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Governor Mike Dunleavy
STATE OF ALASKA

April 6, 2022

The Honorable Peter Micciche
Senate President
Alaska State Legislature
State Capitol, Room 111
Juneau, Alaska 99801-1182

Dear President Micciche:

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill relating to the Alaska Food Freedom Act.

Alaska's food supply is fragile, with over ninety percent of the staples Alaskans use to feed their families being imported from out of state. The lack of a robust, homegrown food industry that is regionally diverse underscores the insecurity local communities and towns face. In order to build a strong economy, Alaska needs to develop its resources, including its valuable, Alaska-grown food.

This bill will allow a producer to sell homemade food products to an informed end consumer and to encourage the expansion of homemade food sales throughout the State. The legislation would codify existing cottage food regulations and raw fruit and vegetable exemptions. The bill also allows consumers to purchase meat pursuant to animal share agreements directly from ranchers.

If enacted, the Alaska Food Freedom Act will stimulate growth of cottage industries, promote food security for all Alaskans, and allow development of a true "farm to table" marketplace. The passage of this important measure will put food on the tables of Alaskans when they need it most.

I urge your prompt and favorable action on this measure.

Sincerely,

A blue ink signature of Mike Dunleavy, written in a cursive style.

Mike Dunleavy
Governor

Enclosure

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to exemptions for the purchase and sale of certain food products for**
2 **home consumption under the Alaska Food Freedom Act."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
5 to read:

6 PURPOSE. The purpose of this Act is to allow a producer to sell homemade food
7 products to an informed end consumer and to encourage the expansion of homemade food
8 sales at farmers' markets, agricultural fairs, ranches, farms, and producers' homes to informed
9 end consumers by providing Alaskan citizens with unimpeded access to healthy food from
10 known sources.

11 * **Sec. 2.** AS 17.20 is amended by adding new sections to read:

12 **Article 7A. Alaska Food Freedom Act.**

13 **Sec. 17.20.331. Exemption for the purchase and sale of food products for**
14 **home consumption.** (a) Except as otherwise provided in AS 17.20.331 - 17.20.339,

homemade food products produced, sold, and consumed in compliance with this section are exempt from state labeling, licensing, packaging, permitting, and inspection requirements.

(b) Except as otherwise provided in this section, a transaction that qualifies under this section

(1) shall occur only within the state;

(2) shall be directly between the seller and the informed end consumer;

(3) shall occur only at a farmers' market, agricultural fair, farm, ranch, producer's home or office, the retail location of a third-party seller of non-potentially hazardous foods, or a location agreed on between the producer and the informed end consumer;

(4) may not involve interstate commerce; and

(5) may not involve the purchase or sale of

(A) meat or meat products, except for the sale of meat in accordance with an animal share under AS 17.20.332;

(B) seafood;

(C) a controlled substance;

(D) oil rendered from animal fat; or

(E) game meat.

(c) Except for raw, unprocessed fruits and vegetables, a homemade food product may not be sold or used in a commercial food establishment unless the product has been labeled, licensed, packaged, regulated, and inspected as required by law.

(d) Nothing in (c) of this section prohibits the sale of a homemade food product from a retail space located at the ranch, farm, or home where the product is produced, or prohibits the sale of non-potentially hazardous food at the retail location of a third-party seller. A retail space selling a homemade food product under this section shall inform the end consumer that the product has not been inspected and shall display a sign indicating that the product has not been inspected. If 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 shall

1 (1) be physically separate from the commercial food establishment
2 with a separate door and separate cash register or point of sale;

3 (2) display signs or other markings clearly indicating which separate
4 spaces offer inspected products and which offer uninspected products for sale;

5 (3) maintain separate coolers, freezers, warehouses, or other storage
6 areas to prohibit the intermingling of inspected and uninspected products; and

7 (4) comply with any other requirements specified by the department to
8 ensure the sale of homemade food products is made to an informed end consumer.

9 (e) A non-potentially hazardous food for sale at a retail location or grocery
10 store shall be clearly and prominently labeled with the following language: "This food
11 was made in a home kitchen, is not regulated or inspected, and may contain allergens."
12 The non-potentially hazardous food for sale at the retail location or grocery store may
13 not be displayed or offered for sale on the same shelf or display as food produced in a
14 licensed establishment.

15 (f) The seller of a homemade food product that consists of potentially
16 hazardous food, except eggs, must also be the producer of the product. The seller of
17 eggs or a homemade food product that consists of non-potentially hazardous food may
18 be the producer of the item, an agent of the producer, or a third-party vendor,
19 including a retail shop or grocery store, as long as the sale is made in compliance with
20 this section and all applicable federal and local laws;

21 (g) Prior to a sale under this section, a producer or third-party seller of a
22 homemade food product shall inform the end consumer that the product was prepared
23 in accordance with the Alaska Food Freedom Act and is not subject to certain state
24 certification, labeling, licensing, packaging, regulation, or inspection requirements.

25 **Sec. 17.20.332. Animal shares.** (a) The acquisition of meat from an animal by
26 an informed end consumer does not constitute the sale of meat or meat products in
27 contravention of AS 17.20.331 if

28 (1) the meat is delivered in accordance with an animal share and is

29 (A) received from the farm or ranch where an animal or herd
30 subject to the animal share is located;

31 (B) received by or on behalf of an owner of an animal share;

1 and

2 (C) obtained from the particular animal or herd subject to the
3 animal share;

4 (2) ownership of the animal is established prior to slaughter;

5 (3) a prominent warning statement that the meat has not been inspected
6 is delivered to the informed end consumer with the meat or is displayed on a label
7 affixed to the meat packaging; and

8 (4) information describing the standards used by the farm or ranch
9 with respect to herd health and the processing of meat from the herd is provided to the
10 informed end consumer by the farmer or rancher.

11 (b) The delivery of meat under this section may occur by the producer or the
12 producer's designated agent at a farm, ranch, farmers' market, home, office, or any
13 location agreed on between the producer and the informed end consumer.

14 (c) A person who obtains meat in accordance with this section may not sell,
15 donate, or commercially redistribute the meat.

16 (d) A farmer or rancher may not publish any statement that implies the
17 department's approval or endorsement of meat delivered in accordance with an animal
18 share under this section.

19 **Sec. 17.20.337. Exceptions.** Nothing in AS 17.20.331 - 17.20.339

20 (1) prevents the department from

21 (A) conducting inspections necessary to investigate reports of

22 (i) foodborne illness, food caused injury, or death;

23 (ii) unsafe sanitary practices; or

24 (iii) misbranded or adulterated food;

25 (B) condemning and ordering the destruction of misbranded or
26 adulterated food; or

27 (C) regulating food products or establishments not exempt
28 under AS 17.20.331 - 17.20.339;

29 (2) shall be construed as changing the requirements for brand
30 inspection or animal health inspection;

31 (3) precludes an agency from providing assistance, consultation, or

1 inspection at the request of a producer;

2 (4) shall be construed as being more restrictive than applicable federal
3 requirements; or

4 (5) affects any federal or local laws, regulations, or ordinances
5 regarding food products.

6 **Sec. 17.20.338. Definitions.** In AS 17.20.331 - 17.20.338,

7 (1) "agricultural fair" means a fair, the major focus of which is
8 displays, exhibitions, demonstrations, contests, or promotions of agricultural concern
9 to the region in which the fair is located;

10 (2) "animal share" means an ownership interest in an animal or herd of
11 animals created by a written contract between an informed end consumer and a farmer
12 or rancher that

13 (A) includes a bill of sale to the consumer for an ownership
14 interest in the animal or herd;

15 (B) includes a boarding provision under which the consumer
16 boards the animal or herd with the farmer or rancher for care and processing;
17 and

18 (C) entitles the consumer to receive a share of meat from the
19 animal or herd;

20 (3) "controlled substance" has the meaning given in AS 11.71.900;

21 (4) "farmers' market" means a common facility or area where several
22 vendors may gather on a regular and recurring basis to sell a variety of fresh fruits and
23 vegetables, locally grown farm products, and other agricultural products and items
24 directly to consumers;

25 (5) "food establishment" means the premises where any activity occurs
26 that is related to the display, packaging, preparation, processing, sale, salvaging,
27 service, storage, transportation, or vending of food for human consumption; "food
28 establishment"

29 (A) includes various types of operations, singly or in
30 combination, within the categories of food service, food processing
31 establishment, and market;

(B) does not include a kitchen in a private dwelling, including a vessel used solely as a private dwelling, where food is prepared for consumption by family members or a nonpaying guest;

(6) "game meat" means the flesh and organs of animals that are not classified as "meat" in 9 C.F.R. 301.2 or "poultry" in 9 C.F.R. 381.1(b); "game meat" includes

(A) warm-blooded animals, including seals, whales, caribou, moose, mountain sheep, mountain goats, walrus, bears, squirrels, musk oxen, and rabbits;

(B) cold-blooded animals, including snakes, lizards, turtles, crocodiles, and alligators;

(C) exotic animals, including reindeer, elk, deer, antelope, water buffalo, and bison; and

(D) game birds, including pheasant, grouse, quail, squab, migratory water fowl, emu, rhea, and ostrich;

(7) "home consumption" means the use or ingestion of a food product by an informed end consumer, employee, or nonpaying guest of a private residence;

(8) "homemade food" means food or drink that

(A) is prepared or processed in a private home kitchen; and

(B) is not licensed, inspected, or regulated by the state;

(9) "informed end consumer" means a person who is the last person to purchase the product, does not resell the product, and has been informed that the product is not licensed, regulated, or inspected;

(10) "meat" means the flesh, muscle, organs, tissue, skin, sinew, nerve, blood vessels, and bone of any cattle, sheep, swine, equine, or goats;

(11) "molluscan shellfish" means all edible species of oyster, clam, mussel, and scallop, whether shucked, in the shell, fresh or frozen, in whole or in part; "molluscan shellfish" does not include the shucked scallop adductor muscle;

(12) "non-potentially hazardous food" means food or drink that does not require time or temperature control for safety to limit pathogenic microorganism growth or toxin formation, including food that has a pH level of 4.6 or below or a

1 water activity value of 0.85 or less; "non-potentially hazardous food" includes jams,
2 uncut fruits and vegetables, pickled vegetables, hard candies and confections, nut
3 mixes, granola, coffee beans, popcorn, and air-dried hard-boiled eggs with the shell
4 intact;

5 (13) "potentially hazardous food" means food or drink that requires
6 time or temperature control for safety to limit pathogenic microorganism growth or
7 toxin formation; "potentially hazardous food" includes heat-treated fruit and
8 vegetables, fresh herb-in-oil mixtures, garlic-in-oil mixtures, meat, and products made
9 with dairy;

10 (14) "producer" means a person, including a farmer or rancher, who

11 (A) grows, harvests, prepares, processes, or makes and
12 packages a food product on the person's owned or leased property;

13 (B) does not produce more than two hundred fifty thousand
14 individual food products annually; and

15 (C) does not exceed two hundred fifty thousand dollars in gross
16 revenue annually from the food products;

17 (15) "seafood"

18 (A) includes

19 (i) salt-water fish, freshwater fish, amphibians,
20 crustaceans, molluscan shellfish, and any other species of aquatic
21 animal intended for human consumption; and

22 (ii) any part or byproduct of any species of aquatic
23 animal intended for human consumption; and

24 (B) does not include aquatic plants, birds, or mammals.

25 **Sec. 17.20.339. Short title.** AS 17.20.331 - 17.20.339 may be cited as the
26 Alaska Food Freedom Act.

Fiscal Note

State of Alaska
2022 Legislative Session

Bill Version: GB 125
Fiscal Note Number: _____
() Publish Date: _____

Identifier: 0521-3-DEC-EH-04-04-22
Title: FOOD PRODUCT EXEMPTIONS
Sponsor: Rules by Request of the Governor
Requester: Rules by Request of the Governor

Department: Department of Environmental Conservation
Appropriation: Environmental Health
Allocation: Environmental Health
OMB Component Number: 3202

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below.

(Thousands of Dollars)

	FY2023 Appropriation Requested	Included in Governor's FY2023 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	FY 2023	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2022) cost: 0.0 (separate supplemental appropriation required)

Estimated CAPITAL (FY2023) cost: 0.0 (separate capital appropriation required)

Does the bill create or modify a new fund or account? No
(Supplemental/Capital/New Fund - discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? Yes
If yes, by what date are the regulations to be adopted, amended or repealed? 10/31/22

Why this fiscal note differs from previous version/comments:

Not applicable, initial version.

Prepared By: Cassie Griffin, Budget Analyst III
Division: Administrative Services
Approved By: Emma Pokon, Deputy Commissioner
Agency: Environmental Conservation

Phone: (907)465-5312
Date: 04/04/2022 12:00 AM
Date: 04/04/22

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2022 LEGISLATIVE SESSION

BILL NO. LL 0521-3

Analysis

This bill expands the exemption of certain homemade foods from Department of Environmental Conservation (DEC) inspection and regulation requirements. It enhances the ability for producers to sell homemade food products to informed consumers, thus encouraging homemade food sales in Alaska.

Under the bill, existing cottage food regulations that allow direct sales of non-potentially hazardous foods to end consumers would be codified and expanded to include retail sales. Additionally, the bill would allow direct sales of potentially hazardous homemade foods to an informed end consumer. General requirements for transactions would be required such as labeling, signage, and in-state sales. Since the Department already exempts certain homemade food producers from oversight, the Department does not anticipate program changes with the expansion of exemptions allowed in this legislation.

The bill also creates a new section that would exempt meat and meat products from Department oversight if the transaction(s) occurs under a herd share arrangement. The Department does not anticipate any program impacts because meat and meat products are subject to U.S. Department of Agriculture oversight.

Current cottage food regulations would be repealed. This is expected to be completed by October 31, 2022 and will be done with existing resources.

This bill is not anticipated to impact DEC annual expenditures.

Fiscal Note

State of Alaska
2022 Legislative Session

Bill Version: GB 125
Fiscal Note Number: _____
() Publish Date: _____

Identifier: LL0541-DNR-DoAG-3-30-22
Title: FOOD PRODUCT EXEMPTIONS
Sponsor: Rules by Request of the Governor
Requester: Rules by Request of the Governor

Department: Department of Natural Resources
Appropriation: Agriculture
Allocation: Agricultural Development
OMB Component Number: 455

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below.

(Thousands of Dollars)

	FY2023 Appropriation Requested	Included in Governor's FY2023 Request	Out-Year Cost Estimates				
OPERATING EXPENDITURES	FY 2023	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Personal Services	***		***	***	***	***	***
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	***	0.0	***	***	***	***	***

Fund Source (Operating Only)

None							
Total	***	0.0	***	***	***	***	***

Positions

Full-time	***		***	***	***	***	***
Part-time							
Temporary							

Change in Revenues

None	***		***	***	***	***	***
Total	***	0.0	***	***	***	***	***

Estimated SUPPLEMENTAL (FY2022) cost: 0.0 (separate supplemental appropriation required)

Estimated CAPITAL (FY2023) cost: 0.0 (separate capital appropriation required)

Does the bill create or modify a new fund or account? No
(Supplemental/Capital/New Fund - discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? No
If yes, by what date are the regulations to be adopted, amended or repealed?

Why this fiscal note differs from previous version/comments:

No applicable, initial fiscal note

Prepared By: David W. Schade, Director

Division: Agriculture

Approved By: Theresa Cross, Administrative Services Director

Agency: Department of Natural Resources

Phone: (907)761-3867

Date: 04/04/2022 03:40 PM

Date: 04/04/22

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2022 LEGISLATIVE SESSION

BILL NO. LL 0541

Analysis

The Alaska Food Freedom Act would exempt the production of "homemade" food items from most state regulations. This will also exempt the inclusion of marijuana and industrial hemp products, as well as other "high risk" ingredients and processes.

The Division of Agriculture has jurisdiction over a small part of the actions allowed under the bill that will require some amount of staff time to respond to the public, and likely significant staff time working with the Department of Environmental Conservation's food service program; therefore, the fiscal note is indeterminate.