

ANALYSIS OF HB 251

House Bill 251 was introduced on January 16, 2024 by Representative Rauscher. Rep. Wright signed on as a co-sponsor on February 5, and Rep. Armstrong signed on as a co-sponsor on February 20th. This 'food freedom' bill proposes a number of changes to Alaska Statute Title 17: Food and Drugs, creating a new Article entitled 'Homemade Food; Animal Shares and covering four new sections: exemptions for homemade foods, creating provisions for animal shares, acknowledging the relationship with the Alaska Department of Environmental Conservation, and providing for definitions.

Exemptions for homemade food from labeling, licensing, packaging, permitting, and inspection requirements:

- To be eligible for this exemption, the sale of a homemade food must be in state, and sold at a farmers market, ag fair, farm/ranch, producer's home or office, the retail location of a third-party seller of non-potentially hazardous foods, or a location agreed on between the producer and the buyer.
- The sale may **not** include interstate commerce, or the purchase or sale of meat/meat products, seafood, a controlled substance, oil rendered from animal fat, or game meat.
- The exemption does not apply to homemade food sold or used in commercial food establishments (unless it is raw and unprocessed fruits and vegetables).
- Nothing purchased under this exemption can be re-sold.
- You can sell your products exempt under this section from a retail space located at the ranch/farm/or home where it is produced.
- If it is non-potentially hazardous, it can be sold by the producer, an agent of the producer, or a third-party vendor. If non-potentially hazardous food exempt under this section is to be sold at a retail location of a third-party seller (i.e. a grocery store) they are required to:
 - Inform buyers that the homemade food has not been inspected and are required to display a sign that says as much
 - Clearly and prominently label with the following language: "This food was made in a home kitchen, is not regulated or inspected, and may contain allergens."
 - The exempt food may not be displayed or offered for sale on the same shelf or display as food produced in a licensed establishment.
- If a retail space also sells potentially hazardous foods is in any way associated with a commercial food establishment, OR offers for sale any inspected food, they are required to:
 - Maintain physical separation from the commercial food establishment with a separate door and separate cash register/point of sale system
 - Display signs indicating which spaces offer inspected foods and which offer uninspected foods for sale
 - Maintain separate facilities (including coolers, freezers, warehouses, etc) to prohibit the intermingling of inspected and uninspected foods; and
 - Comply with any other requirements from the ADEC related to homemade food
- Potentially hazardous homemade food exempt under this section can only be sold by the producer, with the exception of eggs.
- Before any sales the seller must inform the buyer that the homemade food was prepared in accordance with these new sections of statute, and that it's not subject to certain state certification, labeling, licensing,

packaging, regulation, or inspection requirements.

- A producer is only eligible for these exemptions if they produce for sale less than 250,000 individual homemade foods or sell less than a gross annual revenue of \$250,000.

Animal Shares

- Creates a pathway in state law for a person to acquire meat from a producer by way of ownership interest in the animal or herd from which the meat originated if:
 - The meat is delivered directly from the farm/ranch where the ownership share is located AND it is received by or on behalf of the person with the ownership share (i.e. it's sold directly to another person).
 - The ownership share must be established before slaughter
 - The meat is clearly labeled to indicate it has not been inspected
 - The producer provides information about the health of the animal/herd, and the meat processing standards of the farm/ranch
- Meat sold in this way can be delivered at a farm, ranch, farmers market, home, office, or other location agreed upon between the producer and the person/share owner
- To own an animal or herd share, the ownership interest must be documented in a written contract that includes
 - A bill of sale detailing the ownership interest in the animal or herd; and
 - A boarding provision that the person is boarding the animal or herd with the producer for care and processing; and
 - A provision entitling the person to receive a share of meat from the animal or herd
- Meat received by a person through an animal or herd share may not be sold, donated, or commercially redistributed
- A producer cannot publish a statement implying that the ADEC approves or endorses animal or herd share programs or acquisition of meat under this section

Relationship to other laws

This section clarifies that the Department of Environmental Conservation has authorization to:

- conduct necessary inspections to investigate reports of foodborne illness/unsafe sanitary practices/misbranded or adulterated food;
- condemn and order the destruction of misbranded or adulterated food;and
- regulate food or an establishment that isn't exempt under this new article.

The ADEC also may provide assistance, consultation, or inspection at the request of a producer.

And finally that nothing in this new article exempts a person from applicable federal and local laws, regulations, and food ordinances or from brand or animal inspections in AS Title 3.

Definitions

This final section outlines the definitions used within the new statute sections.

AFPC supports efforts to increase food businesses and food security. We also believe that food safety is an important component of food security. We are working on developing comments on HB 251.

Read about Food Freedom Laws in the [Governor's 2023 Food Security & Independence Task Force Report](#), Appendix E.

Updated March 6, 2024