

1 SENATE BILL NO. 202
2 INTRODUCED BY G. HERTZ
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING EXEMPTIONS FOR PRODUCERS OF HOMEMADE
5 FOOD OR HOMEMADE FOOD PRODUCTS; REVISING REQUIREMENTS FOR FARMER'S MARKETS;
6 CLARIFYING COUNTY COMMISSION REGULATION OF FARMER'S MARKETS; CLARIFYING
7 DEFINITIONS; RESTRICTING RULEMAKING AUTHORITY OF THE DEPARTMENT OF PUBLIC HEALTH
8 AND HUMAN SERVICES AND LOCAL BOARDS OF HEALTH; PROVIDING FOR REGULATIONS BY A
9 FARMER'S MARKET; AND AMENDING SECTIONS 7-21-3301, 50-49-202, 50-49-203, 50-50-102, 50-50-103,
10 AND 50-50-121, MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **Section 1.** Section 7-21-3301, MCA, is amended to read:

15 **"7-21-3301. Establishment of markets and market houses.** In addition to the powers specifically
16 granted by the laws of the state and such other limitations and exceptions contained in the existing statutes of
17 the state in reference to law regarding the debt-incurring power of boards of county commissioners, the boards
18 of county commissioners in every county in Montana shall have the power to erect market houses to be located
19 at the county seats of their respective counties, to establish and regulate markets, and to acquire the property
20 necessary therefor for this. For the establishment and regulation of farmer's markets, the boards of county
21 commissioners are subject to the requirements of Title 50, chapter 50, part 1."

22
23 **Section 2.** Section 50-49-202, MCA, is amended to read:

24 **"50-49-202. Definitions.** For the purposes of this part, the following definitions apply:

25 (1) "Deliver" means to transfer a product as a result of a transaction between a producer and an
26 informed end consumer. The action may be performed by the producer or the producer's designated agent at a
27 farm, ranch, home, office, traditional community social event, other private property, or another location agreed

Amendment - 2nd Reading/2nd House-tan - Requested by: Bob Carter - (H) Committee of the Whole

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Drafter: Jason Mohr, 406-444-1640

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1 (4) (a) The department shall establish a food safety task force or advisory council to assist in the
2 development of administrative rules or to review any proposed legislation related to the provisions of this
3 chapter.

4 (b) The task force or advisory council must be composed of equal numbers of representatives of
5 the departments of public health and human services, agriculture, and livestock and of registered sanitarians
6 from local regulatory authorities and no more than six members of the public. Each department head shall
7 appoint two of the public members and confer with other department heads to provide geographic
8 representation. Each public member must be an owner or employee of a licensed retail food establishment or a
9 representative of the food industry.

10 (c) The department shall present administrative rules and any legislation to be proposed by the
11 department to the task force or advisory council prior to its proposal or introduction. When the department
12 learns of proposed legislation related to the provisions of this chapter that has not been proposed by the
13 department, the department shall provide copies of that legislation for review by the task force or advisory
14 council and shall provide to the legislature any comments of the task force or advisory council."
15

16 **Section 6.** Section 50-50-121, MCA, is amended to read:

17 **"50-50-121. Requirements for farmer's markets.** (1) (a) A person selling food that is not potentially
18 hazardous, including food listed in subsection (2), at a farmer's market is not a retail food establishment.

19 (b) A person selling food that is not potentially hazardous or otherwise listed in subsection (2) if
20 selling only at a farmer's market is not required to register as a cottage food operation.

21 (2) ~~Foods~~ Except as provided in subsection (7), foods that are not potentially hazardous or are
22 otherwise eligible to be sold at a farmer's market include:

23 (a) whole shell eggs if the whole shell eggs are clean, free of cracks, and stored in clean cartons at
24 a temperature established by the department by rule;

25 (b) hot coffee or hot tea if the person selling the hot coffee or hot tea does not provide or include
26 fresh milk or cream;

27 (c) raw agricultural commodities; ~~and~~

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1 (d) food identified by the department by rule as not being a potentially hazardous food; and

2 (e) homemade food or a homemade food product pursuant to Title 50, chapter 49.

3 (3) A farmer's market authorized by a municipal or county authority shall keep registration records
4 of all persons and organizations that serve or sell food exempt from licensure at the market, including food that
5 does not meet the definition of potentially hazardous food.

6 (4) The registration records must include the name, address, and telephone number of the seller or
7 server as well as the types of products sold or served and the date on which the products were sold or served.

8 (5) A farmer's market under this section shall make registration records available upon request to
9 the local health authority.

10 (6) ~~Food~~ Except for homemade food or a homemade food product pursuant to Title 50, chapter 49,
11 or as otherwise provided in subsection (7), food sold in a farmer's market must, if sold in a container, have a
12 label similar to a label required of a cottage food product under 50-50-116.

13 (7) A farmer's market under this section may regulate or restrict products sold at the market or
14 require product liability insurance for any product sold at the market."

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