

CHAPTER 49 - MARKETING HOMEMADE FOODS

**11-49-101. Short title.**

This act is known and may be cited as the "Wyoming Food Freedom Act."

**11-49-102. Definitions.**

(a) As used in this act:

(i) "Delivery" means the transfer of a product resulting from a transaction between a producer and an informed end consumer. The delivery may occur by the producer's designated agent at a farm, ranch, farmers market, home, office or any location agreed to between the producer and the informed end consumer;

(ii) "Farmers market" means as defined in W.S. 35-7-110(a) (xxviii);

(iii) "Home consumption" means consumed within a private home, or food from a private home that is only consumed by family members, employees or nonpaying guests;

(iv) "Homemade" means food that is prepared or processed in a private home kitchen, that is not licensed, inspected or regulated;

(v) "Informed end consumer" means a person who is the last person to purchase any product, who does not resell the product and who has been informed that the product is not licensed, regulated or inspected;

(vi) "Producer" means any person who grows, harvests, prepares or processes any food or drink products on the person's owned or leased property, does not produce more than two hundred fifty thousand (250,000) individual food or drink products annually and does not exceed two hundred fifty thousand dollars (\$250,000.00) in gross revenue annually from the food and drink products;

(vii) "Transaction" means the exchange of buying and selling;

(viii) "Process" means operations a producer performs in the making or treatment of the producer's food or drink products;

(ix) "Animal share" means an ownership interest in an animal or herd of animals created by a written contract between an informed end consumer and a farmer or rancher that includes a bill of sale to the consumer for an ownership interest in the animal or herd and a boarding provision under which the consumer boards the animal or herd with the farmer or rancher for care and processing and the consumer is entitled to receive a share of meat from the animal or herd;

(x) "Non-potentially hazardous food" means food that does not require time or temperature control for safety including limiting pathogenic microorganism growth or toxin formation. "Non-potentially hazardous food" includes, but is not limited to, jams, uncut fruits and vegetables, pickled vegetables, hard candies, fudge, nut mixes, granola, dry soup mixes excluding meat based soup mixes, coffee beans, popcorn and baked goods that do not include dairy or meat frosting or filling or other potentially hazardous frosting or filling;

(xi) "Potentially hazardous food" means food that requires time or temperature control for safety including limiting pathogenic microorganism growth or toxin formation. "Potentially hazardous food" includes, but is not limited to, foods requiring refrigeration, dairy products, quiches, pizzas, frozen doughs, meat and cooked vegetables and beans;

(xii) "Designated agent" means a person or consignment model market or food freedom store designated by the producer to facilitate producer to consumer transactions including marketing, transport, storage and delivery of food or drink products. A designated agent shall be named in writing by the producer and shall not take ownership of any food or drink product.

(xiii) "This act" means W.S. 11-49-101 through 11-49-104.

**11-49-103. Wyoming Food Freedom Act; purpose; exemptions; assumption of risk.**

(a) The purpose of the Wyoming Food Freedom Act is to allow for a producer's production and sale of homemade food or drink products for an informed end consumer and to encourage the expansion of agricultural sales at farmers markets, ranches, farms and producers' homes by:

(i) Facilitating the purchase and consumption of fresh and local agricultural products;

(ii) Enhancing the agricultural economy;

(iii) Providing Wyoming citizens with unimpeded access to healthy food from known sources.

(b) Unless otherwise provided in this section, homemade food products produced, sold and consumed in compliance with the Wyoming Food Freedom Act shall be exempt from state licensure, permitting, inspection, packaging and labeling requirements.

(c) Transactions under this act shall:

(i) Be directly between the producer and the informed end consumer, except as otherwise provided by this act. A producer may utilize a designated agent to facilitate a transaction. The seller of eggs, dairy products or a homemade food product consisting of non-potentially hazardous food may be the producer of the item, a designated agent of the producer or a third party vendor including a retail shop or grocery store as long as the sale is made in compliance with this act. The seller of a homemade food item consisting of potentially hazardous food, except eggs and dairy products, shall be the producer of the item or a designated agent of the producer;

(ii) Repealed by Laws 2020, ch. 69, § 2.

(iii) Occur only in Wyoming;

(iv) Not involve interstate commerce;

(v) Not involve the sale of meat products, with the following exceptions:

(A) The sale of poultry and poultry products provided:

(I) The producer slaughters not more than one thousand (1,000) poultry of his own raising during any one (1) calendar year;

(II) The producer does not engage in buying or selling poultry products other than those produced from poultry of his own raising; and

(III) The poultry product is not adulterated or misbranded.

(B) The sale of live animals;

(C) The sale of portions of live animals before slaughter for future delivery;

(D) The sale of domestic rabbit meat;

(E) The sale of farm raised fish provided:

(I) The fish is raised in accordance with title 23 of the Wyoming statutes; and

(II) The fish is not catfish.

(F) The sale of meat pursuant to an animal share under W.S. 11-49-104.

(vi) Only occur at farmers markets, farms, ranches, producer's homes or offices, the retail location of the third party seller of non-potentially hazardous foods, eggs and dairy products or any location the producer and the informed end consumer agree to.

(d) Except for raw, unprocessed fruits and vegetables, food shall not be sold or used in any commercial food establishment unless the food has been labeled, licensed, packaged, regulated or inspected as required by law. Homemade or uninspected food shall not be served or utilized as an ingredient in a commercial food establishment. Nothing in this section shall prohibit the sale of homemade food from a retail space located at the ranch, farm or home where the food is produced or at the retail location of a third party seller for non-potentially hazardous food, eggs and dairy products. A retail space selling homemade food under this section shall inform the end consumer that the homemade food has not been inspected and shall display a sign indicating that the homemade food has not been inspected. If a retail space selling potentially hazardous food, except eggs and dairy products, is in any way associated with a commercial food establishment or

offers for sale any inspected product, the retail space selling potentially hazardous homemade food shall comply with rules adopted by the department of agriculture which shall require:

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

(ii) That each separate space shall include signs or other markings clearly indicating which spaces are offering inspected items for sale and which spaces are uninspected;

(iii) Separation of coolers, freezers and warehouse or other storage areas to prohibit the intermingling of inspected and uninspected products;

(iv) Any other requirements specified by the department of agriculture to ensure the sale of homemade foods is made to an informed end consumer.

(e) The producer shall inform the end consumer that any food product or food sold at a farmers market or through ranch, farm or home based sales pursuant to this act is not certified, labeled, licensed, packaged, regulated or inspected. A third party seller offering non-potentially hazardous food, eggs or dairy products for sale pursuant to this act shall inform the end consumer that the homemade food is not certified, labeled, licensed, packaged, regulated or inspected.

(f) Repealed by Laws 2017, ch. 111, § 2.

(g) Nothing in this act shall be construed to impede the Wyoming department of health in any investigation of food borne illness.

(h) Nothing in this act shall be construed to change the requirements for brand inspection or animal health inspections.

(j) Nothing in this act shall preclude an agency from providing assistance, consultation or inspection, at the request of the producer.

(k) In addition to the requirements of this section, for sales of non-potentially hazardous food and dairy products at a retail location or grocery store the food shall not be displayed or offered for sale on the same shelf or display as food produced in a licensed establishment and shall be clearly and prominently labeled with "this food was made in a home kitchen, is not regulated or inspected and may contain allergens".

(m) In addition to the transactions permitted under this act, homemade food producers may sell homemade food and drink

products, eggs or dairy products to the maximum extent permitted by federal law. The department of agriculture shall not promulgate any standard for food and health inspection that is applicable to this act that is more stringent than a standard established by the United States department of agriculture and nothing in this article shall be construed to be more restrictive than applicable federal requirements.

**11-49-104. Animal shares.**

(a) The acquisition of meat from animals by an informed end consumer shall not constitute the sale of meat products in contravention of this act and shall not be prohibited if all of the following conditions are met:

(i) The meat is delivered pursuant to an animal share and is:

(A) Received from the farm or ranch where an animal or herd subject to the animal share is located;

(B) Received by or on behalf of an owner of an animal share;

(C) Obtained from the particular animal or herd subject to the animal share.

(ii) Ownership of each animal is established prior to slaughter and the slaughter is conducted pursuant to W.S. 11-23-102(a), if applicable;

(iii) A prominent warning statement that the meat has not been inspected is delivered to the informed end consumer with the meat or is displayed on a label affixed to the meat packaging;

(iv) Information describing the standards used by the farm or ranch with respect to herd health, and in the processing of meat from the herd, is provided to the informed end consumer by the farmer or rancher.

(b) No person who obtains meat in accordance with this section shall sell, donate or commercially redistribute the meat.

(c) No farmer or rancher shall publish any statement that implies the department of agriculture's approval or endorsement of meat delivered pursuant to an animal share.