



FOOD FREEDOM ACT

SECTION 1. DEFINITIONS.

(a) “Delivery” means the transfer of a product resulting from a transaction between a producer and an informed end consumer. The delivery may occur at a farm, ranch, farmers market, home, office, retail store, restaurant, or any location agreed to between the producer and the informed end consumer, and may be done by the producer or the producer’s designated agent.

(b) “Farmers market” means a common facility or area where vendors gather on a regular, recurring basis to sell directly to consumers foods (including but not limited to fresh fruits and vegetables, meats, and value-added products) grown or produced by those vendors; provided that fewer than half of the vendors at a farmers market may sell non-food items.

(c) “Home consumption” means consumed within a private home, or food from a private home that is only consumed by family members, employees or nonpaying guests.

(d) “Homemade” means food that is prepared or processed in a private home kitchen or other kitchen on a producer’s owned or leased property that is not a commercially regulated kitchen and is not licensed, inspected, nor regulated.



(e) “Informed end consumer” means a person who is the last person to purchase any product, who does not resell the product and who has been informed that the product is not licensed, regulated or inspected.

(f) “Producer” means any person who grows, harvests, prepares or processes any food or drink products on property the person owns or leases.

(g) “Transaction” includes any one or more of buying, selling, sharing, exchanging, or donating.

(h) “Process” means operations a producer performs in the making or treatment of the producer’s food or drink products.

(i) “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 (not including meat-based soup mixes), coffee beans, dry teas and tea blends, popcorn, acidified (high-acid) canned goods, and baked goods that do not contain dairy, meat, or other potentially hazardous food ingredients such as frosting or filling such as meat or dairy.

(j) “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, cooked vegetables and beans, and low-acid canned goods.

SECTION 2.

(a) The purpose of the Food Freedom Act is to allow for a producer’s production and sale of homemade food and drink products to an informed end consumer and to encourage the

expansion of agricultural sales at farmers markets, ranches, farms, producers' homes, retail stores, and restaurants, by:

(1) Facilitating the purchase and consumption of fresh and local agricultural products;

(2) Enhancing the agricultural economy; and

(3) Providing citizens with unimpeded access to healthy food from known sources.

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

(c) Transactions under this act shall:

(1) Be directly between the 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 store or restaurant—provided the sale is made in compliance with this act. The seller of a homemade food item consisting of potentially hazardous food shall be the producer of the item;

(2) Occur only within this state;

(3) Not involve interstate commerce;

(4) Not involve the sale of meat products, with the following exceptions:

(A) The sale of poultry and poultry products, provided:

(i) The producer slaughters not more than one thousand (1,000) poultry of his own raising during any one (1) calendar year;

(ii) The producer does not engage in buying or selling poultry products other than those produced from poultry of his own raising; and

(iii) The poultry product is not adulterated nor misbranded.

(B) The sale of live animals;

(C) The sale of portions of live animals before slaughter for future delivery;

(D) The sale of domestic rabbit meat or lamb; or

(E) The sale of farm-raised fish, provided the fish is raised in accordance with existing laws;

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

(d) Potentially hazardous foods shall not be sold to, sold by, nor 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 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 produced under this act shall inform the end consumer that the food has not been inspected by displaying a sign indicating the homemade food has not been inspected. If a retail space selling potentially hazardous food is in any way associated with a commercial food establishment or offers for sale any inspected food product, the retail space selling potentially hazardous homemade food shall comply with rules adopted by the department of agriculture which shall require:

(1) That the retail space be physically separated from the commercial food establishment with a separate door and separate cash register or point of sale;

(2) That each separate space shall include signs or other markings clearly indicating which spaces are offering inspected items for sale and which spaces are uninspected;

(3) Separation of coolers, freezers and warehouse or other storage areas to prohibit the intermingling of inspected and uninspected products; and

(4) Any other requirements specified by the department of agriculture to ensure the sale of homemade foods is made to an informed end consumer.

(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, regulated, nor 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, regulated or inspected.

(f) Nothing in this act shall be construed to impede a state or county agency in any investigation of foodborne illness.

(g) Nothing in this act shall be construed to change the requirements for brand inspection or animal health inspections.

(h) Nothing in this act shall preclude an agency from providing assistance, consultation, nor inspection should a producer request such assistance, consultation, or inspection;

(i) In addition to the requirements of this section, for sales of non potentially hazardous food at a retail 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 language: “This food was made in a home kitchen that is not licensed, regulated, nor inspected. This food may contain unlabeled allergens.”