Sixty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1433

Introduced by

Representatives Simons, Rick C. Becker, Johnston, Kiefert, B. Koppelman, Magrum, Olson, Schatz, Toman

Senators Kannianen, O. Larsen

A BILL for an Act to create and enact a new section to chapter 19-02.1 of the North Dakota Century Code, relating to the direct sale of food by the producer to a consumer; to amend and reenact sections 4-30-33, 4-30-36, 4-30-55.2, 19-07-01, and 36-24-06 of the North Dakota Century Code, relating to the sale and production of animal-based products.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-30-33 of the North Dakota Century Code is amended and reenacted as follows:

4-30-33. Standards for dairy manufacturing or processing - Commissioner to adopt rules.

~~The~~Unless otherwise provided in chapter 19-02.1, the commissioner may adopt rules governing the approval of dairy processing and manufacturing plants and standards for grades of dairy products. Rules must, at a minimum, comply with United States department of agriculture general specifications for approved dairy plants and standards for grades of dairy products. No plant may be operated or any dairy products sold in violation of these rules.

SECTION 2. AMENDMENT. Section 4-30-36 of the North Dakota Century Code is amended and reenacted as follows:

4-30-36. Standards for grade A milk and milk products - Adoption of amendments.

~~Only~~Unless otherwise provided in chapter 19-02.1, only grade A milk may be sold as fluid beverage for human consumption. The minimum standards for milk and milk products designated as grade A are the same as the minimum requirements of the Pasteurized Milk Ordinance which includes provisions from the "Grade A Condensed and Dry Milk Products and Condensed and Dry Whey - Supplement 1 to the Grade A PMO". The commissioner may adopt as regulations other standards in the interest of public safety, wholesomeness of product,

consumer interest, sanitation, good supply, salability, and promotion of grade A milk and milk products.

SECTION 3. AMENDMENT. Section 4-30-55.2 of the North Dakota Century Code is amended and reenacted as follows:

4-30-55.2. Commissioner - Rulemaking authority - Limitation.

Notwithstanding chapter 28-32, the commissioner may not adopt any rule that restricts, limits, or imposes additional requirements on any individual transferring or obtaining raw milk in accordance with the terms of a shared animal ownership agreement or on any individual participating in the direct sale of raw milk and raw milk products directly from a producer to a consumer.

SECTION 4. AMENDMENT. Section 19-07-01 of the North Dakota Century Code is amended and reenacted as follows:

19-07-01. Eggs to be graded - Exemption.

All eggs sold or offered for sale to an ultimate consumer in this state must be candled, graded, and labeled with the correct grade designation. "Eggs" in this chapter means eggs in the shell which are the product of ~~the~~ domesticated ~~chicken~~poultry. A producer of eggs when selling only eggs of the producer's own flock production is exempt from the provisions of this chapter.

SECTION 5. A new section to chapter 19-02.1 of the North Dakota Century Code is created and enacted as follows:

Direct producer to consumer sales of foods.

1. As used in this section:
   a. "Delivery" means the transfer of a product resulting from a transaction between a producer and an informed end consumer.
   b. "Farmers market" means a market or group of booths where farmers and other producers sell products directly to consumers.
   c. "Home consumption" means food consumed within a private home or food from a private home consumed only by family members, employees, or nonpaying guests.

d. "Informed end consumer" means an individual who is the last individual to purchase a product and has been informed the product is not licensed, regulated, or inspected.

e. "Producer" means any individual who harvests or produces any product that may be consumed as food or drink.

f. "Transaction" means the exchange of buying and selling.

2. Notwithstanding any other provision of law, a state agency or political subdivision may not require licensure, permitting, certification, inspection, packaging, or labeling that pertains to the preparation, serving, use, consumption, or storage of foods or food products under this section. This section does not preclude an agency from providing assistance, consultation, or inspection, upon request, of a producer.

3. Transactions under this section must be directly between the producer and the informed end consumer and be only for home consumption. Transactions may occur at a farm, ranch, farmers market, farm stand, home-based kitchen, or any other venue not otherwise prohibited by law or through delivery.

4. Transactions under this section may not involve interstate commerce or the sale of products made from meat, other than poultry, which has not been inspected.

5. Except for raw, unprocessed fruits and vegetables, food may not be sold or used in any commercial food establishment unless the food has been labeled, licensed, packaged, or inspected as required by law.

6. The producer shall inform the end consumer that any food product or food sold under this section is not certified, labeled, licensed, packaged, regulated, or inspected.

7. This section does not change any requirement for brand inspection or animal health inspections.

8. Any informed end consumer who purchases products under this section assumes the inherent risks in the purchase, use, or ingestion of the food or food product purchased, whether those risks are known or unknown, and is legally responsible for any property damage or other damage, injury, or death resulting from the inherent risks of purchasing or ingesting a food product under this section.

9. A producer is not required to eliminate, alter, or control the inherent risks related to the purchase, ingestion, or use of the food or food product related to a transaction under this section.

10. An action based on the negligence of the producer where the damage, injury, or death is not the result of an inherent risk of the purchase, ingestion, or use of the food or food product related to a transaction may be pursued under section 32-03.2-02.

SECTION 6. AMENDMENT. Section 36-24-06 of the North Dakota Century Code is amended and reenacted as follows:

36-24-06. Prohibitions.

~~A~~Unless otherwise provided in chapter 19-02.1, a person may not:

1. Slaughter an animal or prepare an article usable as human food at any establishment preparing articles solely for intrastate commerce, unless the person complies with this chapter;
2. Sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce any article that is usable as human food and which is adulterated or misbranded or any article that has not been inspected and passed under this chapter; or
3. Alter an article that is usable as human food while the article is being transported in intrastate commerce or held for sale after transportation, if the alteration is intended to cause or has the effect of causing the article to be adulterated or misbranded.