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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 433

01/28/2021 Authored by Munson, Miller, Lucero, Mortensen and Bahr
The bill was read for the first time and referred to the Committee on Agriculture Finance and Policy

1.1 A bill for an act
1.2 relating to agriculture; establishing the Minnesota Food Freedom Act; exempting
1.3 homemade food sellers from certain statutes; preempting application of certain
1.4 local ordinances to homemade food sellers; amending Minnesota Statutes 2020,
1.5 section 28A.152; proposing coding for new law in Minnesota Statutes, chapter
1.6 28A.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. 28A.1515 MINNESOTA FOOD FREEDOM ACT.

1.9 Section 28A.152 may be cited as the "Minnesota Food Freedom Act."

1.10 Sec. 2. Minnesota Statutes 2020, section 28A.152, is amended to read:

1.11 28A.152 COTTAGE FOODS EXEMPTION MARKETING HOMEMADE FOOD.

1.12 Subdivision 1. ~~Licensing provisions applicability~~ Regulatory exemption. (a) The
1.13 ~~licensing provisions of sections 28A.01 to 28A.16 do not apply to the following:~~

1.14 (1) ~~an individual who prepares and sells food that is not potentially hazardous food, as~~
1.15 ~~defined in Minnesota Rules, part 4626.0020, subpart 62, if the following requirements are~~
1.16 ~~met:~~

1.17 (i) ~~the prepared food offered for sale under this clause is labeled to accurately reflect~~
1.18 ~~the name and address of the individual preparing and selling the food, the date on which~~
1.19 ~~the food was prepared, and the ingredients and any possible allergens; and~~

1.20 (ii) ~~the individual displays at the point of sale a clearly legible sign or placard stating:~~
1.21 ~~"These products are homemade and not subject to state inspection."; and~~

2.1 ~~(2) an individual who prepares and sells home-processed and home-canned food products~~  
 2.2 ~~if the following requirements are met:~~

2.3 ~~(i) the products are pickles, vegetables, or fruits having an equilibrium pH value of 4.6~~  
 2.4 ~~or lower;~~

2.5 ~~(ii) the products are home-processed and home-canned in Minnesota;~~

2.6 ~~(iii) the individual displays at the point of sale a clearly legible sign or placard stating:~~  
 2.7 ~~"These canned goods are homemade and not subject to state inspection."; and~~

2.8 ~~(iv) each container of the product sold or offered for sale under this clause is accurately~~  
 2.9 ~~labeled to provide the name and address of the individual who processed and canned the~~  
 2.10 ~~goods, the date on which the goods were processed and canned, and ingredients and any~~  
 2.11 ~~possible allergens.~~

2.12 ~~(b) An individual who qualifies for an exemption under paragraph (a), clause (2), is also~~  
 2.13 ~~exempt from the provisions of sections 31.31 and 31.392.~~

2.14 (a) Notwithstanding other provisions in this chapter, chapters 31 and 34A, or other law,  
 2.15 state and local food safety licensing, permitting, certification, inspection, packaging, and  
 2.16 labeling requirements do not apply to a person who prepares and sells homemade food  
 2.17 directly to an informed end consumer for home consumption. The person must inform the  
 2.18 end consumer orally or in writing that the person and the food product are not subject to  
 2.19 food licensing or inspection requirements.

2.20 (b) For purposes of this section:

2.21 (1) "homemade" means food prepared in a private home kitchen;

2.22 (2) "home consumption" means consumption by an informed end consumer or the  
 2.23 informed end consumer's family member, employee, or nonpaying guest in a private home;  
 2.24 and

2.25 (3) "informed end consumer" means a person that purchases a homemade food product  
 2.26 for home consumption if the person has been informed that the product and its producer are  
 2.27 not subject to food safety licensing or inspections.

2.28 (c) This section must not be construed to impede a food borne illness investigation by  
 2.29 the commissioner or the commissioner of health.

2.30 Subd. 2. **Direct sales to consumers.** ~~(a) An individual~~ A person qualifying for an  
 2.31 exemption under subdivision 1 may sell ~~the exempt~~ homemade food:

3.1 (1) directly to ~~the ultimate~~ an informed end consumer at a community event or farmers'  
3.2 market;

3.3 (2) directly from the individual's home to ~~the ultimate~~ an informed end consumer, ~~to the~~  
3.4 ~~extent allowed by local ordinance~~; or

3.5 (3) through donation to a community event with the purpose of fund-raising for an  
3.6 individual, or fund-raising for an educational, charitable, or religious organization.

3.7 (b) If an exempt food product will be delivered to ~~the ultimate~~ an informed end consumer  
3.8 upon sale of the food product, the ~~individual~~ person who prepared the food product must  
3.9 ~~be the person who delivers~~ deliver the food product to the ~~ultimate~~ informed end consumer.

3.10 (c) Homemade food products exempt under ~~subdivision 1, paragraph (a), clause (2), this~~  
3.11 section may not be sold outside of Minnesota.

3.12 (d) Food products exempt under ~~subdivision 1~~ this section may be sold over the Internet  
3.13 but must be delivered directly to ~~the ultimate~~ an informed end consumer by the ~~individual~~  
3.14 person who prepared the homemade food product. ~~The statement "These products are~~  
3.15 ~~homemade and not subject to state inspection."~~ must be displayed on the website that offers  
3.16 the exempt foods for purchase.

3.17 Subd. 3. **Limitation on sales.** ~~An individual selling exempt foods under this section is~~  
3.18 ~~limited to total sales with gross receipts of \$18,000 or less in a calendar year.~~ Transactions  
3.19 under this section must not involve the sale of meat products except:

3.20 (1) live animals intended for slaughter; or

3.21 (2) portions of animals sold for future delivery if the animals are processed by the  
3.22 informed end user or a processor licensed by the commissioner or the United States  
3.23 Department of Agriculture.

3.24 Subd. 4. **Registration not required.** ~~An individual~~ The commissioner must not require  
3.25 a person who prepares and sells exempt homemade food ~~under subdivision 1~~ must to register  
3.26 annually with the commissioner. ~~The annual registration fee is \$50. An individual with~~  
3.27 ~~\$5,000 or less in annual gross receipts from the sale of exempt food under this section is~~  
3.28 ~~not required to pay the registration fee.~~

3.29 Subd. 5. **Training not required.** ~~(a) An individual with gross receipts between \$5,000~~  
3.30 ~~and \$18,000 in a calendar year from the sale of exempt food under this section must~~ The  
3.31 commissioner may provide but must not require a person to complete a an online safe food  
3.32 handling training course that is approved by the commissioner before registering under

4.1 ~~subdivision 4. The training shall not exceed eight hours and must be completed every three~~  
4.2 ~~years while the individual is registered under subdivision 4.~~

4.3 ~~(b) An individual with gross receipts of less than \$5,000 in a calendar year from the sale~~  
4.4 ~~of exempt food under this section must satisfactorily complete an online course and exam~~  
4.5 ~~as approved by the commissioner before registering under subdivision 4. The commissioner~~  
4.6 ~~shall offer the online course and exam under this paragraph subdivision at no cost to the~~  
4.7 ~~individual a person. This section does not preclude the commissioner from providing~~  
4.8 ~~assistance or consultation to a person that prepares and sells homemade food.~~

4.9 Subd. 6. **Local ordinances.** (a) This section does not preempt the application of any  
4.10 ~~business licensing requirement or sanitation, public health, or zoning ordinance of a political~~  
4.11 ~~subdivision.~~

4.12 (b) This section preempts the application of any food safety licensing, permitting,  
4.13 certification, inspection, packaging, or labeling ordinance of a political subdivision to a  
4.14 person selling homemade food under this section.

4.15 Subd. 7. **Account established.** ~~A cottage foods~~ homemade food account is created as a  
4.16 separate account in the agricultural fund in the state treasury for depositing money received  
4.17 by the commissioner ~~under this section~~ for purposes of this section. Money in the account,  
4.18 including interest, is appropriated to the commissioner for these purposes ~~of this section.~~