

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

643R0602

HOUSE COMMERCE ENGROSSED NO. **HB 1222** - 2/17/2010

Introduced by: Representatives Sly, Hunhoff (Bernie), Iron Cloud III, Pitts, and Rave and
Senators Merchant, Dempster, Gant, Jerstad, Miles, and Schmidt

1 FOR AN ACT ENTITLED, An Act to exempt persons selling certain foods at farmers' markets
2 from licensure requirements and to establish other requirements for the sale of those foods.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 34-18 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No person selling whole, intact fresh fruits or vegetables at a farmer's market, roadside
7 stand, or similar venue is required to be licensed pursuant to this chapter.

8 Section 2. That chapter 34-18 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 No person selling non-temperature-controlled baked goods or non-temperature-controlled
11 home-processed canned goods at a farmer's market, roadside stand, or similar venue is required
12 to be licensed pursuant to this chapter. However, any non-temperature-controlled baked goods
13 or non-temperature-controlled home-processed canned goods sold at a farmer's market, roadside
14 stand, or similar venue shall meet the requirements of section 3, if applicable, and section 4 of



1 this Act.

2 Section 3. That chapter 34-18 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 No canned good may be sold unless the pH level is 4.6 or less or the water activity level is
5 .85 or less. A third-party processing authority with knowledge of the thermal processing
6 required of food in hermetically-sealed containers shall verify the method of processing and that
7 the pH or water activity threshold levels are met. The processing authority shall provide any
8 such verification in writing.

9 Section 4. That chapter 34-18 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 No baked good or canned good may be sold unless it has a label that includes the following
12 information:

- 13 (1) Name of the product;
- 14 (2) Producer and contact information;
- 15 (3) Date the product was made or processed;
- 16 (4) Ingredients; and
- 17 (5) Disclaimer. The disclaimer shall state: "This product was not produced in a
18 commercial kitchen. It has been home-processed in a kitchen that may also process
19 common food allergens such as tree nuts, peanuts, eggs, soy, wheat, milk, fish, and
20 crustacean shellfish."