

Unofficial Draft Copy

As of: July 9, 2014 (4:17pm)

LCpooh

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act adding raw honey to the list of raw and unprocessed farm products that may be sold at farmer's markets without a special license; amending sections 50-50-102 and 50-50-202, MCA; and providing an immediate effective date."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 50-50-102, MCA, is amended to read:

"50-50-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Baked goods" means breads, cakes, candies, cookies, pastries, and pies that are not potentially hazardous foods.

(2) "Consumer" means a person who is a member of the public, takes possession of food, is not operating an establishment, and does not offer the food for resale.

(3) "Department" means the department of public health and human services provided for in 2-15-2201.

(4) (a) "Establishment" means a retail food manufacturing establishment, meat market, food service establishment, perishable food dealer, or water hauler.

(b) The term does not include people who gather to exchange in nonmonetary transactions:

(i) high-acid canned goods, including but not limited to

Unofficial Draft Copy

As of: July 9, 2014 (4:17pm)

LCpooh

tomato sauce, fruits, pickles, or other vinegar-based foods;

(ii) home-brewed beer; or

(iii) dehydrated fruits and vegetables.

(5) "Farmer's market" means a farm premises, a roadside stand owned and operated by a farmer, or an organized market authorized by the appropriate municipal or county authority.

(6) "Food" means an edible substance, beverage, or ingredient used, intended for use, or for sale for human consumption.

(7) (a) "Food service establishment" means a fixed or mobile restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grille, tearoom, sandwich shop, soda fountain, food store serving food or beverage samples, food or drink vending machine, tavern, bar, cocktail lounge, nightclub, industrial feeding establishment, catering kitchen, commissary, private organization routinely serving the public, or similar place where food or drink is prepared, served, or provided to the public at retail, with or without charge.

(b) The term does not include:

(i) operations, vendors, or vending machines that sell or serve only packaged, nonperishable foods in their unbroken, original containers;

(ii) a private organization serving food only to its members;

(iii) custom meat cutters or wild game processors who cut, process, grind, package, or freeze game meat for the owner of the carcass for consumption by the owner or the owner's family, pets,

Unofficial Draft Copy

As of: July 9, 2014 (4:17pm)

LCpooH

or nonpaying guests;

(iv) an establishment, as defined in 50-51-102, that serves food only to its registered guests and day visitors.

(8) "Local board of health" means a county, city, city-county, or district board of health.

(9) "Local health officer" means a county, city, city-county, or district health officer, appointed by the local board of health, or the health officer's authorized representative.

(10) "Meat market" means an operation and buildings or structures in connection with it used to process, store, or display meat or meat products for retail sale to the public or for human consumption.

(11) "Nonprofit organization" means any organization qualifying as a tax-exempt organization under 26 U.S.C. 501.

(12) "Perishable food dealer" means an operation that is in the business of purchasing and selling perishable food to the public at retail.

(13) "Person" means a person, partnership, corporation, association, cooperative group, the state or a political subdivision of the state, or other entity.

(14) (a) "Potentially hazardous food" means a food that is natural or synthetic and is in a form capable of supporting:

(i) the rapid and progressive growth of infectious or toxigenic microorganisms; or

(ii) the growth and toxin production of *Clostridium botulinum*.

Unofficial Draft Copy

As of: July 9, 2014 (4:17pm)

LCpooH

(b) The term includes cut melons, garlic and oil mixtures, a food of animal origin that is raw or heat-treated, and a food of plant origin that is heat-treated or consists of raw seed sprouts.

(c) The term does not include:

(i) an air-cooled, hard-boiled egg with intact shell;

(ii) a food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 24 degrees C (75 degrees F);

(iii) a food with a water activity (aw) value of 0.85 or less;

(iv) a food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; or

(v) a food for which laboratory evidence is accepted by the department as demonstrating that rapid and progressive growth of infectious and toxigenic microorganisms or the slower growth of *Clostridium botulinum* cannot occur.

(15) (a) "Preserves" means processed fruit or berry jams, jellies, compotes, fruit butters, marmalades, chutneys, fruit aspics, fruit syrups, or similar products that have a hydrogen ion concentration (pH) of 4.6 or below when measured at 24 degrees C (75 degrees F) and that are aseptically processed, packaged, and sealed.

(b) The term does not include:

(i) tomatoes or food products containing tomatoes; or

(ii) any other food substrate or product preserved by any

method other than that described in subsection (15) (a).

(16) "Raw and unprocessed farm products" means:

(a) raw honey that is not combined with other food products or otherwise processed and that may be packaged and labeled; or

(b) fruits, vegetables, and grains sold at a farmer's market in their natural state that are not packaged and labeled and are not:

~~(a)(i)~~ cooked;

~~(b)(ii)~~ canned;

~~(c)(iii)~~ preserved, except for drying;

~~(d)(iv)~~ combined with other food products; or

~~(e)(v)~~ peeled, diced, cut, blanched, or otherwise subjected to value-adding procedures.

(17) "Regulatory authority" means the department, the local board of health, the local health officer, or the local sanitarian.

(18) "Retail" means the provision of food directly to the consumer.

(19) (a) "Retail food manufacturing establishment" means an operation and the buildings or structures used to manufacture or prepare food for sale or human consumption at retail.

(b) The term does not include:

(i) milk producers' facilities, milk pasteurization facilities, or milk product manufacturing plants;

(ii) slaughterhouses, meat packing plants, or meat depots;
or

(iii) producers or harvesters of raw and unprocessed farm

products.

(20) (a) "Water hauler" means a person engaged in the business of transporting water for human consumption and use and that is not regulated as a public water supply system as provided in Title 75, chapter 6.

(b) The term does not include a person engaged in the business of transporting water for human consumption that is used for individual family households and family farms and ranches."

{ Internal References to 50-50-102:

50-46-309 x 50-50-101x 50-50-103x 50-57-102x
81-20-206x 81-22-208x }

Section 2. Section 50-50-202, MCA, is amended to read:

"50-50-202. Establishments exempt from license requirement -- farmer's market records. (1) Establishments owned or operated by the state or a political subdivision of the state that employ a full-time sanitarian are exempt from licensure but shall comply with the requirements of this chapter and rules adopted by the department under this chapter.

(2) (a) A license is not required to operate an establishment if it is operated by a nonprofit organization for a period of less than 14 days in 1 calendar year. An establishment exempt from licensure under this subsection:

(i) must be operated in compliance with the remaining provisions of this chapter and rules adopted by the department under this chapter; and

(ii) prior to each operation, shall register with the local health officer or sanitarian on forms provided by the department.

Unofficial Draft Copy

As of: July 9, 2014 (4:17pm)

LCpooh

(b) Nonprofit organizations or persons selling baked goods or preserves exclusively for a charitable community purpose are exempt from registration if they notify the local health officer or sanitarian, by phone or in person, before the event. The notification required is limited to the date and time of the event, items planned to be sold, and an estimate of the number of people expected to be served at the event.

(3) (a) (i) A license is not required of a gardener, apiarist, farm owner, or farm operator who sells raw and unprocessed farm products or whole shell eggs at a farmer's market.

(ii) Whole shell eggs sold at a farmer's market by a farm owner or operator must:

(A) be clean, free of cracks, and stored in clean cartons;

(B) be kept at a temperature established by the department;

and

(C) carry a label indicating the name and address of the farm owner or operator selling the eggs.

(b) A license is not required of a person:

(i) selling or offering hot coffee or hot tea at a farmer's market; or

(ii) selling baked goods or preserves at a farmer's market or exclusively for a charitable community purpose.

(c) Coffee or tea exempted under this subsection (3) may not be prepared or served with fresh milk or cream.

(4) (a) A farmer's market that is an organized market authorized by a municipal or county authority shall keep

Unofficial Draft Copy

As of: July 9, 2014 (4:17pm)

LCpooh

registration records of all individuals and organizations that sell baked goods or preserves at the market.

(b) The registration records must include but are not limited to the name of the seller, the seller's address and telephone number, the products sold by the seller, and the date the products were sold.

(c) The registration records must be made available to the local health officer or the officer's agent."

{ *Internal References to 50-50-202:*
50-50-201x }

NEW SECTION. **Section 3. {standard} Effective date.** [This act] is effective on passage and approval.

- END -

{Name : Pat Murdo
Title : Legislative Research Analyst
Agency : Legislative Services Division
Phone : 444-3594
E-Mail : pmurdo@mt.gov}