

HOUSE BILL 463

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

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AN ACT

RELATING TO AGRICULTURE; ENACTING THE FOOD FREEDOM ACT;
PROVIDING FOR THE LIMITED SALE OF UNINSPECTED FOOD ITEMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Food Freedom Act".

SECTION 2. [NEW MATERIAL] PURPOSE OF ACT.--The purpose of the Food Freedom Act is to allow for a producer's production and sale of homemade food or drink products for an informed end consumer's home consumption and to encourage the expansion of agricultural sales at farmers' markets, ranches, farms and producers' homes by facilitating the purchase and consumption of fresh and local agricultural products, enhancing the agricultural economy and providing New Mexico residents with unimpeded access to healthy food from known sources.

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1 SECTION 3. ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in the

2 Food Freedom Act:

3 A. "delivery" means the transfer of a product
4 resulting from a transaction between a producer and an informed
5 end consumer; the delivery may occur by the producer's
6 designated agent at a farm, ranch, farmers' market, home,
7 office or any location agreed to between the producer and the
8 informed end consumer;

9 B. "farmers' market" means a physical retail market
10 open to the public at which farmers sell produce and other
11 products produced on a farm;

12 C. "home consumption" means consumed within a
13 private home, or food from a private home that is only consumed
14 by family members, employees or nonpaying guests;

15 D. "homemade" means food that is prepared or
16 processed in a private home kitchen that is not licensed,
17 inspected or regulated;

18 E. "informed end consumer" means a person who is
19 the last person to purchase any product, who does not resell
20 the product and who has been informed that the product is not
21 licensed, regulated or inspected;

22 F. "process" means operations a producer performs
23 in the making or treatment of the producer's food or drink
24 products;

25 G. "producer" means a person who grows, harvests,

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1 prepares or processes food or drink products on the person's
2 owned or leased property; and

3 H. "transaction" means the exchange of buying and
4 selling.

5 SECTION 4. [NEW MATERIAL] HOMEMADE FOOD PRODUCTS--
6 RESTRICTIONS ON SALE--COMMERCIAL FOOD ESTABLISHMENTS.--

7 A. Homemade food products produced, sold and
8 consumed in compliance with the Food Freedom Act shall be
9 exempt from state licensure, permitting, inspection, packaging
10 and labeling requirements.

11 B. Transactions pursuant to the Food Freedom Act
12 shall:

13 (1) be directly between the producer and the
14 informed end consumer;

15 (2) only be for home consumption;

16 (3) occur only in New Mexico;

17 (4) not involve interstate commerce;

18 (5) not involve the sale of meat products,
19 with the following exceptions:

20 (a) the sale of poultry and poultry
21 products, provided that: 1) the producer slaughters not more
22 than one thousand poultry of the producer's own raising during
23 any one calendar year; 2) the producer does not engage in
24 buying or selling poultry products other than those produced
25 from poultry of the producer's own raising; and 3) the poultry

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1 product is not adulterated or misbranded;

2 (b) the sale of live animals;

3 (c) the sale of portions of live animals
4 before slaughter for future delivery;

5 (d) the sale of domestic rabbit meat;

6 and

7 (e) the sale of farm-raised fish; and

8 (6) only occur at farmers' markets, farms,
9 ranches, producer's homes or offices or any location the
10 producer and the informed end consumer agree to.

11 C. Except for raw, unprocessed fruits and
12 vegetables, food shall not be sold or used in any commercial
13 food establishment unless the food has been labeled, licensed,
14 packaged, regulated or inspected as required by law. Nothing
15 in this section shall prohibit the sale of homemade food for
16 home consumption from a retail space located at the ranch, farm
17 or home where the food is produced. A retail space selling
18 homemade food pursuant to this section shall inform the end
19 consumer that the homemade food has not been inspected and
20 shall display a sign indicating that the homemade food has not
21 been inspected. If the retail space is in any way associated
22 with a commercial food establishment or offers for sale any
23 inspected product, the retail space selling homemade food shall
24 comply with rules adopted by the New Mexico department of
25 agriculture that shall require:

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

4 (2) that each separate space shall include
5 signs or other markings clearly indicating which spaces are
6 offering inspected items for sale and which spaces are
7 uninspected;

8 (3) separation of coolers, freezers and
9 warehouse or other storage areas to prohibit the intermingling
10 of inspected and uninspected products; and

11 (4) any other requirements specified by the
12 New Mexico department of agriculture to ensure the sale of
13 homemade foods is made to an informed end consumer.

14 D. The producer shall inform the end consumer that
15 any food product or food sold at a farmers' market or through
16 ranch, farm or home-based sales pursuant to the Food Freedom
17 Act is not certified, labeled, licensed, packaged, regulated or
18 inspected.

19 E. Nothing in the Food Freedom Act shall be
20 construed to impede the department of health in any
21 investigation of food-borne illness.

22 F. Nothing in the Food Freedom Act shall be
23 construed to change the requirements for brand inspection or
24 animal health inspections.

25 G. Nothing in the Food Freedom Act shall preclude

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1 an agency from providing assistance, consultation or inspection
2 at the request of the producer.

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