A Bill

For An Act To Be Entitled

AN ACT TO EXEMPT COTTAGE FOOD OPERATIONS, FARMERS’ MARKETS, AND OTHER SIMILAR FOOD SALES ENTITIES FROM PERMITS REQUIREMENTS; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO EXEMPT COTTAGE FOOD OPERATIONS, FARMERS’ MARKETS, AND OTHER SIMILAR FOOD SALES ENTITIES FROM PERMITS REQUIREMENTS AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 20-57-201 is amended to read as follows:

20-57-201. Definitions.

As used in §§ 20-57-202 – 20-57-205, unless the context otherwise requires:

(1) "Cottage food production operation" means a person who produces food items in the person’s home that are not potentially hazardous foods, including without limitation:

(A) Bakery products;
(B) Candy;
(C) Fruit butter;
(D) Jams;
(E) Jellies; and

Stricken language would be deleted from and underlined language would be added to present law.

Act 72 of the Regular Session

State of Arkansas
88th General Assembly
Regular Session, 2011
By: Representatives Benedict, D. Altes, Collins-Smith, Bell, Eubanks, Harris, Hickerson, Hobbs, D. Hutchinson, Jean, King, Mauch, Patterson, Pennartz, Rice, G. Smith, Stubblefield, Wardlaw
By: Senators Irvin, J. Key

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(F) Similar products specified in rules adopted by the Department of Health:

(1)(A) “Food service establishment” means any place where food is prepared, processed, stored, or intended for use or consumption by the public regardless of whether there is a charge for the food.

(ii) The term “Food service establishment” includes wholesale and retail food stores, convenience stores, food markets, delicatessens, restaurants, food processing or manufacturing plants, bottling and canning plants, wholesale and retail block and prepackaged ice manufacturing plants, food caterers, and food warehouses.

(iii) The term “Food service establishment” does not include supply vehicles or locations of vending machines.

(B) The following are also exempt:

(i) Group homes routinely serving ten (10) or fewer persons;

(ii) Daycare centers routinely serving ten (10) or fewer persons;

(iii) Potluck suppers, community picnics, or other group gatherings where food is served but not sold;

(iv) A person at a farmers’ market that offers for sale only one (1) or more of the following:

(a) Fresh unprocessed fruits or vegetables;

(b) Maple syrup, sorghum, or honey that is produced by a maple syrup or sorghum producer or beekeeper; or

(c) Commercially prepackaged food that is not potentially hazardous, on the condition that the food is contained in displays, the total space of which equals less than one hundred cubic feet (100 cu. ft.) on the premises where the person conducts business at the farmers’ market;

(v) A person who offers for sale at a roadside stand only fresh fruits and fresh vegetables that are unprocessed;

(vi)(a) A cottage food production operation, on the condition that the operation offers its products directly to the consumer:

(1) From the site where the products are produced;

(2) At a farmers’ market;
(3) At a county fair; or
(4) At a special event.

(b)(1) Upon request, each product offered under subdivision (2)(B)(vi)(a) of this section shall be made available to the Department of Health for sampling.

(2) Each product shall be clearly labeled and shall make no nutritional claims.

(3) The label required under subdivision (2)(B)(vi)(b)(2) of this section shall include the following:

(A) The name and address of the business;

(B) The name of the product;

(C) The ingredients in the product; and

(D) The following statement in 10-point type: “This Product is Home-Produced”;

(vii) A maple syrup and sorghum processor and beekeeper if the processor or beekeeper offers only maple syrup, sorghum, or honey directly to the consumer from the site where those products are processed;

(viii) A person who offers for sale only one (1) or more of the following foods at a festival or celebration, on the condition that the festival or celebration is organized by a political subdivision of the state and lasts for a period not longer than seven (7) consecutive days:

(a) Fresh unprocessed fruits or vegetables;

(b) Maple syrup, sorghum, or honey if produced by a maple syrup or sorghum processor or beekeeper; or

(c) Commercially prepackaged food that is not potentially hazardous, on the condition that the food is contained in displays, the total space of which equals less than one hundred cubic feet (100 cu. ft.);

(ix) A farm market that offers for sale at the farm market only one (1) or more of the following:

(a) Fresh unprocessed fruits or vegetables;

(b) Maple syrup, sorghum, or honey that is produced by a maple syrup or sorghum producer or beekeeper; or
(c) Commercially prepackaged food that is not potentially hazardous, on the condition that the food is contained in displays, the total space of which equals less than one hundred cubic feet (100 cu. ft.) on the premises where the person conducts business at the farm market;

(iv) An establishment that offers only prepackaged foods that are not potentially hazardous as defined by the State Board of Health; and

(vi) Ice vending machines or kiosks where ice is dispensed in the open air and that are totally self-contained; and

(2)(3) “Food service industry” means the aggregate of food service establishments.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that with growing season quickly approaching, a crop could be lost if the effective date of this act is delayed; that a delay in the effective date of this act could cause significant economic hardship for food producers; and that this act is necessary to ensure the maximum positive effect in the community. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

APPROVED: 02/18/2011