before preparing and processing any*
42 *food item; and*



1 (3) *Use utensils, including, without limitation, single-use*
2 *gloves, bakery papers or tongs to prevent contact between the bare*
3 *hands of the person and the food item; and*

4 (i) *Prepared and processed without the use of any special*
5 *process, including, without limitation:*

6 (1) *Preservation by means of smoking, curing, dehydration*
7 *or the addition of preservatives;*

8 (2) *Reduced oxygen packaging, including, without*
9 *limitation, the cook-chill or sous vide processes; or*

10 (3) *Pressure canning of food with a pH of less than 4.2.*

11 2. *No local zoning board, planning commission or governing*
12 *body of an unincorporated town, incorporated city or county may*
13 *adopt any ordinance or other regulation that prohibits a natural*
14 *person from conducting a cottage food operation.*

15 3. *As used in this section:*

16 (a) *“Cottage food operation” means a natural person who*
17 *manufactures or prepares food items in his or her private home*
18 *for sale to a natural person for consumption.*

19 (b) *“Food item” means:*

20 (1) *Nuts and nut mixes;*

21 (2) *Candies;*

22 (3) *Jams, jellies and preserves;*

23 (4) *Vinegar and flavored vinegar;*

24 (5) *Dry herbs and seasoning mixes;*

25 (6) *Dried fruits;*

26 (7) *Cereals, trail mixes and granola;*

27 (8) *Popcorn and popcorn balls; or*

28 (9) *Baked goods that:*

29 (I) *Are not potentially hazardous foods;*

30 (II) *Do not contain cream, uncooked egg, custard,*
31 *meringue or cream cheese frosting or garnishes, fillings or*
32 *frostings with low sugar content; and*

33 (III) *Do not require time or temperature controls for*
34 *safety.*

35 **Sec. 2.** NRS 446.020 is hereby amended to read as follows:

36 446.020 1. Except as otherwise limited by subsection 2,
37 “food establishment” means any place, structure, premises, vehicle
38 or vessel, or any part thereof, in which any food intended for
39 ultimate human consumption is manufactured or prepared by any
40 manner or means whatever, or in which any food is sold, offered or
41 displayed for sale or served.

42 2. The term does not include:

43 (a) Private homes, unless the food prepared or manufactured in
44 the home is sold, or offered or displayed for sale or for
45 compensation or contractual consideration of any kind;



- 1 (b) Fraternal or social clubhouses at which attendance is limited
2 to members of the club;
- 3 (c) Vehicles operated by common carriers engaged in interstate
4 commerce;
- 5 (d) Any establishment in which religious, charitable and other
6 nonprofit organizations sell food occasionally to raise money or in
7 which charitable organizations receive salvaged food in bulk
8 quantities for free distribution, unless the establishment is open on a
9 regular basis to sell food to members of the general public;
- 10 (e) Any establishment where animals are slaughtered which is
11 regulated and inspected by the State Department of Agriculture;
- 12 (f) Dairy farms and plants which process milk and products of
13 milk or frozen desserts which are regulated under chapter 584 of
14 NRS; ~~for~~
- 15 (g) The premises of a wholesale dealer of alcoholic beverages
16 licensed under chapter 369 of NRS who handles only alcoholic
17 beverages which are in sealed containers ~~for~~; *or*
- 18 *(h) A cottage food operation that meets the requirements of*
19 *section 1 of this act with respect to food items as defined in that*
20 *section.*
- 21 **Sec. 3.** This act becomes effective on July 1, 2013.

