Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017

HOUSE BILL NO. 1433
(Representatives Simons, Rick C. Becker, Johnston, Kiefert, B. Koppelman, Magrum, Olson, Schatz, Toman)
(Senators Kannianen, O. Larsen)

AN ACT to create and enact a new chapter to title 23 of the North Dakota Century Code, relating to the direct sale of food by the producer to a consumer; and to amend and reenact sections 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 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 2. A new chapter to title 23 of the North Dakota Century Code is created and enacted as follows:

Definitions.

As used in this chapter:

1. "Cottage food operator" means an individual who produces or packages cottage food products in a kitchen designed and intended for use by the residents of a private home.

2. "Cottage food product" means baked goods, jams, jellies, and other food and drink products produced by a cottage food operator.

3. "Delivery" means the transfer of a cottage food product resulting from a transaction between a cottage food operator and an informed end consumer.

4. "Farmers market" means a market or group of booths where farmers and other cottage food operators sell cottage food products directly to consumers.

5. "Home consumption" means food consumed within a private home or food from a private home consumed only by family members, employees, or nonpaying guests.

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

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

Direct producer to consumer sales of cottage food products.

1. 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 or sale of cottage food products under this section. This section does not

preclude an agency from providing assistance, consultation, or inspection, upon request, of a producer.

2. Transactions under this section must be directly between the cottage food operator 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.

3. Transactions under this section may not:

   a. Involve interstate commerce;

   b. Be conducted over the internet or phone, through the mail, or by consignment;

   c. Include the sale of uninspected products made from meat, except as provided under subdivision d; or

   d. Include the sale of uninspected products made from poultry, unless:

      (1) The cottage food operator slaughters no more than one thousand poultry raised by the cottage food operator during the calendar year;

      (2) The cottage food operator does not buy or sell poultry products, except products produced from poultry raised by the cottage food operator; and

      (3) The poultry product is not adulterated or misbranded.

4. Except for whole, unprocessed fruits and vegetables, food prepared by a cottage food operator may not be sold or used in any food establishment, food processing plant, or food store.

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

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

7. A cottage food operator shall label all cottage food products that require refrigeration, such as baked goods containing cream, custard, meringue, cheesecake, pumpkin pie, and cream cheese, with safe handling instructions and a product disclosure statement indicating the product was transported and maintained frozen.

8. A cottage food operator shall display a consumer advisory sign at the point of sale or place a label on the cottage food product with the following statement:

   "This product is made in a home kitchen that is not inspected by the state or local health department."

9. The state department of health or a local regulating authority may conduct an investigation upon complaint of an illness or environmental health complaint.

SECTION 3. 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 section 1 of this Act, 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.

_____	_____
Speaker of the House	President of the Senate
_____	_____
Chief Clerk of the House	Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1433.

House Vote:	Yeas 58	Nays 29	Absent 7
Senate Vote:	Yeas 36	Nays 10	Absent 1

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Chief Clerk of the House

Received by the Governor at _____M. on _____, 2017.

Approved at _____M. on _____, 2017.

_____
Governor

Filed in this office this _____day of _____, 2017,

at _____ o'clock _____M.

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Secretary of State