

ENROLLED ACT NO. 43, HOUSE OF REPRESENTATIVES

SIXTY-FIFTH LEGISLATURE OF THE STATE OF WYOMING
2020 BUDGET SESSION

AN ACT relating to marketing homemade foods; authorizing the sale of certain homemade food items by parties other than the producer of the item as specified; providing and amending definitions; making conforming changes; repealing a provision relating to consumption location; providing limitations on retail food sales; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 11-49-102(a)(vi), by creating new paragraphs (ix) and (x) and by renumbering (ix) as (xi) and 11-49-103(a)(intro), (b), (c)(i), (vi), (d)(intro), (e) and by creating a new subsection (k) are amended to read:

11-49-102. Definitions.

(a) As used in this act:

(vi) "Producer" means any person who grows, harvests, prepares or processes any food or drink products on the person's owned or leased property, does not produce more than two hundred fifty thousand (250,000) individual food or drink products annually and does not exceed two hundred fifty thousand dollars (\$250,000.00) in gross revenue annually from the food and drink products;

(ix) "Non-potentially hazardous food" means food that does not require time or temperature control for safety including limiting pathogenic microorganism growth or toxin formation. "Non-potentially hazardous food" includes, but is not limited to, jams, uncut fruits and vegetables, pickled vegetables, hard candies, fudge, nut mixes, granola, dry soup mixes excluding meat based soup mixes, coffee beans, popcorn and baked goods that do not include dairy or meat frosting or filling or other potentially hazardous frosting or filling;

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(x) "Potentially hazardous food" means food that requires time or temperature control for safety including limiting pathogenic microorganism growth or toxin formation. "Potentially hazardous food" includes, but is not limited to, foods requiring refrigeration, dairy products, quiches, pizzas, frozen doughs, meat and cooked vegetables and beans;

~~(ix)~~(xi) "This act" means W.S. 11-49-101 through 11-49-103.

11-49-103. Wyoming Food Freedom Act; purpose; exemptions; assumption of risk.

(a) The purpose of the Wyoming Food Freedom Act is to allow for a producer's production and sale of homemade food or drink products for an informed end ~~consumer's home consumption~~consumer and to encourage the expansion of agricultural sales at farmers markets, ranches, farms and producers' homes by:

(b) Unless otherwise provided in this section, homemade food products produced, sold and consumed in compliance with the Wyoming Food Freedom Act shall be exempt from state licensure, permitting, inspection, packaging and labeling requirements.

(c) Transactions under this act shall:

(i) Be directly between the ~~producer-seller~~ and the informed end consumer. The seller of a homemade food product consisting of non-potentially hazardous food may be the producer of the item, an agent of the producer or a third party vendor including a retail shop or grocery store as long as the sale is made in compliance with this act. The seller of a homemade food item consisting of

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potentially hazardous food shall be the producer of the item;

(vi) Only occur at farmers markets, farms, ranches, producer's homes or offices, the retail location of the third party seller of non-potentially hazardous foods or any location the producer and the informed end consumer agree to.

(d) Except for raw, unprocessed fruits and vegetables, food shall not be sold or used in any commercial food establishment unless the food has been labeled, licensed, packaged, regulated or inspected as required by law. Nothing in this section shall prohibit the sale of homemade food ~~for home consumption~~ from a retail space located at the ranch, farm or home where the food is produced or at the retail location of a third party seller for non-potentially hazardous food. A retail space selling homemade food under this section shall inform the end consumer that the homemade food has not been inspected and shall display a sign indicating that the homemade food has not been inspected. If ~~the~~^a retail space selling potentially hazardous food is in any way associated with a commercial food establishment or offers for sale any inspected product, the retail space selling potentially hazardous homemade food shall comply with rules adopted by the department of agriculture which shall require:

(e) The producer shall inform the end consumer that any food product or food sold at a farmers market or through ranch, farm or home based sales pursuant to this act is not certified, labeled, licensed, packaged, regulated or inspected. A third party seller offering non-potentially hazardous food for sale pursuant to this act shall inform the end consumer that the homemade food is not certified, labeled, licensed, packaged, regulated or inspected.

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(k) In addition to the requirements of this section, for sales of non-potentially hazardous food at a retail location or grocery store the food shall not be displayed or offered for sale on the same shelf or display as food produced in a licensed establishment and shall be clearly and prominently labeled with "this food was made in a home kitchen, is not regulated or inspected and may contain allergens".

Section 2. W.S. 11-49-103(c)(ii) is repealed.

Section 3. This act is effective July 1, 2020.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk