

Representative Marc K. Roberts proposes the following substitute bill:

HOME CONSUMPTION AND HOMEMADE FOOD ACT

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marc K. Roberts

Senate Sponsor: Daniel Hemmert

| | | | |
|---|-----------------|-----------------|--------------------|
| 6 | Cosponsors: | Ken Ivory | Jeremy A. Peterson |
| 7 | Kim F. Coleman | A. Cory Maloy | |
| 8 | Brian M. Greene | Michael E. Noel | |

LONG TITLE

General Description:

This bill modifies Title 4, Utah Agricultural Code.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ states that home-based producers may be 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 final consumer; and
- for home consumption.

Money Appropriated in this Bill:

None

Other Special Clauses:

2nd Sub. H.B. 181



25 None

26 **Utah Code Sections Affected:**

27 ENACTS:

28 **4-5a-101**, Utah Code Annotated 1953

29 **4-5a-102**, Utah Code Annotated 1953

30 **4-5a-103**, Utah Code Annotated 1953

31 **4-5a-104**, Utah Code Annotated 1953

32 **4-5a-105**, Utah Code Annotated 1953



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

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

36 **CHAPTER 5a. HOME CONSUMPTION AND HOMEMADE FOOD ACT**

37 **4-5a-101. Title.**

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

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

40 **4-5a-102. Definitions.**

41 For purposes of this chapter:

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

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

45 (i) direct-to-sale location; or

46 (ii) direct-to-sale farmers market.

47 (2) "Direct-to-sale farmers market" means a public or private facility or area where
48 producers gather on a regular basis to sell directly to an informed final consumer fresh food,
49 locally grown products, and other food items that have not been certified, licensed, regulated,
50 or inspected by state or local authorities.

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

54 (4) "Home consumption" means the use or ingestion of homemade food or a
55 homemade food product within a private home by a family member, an employee, or a

56 nonpaying guest.

57 (5) "Homemade food product" means a food product that is prepared in a private home
58 kitchen that can be used, or prepared for use, as food or nonalcoholic drink, subject to the
59 limitation described in Subsection 4-5a-105(1).

60 (6) "Informed final consumer" means an individual who:

61 (a) purchases the product directly from the producer;

62 (b) does not resell the product; and

63 (c) has been informed that the product is not certified, licensed, regulated, or inspected
64 by the state.

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

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

68 **4-5a-103. Regulation of a direct-to-sale farmers market.**

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

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

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

75 (2) If the direct-to-sale farmers market is in any way associated with a farmers market
76 as defined in Subsection 4-5-102(5), the direct-to-sale farmers market section selling
77 homemade food under this chapter shall comply with the following requirements:

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

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

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

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

87 **4-5a-104. Home producer direct sales -- Exempt from regulation.**

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

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

92 (b) the homemade food or homemade food product is:

93 (i) produced and sold within the state;

94 (ii) sold directly to an informed final consumer;

95 (iii) for home consumption; and

96 (iv) not exempted under Subsection [4-5a-105\(1\)](#).

97 (2) notwithstanding Subsection (1), a producer shall comply with business license
98 requirements pursuant to Section [10-1-203](#).

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

100 (a) the producer's name and address;

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

102 (i) not for resale; and

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

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

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

110 (b) A producer may sell a raw, unprocessed fruit or vegetable to a restaurant or
111 commercial establishment.

112 (5) A producer selling homemade food or homemade food products exempt under this
113 section shall inform the final consumer that the food or food product is not certified, licensed,
114 regulated, or inspected by the state or any county or city.

115 Section 5. Section **4-5a-105** is enacted to read:

116 **4-5a-105. Limitations.**

117 (1) This chapter does not apply to the sale of:

- 118 (a) raw dairy or raw dairy products; or
119 (b) meat products, with the following exceptions:
120 (i) the sale of poultry and poultry products if the producer:
121 (A) slaughters no more than 1,000 birds per year in accordance with the United States
122 Department of Agriculture 1,000 bird exemption; and
123 (B) follows the United States Department of Agriculture's, Food Safety and Inspection
124 Service document titled "Guidance for Determining Whether A Poultry Slaughter or Processing
125 Operation is Exempt from Inspection Requirements of the Poultry Products Inspection Act";
126 and
127 (ii) the sale of domesticated rabbit meat, pending approval from the United States
128 Department of Agriculture that the state's role in meat inspection is preserved.
129 (2) Nothing in this chapter:
130 (a) means that the department relinquishes its authority to administer the state's
131 program at a standard level at least equal to the standards imposed under the Federal Meat and
132 Poultry Products Inspection Act;
133 (b) shall be construed to impede the Department of Health in an investigation of
134 foodborne illness;
135 (c) prohibits a state agency from providing assistance, consulting, or inspecting when
136 requested by a producer; or
137 (d) affects the authority of the Department of Health or the Department of Agriculture
138 and Food to certify, license, regulate, or inspect food or food products that are not exempt from
139 certification, licensing, regulation, or inspection as described in this chapter.
140 (3) The department may not, by rule, impose an additional limit, requirement, or
141 restriction on a producer selling food or a food product under this chapter.