

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; (2) meets certain requirements relating to
10 the preparation, labeling and sale of those food items; and (3) registers with the
11 health authority. This bill also prohibits a local government from adopting any
12 ordinance or other regulation that prohibits a person from preparing food in a
13 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 on the private property of the natural person who*
9 *manufactures or prepares the food item or at a location where the*
10 *natural person who manufactures or prepares the food item sells*
11 *the food item directly to a consumer, including, without limitation,*
12 *a farmers’ market licensed pursuant to chapter 244 or 268 of*
13 *NRS, flea market, swap meet, church bazaar, garage sale or craft*
14 *fair, by means of an in-person transaction that does not involve*
15 *selling the food item by telephone or via the Internet;*

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

18 (c) *Affixed with a label which complies with the federal*
19 *labeling requirements set forth in 21 U.S.C. § 343(w) and 9 C.F.R.*
20 *Part 317 and 21 C.F.R. Part 101;*

21 (d) *Labeled with “MADE IN A COTTAGE FOOD*
22 *OPERATION THAT IS NOT SUBJECT TO GOVERNMENT*
23 *FOOD SAFETY INSPECTION” printed prominently on the label*
24 *for the food item;*

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

28 (f) *Prepared and processed in the kitchen of the private home*
29 *of the natural person who manufactures or prepares the food item*
30 *or, if allowed by the health authority, in the kitchen of a fraternal*
31 *or social clubhouse, a school or a religious, charitable or other*
32 *nonprofit organization.*

33 2. *No local zoning board, planning commission or governing*
34 *body of an unincorporated town, incorporated city or county may*
35 *adopt any ordinance or other regulation that prohibits a natural*
36 *person from preparing food in a cottage food operation.*

37 3. *Each natural person who wishes to conduct a cottage food*
38 *operation must, before selling any food item, register the cottage*
39 *food operation with the health authority by submitting such*
40 *information as the health authority deems appropriate, including,*
41 *without limitation:*



1 (a) *The name, address and contact information of the natural*
2 *person conducting the cottage food operation; and*

3 (b) *If the cottage food operation sells food items under a name*
4 *other than the name of the natural person who conducts the*
5 *cottage food operation, the name under which the cottage food*
6 *operation sells food items.*

7 4. *The health authority may charge a fee for the registration*
8 *of a cottage food operation pursuant to subsection 3 in an amount*
9 *not to exceed the actual cost of the health authority to establish*
10 *and maintain a registry of cottage food operations.*

11 5. *The health authority may inspect a cottage food operation*
12 *only to investigate a food item that may be deemed to be*
13 *adulterated pursuant to NRS 585.300 to 585.360, inclusive, or an*
14 *outbreak or suspected outbreak of illness known or suspected to be*
15 *caused by a contaminated food item. The cottage food operation*
16 *shall cooperate with the health authority in any such inspection.*
17 *If, as a result of such inspection, the health authority determines*
18 *that the cottage food operation has produced an adulterated food*
19 *item or was the source of an outbreak of illness caused by a*
20 *contaminated food item, the health authority may charge and*
21 *collect from the cottage food operation a fee in an amount that*
22 *does not exceed the actual cost of the health authority to conduct*
23 *the investigation.*

24 6. *As used in this section:*

25 (a) *“Cottage food operation” means a natural person who*
26 *manufactures or prepares food items in his or her private home or,*
27 *if allowed by the health authority, in the kitchen of a fraternal or*
28 *social clubhouse, a school or a religious, charitable or other*
29 *nonprofit organization, for sale to a natural person for*
30 *consumption and whose gross sales of such food items are not*
31 *more than \$35,000 per calendar year.*

32 (b) *“Food item” means:*

33 (1) *Nuts and nut mixes;*

34 (2) *Candies;*

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

36 (4) *Vinegar and flavored vinegar;*

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

38 (6) *Dried fruits;*

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

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

41 (9) *Baked goods that:*

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

43 (II) *Do not contain cream, uncooked egg, custard,*
44 *meringue or cream cheese frosting or garnishes; and*



1 ***(III) Do not require time or temperature controls for***
2 ***food safety.***

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

4 446.020 1. Except as otherwise limited by subsection 2,
5 “food establishment” means any place, structure, premises, vehicle
6 or vessel, or any part thereof, in which any food intended for
7 ultimate human consumption is manufactured or prepared by any
8 manner or means whatever, or in which any food is sold, offered or
9 displayed for sale or served.

10 2. The term does not include:

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

14 (b) Fraternal or social clubhouses at which attendance is limited
15 to members of the club;

16 (c) Vehicles operated by common carriers engaged in interstate
17 commerce;

18 (d) Any establishment in which religious, charitable and other
19 nonprofit organizations sell food occasionally to raise money or in
20 which charitable organizations receive salvaged food in bulk
21 quantities for free distribution, unless the establishment is open on a
22 regular basis to sell food to members of the general public;

23 (e) Any establishment where animals are slaughtered which is
24 regulated and inspected by the State Department of Agriculture;

25 (f) Dairy farms and plants which process milk and products of
26 milk or frozen desserts which are regulated under chapter 584 of
27 NRS; ~~for~~

28 (g) The premises of a wholesale dealer of alcoholic beverages
29 licensed under chapter 369 of NRS who handles only alcoholic
30 beverages which are in sealed containers ~~for~~; or

31 ***(h) A cottage food operation that meets the requirements of***
32 ***section 1 of this act with respect to food items as defined in that***
33 ***section.***

34 **Sec. 3.** This act becomes effective on July 1, 2013.

