

**House File 319 - Introduced**

HOUSE FILE 319

BY WILLS

**A BILL FOR**

1 An Act relating to homemade food derived from a commodity  
2 produced, processed, prepared, offered for sale, or sold on  
3 a farm, including by providing for exemptions from certain  
4 regulations.

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

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DIVISION I

FARM HOMEMADE FOOD

Section 1. NEW SECTION. 137G.1 Short title.

This chapter shall be known and may be cited as the "*Iowa Food Freedom Act*".

Sec. 2. NEW SECTION. 137G.2 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Commodity*" means a food animal or food crop.

2. "*Consumer*" means a person who is the final purchaser of food.

3. "*Farm*" means a location that operates to generate income from the production of commodities, if the income is reported on a schedule F as part of a form 1040 or form 1041 tax return filed with the United States internal revenue service.

4. "*Farm homemade food*" means food derived from a commodity produced on a farm and processed or prepared on the premises of the farm, including a kitchen that is part of a residence or a facility that is not part of a residence.

a. "*Farm homemade food*" may be in either a solid or liquid form, and in a raw or processed state, so long as it is edible in that form and state by humans for its taste or nutritional value.

b. "*Farm homemade food*" includes a commodity that in a raw state includes but is not limited to milk, eggs, vegetables, fruits, nuts, syrup, and honey; and in a processed state includes but is not limited to dairy products, pastries, pies, jellies, cut or pickled fruits and vegetables, meat, poultry products, or fish.

5. "*Farmers market*" means the same as defined in section 137F.1.

6. "*Food*" means the same as defined in section 137F.1.

7. "*Food animal*" means livestock, rabbits, poultry, or fish or other aquatic organisms confined in private waters that are commonly consumed by humans as food.

1 8. "*Food crop*" means any plant derived from an agricultural  
2 seed or vegetable seed as defined in section 199.1, or any  
3 plant producing a commodity listed in section 210.10, if any  
4 part of the plant in its raw or processed state is commonly  
5 consumed by humans as food.

6 9. "*Food establishment*" means the same as defined in section  
7 137F.1.

8 10. "*Food product*" means food that is sold or offered for  
9 sale as a discrete unit to a consumer.

10 11. "*Livestock*" means an animal belonging to the bovine,  
11 caprine, ovine, or porcine species; ostriches, rheas, or emus;  
12 and farm deer as defined in section 170.1.

13 12. "*Poultry*" means domesticated chickens, turkeys, geese,  
14 or ducks.

15 13. "*Prepare*" means an act relating to storing, inspecting,  
16 testing, cleaning, or packaging food.

17 14. *a.* "*Process*" means an act related to altering or  
18 preserving a food by separating, combining, or treating a  
19 commodity, food, or food ingredient, by use of a chemical or  
20 biological method; pressure, tools, machinery, or equipment;  
21 or temperature.

22 *b.* "*Process*" includes but is not limited to heating, drying,  
23 curing, mixing, grinding, churning, separating, extracting,  
24 slaughtering, cutting, fermenting, distilling, eviscerating,  
25 preserving, dehydrating, cooling, chilling, or freezing.

26 15. "*Producer*" means a person engaged in the production of a  
27 commodity including by doing any of the following:

28 *a.* Keeping and providing for the care and feeding of a food  
29 animal on a farm owned or leased by the person, if the food  
30 animal is slaughtered and processed into food.

31 *b.* Keeping and preserving a food crop, if the crop is  
32 planted, nurtured, and harvested on a farm owned or leased by  
33 the person, and the crop is used as food in a raw or processed  
34 state.

35 16. "*Sale*" means any transfer, exchange, or barter,

1 conditional or otherwise, in any manner or by any means  
2 whatsoever, for consideration, including but not limited to any  
3 such transfer, exchange, or barter on a subscription basis.

4 Sec. 3. NEW SECTION. 137G.3 Purpose.

5 The purpose of this chapter is to allow a qualified producer  
6 to offer for sale and sell farm homemade food derived from a  
7 commodity produced at a farm owned or leased by the producer in  
8 order to do all of the following:

9 1. Facilitate the purchase and consumption of fresh and  
10 local food.

11 2. Enhance the agricultural economy.

12 3. Encourage the expansion of agricultural sales at farms  
13 and farmers markets.

14 4. Provide Iowa residents with unimpeded access to healthy  
15 food from known sources.

16 Sec. 4. NEW SECTION. 137G.4 Administration.

17 This chapter shall be administered by the department of  
18 inspections and appeals. The department of inspections and  
19 appeals in cooperation with the department of agriculture and  
20 land stewardship shall adopt rules necessary to administer this  
21 chapter.

22 Sec. 5. NEW SECTION. 137G.5 Exemption from regulation.

23 1. a. A producer who produces, processes, prepares, and  
24 offers for sale or sells farm homemade food in compliance with  
25 this chapter is exempt from regulation by a state agency or  
26 local government exercising authority under chapters 137D,  
27 137F, 189, 189A, 190, 191, 192, 194, and 196.

28 b. The exemption described in paragraph "a" applies to any  
29 requirement relating to licensure, certification, permitting,  
30 testing, inspection, packaging, and labeling of food otherwise  
31 required by those chapters.

32 2. This chapter does not apply to any of the following:

33 a. A state agency or local government when exercising powers  
34 or performing duties as provided by law other than those powers  
35 or duties expressly exempted from regulation as provided in

1 subsection 1.

2     *b.* A producer during the period that the producer is not  
3 acting according to requirements necessary to comply with the  
4 exemption under this chapter.

5     *c.* A person offering for sale or selling raw fruits or  
6 vegetables.

7     3. This chapter does not preclude the department of  
8 inspections and appeals or the department of agriculture and  
9 land stewardship from providing a producer with assistance  
10 necessary to comply with the requirements of this chapter.  
11 A department may consult with a producer or provide for  
12 an unenforceable inspection of the producer's farm where a  
13 commodity, food, or food ingredient is produced, processed,  
14 prepared, or offered for sale or sold. This chapter does not  
15 preclude a state agency from providing a purchaser, including a  
16 consumer, with unbiased information regarding compliance with  
17 this chapter by a producer or seller.

18     4. This chapter does not restrict a person from offering to  
19 sell food or selling food in conformance with another provision  
20 of law, including but not limited to an exemption granted to  
21 the person under another provision of law.

22     Sec. 6. NEW SECTION. 137G.6 **Qualifying producers and other**  
23 **sellers.**

24     1. A producer shall not offer for sale or sell farm  
25 homemade food unless the producer meets all of the following  
26 qualifications:

27     *a.* The producer did not sell more than two hundred fifty  
28 thousand food products during the prior year.

29     *b.* The producer's income generated from the sale of all food  
30 products during the prior year was not more than two hundred  
31 fifty thousand dollars. Any amount owing but not paid to the  
32 producer from the sale of food products in the prior year shall  
33 be attributable as income generated during that year.

34     *c.* The producer does not intentionally, knowingly, or  
35 recklessly adulterate farm homemade food offered for sale or

1 sold under this chapter.

2 2. A person who is not a producer shall not offer for sale  
3 or sell farm homemade food unless the person meets all of the  
4 following qualifications:

5 a. The person purchases the farm homemade food from a  
6 producer complying with this chapter.

7 b. The person only offers for sale or sells the farm  
8 homemade food to consumers on a retail basis.

9 c. The person does not offer for sale or sell farm homemade  
10 food that is potentially hazardous as provided in section  
11 137G.8.

12 Sec. 7. NEW SECTION. 137G.7 **Intrastate commerce.**

13 Farm homemade food must derive from a commodity produced,  
14 processed, prepared, sold, and transported entirely within this  
15 state. It is presumed that any farm homemade food that is  
16 produced, processed, prepared, sold, and transported entirely  
17 in this state is consumed within this state.

18 Sec. 8. NEW SECTION. 137G.8 **Potentially hazardous food.**

19 1. For purposes of this chapter, food is potentially  
20 hazardous if time and temperature control is required to limit  
21 any of the following:

22 a. The rapid and progressive growth of infectious or  
23 toxigenic microorganisms.

24 b. The growth and toxin production of clostridium botulinum.

25 c. Infections in humans caused by bacteria associated with  
26 the consumption of any of the following:

27 (1) Meat, poultry products, and raw milk or raw  
28 milk products, including salmonella, escherichia coli,  
29 campylobacter, staphylococcus aureus, yersinia, brucella,  
30 coxiella, and listeria.

31 (2) Raw or undercooked shell eggs, including the bacteria  
32 salmonella enteritidis.

33 2. Potentially hazardous food includes but is not limited to  
34 perishable food requiring refrigeration, such as milk or milk  
35 products, eggs, quiches, pizzas, frozen doughs, meat, poultry,

1 fish or other aquatic organisms, cooked vegetables, and beans.

2     Sec. 9. NEW SECTION. 137G.9 Sales of potentially hazardous  
3 food by nonproducers prohibited.

4     A person other than a producer shall not offer for sale  
5 or sell farm homemade food that is potentially hazardous as  
6 provided in section 137G.8.

7     Sec. 10. NEW SECTION. 137G.10 Sale of potentially hazardous  
8 food by producers — meat, poultry, and fish.

9     1. A producer shall not offer for sale or sell potentially  
10 hazardous farm homemade food as provided in section 137G.8 that  
11 includes meat derived from a farm animal produced on the farm  
12 owned or leased by the producer, unless all of the following  
13 apply:

14     a. The meat is derived from the slaughter of a rabbit raised  
15 by the producer.

16     b. The meat is derived from the slaughter of livestock  
17 which is subject to a commodity share agreement as provided in  
18 section 137G.11.

19     2. A producer shall not offer for sale or sell potentially  
20 hazardous farm homemade food that includes a poultry product  
21 derived from poultry produced on the farm owned or leased by  
22 the producer, unless all of the following apply:

23     a. The poultry product is derived from the slaughter of  
24 poultry produced, processed, and prepared by the producer on  
25 the farm owned or leased by the producer.

26     b. During the prior year, the producer slaughtered not more  
27 than one thousand head of poultry raised by the producer.

28     c. The producer is not licensed as a poultry dealer as  
29 provided in section 197.1A.

30     3. A producer shall not offer for sale or sell potentially  
31 hazardous farm homemade food that includes fish or other  
32 aquatic organisms produced on the farm owned or leased by the  
33 producer, unless all of the following apply:

34     a. The fish or other aquatic organism is produced,  
35 slaughtered, processed, and prepared by the producer on the

1 farm owned or leased by the producer.

2 *b.* The fish is not catfish.

3 *c.* The producer is not licensed pursuant to section  
4 481A.141.

5 **Sec. 11. NEW SECTION. 137G.11 Sale of potentially hazardous**  
6 **food by producers — commodity share agreements.**

7 1. In offering for sale or selling potentially hazardous  
8 farm homemade food as provided in section 137G.8 that includes  
9 meat derived from the slaughter of livestock on the farm owned  
10 or leased by the producer, the producer shall comply with the  
11 requirements of 21 U.S.C. §623.

12 2. The producer shall enter into a commodity share agreement  
13 with a consumer. The agreement shall include all of the  
14 following terms and conditions:

15 *a.* The consumer owns the livestock to be slaughtered for  
16 meat. The form of ownership may be any of the following:

17 (1) An undivided or divided interest in the livestock.

18 (2) A share in a herd of livestock. In that case,  
19 the agreement shall specify the process of selecting the  
20 consumer-owned livestock to be slaughtered.

21 *b.* The commodity share agreement shall be entered into  
22 by the producer and consumer prior to the slaughter of the  
23 livestock owned by the consumer.

24 *c.* The consumer is provided a bill of sale for the  
25 consumer-owned livestock.

26 *d.* The producer provides for the consumer-owned livestock  
27 care and feeding under a boarding arrangement.

28 *e.* The producer provides for the livestock's slaughter  
29 and the processing and preparation of meat derived from the  
30 slaughtered livestock.

31 *f.* The producer delivers meat derived from the slaughtered  
32 livestock to the consumer at the producer's farm where the  
33 livestock was produced.

34 *g.* The consumer does not transfer meat derived from  
35 slaughtered livestock to a person other than to a family member



1 or nonpaying guest of the consumer.

2 3. A term or condition described in subsection 2 is not  
3 waivable and a contract in violation of that subsection is void  
4 and unenforceable in any action seeking a legal remedy.

5 Sec. 12. NEW SECTION. 137G.12 **Sale procedures.**

6 1. A person offering for sale or selling farm homemade food  
7 shall provide a notice to purchasers of the farm homemade foods  
8 stating all of the following:

9 a. The food is farm homemade food governed under this  
10 chapter by its short title and citation.

11 b. Whether or not the farm homemade food is classified as  
12 potentially hazardous.

13 c. That regardless of its classification as potentially  
14 hazardous, the farm homemade food is exempt from certain food  
15 safety regulations, including inspection requirements, that  
16 apply to other food sold to consumers.

17 d. The farm homemade food may contain allergens.

18 2. Except as otherwise provided in this section, the  
19 requirements of this section are satisfied if the notice is  
20 posted in a conspicuous place at the location where the farm  
21 homemade food is offered for sale or sold.

22 3. a. A person offering for sale or selling farm homemade  
23 food shall not intermingle the farm homemade food with food  
24 that is not farm homemade food. A food establishment shall not  
25 store farm homemade food and other food on the same sale shelf  
26 or as part of the same display.

27 b. A producer offering for sale or selling farm homemade  
28 food that is potentially hazardous as provided in section  
29 137G.8 shall not intermingle that farm homemade food with farm  
30 homemade food that is not potentially hazardous.

31 4. If a producer offers for sale or sells farm homemade  
32 food that is potentially hazardous, all of the following shall  
33 apply:

34 a. The farm owned or leased by the producer must have  
35 produced the commodity processed or prepared as the farm

1 homemade food offered for sale or sold by the producer.

2     *b.* The retail space where the farm homemade food is offered  
3 for sale or sold must be segregated from the retail space where  
4 food that is not potentially hazardous is sold or offered for  
5 sale. The retail space shall have a separate door and point of  
6 sale.

7     *c.* The retail space where the potentially hazardous farm  
8 homemade food is offered for sale or sold must include a sign  
9 posted in a conspicuous place stating that the farm homemade  
10 food is classified as potentially hazardous.

11     5. The department may adopt rules that provide additional  
12 requirements to ensure that a person purchasing farm homemade  
13 food, including food that is potentially hazardous, is  
14 provided facts presented in an unbiased manner sufficient for a  
15 purchaser to make an informed decision regarding the purchase.

16                                   DIVISION II

17                                   RELATED CHANGES

18     Sec. 13. NEW SECTION. 137D.9 **Exception.**

19     This chapter does not apply to the production, processing,  
20 preparation, offer for sale, or sale of farm homemade food to  
21 the extent allowed under chapter 137G.

22     Sec. 14. NEW SECTION. 137F.20 **Exception.**

23     This chapter does not apply to the production, processing,  
24 preparation, offer for sale, or sale of farm homemade food to  
25 the extent allowed under chapter 137G.

26     Sec. 15. NEW SECTION. 189.32 **Exception.**

27     This chapter does not apply to the production, processing,  
28 preparation, offer for sale, or sale of farm homemade food to  
29 the extent allowed under chapter 137G.

30     Sec. 16. NEW SECTION. 189A.23 **Exception.**

31     This chapter does not apply to the production, processing,  
32 preparation, offer for sale, or sale of farm homemade food to  
33 the extent allowed under chapter 137G.

34     Sec. 17. NEW SECTION. 190.16 **Exception.**

35     This chapter does not apply to the production, processing,

1 preparation, offer for sale, or sale of farm homemade food to  
2 the extent allowed under chapter 137G.

3 Sec. 18. NEW SECTION. 191.9A Exception.

4 This chapter does not apply to the production, processing,  
5 preparation, offer for sale, or sale of farm homemade food to  
6 the extent allowed under chapter 137G.

7 Sec. 19. NEW SECTION. 192.105 Exception.

8 This chapter does not apply to the production, processing,  
9 preparation, offer for sale, or sale of farm homemade food to  
10 the extent allowed under chapter 137G.

11 Sec. 20. NEW SECTION. 194.26 Exception.

12 This chapter does not apply to the production, processing,  
13 preparation, offer for sale, or sale of farm homemade food to  
14 the extent allowed under chapter 137G.

15 Sec. 21. NEW SECTION. 196.13A Exception.

16 This chapter does not apply to the production, processing,  
17 preparation, offer for sale, or sale of farm homemade food to  
18 the extent allowed under chapter 137G.

19 EXPLANATION

20 The inclusion of this explanation does not constitute agreement with  
21 the explanation's substance by the members of the general assembly.

22 GENERAL. This bill creates the "Iowa Food Freedom Act"  
23 codified as Code chapter 137G (new Code section 137G.1). The  
24 bill provides that a person who produces a commodity on a farm  
25 owned or leased by the person (producer) that may be consumed  
26 as food (in a raw or processed state) is exempt from regulation  
27 by a state agency or local government exercising authority over  
28 such sales (new Code section 137G.5). A producer who processes  
29 and prepares the farm homemade food at the producer's farm may  
30 sell the farm homemade food on a retail or wholesale basis  
31 from any location in this state if the food is not potentially  
32 hazardous. If the farm homemade food is potentially hazardous,  
33 only the producer may offer for sale or sell the farm homemade  
34 food and the sale must occur at the producer's farm.

35 The exempted regulations provide requirements for licensure,

1 certification, permitting, testing, inspection, packaging,  
 2 and labeling. These include Code chapters administered by  
 3 the department of inspections and appeals regulating home  
 4 bakeries (Code chapter 137D), and food establishments and food  
 5 processing plants (Code chapter 137F). It also includes Code  
 6 chapters administered by the department of agriculture and  
 7 land stewardship, including general provisions (Code chapter  
 8 189), the inspection of meat and poultry slaughter facilities  
 9 (Code chapter 189A), the inspection, testing, and licensing of  
 10 dairy facilities (Code chapters 192 and 194), and egg handlers  
 11 (Code chapter 196). Several of the exempted Code chapters  
 12 provide for the adulteration of food (Code chapter 190) and  
 13 the labeling of food (Code chapter 191). The department of  
 14 inspections and appeals is responsible for administering the  
 15 bill's provisions.

16     **QUALIFYING PRODUCERS AND SELLERS.** In order to be exempt  
 17 from otherwise applicable regulations, the producer must meet  
 18 certain qualifications including by not having sold more than  
 19 a certain number of food products or having earned more than  
 20 a certain amount from those sales in the prior year. In  
 21 addition, the producer cannot intentionally, knowingly, or  
 22 recklessly adulterate the farm homemade food. A person other  
 23 than a producer is prohibited from offering for sale or selling  
 24 farm homemade food that is potentially hazardous (new Code  
 25 section 137G.6).

26     **INTRASTATE COMMERCE.** In order to be exempt, the farm  
 27 homemade food must derive from a commodity produced, processed,  
 28 prepared, sold, and transported entirely within this state.  
 29 The bill provides that the farm homemade food is presumed to be  
 30 consumed within this state (new Code section 137G.7).

31     **POTENTIALLY HAZARDOUS FOOD.** The bill recognizes potentially  
 32 hazardous food, meaning that the food in its raw or processed  
 33 state is (1) susceptible to transmitting a foodborne illness  
 34 (e.g., raw milk), or (2) may have to be preserved using a  
 35 temperature control such as refrigeration (raw meat) (new

1 Code section 137G.8). A person other than a producer cannot  
 2 offer for sale or sell farm homemade food that is potentially  
 3 hazardous (new Code section 137G.9).

4 Generally, a producer can only offer for sale or sell farm  
 5 homemade food that includes meat, poultry, or fish produced on  
 6 the producer's farm under certain conditions. In regards to  
 7 meat derived from slaughtered livestock, a producer may offer  
 8 for sale or sell meat derived from a slaughtered rabbit (new  
 9 Code section 137G.10) and meat that is derived from slaughtered  
 10 livestock which is subject to a commodity share agreement  
 11 (new Code section 137G.11). Such an agreement recognizes the  
 12 consumer's ownership interest in the livestock or a herd,  
 13 and the duty of the producer to care for and slaughter the  
 14 livestock and to process and prepare the meat for on-farm  
 15 delivery to the consumer-owner. The bill also provides that  
 16 a producer may offer for sale or sell farm homemade food that  
 17 includes a poultry product if the poultry product is derived  
 18 from the slaughter of poultry produced, processed, and prepared  
 19 by the producer. The producer must not have slaughtered a  
 20 certain number of birds during the prior year and cannot hold  
 21 a poultry dealer's license. Finally, the bill provides that  
 22 a producer may offer for sale or sell farm homemade food that  
 23 includes fish (other than catfish) or other aquatic organisms.  
 24 The fish must be produced, processed, and prepared on the farm  
 25 owned or leased by the producer. In addition, the producer  
 26 must not be licensed by the department of natural resources as  
 27 provided in Code section 481A.141.

28 SALE PROCEDURES. The bill provides that a person offering  
 29 for sale or selling farm homemade food must provide a notice  
 30 to purchasers that the food is governed under the "Iowa Food  
 31 Freedom Act". The notice must also inform the purchaser  
 32 whether the farm homemade food is potentially hazardous, that  
 33 it is exempt from certain food safety regulations, and that  
 34 it may contain allergens. The bill prohibits a seller from  
 35 intermingling farm homemade food with food that is not farm

1 homemade food. The bill includes restrictions regarding the  
2 offer for sale or sale of potentially hazardous farm homemade  
3 food at the producer's farm. The retail space where the  
4 potentially hazardous food is stored or offered for sale or  
5 sold must be segregated from other farm homemade food. The  
6 retail space must include a sign posted in a conspicuous  
7 place stating that the farm homemade food is classified  
8 as potentially hazardous (new Code section 137G.12). The  
9 department of inspections and appeals in cooperation with  
10 the department of agriculture and land stewardship may adopt  
11 rules that provide additional requirements to ensure that a  
12 person purchasing farm homemade food, including food that is  
13 potentially hazardous, is provided facts to make an informed  
14 decision regarding the purchase (new Code section 137G.3).