

**UTAH WHOLESOME FOOD ACT REVISIONS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Keven J. Stratton**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to wholesome food.

**Highlighted Provisions:**

This bill:

- ▶ addresses farm-to-fork events under the wholesome food provisions;
- ▶ restricts local government regulation of farm-to-fork events; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**4-5-102**, as renumbered and amended by Laws of Utah 2017, Chapter 345

**4-5a-103**, as enacted by Laws of Utah 2018, Chapter 377

**26-15-1**, as last amended by Laws of Utah 2017, Chapter 345

ENACTS:

**4-5-503**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*



28 Section 1. Section **4-5-102** is amended to read:

29 **4-5-102. Definitions.**

30 As used in this chapter:

31 (1) "Advertisement" means a representation, other than by labeling, made to induce the  
32 purchase of food.

33 (2) (a) "Color additive":

34 (i) means a dye, pigment, or other substance not exempted under the federal act that,  
35 when added or applied to a food, is capable of imparting color; and

36 (ii) includes black, white, and intermediate grays.

37 (b) "Color additive" does not include a pesticide chemical, soil or plant nutrient, or  
38 other agricultural chemical which imparts color solely because of its effect, before or after  
39 harvest, in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other  
40 natural physiological process of any plant life.

41 (3) (a) "Consumer commodity" means a food, as defined by this act, or by the federal  
42 act.

43 (b) "Consumer commodity" does not include:

44 (i) a commodity subject to packaging or labeling requirements imposed under the  
45 Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Sec. 136 et seq.;

46 (ii) a commodity subject to Title 4, Chapter 16, Utah Seed Act;

47 (iii) a meat or meat product subject to the Federal Meat Inspection Act, 21 U.S.C. Sec.  
48 601 et seq.;

49 (iv) a poultry or poultry product subject to the Poultry Inspection Act, 21 U.S.C. Sec.  
50 451 et seq.;

51 (v) a tobacco or tobacco product; or

52 (vi) a beverage subject to or complying with packaging or labeling requirements  
53 imposed under the Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq.

54 (4) "Contaminated" means not securely protected from dust, dirt, or foreign or  
55 injurious agents.

56 (5) "Farm-to-fork event" means an event organized on a farm where prepared food is  
57 provided for immediate consumption to paying guests.

58 [~~5~~] (6) "Farmers market" means a market where producers of food products sell only

59 fresh, raw, whole, unprocessed, and unprepared food items directly to the final consumer.

60 [~~(6)~~] (7) "Federal act" means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.

61 Sec. 301 et seq.

62 [~~(7)~~] (8) "Food" means:

63 (a) an article used for food or drink for human or animal consumption or the  
64 components of the article;

65 (b) chewing gum or its components; or

66 (c) a food supplement for special dietary use which is necessitated because of a  
67 physical, physiological, pathological, or other condition.

68 [~~(8)~~] (9) (a) "Food additive" means a substance, the intended use of which results in the  
69 substance becoming a component, or otherwise affecting the characteristics, of a food.

70 (b) (i) "Food additive" includes a substance or source of radiation intended for use in  
71 producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or  
72 holding food.

73 (ii) "Food additive" does not include:

74 (A) a pesticide chemical in or on a raw agricultural commodity;

75 (B) a pesticide chemical that is intended for use or is used in the production, storage, or  
76 transportation of a raw agricultural commodity; or

77 (C) a substance used in accordance with a sanction or approval granted pursuant to the  
78 Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq. or the Federal Meat Inspection Act,  
79 21 U.S.C. Sec. 601 et seq.

80 [~~(9)~~] (10) (a) "Food establishment" means a grocery store, bakery, candy factory, food  
81 processor, bottling plant, sugar factory, cannery, rabbit processor, meat processor, flour mill,  
82 cold or dry warehouse storage, or other facility where food products are manufactured, canned,  
83 processed, packaged, stored, transported, prepared, sold, or offered for sale.

84 (b) "Food establishment" does not include:

85 (i) a dairy farm, a dairy plant, or a meat establishment, which is subject to the Poultry  
86 Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Federal Meat Inspection Act, 21  
87 U.S.C. Sec. 601 et seq.; [or]

88 (ii) a farmers market[-]; or

89 (iii) a farm when holding a farm-to-fork event meeting the requirements of Section

90 [4-5-503.](#)

91 ~~[(10)]~~ (11) "Label" means a written, printed, or graphic display on the immediate  
92 container of an article of food.

93 ~~[(11)]~~ (12) "Labeling" means a label and other written, printed, or graphic display:

94 (a) on an article of food or its containers or wrappers; or

95 (b) accompanying the article of food.

96 ~~[(12)]~~ (13) "Official compendium" means the official documents or supplements to the:

97 (a) United States Pharmacopoeia;

98 (b) National Formulary; or

99 (c) Homeopathic Pharmacopoeia of the United States.

100 ~~[(13)]~~ (14) (a) "Package" means a container or wrapping in which a consumer  
101 commodity is enclosed for use in the delivery or display of the consumer commodity to retail  
102 purchasers.

103 (b) "Package" does not include:

104 (i) package liners;

105 (ii) shipping containers or wrapping used solely for the transportation of consumer  
106 commodities in bulk or in quantity to manufacturers, packers, processors, or wholesale or retail  
107 distributors; or

108 (iii) shipping containers or outer wrappings used by retailers to ship or deliver a  
109 consumer commodity to retail customers, if the containers and wrappings bear no printed  
110 information relating to the consumer commodity.

111 ~~[(14)]~~ (15) (a) "Pesticide" means a substance intended:

112 (i) to prevent, destroy, repel, or mitigate a pest, as defined under ~~[Subsection]~~ Section  
113 [4-14-102](#)~~[(20)]~~; or

114 (ii) for use as a plant regulator, defoliant, or desiccant.

115 (b) "Pesticide" does not include:

116 (i) a new animal drug, as defined by 21 U.S.C. Sec. 321, that has been determined by  
117 the United States Secretary of Health and Human Services not to be a new animal drug by  
118 federal regulation establishing conditions of use of the drug; or

119 (ii) animal feed, as defined by 21 U.S.C. Sec. 321, bearing or containing a new animal  
120 drug.

121 ~~[(15)]~~ (16) "Principal display panel" means that part of a label that is most likely to be  
122 displayed, presented, shown, or examined under normal and customary conditions of display  
123 for retail sale.

124 ~~[(16)]~~ (17) "Raw agricultural commodity" means a food in its raw or natural state,  
125 including all fruits that are washed, colored, or otherwise treated in their unpeeled, natural form  
126 prior to marketing.

127 ~~[(17)]~~ (18) "Registration" means the issuance of a certificate by the commissioner to a  
128 qualified food establishment.

129 Section 2. Section **4-5-503** is enacted to read:

130 **4-5-503. Farm-to-fork event.**

131 (1) Except as otherwise provided in Subsection (3), a farm is not a food establishment  
132 when holding a farm-to-fork event if:

133 (a) any poultry or meat from a rabbit that is served at the farm-to-fork event is raised,  
134 slaughtered, and prepared on the farm pursuant to the requirements of state and federal law;

135 (b) meat slaughtered and processed in compliance with the Federal Meat Inspection  
136 Act, 21 U.S.C. Sec. 601 et seq. and the applicable regulations issued pursuant to that act may  
137 be served at a farm-to-fork event under this section;

138 (c) any other food item that is served at the farm-to-fork event, including salads, side  
139 dishes, and desserts, is prepared on the farm from ingredients the majority of which are  
140 produced on the farm; and

141 (d) the farm complies with the requirements of this section.

142 (2) A farm that holds a farm-to-fork event shall, before a guest consumes food, provide  
143 the guest with a written notice that states that no inspection was conducted of the farm or the  
144 food to be consumed by a state or local health department or the department, except as  
145 otherwise provided in Subsection (1)(a) or (b).

146 (3) (a) The department or state or local health department may not inspect a farm that  
147 holds a farm-to-fork event, except the department or state or local health department may  
148 inspect a farm following a farm-to-fork event:

149 (i) to investigate a food item that may be considered to be adulterated pursuant to  
150 Section [4-5-103](#); or

151 (ii) if an outbreak or suspected outbreak of illness is known or suspected to be caused

152 by a contaminated food item served at the farm-to-fork event.

153 (b) A farm shall cooperate with the department or state or local health department in an  
154 inspection under this Subsection (3).

155 (c) If as a result of an inspection the department or state or local health department  
156 determines that the farm has produced an adulterated food item or was the source of an  
157 outbreak of illness caused by a contaminated food item, the department or state or local health  
158 department may charge and collect from the farm a fee for the inspection.

159 (4) A farm-to-fork event is exempt from county, city, or town regulation.

160 Section 3. Section **4-5a-103** is amended to read:

161 **4-5a-103. Regulation of a direct-to-sale farmers market.**

162 (1) A direct-to-sale farmers market selling homemade food under this chapter shall:

163 (a) display signage indicating to an informed final consumer that the homemade food  
164 and food products sold by producers at the market have not been certified, licensed, regulated,  
165 or inspected by state or local authorities; and

166 (b) only include products for sale that have not been certified, licensed, regulated, or  
167 inspected by state or local authorities.

168 (2) If the direct-to-sale farmers market is in any way associated with a farmers market  
169 as defined in [~~Subsection 4-5-102(5)~~] Section 4-5-102, the direct-to-sale farmers market  
170 section selling homemade food under this chapter shall comply with the following  
171 requirements:

172 (a) the direct-to-sale farmers market section shall be separated from the farmers market  
173 section; and

174 (b) the separate direct-to-sale farmers market section shall include signs or other  
175 markings clearly indicating which space is the farmers market space offering inspected items  
176 for sale and which space is the direct-to-sale farmers market space offering items that are  
177 uninspected.

178 (3) The department may make rules, in accordance with Title 63G, Chapter 3, Utah  
179 Administrative Rulemaking Act, regarding the signage described in Subsection (1).

180 Section 4. Section **26-15-1** is amended to read:

181 **26-15-1. Definitions.**

182 As used in this chapter:

183 (1) (a) "Food handler" means any person working part-time or full-time in a food  
184 service establishment who moves food or food containers, prepares, stores, or serves food;  
185 comes in contact with any food, utensil, tableware or equipment; or washes the same. The term  
186 also includes owners, supervisors, and management persons, and any other person working in a  
187 food-service establishment. The term also includes any operator or person employed by one  
188 who handles food dispensed through vending machines; or who comes into contact with food  
189 contact surfaces or containers, equipment, utensils, or packaging materials used in connection  
190 with vending machine operations; or who otherwise services or maintains one or more vending  
191 machines.

192 (b) "Food handler" does not include a producer of food products selling food at a  
193 farmers market as defined in [~~Subsection 4-5-102(5)~~] [Section 4-5-102](#).

194 (2) "Pest" means a noxious, destructive, or troublesome organism whether plant or  
195 animal, when found in and around places of human occupancy, habitation, or use which  
196 threatens the public health or well being of the people within the state.

197 (3) "Vector" means any organism, such as insects or rodents, that transmits a pathogen  
198 that can affect public health.