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

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

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

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

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

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

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

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

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

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

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

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

Sec. 3. NEW SECTION. 137G.3 Purpose.
The purpose of this chapter is to allow a qualified producer to offer for sale and sell farm homemade food derived from a commodity produced at a farm owned or leased by the producer in order to do all of the following:

1. Facilitate the purchase and consumption of fresh and local food.
2. Enhance the agricultural economy.
3. Encourage the expansion of agricultural sales at farms and farmers markets.
4. Provide Iowa residents with unimpeded access to healthy food from known sources.

Sec. 4. NEW SECTION. 137G.4 Administration.
This chapter shall be administered by the department of inspections and appeals. The department of inspections and appeals in cooperation with the department of agriculture and land stewardship shall adopt rules necessary to administer this chapter.

Sec. 5. NEW SECTION. 137G.5 Exemption from regulation.
1. a. A producer who produces, processes, prepares, and offers for sale or sells farm homemade food in compliance with this chapter is exempt from regulation by a state agency or local government exercising authority under chapters 137D, 137F, 189, 189A, 190, 191, 192, 194, and 196.

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

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

a. A state agency or local government when exercising powers or performing duties as provided by law other than those powers or duties expressly exempted from regulation as provided in
subsection 1.

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

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

3. This chapter does not preclude the department of inspections and appeals or the department of agriculture and land stewardship from providing a producer with assistance necessary to comply with the requirements of this chapter.

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

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

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

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

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

c. The producer does not intentionally, knowingly, or 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,
fish or other aquatic organisms, cooked vegetables, and beans.

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

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

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

1. A producer shall not offer for sale or sell potentially hazardous farm homemade food as provided in section 137G.8 that includes meat derived from a farm animal produced on the farm owned or leased by the producer, unless all of the following apply:
   a. The meat is derived from the slaughter of a rabbit raised by the producer.
   b. The meat is derived from the slaughter of livestock which is subject to a commodity share agreement as provided in section 137G.11.

2. A producer shall not offer for sale or sell potentially hazardous farm homemade food that includes a poultry product derived from poultry produced on the farm owned or leased by the producer, unless all of the following apply:
   a. The poultry product is derived from the slaughter of poultry produced, processed, and prepared by the producer on the farm owned or leased by the producer.
   b. During the prior year, the producer slaughtered not more than one thousand head of poultry raised by the producer.
   c. The producer is not licensed as a poultry dealer as provided in section 197.1A.

3. A producer shall not offer for sale or sell potentially hazardous farm homemade food that includes fish or other aquatic organisms produced on the farm owned or leased by the producer, unless all of the following apply:
   a. The fish or other aquatic organism is produced, slaughtered, processed, and prepared by the producer on the farm.
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 481A.141.
4   Sec. 11. NEW SECTION. 137G.11 Sale of potentially hazardous
5   food by producers — commodity share agreements.
6   1. In offering for sale or selling potentially hazardous
7   farm homemade food as provided in section 137G.8 that includes
8   meat derived from the slaughter of livestock on the farm owned
9   or leased by the producer, the producer shall comply with the
11   2. The producer shall enter into a commodity share agreement
12   with a consumer. The agreement shall include all of the
13   following terms and conditions:
14   a. The consumer owns the livestock to be slaughtered for
15   meat. The form of ownership may be any of the following:
16   (1) An undivided or divided interest in the livestock.
17   (2) A share in a herd of livestock. In that case,
18   the agreement shall specify the process of selecting the
19   consumer-owned livestock to be slaughtered.
20   b. The commodity share agreement shall be entered into
21   by the producer and consumer prior to the slaughter of the
22   livestock owned by the consumer.
23   c. The consumer is provided a bill of sale for the
24   consumer-owned livestock.
25   d. The producer provides for the consumer-owned livestock
26   care and feeding under a boarding arrangement.
27   e. The producer provides for the livestock’s slaughter
28   and the processing and preparation of meat derived from the
29   slaughtered livestock.
30   f. The producer delivers meat derived from the slaughtered
31   livestock to the consumer at the producer’s farm where the
32   livestock was produced.
33   g. The consumer does not transfer meat derived from
34   slaughtered livestock to a person other than to a family member
1 or nonpaying guest of the consumer.

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

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

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

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

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

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

d. The farm homemade food may contain allergens.

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

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

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

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

a. The farm owned or leased by the producer must have produced the commodity processed or prepared as the farm
homemade food offered for sale or sold by the producer.

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

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

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

DIVISION II

RELATED CHANGES

Sec. 13. NEW SECTION. 137D.9 Exception.
This chapter does not apply to the production, processing, preparation, offer for sale, or sale of farm homemade food to the extent allowed under chapter 137G.

Sec. 14. NEW SECTION. 137F.20 Exception.
This chapter does not apply to the production, processing, preparation, offer for sale, or sale of farm homemade food to the extent allowed under chapter 137G.

Sec. 15. NEW SECTION. 189.32 Exception.
This chapter does not apply to the production, processing, preparation, offer for sale, or sale of farm homemade food to the extent allowed under chapter 137G.

Sec. 16. NEW SECTION. 189A.23 Exception.
This chapter does not apply to the production, processing, preparation, offer for sale, or sale of farm homemade food to the extent allowed under chapter 137G.

Sec. 17. NEW SECTION. 190.16 Exception.
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,
certification, permitting, testing, inspection, packaging, and labeling. These include Code chapters administered by the department of inspections and appeals regulating home bakeries (Code chapter 137D), and food establishments and food processing plants (Code chapter 137F). It also includes Code chapters administered by the department of agriculture and land stewardship, including general provisions (Code chapter 189), the inspection of meat and poultry slaughter facilities (Code chapter 189A), the inspection, testing, and licensing of dairy facilities (Code chapters 192 and 194), and egg handlers (Code chapter 196). Several of the exempted Code chapters provide for the adulteration of food (Code chapter 190) and the labeling of food (Code chapter 191). The department of inspections and appeals is responsible for administering the bill's provisions.

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

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

POTENTIALLY HAZARDOUS FOOD. The bill recognizes potentially hazardous food, meaning that the food in its raw or processed state is (1) susceptible to transmitting a foodborne illness (e.g., raw milk), or (2) may have to be preserved using a 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
homemade food. The bill includes restrictions regarding the offer for sale or sale of potentially hazardous farm homemade food at the producer’s farm. The retail space where the potentially hazardous food is stored or offered for sale or sold must be segregated from other farm homemade food. The retail space must include a sign posted in a conspicuous place stating that the farm homemade food is classified as potentially hazardous (new Code section 137G.12). The department of inspections and appeals in cooperation with the department of agriculture and land stewardship may adopt rules that provide additional requirements to ensure that a person purchasing farm homemade food, including food that is potentially hazardous, is provided facts to make an informed decision regarding the purchase (new Code section 137G.3).