

HOUSE BILL NO. 251

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES RAUSCHER, Wright, Armstrong, Mears, Vance, Tomaszewski, Josephson

Introduced: 1/16/24

Referred: Labor and Commerce, Resources

A BILL

FOR AN ACT ENTITLED

1 "An Act exempting certain foods and drinks prepared in a person's uninspected home
2 kitchen from state labeling, licensing, packaging, permitting, and inspection
3 requirements; and permitting a person to acquire meat from a producer by way of an
4 ownership share in an animal if certain conditions are met."

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

6 * **Section 1.** AS 17.20 is amended by adding new sections to read:

7 **Article 7A. Homemade Food; Animal Shares.**

8 **Sec. 17.20.332. Exemption for homemade food.** (a) Production and sale of a
9 homemade food in compliance with this section is exempt from labeling, licensing,
10 packaging, permitting, and inspection requirements in this chapter or in regulations
11 adopted under this chapter or AS 44.46.020(a)(5)(C).

12 (b) The sale of a homemade food under this section

13 (1) must occur in the state at a farmers' market, an agricultural fair, a
14 farm, a ranch, the producer's home or office, the retail location of a third-party seller

1 of non-potentially hazardous food, or a location agreed on between the producer and
2 the buyer; and

3 (2) may not involve

4 (A) interstate commerce; or

5 (B) the purchase or sale of

6 (i) meat or meat products;

7 (ii) seafood;

8 (iii) a controlled substance;

9 (iv) oil rendered from animal fat; or

10 (v) game meat.

11 (c) Except for raw, unprocessed fruits and vegetables, a homemade food may
12 not be sold or used in a commercial food establishment unless the establishment
13 complies with the labeling, licensing, packaging, permitting, and inspection
14 requirements in this chapter and in regulations adopted under this chapter or
15 AS 44.46.020(a)(5)(C).

16 (d) A person who purchases a homemade food under this section may not
17 offer the food for resale.

18 (e) A homemade food may be sold from a retail space located at a ranch, farm,
19 or home where the homemade food is produced. A non-potentially hazardous food
20 may be sold at a retail location of a third-party seller. A retail space selling a
21 homemade food under this section shall inform the buyer that the homemade food has
22 not been inspected and shall display a sign indicating that the homemade food has not
23 been inspected. If a retail space selling potentially hazardous food is in any way
24 associated with a commercial food establishment or offers for sale any inspected food,
25 the retail space shall

26 (1) maintain physical separation from the commercial food
27 establishment with a separate door and separate cash register or point of sale;

28 (2) display signs or other markings clearly indicating which separate
29 spaces offer inspected foods and which offer uninspected foods for sale;

30 (3) maintain separate coolers, freezers, warehouses, or other storage
31 areas to prohibit the intermingling of inspected foods and uninspected foods; and

1 (4) comply with any other requirements specified by the Department of
2 Environmental Conservation relating to homemade food.

3 (f) A non-potentially hazardous food for sale at a retail location or grocery
4 store must be clearly and prominently labeled with the following language: "This food
5 was made in a home kitchen, is not regulated or inspected, and may contain allergens."
6 The non-potentially hazardous food for sale at the retail location or grocery store may
7 not be displayed or offered for sale on the same shelf or display as food produced in a
8 licensed establishment.

9 (g) The seller of a homemade food that consists of potentially hazardous food,
10 except eggs, must also be the producer of the homemade food. The seller of eggs or a
11 homemade food that consists of non-potentially hazardous food may be the producer
12 of the item, an agent of the producer, or a third-party vendor, including a retail shop or
13 grocery store, as long as the sale is made in compliance with this section and all
14 applicable federal and local laws;

15 (h) Before a sale under this section, a producer or third-party seller of a
16 homemade food shall inform the buyer that the homemade food was prepared in
17 accordance with AS 17.20.332 - 17.20.338 and is not subject to certain state
18 certification, labeling, licensing, packaging, regulation, or inspection requirements.

19 (i) A producer may not produce for sale more than 250,000 individual
20 homemade foods or exceed a gross annual revenue of \$250,000 each year.

21 **Sec. 17.20.334. Animal shares.** (a) A person may acquire meat from a
22 producer by way of an ownership interest in the animal or herd from which the meat
23 originated if

24 (1) the meat is

25 (A) delivered directly from the farm or ranch where the animal
26 or herd subject to the person's ownership interest is located; and

27 (B) received by or on behalf of the person with an ownership
28 interest in the animal from which the meat originated;

29 (2) the person's ownership of the animal or herd is established before
30 slaughter;

31 (3) when providing the meat to a person, the producer includes with

1 the meat, or on a label attached to the packaging of the meat, a clearly visible warning
2 that the meat has not been inspected; and

3 (4) the producer provides the person information describing the health
4 of the animal or herd and the meat processing standards of the producer's farm or
5 ranch.

6 (b) A producer or a person designated by a producer may deliver meat to a
7 person at a farm, ranch, farmers' market, home, office, or other location agreed on
8 between the producer and the person.

9 (c) For a person to have an ownership interest in an animal or herd under this
10 section, the person's ownership interest must be documented in a written contract
11 between the person and a producer that includes

12 (1) a bill of sale demonstrating the person's ownership interest in the
13 animal or herd;

14 (2) a boarding provision under which the person boards the animal or
15 herd with the producer for care and processing; and

16 (3) a provision entitling the person to receive a share of meat from the
17 animal or herd.

18 (d) Meat received by an owner of an animal or herd by way of the person's
19 ownership interest under this section may not be sold, donated, or commercially
20 redistributed.

21 (e) A person may not publish a statement that implies that the Department of
22 Environmental Conservation approves or endorses an animal or herd share program or
23 the acquisition of meat under this section.

24 **Sec. 17.20.336. Relationship to other laws.** (a) The Department of
25 Environmental Conservation may, as authorized under this chapter,

26 (1) conduct inspections necessary to investigate reports of

27 (A) foodborne illness or food-caused injury or death;

28 (B) unsafe sanitary practices; or

29 (C) misbranded or adulterated food;

30 (2) condemn and order the destruction of misbranded or adulterated

31 food; or

1 (3) regulate food or an establishment that is not exempt under
2 AS 17.20.332 - 17.20.338.

3 (b) The Department of Environmental Conservation may, at the request of a
4 producer, provide assistance, consultation, or inspection.

5 (c) AS 17.20.332 - 17.20.338 does not exempt a person from

6 (1) applicable federal and local laws, regulations, and ordinances
7 regarding food; or

8 (2) brand inspection requirements under AS 03.40.250 or animal
9 inspection requirements under AS 03.05.040.

10 **Sec. 17.20.338. Definitions.** In AS 17.20.332 - 17.20.338,

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

14 (2) "commercial food establishment" means the premises where an
15 activity related to the display, packaging, preparation, processing, sale, salvaging,
16 service, storage, transportation, or vending of food for human consumption occurs;
17 "commercial food establishment" does not include a kitchen in a private dwelling, or a
18 kitchen in a vessel used solely as a private dwelling, where food is prepared only for
19 home consumption;

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 fresh fruits and vegetables,
23 locally grown farm products, and other agricultural products and items directly to
24 buyers;

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

27 (6) "home consumption" means the use or ingestion of food by a
28 person, an employee of the person, or a nonpaying guest of the person at the person's
29 private residence;

30 (7) "homemade food" means a food or drink that

31 (A) is prepared or processed in a person's private home kitchen;

1 and

2 (B) is not licensed, inspected, or regulated by the state other
3 than as provided in AS 17.20.332 - 17.20.338;

4 (8) "meat" means the flesh, muscles, organs, tissues, skin, sinew,
5 nerves, blood vessels, and bones of cattle, sheep, swine, equine, or goats;

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

9 (10) "non-potentially hazardous food" means jams, uncut fruits and
10 vegetables, pickled vegetables, hard candies and confections, nut mixes, granola,
11 coffee beans, popcorn, air-dried hard-boiled eggs with the shell intact, and other food
12 or drink that does not require time or temperature control for safety to limit pathogenic
13 microorganism growth or toxin formation, including food that has a pH level of 4.6 or
14 below or a water activity value of 0.85 or less;

15 (11) "potentially hazardous food" means heat-treated fruit and
16 vegetables, fresh herb-in-oil mixtures, garlic-in-oil mixtures, meat, products made
17 with dairy, and other food or drink that requires time or temperature control for safety
18 to limit pathogenic microorganism growth or toxin formation;

19 (12) "producer" means a person who grows, harvests, prepares,
20 processes, or makes and packages meat or homemade food on the person's owned or
21 leased property;

22 (13) "seafood" includes saltwater fish, freshwater fish, amphibians,
23 crustaceans, molluscan shellfish, any other species of aquatic animal intended for
24 human consumption, and parts or byproducts of any species of aquatic animal
25 intended for human consumption; "seafood" does not include aquatic plants, birds, or
26 mammals.