

AFPC Policy Brief



CS HB251(L&C) Food Freedom Updates

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. A Committee Substitute (CS) for the bill was adopted in the House Labor & Commerce Committee on March 27, and without conversation it was passed out of committee. It will next go to House Resources.

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.

AFPC does not have a position on this bill. We support efforts to increase the number of food businesses.. We also believe that food safety is an important component of food security. It can take a single foodborne illness outbreak to damage the reputation of small, homemade food producers across the industry. We encourage you to read through the provisions of the bill, and contact your legislators with any questions or concerns you may have.

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

Below we provide an update on the bill with the provisions of the Committee Substitute (CS) for HB251 which was drafted with help from the Department of Environmental Conservation.

Homemade Food AS 17.20.332:

As defined in this new section, homemade foods would be exempt from state labeling, licensing, packaging, permitting, and inspection requirements with the following criteria:

- Homemade food must be:
 - **For personal consumption only**
 - Sold in state at a Farmers Market, Ag Fair, a producer's farm/ranch/home/office, retail location of a third-party seller, or a location agreed upon by the producer and the buyer
 - Can't be sold out of state
 - Can't include meat or meat products, seafood, controlled substances, oil rendered from animal fat, or game mea
- Only raw, unprocessed fruits and vegetables can be sold or used in a commercial food establishment

(The following sections on requirements for selling through retail spaces and labeling were substantially re-worded, primarily for clarity, in the CS)

- Retail spaces selling homemade food must:
 - "Prominently display a sign indicating that the homemade food was made in a home kitchen, may contain allergens, and is not regulated or inspected."

- Not put homemade foods on the same shelf or display as inspected foods
- 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
- Homemade foods packaged for individual sale must be labeled with the producer's name and contact information, business license number if applicable, and a statement that, "This food was made in a home kitchen, is not regulated or inspected, and may contain allergens."
- To sell potentially hazardous homemade food (except eggs), the seller must also be the producer of the homemade food.
- Non-potentially hazardous homemade food can be sold by the producer, an agent of the producer, or a third-party vendor
- If you sell any unpackaged homemade food sold under this section, the buyers must be informed that the food was prepared under this section of law and is exempt from the associated requirements **and** the producer's name and contact information, and business license number if applicable.
- **The \$250,000 threshold was removed entirely from the bill in the CS. The current \$25,000 threshold is in regulations, not statute, and it is unclear whether ADEC would preserve that or change.**

Animal Shares AS 17.20.334

- 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

Exceptions

This section was renamed (from "Relationship to other laws") to reword that nothing within these new sections of law changes the Department of Environmental Conservation's 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.
- provide assistance, consultation, or inspection at the request of a producer.

And nor does the new law exempt a person from applicable federal and local laws, regulations, and food ordinances or from brand or animal inspections in AS Title 03.

Definitions

This final section outlines the definitions used within the new statute sections. It was updated in the CS to remove “home consumption”, amend the definition of “homemade food”, remove the definition of “non-potentially hazardous food”, and amend the definition of “potentially hazardous food”.

Updated: March 28, 2024