

HOUSE BILL NO. 3108

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SASSMANN.

6777H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 196.298, RSMo, and to enact in lieu thereof one new section relating to homemade food.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 196.298, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 196.298, to read as follows:

196.298. 1. As used in this section, **unless the context otherwise requires**, the following terms shall mean:

(1) "Baked good", includes cookies, cakes, breads, danish, donuts, pastries, pies, and other items that are prepared by baking the item in an oven. A baked good does not include a potentially hazardous food item as defined by department rule;

(2) [~~"Cottage food production operation", an individual operation out of the individual's home who:~~

(a) ~~Produces a baked good, a canned jam or jelly, or a dried herb or herb mix for sale at the individual's home; and~~

(b) ~~Sells the food produced under paragraph (a) of this subdivision only directly to consumers;~~

(3) "Department", the department of health and senior services;

~~(4)~~ (3) "End consumer", the last person to purchase a product who does not resell the product;

(4) "Home", a primary residence that contains a kitchen and appliances designed for common residential usage;

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **(5) "Homemade food" or "homemade food product", a food or drink product**
18 **that is produced and, if packaged, packaged at the private home of the producer;**

19 **(6) "Informed end consumer", an end consumer of a product who has been**
20 **informed that the product is not certified, labeled, licensed, packaged, regulated, or**
21 **inspected;**

22 **(7) "Non-potentially hazardous food", food that does not require time or**
23 **temperature control for safety including, but not limited to, baked goods, jams, jellies,**
24 **dried herbs or herb mixes, and other similar items as defined by department rule;**

25 **(8) "Potentially hazardous food", food that requires time or temperature control**
26 **for safety to limit pathogenic microorganism growth or toxin formation, as defined by**
27 **department rule;**

28 **(9) "Producer", an individual operating out of the individual's home who:**

29 **(a) Produces a homemade food product for sale at the individual's home; and**

30 **(b) Except as specifically allowed in this section, sells the food produced under**
31 **paragraph (a) of this subdivision only directly to consumers.**

32 2. A [~~cottag~~ ~~food production operation~~] **producer's operation** is not a food service
33 establishment, and **homemade food products produced, sold, or consumed in compliance**
34 **with this section** shall not be subject to any health or food code laws or regulations of the
35 state or department other than this section and rules promulgated thereunder for a [~~cottag~~
36 ~~food production operation~~] **producer.**

37 3. [~~(4)~~] **Transactions under this section shall be directly between the producer**
38 **and the informed end consumer, except as otherwise permitted under this section. A**
39 **producer may use a designated agent to facilitate a transaction. A producer, a**
40 **designated agent of the producer, or a third-party vendor, including a retail shop or**
41 **grocery store, may sell eggs, dairy products, or homemade food products consisting of**
42 **non-potentially hazardous food as long as the sale is made in compliance with this**
43 **section.**

44 4. **Transactions under this section shall occur in this state and shall not involve**
45 **interstate commerce.**

46 5. **Transactions under this section shall not involve the sale of meat products**
47 **unless:**

48 **(1) The sale of meat occurs at a farmers' market; a farm; a ranch; a producer's**
49 **home or office; the retail location of a third-party seller of non-potentially hazardous**
50 **food, eggs, or dairy products; or any location the producer and the informed end**
51 **consumer agree to; and**

52 **(2) Any of the following applies:**

53 **(a) The sale is of poultry or poultry products, provided that:**

54 a. The producer slaughters not more than one thousand poultry birds of his or
55 her own raising during the calendar year;

56 b. The producer does not engage in buying or selling poultry products other than
57 those products produced from poultry of his or her own raising; and

58 c. The poultry or poultry product is not adulterated or misbranded;

59 (b) The sale is of live animals;

60 (c) The sale is of portions of live animals before slaughter for delivery at a future
61 date;

62 (d) The sale is of domestic rabbit meat;

63 (e) The sale is of farm-raised fish, provided that:

64 a. The fish is raised in accordance with applicable state statutes; and

65 b. The fish is not catfish; or

66 (f) The sale of meat is in accordance with an animal share agreement.

67 6. (1) A local health department shall not regulate the production of food at a [~~cottage~~
68 ~~food production operation~~] **producer's operation**.

69 (2) Each local health department and the department shall maintain a record of a
70 complaint made by a person against a [~~cottage food production operation~~] **producer**.

71 [4-] **7. Homemade food or uninspected food shall not be served or utilized as an**
72 **ingredient at a commercial food establishment. Nothing in this section shall prohibit the**
73 **sale of homemade food from a retail space located at a ranch, farm, or home where the**
74 **food is produced or at a retail location of a third-party seller of non-potentially**
75 **hazardous food, eggs, or dairy products. A retail space selling homemade food under**
76 **this section shall inform the end consumer that the homemade food has not been**
77 **inspected and shall display a sign indicating that the homemade food has not been**
78 **inspected. If a retail space selling potentially hazardous food, except eggs or dairy**
79 **products, is associated with a commercial food establishment or offers for sale any**
80 **inspected food product, the following requirements shall apply:**

81 (1) The retail space shall be physically separated from the commercial food
82 establishment with a separate door and cash register or point of sale;

83 (2) Each separate space shall include a sign or other markings clearly indicating
84 which spaces offer inspected food items for sale and which spaces offer uninspected
85 items; and

86 (3) Coolers, freezers, and warehouse or other storage areas shall be separated to
87 prohibit intermingling of inspected and uninspected items.

88 8. The department shall promulgate rules requiring a [~~cottage food production~~
89 ~~operation~~] **producer** to label all of the foods described in this section which the operation
90 intends to sell to consumers. The label shall include the name and address of the [~~cottage~~

91 ~~food production operation]~~ **producer's operation** and a statement that the food is not
92 inspected by the department or local health department. **The producer shall inform the end**
93 **consumer that any food product or food sold at a farmers' market or through ranch,**
94 **farm, or home-based sales under this section is not certified, labeled, licensed, packaged,**
95 **regulated, or inspected. A third-party seller offering non-potentially hazardous food,**
96 **eggs, or dairy products for sale under this section shall inform the end consumer that**
97 **the homemade food is not certified, labeled, licensed, packaged, regulated, or inspected.**

98 [5.] **9. A ~~cottage food production operation]~~ producer shall not sell any foods**
99 described in this section through the internet unless both the ~~[cottage food production~~
100 ~~operation]~~ **producer** and the purchaser are located in this state **and any potentially**
101 **hazardous food is delivered directly from the producer to the informed end consumer.**

102 [6.] **10. Nothing in this section shall be construed to prohibit the authority of the**
103 department of health and senior services or local health departments to conduct an
104 investigation of a food-borne disease or outbreak.

105 **11. Nothing in this section shall be construed to change the requirements for**
106 **brand inspection or animal health inspections.**

107 **12. Nothing in this section shall be construed to preclude an agency from**
108 **providing assistance, consultation, or inspection at the request of the producer.**

109 **13. In addition to the transactions allowed under this section, producers may sell**
110 **homemade food products, eggs, and dairy products to the maximum extent permitted by**
111 **federal law. The department shall not promulgate any standard for food and health**
112 **inspection that is applicable to food regulated under this section that is more stringent**
113 **than a standard established by the United States Department of Agriculture, and**
114 **nothing in this section shall be construed to be more restrictive than applicable federal**
115 **requirements.**

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