

The Law as it will take effect on July 1, 2020

CHAPTER 49 - MARKETING HOMEMADE FOODS

11-49-101. Short title.

This act is known and may be cited as the "Wyoming Food Freedom Act."

11-49-102. Definitions.

(a) As used in this act:

(i) "Delivery" means the transfer of a product resulting from a transaction between a producer and an informed end consumer. The delivery may occur by the producer's designated agent at a farm, ranch, farmers market, home, office or any location agreed to between the producer and the informed end consumer;

(ii) "Farmers market" means as defined in W.S. 35-7-110(a)(xxviii);

(iii) "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;

(iv) "Homemade" means food that is prepared or processed in a private home kitchen, that is not licensed, inspected or regulated;

(v) "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;

(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;

(vii) "Transaction" means the exchange of buying and selling;

(viii) "Process" means operations a producer performs in the making or treatment of the producer's food or 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;

(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:

- (i) Facilitating the purchase and consumption of fresh and local agricultural products;
- (ii) Enhancing the agricultural economy;
- (iii) Providing Wyoming 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 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 potentially hazardous food shall be the producer of the item;

(ii) ~~Only be for home consumption~~; W.S. 11-49-103(c)(ii) is repealed.

(iii) Occur only in Wyoming;

(iv) Not involve interstate commerce;

(v) 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 or 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;

(E) The sale of farm raised fish provided:

(I) The fish is raised in accordance with title 23 of the Wyoming statutes; and

(II) The fish is not catfish.

(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:

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

(ii) 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;

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

(iv) 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, 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.

(f) Repealed by Laws 2017, ch. 111, § 2.

(g) Nothing in this act shall be construed to impede the Wyoming department of health in any investigation of food borne illness.

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

(j) Nothing in this act shall preclude an agency from providing assistance, consultation or inspection, at the request of the producer.

(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".