

**FIRST ENGROSSMENT
with Senate Amendments
ENGROSSED HOUSE BILL NO. 1433**

Introduced by

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

Senators Kannianen, O. Larsen

1 A BILL for an Act to create and enact a new chapter to title 23 of the North Dakota Century
2 Code, relating to the direct sale of food by the producer to a consumer; and to amend and
3 reenact sections 19-07-01 and 36-24-06 of the North Dakota Century Code, relating to the sale
4 and production of animal-based products.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 19-07-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **19-07-01. Eggs to be graded - Exemption.**

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

14 **SECTION 2.** A new chapter to title 23 of the North Dakota Century Code is created and
15 enacted as follows:

16 **Definitions.**

17 As used in this chapter:

- 18 1. "Cottage food operator" means an individual who produces or packages cottage food
19 products in a kitchen designed and intended for use by the residents of a private
20 home.
- 21 2. "Cottage food product" means baked goods, jams, jellies, and other food and drink
22 products produced by a cottage food operator.

- 1 3. "Delivery" means the transfer of a cottage food product resulting from a transaction
2 between a cottage food operator and an informed end consumer.
- 3 4. "Farmers market" means a market or group of booths where farmers and other
4 cottage food operators sell cottage food products directly to consumers.
- 5 5. "Home consumption" means food consumed within a private home or food from a
6 private home consumed only by family members, employees, or nonpaying guests.
- 7 6. "Informed end consumer" means an individual who is the last individual to purchase a
8 cottage food product and has been informed the cottage food product is not licensed,
9 regulated, or inspected.
- 10 7. "Transaction" means the exchange of buying and selling.

11 **Direct producer to consumer sales of cottage food products.**

- 12 1. Notwithstanding any other provision of law, a state agency or political subdivision may
13 not require licensure, permitting, certification, inspection, packaging, or labeling that
14 pertains to the preparation or sale of cottage food products under this section. This
15 section does not preclude an agency from providing assistance, consultation, or
16 inspection, upon request, of a producer.
- 17 2. Transactions under this section must be directly between the cottage food operator
18 and the informed end consumer and be only for home consumption. Transactions may
19 occur at a farm, ranch, farmers market, farm stand, home-based kitchen, or any other
20 venue not otherwise prohibited by law or through delivery.
- 21 3. Transactions under this section may not:
- 22 a. Involve interstate commerce;
- 23 b. Be conducted over the internet or phone, through the mail, or by consignment;
- 24 c. Include the sale of uninspected products made from meat, except as provided
25 under subdivision d; or
- 26 d. Include the sale of uninspected products made from poultry, unless:
- 27 (1) The cottage food operator slaughters no more than one thousand poultry
28 raised by the cottage food operator during the calendar year;
- 29 (2) The cottage food operator does not buy or sell poultry products, except
30 products produced from poultry raised by the cottage food operator; and
- 31 (3) The poultry product is not adulterated or misbranded.

- 1 4. Except for whole, unprocessed fruits and vegetables, food prepared by a cottage food
2 operator may not be sold or used in any food establishment, food processing plant, or
3 food store.
- 4 5. The cottage food operator shall inform the end consumer that any cottage food
5 product or food sold under this section is not certified, labeled, licensed, packaged,
6 regulated, or inspected.
- 7 6. This section does not change any requirement for brand inspection or animal health
8 inspections.
- 9 7. A cottage food operator shall label all cottage food products that require refrigeration,
10 such as baked goods containing cream, custard, meringue, cheesecake, pumpkin pie,
11 and cream cheese, with safe handling instructions and a product disclosure statement
12 indicating the product was transported and maintained frozen.
- 13 8. A cottage food operator shall display a consumer advisory sign at the point of sale or
14 place a label on the cottage food product with the following statement:
15 "This product is made in a home kitchen that is not inspected by the state or local
16 health department."
- 17 9. The state department of health or a local regulating authority may conduct an
18 investigation upon complaint of an illness or environmental health complaint.

19 **SECTION 3. AMENDMENT.** Section 36-24-06 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **36-24-06. Prohibitions.**

22 Unless otherwise provided in section 1 of this Act, a person may not:

- 23 1. Slaughter an animal or prepare an article usable as human food at any establishment
24 preparing articles solely for intrastate commerce, unless the person complies with this
25 chapter;
- 26 2. Sell, transport, offer for sale or transportation, or receive for transportation, in
27 intrastate commerce any article that is usable as human food and which is adulterated
28 or misbranded or any article that has not been inspected and passed under this
29 chapter; or

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- 1 3. Alter an article that is usable as human food while the article is being transported in
- 2 intrastate commerce or held for sale after transportation, if the alteration is intended to
- 3 cause or has the effect of causing the article to be adulterated or misbranded.