

Leg. - Dr. Case 3/10/87 (p. 100)

Senate File 356

AGRICULTURE, Boswell, Chair, Hester and Fahrman

Leg. Ag 11-100

Senate File 356

Agriculture: Norrgard, Chair, May and Stueland.

1987

Introduced 5/8/87, Dr. Case 5/23/87 (p. 1050)

SENATE FILE 350

BY MURPHY

Passed Senate, Date 4-2-87 (p. 1041) Passed House, Date 4/6/88 (p. 130)

Vote: Ayes 28 Nays 16 Vote: Ayes 76 Nays 4

Approved May 12, 1988

Motion to reconsider (p. 1051)  
" failed 5/10/81

Approved Senate 4/15/88 (p. 1025)  
-16-

A BILL FOR

- 1 An Act relating to the exemptions from regulation of a home used
- 2 to prepare food for a cafe.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 356

S-3279

- 1 Amend Senate File 356 as follows:
- 2 1. By striking everything after the enacting
- 3 clause and inserting the following:
- 4 "Section 1. NEW SECTION. 170.1A RETAIL FOOD
- 5 STORE SANITATION CODE -- ADOPTION BY RULE.
- 6 As soon as is practicable, the director shall adopt
- 7 the retail food store sanitation code, section 170.1,
- 8 subsection 3, by rule as the Iowa retail food store
- 9 sanitation code, with the following exceptions:
- 10 1. 2-101 shall be amended so that food prepared in
- 11 a home may be used or offered for sale.
- 12 2. 7-802 shall be deleted."
- 13 2. Title page, by striking lines 1 and 2 and
- 14 inserting the following: "An Act establishing an Iowa
- 15 retail food store sanitation code."

S-3279

Filed March 26, 1987

BY LARRY MURPHY

Local 4/2 (p. 1041)

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1 Section 1. Section 170.25, Code 1987, is amended to read  
2 as follows:

3 170.25 USE AS LIVING ROOM.

4 No person shall be allowed to use as a dwelling, or sleep  
5 in, any workroom of any bakery, kitchen, or dining room  
6 where food is prepared for commercial purposes, confectionery,  
7 creamery, ice cream factory, cheese factory, cream station,  
8 meat market, or any other place where, in the opinion of the  
9 department, food will be contaminated thereby. This section  
10 does not apply to a home in which food is prepared for a cafe.

11 Sec. 2. Section 170.46, Code 1987, is amended to read as  
12 follows:

13 170.46 REGULAR INSPECTION.

14 The department shall provide for the inspection of each  
15 food establishment in the state in accordance with the  
16 standards of the retail food store sanitation code. The  
17 inspector may enter the food establishment at any reasonable  
18 hour to make the inspection. The management shall afford free  
19 access to every part of the premises and render all aid and  
20 assistance necessary to enable the inspector to make a  
21 thorough and complete inspection. For the purposes of this  
22 section, "food establishment" does not include a home in which  
23 food is prepared for a cafe.

24 Sec. 3. Section 170A.16, Code 1987, is amended to read as  
25 follows:

26 170A.16 EXEMPTION.

27 This chapter does not apply to bed and breakfast homes as  
28 defined in section 170A.2, or to a home in which food is  
29 prepared for a cafe. In lieu of the application of the food  
30 service sanitation code to a home in which food is prepared  
31 for a cafe, the department shall adopt rules for the  
32 regulation and inspection of the home which reflect the use of  
33 the home for living purposes.

34 EXPLANATION

35 This bill provides that a home used to prepare food for a

1 cafe is exempt from regular inspection, is not included in the  
2 prohibition of preparation of food in a dwelling, and is  
3 exempt from application of the food service sanitation code.  
4 The bill also directs the department of inspections and  
5 appeals to adopt rules to regulate and inspect these homes  
6 which reflect the use of the homes for living purposes.

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SENATE FILE 356

H-6173

1 Amend amendment, H-5843, to Senate File 356, as  
2 passed by the Senate, as follows:  
3 1. Page 2, line 24, by inserting after the word  
4 "dollars." the following: "However, a home food  
5 establishment does not include a residence in which  
6 food is prepared to be used or sold by churches,  
7 fraternal societies, charitable organizations, or  
8 civic organizations."

By OSTERBERG of Linn  
KREMER Of Buchanan

H-6173 FILED APRIL 4, 1988  
*Adopted 4/5 (p. 1340)*

SENATE FILE 356

H-6200

1 Amend amendment, H-5843, to Senate File 356, as  
2 passed by the Senate, as follows:  
3 1. Page 2, by striking lines 25 through 35 and  
4 inserting the following:  
5 "\_\_\_\_\_. "Prepared food" means soft pies, bakery  
6 products with a custard or cream filling, or any other  
7 potentially hazardous baked goods. "Prepared food"  
8 does not mean nonhazardous baked goods, including but  
9 not limited to breads, fruit pies, cakes, or other  
10 nonhazardous pastries."

By NORRGARD of Des Moines  
BISIGNANO of Polk

H-6200 FILED APRIL 4, 1988  
*Adopted 4/5 (p. 1340)*

SENATE FILE 356

H-6201

1 Amend amendment, H-5843, to Senate File 356, as  
2 passed by the Senate, as follows:  
3 1. Page 2, by inserting after line 4 the  
4 following:  
5 "Sec. \_\_\_\_\_. NEW SECTION. 170.57 EXEMPTION.  
6 This chapter does not apply to the premises of a  
7 residence in which food is prepared to be used or sold  
8 by churches, fraternal societies, charitable  
9 organizations, or civic organizations."  
10 2. Page 2, line 24, by inserting after the word  
11 "dollars." the following: "However, a home food  
12 establishment does not include a residence in which  
13 food is prepared to be used or sold by churches,  
14 fraternal societies, charitable organizations, or  
15 civic organizations."

By OSTERBERG of Linn  
KREMER of Buchanan

H-6201 FILED APRIL 4, 1988  
*Adopted 4/5 (p. 1340)*

## SENATE FILE 356

H-5843

1 Amend Senate File 356, as passed by the Senate, as  
2 follows:

3 1. By striking everything after the enacting  
4 clause and inserting the following:

5 "Section 1. Section 170.1, subsection 2, Code  
6 1987, is amended to read as follows:

7 2. "Food establishment" ~~shall mean any~~ means a  
8 place used as a bakery, confectionery, cannery,  
9 packinghouse, slaughterhouse where animals or poultry  
10 are killed or dressed for food, retail grocery, meat  
11 market, or other place in which food is kept,  
12 produced, prepared, or distributed for commercial  
13 purposes for ~~off-the-premise~~ off-the-premises  
14 consumption, except those ~~premises covered by a~~  
15 ~~current class "A" beer permit as provided in chapter~~  
16 ~~123~~ for the following:

17 a. Premises covered by a current class "A" beer  
18 permit as provided in chapter 123.

19 b. Premises which are licensed as a home food  
20 establishment as defined in section 170C.1.

21 c. Premises which operate as a farmers market.

22 d. Premises of a residence in which nonhazardous  
23 food is sold for consumption off-the-premises, if the  
24 food is labeled to identify the name and address of  
25 the person preparing the food and the common name of  
26 the food. As used in this paragraph, nonhazardous  
27 food means only the following:

28 (1) Baked goods except the following: soft pies,  
29 bakery products with custard or cream fillings, or any  
30 other potentially hazardous goods.

31 (2) Wholesome, fresh eggs that are kept at a  
32 temperature of sixty degrees Fahrenheit or less.

33 (3) Honey which is labeled with additional  
34 information as provided by departmental rule.

35 Sec. 2. Section 170.1, Code 1987, is amended by  
36 adding the following new subsection:

37 NEW SUBSECTION. 6. "Farmers market" means a  
38 marketplace which seasonally operates principally as a  
39 common market for fresh fruits and vegetables on a  
40 retail basis for off-the-premises consumption.

41 Sec. 3. NEW SECTION. 170.6 FARMERS MARKET.

42 A vendor who offers a product for sale at a farmers  
43 market shall have the sole responsibility to obtain  
44 and maintain any license required to sell or  
45 distribute such product.

46 Sec. 4. NEW SECTION. 170.56 ADOPTION BY RULE.

47 The director shall adopt the retail food store  
48 sanitation code by rule as part of the Iowa retail  
49 food store sanitation code with the following  
50 exception:

H-5343

Page 2

1 1.2-101 shall be amended to allow food licensed  
2 under chapter 170C or food specified under section  
3 170.1, subsection 2, paragraph "d", to be used or  
4 offered for sale.

5 Sec. 5. Section 170A.3, Code 1987, is amended by  
6 adding the following new subsection:

7 NEW SUBSECTION. 6. 2-101 shall be amended to  
8 allow food licensed under chapter 170C and food  
9 specified under section 170.1, subsection 2, paragraph  
10 "d", to be used or offered for sale.

11 Sec. 6. NEW SECTION. 170C.1 DEFINITIONS.

12 As used in this chapter unless the context  
13 otherwise requires:

14 1. "Food" means any raw, cooked, or processed  
15 edible substance, ice, beverage, or ingredient used or  
16 intended for use or sale in whole or in part for human  
17 consumption.

18 2. "Department" means the department of  
19 inspections and appeals.

20 3. "Home food establishment" means a business on  
21 the premises of a residence in which prepared food is  
22 created for sale or resale, for consumption off-the-  
23 premises, if the business has gross annual sales of  
24 prepared food of less than twenty thousand dollars.

25 4. "Prepared food" means any food other than  
26 nonhazardous food. As used in this subsection,  
27 nonhazardous food means only the following:

28 a. Fresh fruits and vegetables.

29 b. Baked goods except the following: soft pies,  
30 bakery products with a custard or cream filling, or  
31 any other potentially hazardous baked good.

32 c. Wholesome, fresh eggs that are kept at a  
33 temperature of sixty degrees Fahrenheit or less.

34 d. Honey which is labeled with additional  
35 information as provided by departmental rule.

36 Sec. 7. NEW SECTION. 170C.2 REGULATION --  
37 LICENSURE AND INSPECTION.

38 1. A person shall not open or operate a home food  
39 establishment until a license has been obtained from  
40 the department of inspections and appeals. The  
41 department shall collect a fee of twenty-five dollars  
42 for a license. After collection, the fees shall be  
43 deposited in the general fund of the state. A license  
44 shall expire one year from date of issue. A license  
45 is renewable.

46 2. A person shall not sell or distribute from a  
47 home food establishment if the home food establishment  
48 is unlicensed, the license of the home food  
49 establishment is suspended, or the food fails to meet  
50 standards adopted for such food by the department.

H-5843

Page 3

1 3. An application for a license under this chapter  
2 shall be made upon a form furnished by the department  
3 and shall contain the items required by it according  
4 to rules adopted by the department.

5 4. The department shall regulate, license, and  
6 inspect home food establishments according to  
7 standards adopted by rule.

8 5. The department shall provide for the periodic  
9 inspection of a home food establishment. The  
10 inspector may enter the home food establishment at any  
11 reasonable hour to make the inspection. The  
12 department shall inspect only those areas related to  
13 preparing food for sale.

14 6. The department shall regulate and inspect food  
15 prepared at a home food establishment according to  
16 standards adopted by rule. The inspection may occur  
17 at any place where the prepared food is created,  
18 transported, or stored for sale or resale.

19 Sec. 8. NEW SECTION. 170C.3 PENALTY.

20 A person who violates a provision of this chapter,  
21 including a standard adopted by departmental rule,  
22 relating to home food establishments or prepared foods  
23 created in a home food establishment, is guilty of a  
24 simple misdemeanor. Each day that the violation  
25 continues constitutes a separate offense.

26 Sec. 9. NEW SECTION. 170C.4 INJUNCTIVE RELIEF.

27 A person operating a home food establishment or  
28 selling prepared foods created at a home food  
29 establishment in violation of a provision of this  
30 chapter may be restrained by injunction from further  
31 operating that home food establishment. If an  
32 imminent health hazard exists, the home food  
33 establishment must cease operation. Operation shall  
34 not be resumed until authorized by the department.

35 Sec. 10. NEW SECTION. 170C.5 DUTY OF COUNTY  
36 ATTORNEY.

37 The county attorney in each county shall assist in  
38 the enforcement of this chapter.

39 Sec. 11. NEW SECTION. 170C.6 CONFLICTING  
40 STATUTES.

41 Provisions of this chapter, including standards for  
42 home food establishments adopted by the department, in  
43 conflict with the state building code shall not apply  
44 where the state building code has been adopted or when  
45 the state building code applies throughout the state."

46 2. Title page, by striking lines 1 and 2 and  
47 inserting the following: "An Act relating to the  
48 regulation of home prepared foods and foods sold at  
49 farmers markets, and providing for penalties."

By COMMITTEE ON AGRICULTURE

OSTERBERG of Linn, Chairperson

5843 FILED MARCH 23, 1988

*Adopted as amended by 6200-2201 (1/8/88)*

HOUSE AMENDMENT TO  
SENATE FILE 356

5834

1 Amend Senate File 356, as passed by the Senate, as  
2 follows:

3 1. By striking everything after the enacting  
4 clause and inserting the following:

5 "Section 1. Section 170.1, subsection 2, Code  
6 1987, is amended to read as follows:

7 2. "Food establishment" ~~shall mean any~~ means a  
8 place used as a bakery, confectionery, cannery,  
9 packinghouse, slaughterhouse where animals or poultry  
10 are killed or dressed for food, retail grocery, meat  
11 market, or other place in which food is kept,  
12 produced, prepared, or distributed for commercial  
13 purposes for ~~off-the-premise~~ off-the-premises  
14 consumption, except ~~those premises covered by a~~  
15 ~~current class "A" beer permit as provided in chapter~~  
16 ~~123;~~ for the following:

17 a. Premises covered by a current class "A" beer  
18 permit as provided in chapter 123.

19 b. Premises which are licensed as a home food  
20 establishment as defined in section 170C.1.

21 c. Premises which operate as a farmers market.

22 d. Premises of a residence in which nonhazardous  
23 food is sold for consumption off-the-premises, if the  
24 food is labeled to identify the name and address of  
25 the person preparing the food and the common name of  
26 the food. As used in this paragraph, nonhazardous  
27 food means only the following:

28 (1) Baked goods except the following: soft pies,  
29 bakery products with custard or cream fillings, or any  
30 other potentially hazardous goods.

31 (2) Wholesome, fresh eggs that are kept at a  
32 temperature of sixty degrees Fahrenheit or less.

33 (3) Honey which is labeled with additional  
34 information as provided by departmental rule.

35 Sec. 2. Section 170.1, Code 1987, is amended by  
36 adding the following new subsection:

37 NEW SUBSECTION. 6. "Farmers market" means a  
38 marketplace which seasonally operates principally as a  
39 common market for fresh fruits and vegetables on a  
40 retail basis for off-the-premises consumption.

41 Sec. 3. NEW SECTION. 170.6 FARMERS MARKET.

42 A vendor who offers a product for sale at a farmers  
43 market shall have the sole responsibility to obtain  
44 and maintain any license required to sell or  
45 distribute such product.

46 Sec. 4. NEW SECTION. 170.56 ADOPTION BY RULE.

47 The director shall adopt the retail food store  
48 sanitation code by rule as part of the Iowa retail  
49 food store sanitation code with the following  
50 exception:

1 1.2-101 shall be amended to allow food licensed  
2 under chapter 170C or food specified under section  
3 170.1, subsection 2, paragraph "d", to be used or  
4 offered for sale.

5 Sec. 5. NEW SECTION. 170.57 EXEMPTION.

6 This chapter does not apply to the premises of a  
7 residence in which food is prepared to be used or sold  
8 by churches, fraternal societies, charitable  
9 organizations, or civic organizations.

10 Sec. 6. Section 170A.3, Code 1987, is amended by  
11 adding the following new subsection:

12 NEW SUBSECTION. 6. 2-101 shall be amended to  
13 allow food licensed under chapter 170C and food  
14 specified under section 170.1, subsection 2, paragraph  
15 "d", to be used or offered for sale.

16 Sec. 7. NEW SECTION. 170C.1 DEFINITIONS.

17 As used in this chapter unless the context  
18 otherwise requires:

19 1. "Food" means any raw, cooked, or processed  
20 edible substance, ice, beverage, or ingredient used or  
21 intended for use or sale in whole or in part for human  
22 consumption.

23 2. "Department" means the department of  
24 inspections and appeals.

25 3. "Home food establishment" means a business on  
26 the premises of a residence in which prepared food is  
27 created for sale or resale, for consumption off-the-  
28 premises, if the business has gross annual sales of  
29 prepared food of less than twenty thousand dollars.  
30 However, a home food establishment does not include a  
31 residence in which food is prepared to be used or sold  
32 by churches, fraternal societies, charitable  
33 organizations, or civic organizations.

34 4. "Prepared food" means soft pies, bakery  
35 products with a custard or cream filling, or any other  
36 potentially hazardous baked goods. "Prepared food"  
37 does not mean nonhazardous baked goods, including but  
38 not limited to breads, fruit pies, cakes, or other  
39 nonhazardous pastries.

40 Sec. 8. NEW SECTION. 170C.2 REGULATION --  
41 LICENSURE AND INSPECTION.

42 1. A person shall not open or operate a home food  
43 establishment until a license has been obtained from  
44 the department of inspections and appeals. The  
45 department shall collect a fee of twenty-five dollars  
46 for a license. After collection, the fees shall be  
47 deposited in the general fund of the state. A license  
48 shall expire one year from date of issue. A license  
49 is renewable.

50 2. A person shall not sell or distribute from a

1 home food establishment if the home food establishment  
2 is unlicensed, the license of the home food  
3 establishment is suspended, or the food fails to meet  
4 standards adopted for such food by the department.

5 3. An application for a license under this chapter  
6 shall be made upon a form furnished by the department  
7 and shall contain the items required by it according  
8 to rules adopted by the department.

9 4. The department shall regulate, license, and  
10 inspect home food establishments according to  
11 standards adopted by rule.

12 5. The department shall provide for the periodic  
13 inspection of a home food establishment. The  
14 inspector may enter the home food establishment at any  
15 reasonable hour to make the inspection. The  
16 department shall inspect only those areas related to  
17 preparing food for sale.

18 6. The department shall regulate and inspect food  
19 prepared at a home food establishment according to  
20 standards adopted by rule. The inspection may occur  
21 at any place where the prepared food is created,  
22 transported, or stored for sale or resale.

23 Sec. 9. NEW SECTION. 170C.3 PENALTY.

24 A person who violates a provision of this chapter,  
25 including a standard adopted by departmental rule,  
26 relating to home food establishments or prepared foods  
27 created in a home food establishment, is guilty of a  
28 simple misdemeanor. Each day that the violation  
29 continues constitutes a separate offense.

30 Sec. 10. NEW SECTION. 170C.4 INJUNCTIVE RELIEF.

31 A person operating a home food establishment or  
32 selling prepared foods created at a home food  
33 establishment in violation of a provision of this  
34 chapter may be restrained by injunction from further  
35 operating that home food establishment. If an  
36 imminent health hazard exists, the home food  
37 establishment must cease operation. Operation shall  
38 not be resumed until authorized by the department.

39 Sec. 11. NEW SECTION. 170C.5 DUTY OF COUNTY  
40 ATTORNEY.

41 The county attorney in each county shall assist in  
42 the enforcement of this chapter.

43 Sec. 12. NEW SECTION. 170C.6 CONFLICTING  
44 STATUTES.

45 Provisions of this chapter, including standards for  
46 home food establishments adopted by the department, in  
47 conflict with the state building code shall not apply  
48 where the state building code has been adopted or when  
49 the state building code applies throughout the state."

50 2. Title page, by striking lines 1 and 2 and

SENATE 6  
APRIL 8, 1988

S-5834 Page 4

1 inserting the following: "An Act relating to the  
2 regulation of home prepared foods and foods sold at  
3 farmers markets, and providing for penalties."

S-5834

Filed April 7, 1988

*See the Journal 4/15 (p. 1223)*

RECEIVED FROM THE HOUSE

STATE OF IOWA  
**FISCAL NOTE** TO  
SENATE FILE 356

LSB No. 2423S  
Staff ID. TCF

BY SENATOR MURPHY

In compliance with a written request received March 10, 1987, a fiscal note for **SENATE FILE 356** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 356 provides that a home used to prepare food for a cafe is exempt from regular inspection, is not included in the prohibition of preparation of food in a dwelling, and is exempt from application of the food service sanitation code. The bill also directs the Department of Inspections and Appeals to adopt rules to regulate and inspect these homes which reflect the use of the homes for living purposes.

ASSUMPTIONS:

1. Approximately 10,000 licensed restaurants in Iowa.
2. Approximately 20% (2000) will utilize some prepared food from a home. Inspections would be phased in during the first year with approximately 1000 homes being inspected and 2000 being inspected each year thereafter.
3. The minimum license fee would be \$20 per year.

FISCAL IMPACT

(dollars in thousands)

	Fiscal Year 1988			Fiscal Year 1989		
	Current Law	Proposed Law	Increase (Decrease)	Current Law	Proposed Law	Increase (Decrease)
<b>REVENUE</b>						
General Fund \$	0	\$ 20	\$ 20	\$ 0	\$ 40	\$ 40
(License Fees)	0	0	0	0	0	0
Total \$	0	\$ 20	\$ 20	\$ 0	\$ 40	\$ 40
<b>EXPENDITURES</b>						
Salaries \$	0	\$ 36	\$ 36	\$ 0	\$ 76	\$ 76
(FIE's)		(1.5)	(1.5)		(3.0)	(3.0)
Support	0	9	9	0	19	19
Total \$	0	\$ 45	\$ 45	\$ 0	\$ 95	\$ 95
<b>NET EFFECT</b>	\$ 0	\$ -25	\$ -25	\$ 0	\$ -54	\$ -54

Source: Department of Inspections and Appeals

(LSB 2423S, TCF)

*Dennis Crouty*  
Fiscal Director  
Legislative Fiscal Bureau  
Date: 3/25/87

SENATE FILE 356

AN ACT

RELATING TO THE REGULATION OF HOME PREPARED FOODS AND FOODS SOLD AT FARMERS MARKETS, AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 170.1, subsection 2, Code 1987, is amended to read as follows:

2. "Food establishment" shall mean any means a place used as a bakery, confectionery, cannery, packinghouse, slaughterhouse where animals or poultry are killed or dressed for food, retail grocery, meat market, or other place in which food is kept, produced, prepared, or distributed for commercial purposes for off-the-premise ~~off-the-premises~~ consumption, except those ~~premises covered by a current class "A" beer permit as provided in chapter 123;~~ for the following:

a. Premises covered by a current class "A" beer permit as provided in chapter 123.

b. Premises which are licensed as a home food establishment as defined in section 170C.1.

c. Premises which operate as a farmers market.

d. Premises of a residence in which nonhazardous food is sold for consumption off-the-premises, if the food is labeled to identify the name and address of the person preparing the food and the common name of the food. As used in this paragraph, nonhazardous food means only the following:

(1) Baked goods except the following: soft pies, bakery products with custard or cream fillings, or any other potentially hazardous goods.

(2) Wholesome, fresh eggs that are kept at a temperature of sixty degrees Fahrenheit or less.

(3) Honey which is labeled with additional information as provided by departmental rule.

Sec. 2. Section 170.1, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. "Farmers market" means a marketplace which seasonally operates principally as a common market for fresh fruits and vegetables on a retail basis for off-the-premises consumption.

Sec. 3. NEW SECTION. 170.6 FARMERS MARKET.

A vendor who offers a product for sale at a farmers market shall have the sole responsibility to obtain and maintain any license required to sell or distribute such product.

Sec. 4. NEW SECTION. 170.56 ADOPTION BY RULE.

The director shall adopt the retail food store sanitation code by rule as part of the Iowa retail food store sanitation code with the following exception:

1.2-101 shall be amended to allow food licensed under chapter 170C or food specified under section 170.1, subsection 2, paragraph "d", to be used or offered for sale.

Sec. 5. NEW SECTION. 170.57 EXEMPTION.

This chapter does not apply to the premises of a residence in which food is prepared to be used or sold by churches, fraternal societies, charitable organizations, or civic organizations.

Sec. 6. Section 170A.1, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 6. 7-101 shall be amended to allow food licensed under chapter 170C and food specified under section 170.1, subsection 2, paragraph "d", to be used or offered for sale.

Sec. 7. NEW SECTION. 170C.1 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

SF 356

1. "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or sale in whole or in part for human consumption.

2. "Department" means the department of inspections and appeals.

3. "Home food establishment" means a business on the premises of a residence in which prepared food is created for sale or resale, for consumption off-the-premises, if the business has gross annual sales of prepared food of less than twenty thousand dollars. However, a home food establishment does not include a residence in which food is prepared to be used or sold by churches, fraternal societies, charitable organizations, or civic organizations.

4. "Prepared food" means soft pies, bakery products with a custard or cream filling, or any other potentially hazardous baked goods. "Prepared food" does not mean nonhazardous baked goods, including but not limited to breads, fruit pies, cakes, or other nonhazardous pastries.

Sec. 8. NEW SECTION. 170C.2 REGULATION -- LICENSURE AND INSPECTION.

1. A person shall not open or operate a home food establishment until a license has been obtained from the department of inspections and appeals. The department shall collect a fee of twenty-five dollars for a license. After collection, the fees shall be deposited in the general fund of the state. A license shall expire one year from date of issue. A license is renewable.

2. A person shall not sell or distribute from a home food establishment if the home food establishment is unlicensed, the license of the home food establishment is suspended, or the food fails to meet standards adopted for such food by the department.

3. An application for a license under this chapter shall be made upon a form furnished by the department and shall contain the items required by it according to rules adopted by the department.

4. The department shall regulate, license, and inspect home food establishments according to standards adopted by rule.

5. The department shall provide for the periodic inspection of a home food establishment. The inspector may enter the home food establishment at any reasonable hour to make the inspection. The department shall inspect only those areas related to preparing food for sale.

6. The department shall regulate and inspect food prepared at a home food establishment according to standards adopted by rule. The inspection may occur at any place where the prepared food is created, transported, or stored for sale or resale.

Sec. 9. NEW SECTION. 170C.3 PENALTY.

A person who violates a provision of this chapter, including a standard adopted by departmental rule, relating to home food establishments or prepared foods created in a home food establishment, is guilty of a simple misdemeanor. Each day that the violation continues constitutes a separate offense.

Sec. 10. NEW SECTION. 170C.4 INJUNCTIVE RELIEF.

A person operating a home food establishment or selling prepared foods created at a home food establishment in violation of a provision of this chapter may be restrained by injunction from further operating that home food establishment. If an imminent health hazard exists, the home food establishment must cease operation. Operation shall not be resumed until authorized by the department.

Sec. 11. NEW SECTION. 170C.5 DUTY OF COUNTY ATTORNEY.

The county attorney in each county shall assist in the enforcement of this chapter.

Sec. 12. NEW SECTION. 170C.6 CONFLICTING STATUTES.

Provisions of this chapter, including standards for home food establishments adopted by the department, in conflict with the state building code shall not apply where the state

building code has been adopted or when the state building code applies throughout the state.

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JO ANN ZIMMERMAN  
President of the Senate

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DONALD D. AVENSON  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 356, Seventy-second General Assembly.

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JOHN F. DWYER  
Secretary of the Senate

Approved May 12, 1988

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TERRY E. BRANSTAD  
Governor

**SF 356**