

Representative Marc K. Roberts proposes the following substitute bill:

DIRECT TO CONSUMER FOOD SALES MODIFICATIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marc K. Roberts

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies Title 4, Utah Agricultural Code, by enacting the Home Consumption and Food Regulation Act.

Highlighted Provisions:

This bill:

- defines terms; and
- states that a producer is exempt from certain state, county, or city regulations regarding the preparation, serving, use, consumption, or storage of food and food products that are:

- produced and sold within the state;
- sold directly to an informed end consumer;
- for home consumption; and
- non-potentially hazardous.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



ENACTS:

4-5a-101, Utah Code Annotated 1953

4-5a-102, Utah Code Annotated 1953

4-5a-103, Utah Code Annotated 1953

4-5a-104, Utah Code Annotated 1953

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

Section 1. Section **4-5a-101** is enacted to read:

CHAPTER 5a. HOME CONSUMPTION AND FOOD REGULATION ACT

4-5a-101. Title.

This chapter is known as the "Home Consumption and Food Regulation Act."

Section 2. Section **4-5a-102** is enacted to read:

4-5a-102. Definitions.

For purposes of this chapter:

(1) (a) "Commercial establishment" means a wholesale or retail business that displays, sells, manufactures, processes, packs, holds, or stores food, drugs, devices, or cosmetics.

(b) "Commercial establishment" does not include a:

(i) direct-to-sale location; or

(ii) farmers market.

(2) "Direct-to-sale location" means a farm, ranch, farmers market, home, office, or any location agreed upon by both a producer and the informed end consumer where a producer sells a food or food product to an informed end consumer.

(3) "Farmers market" means a public or private facility or area where producers gather on a regular basis to sell fresh food, locally grown products, and other food items directly to a consumer.

(4) "Food product" means a substance that can be used, or prepared for use, as food or non-alcoholic drink.

(5) "Home consumption" means the use or ingestion of food or a food product within a private home by a family member, an employee, or a nonpaying guest.

(6) "Informed end consumer" means an individual who:

(a) is the last individual to purchase a product;

(b) does not resell the product; and
(c) has been informed that the product is not certified, licensed, regulated, or inspected by the state.

(7) "Producer" means a person who harvests or produces food or a food product.

Section 3. Section 4-5a-103 is enacted to read:

4-5a-103. Farmer-to-consumer direct sales -- Exempt from regulation.

(1) A producer is exempt from state, county, or city licensing, permitting, certification, inspection, packaging, and labeling requirements, except as described in this section, related to the preparation, serving, use, consumption, or storage of food and food products if:

(a) the producer complies with the requirements of this chapter; and

(b) the food or food product is:

(i) produced and sold within the state;

(ii) sold directly to an informed end consumer;

(iii) for home consumption; and

(iv) non-potentially hazardous and does not require refrigeration, including pickled vegetables, spices, tea, nuts, seeds, honey, jam, jelly, granola, herb blends, fruit butter, candy, or other non-potentially hazardous food.

(2) Food or food products sold under this section shall be labeled with:

(a) the producer's name and address;

(b) a disclosure statement indicating that the product is:

(i) not for resale; and

(ii) processed and prepared without state or local inspection; and

(c) a statement listing whether the food or food product contains, or was prepared in a location that also handles, common allergens including milk, soy, wheat, eggs, peanuts, or tree nuts.

(3) A producer selling food or food products under this section shall obtain a temporary or official food handler certificate before selling a food or food product to an informed end consumer.

(4) (a) Except as provided in Subsection (4)(b), food or a food product that is exempt from certain regulations as described in this chapter may not be sold to, or used by, a restaurant or commercial establishment.

88 **(b) A producer may sell a raw, unprocessed fruit or vegetable to a restaurant or**
89 **commercial establishment.**

90 **(5) A producer selling food or food products exempt under this section shall, before**
91 **purchase, state to the informed end consumer that the food or food product is not certified,**
92 **licensed, regulated, or inspected by the state or any county or city.**

93 Section 4. Section **4-5a-104** is enacted to read:

94 **4-5a-104. Limitations.**

95 **(1) Nothing in this chapter:**

96 **(a) shall be construed to impede the Department of Health in an investigation of food**
97 **borne illness;**

98 **(b) prohibits a state agency from providing assistance, consulting, or inspecting when**
99 **requested by a producer; or**

100 **(c) affects the authority of the Department of Health or the Department of Agriculture**
101 **and Food to certify, license, regulate, or inspect food or food products that are not exempt from**
102 **certification, licensing, regulation, or inspection as described in this chapter.**

103 **(2) The department may not, by rule, impose an additional limit, requirement, or**
104 **restriction on a producer selling food or a food product under this chapter.**