

# Utah Department of Agriculture and Food

Division of Regulatory Services

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# Food and Dairy Regulations - Overview

- Home Consumption and Homemade Food Act – Title 4, Chapter 5.
- Cottage Food – 4-5-5
  - R70-560
- Wholesome Food Act – Title 4, Chapter 5
  - R70-530 – Food Protection
  - R70-540 – Food Establishment Registration
- Dairy
  - Raw for Retail
  - Raw Cream and Butter

# Home Consumption and Homemade Food Act Effective 5/8/2018

Allows for an individual to make and offer for sale, homemade, unregulated food.

# Homemade Food – Definitions

- "Homemade food product" means a food product that is prepared in a private home kitchen that can be used, or prepared for use, as food or nonalcoholic drink, subject to the limitation described in Subsection 4-5a-105(1).
- "Commercial establishment" means a wholesale or retail business that displays, sells, manufactures, processes, packs, holds, or stores food, drugs, devices, or cosmetics.
- "Commercial establishment" does not include a:
  - direct-to-sale location; or
  - direct-to-sale farmers market.

# Homemade Food – Definitions

Direct to sale location

- "Direct-to-sale location" means a farm, ranch, direct-to-sale farmers market, home, office, or any location agreed upon by both a producer and the informed final consumer where a producer sells a food or food product to an informed final consumer.
- "Direct-to-sale farmers market" means a public or private facility or area where producers gather on a regular basis to sell directly to an informed final consumer fresh food, locally grown products, and other food items that have not been certified, licensed, regulated, or inspected by state or local authorities.

# Homemade Food – Definitions

- "Informed final consumer" means an individual who:
  - purchases the product directly from the producer;
  - does not resell the product; and
  - has been informed that the product is not certified, licensed, regulated, or inspected by the state.
- "Producer" means a person who harvests or produces homemade food or a homemade food product.

# Homemade Food – Exemptions

- A producer is exempt from state, county, or city licensing, permitting, certification, inspection, packaging, and labeling requirements, except as described in this section, related to the preparation, serving, use, consumption, or storage of food and food products if:
  - the producer complies with the requirements of this chapter; and
  - the homemade food or homemade food product is:
    - produced and sold within the state;
    - sold directly to an informed final consumer;
    - for home consumption; and
    - not exempted under Subsection 4-5a-105(1).
- Notwithstanding the above, a producer shall comply with business license requirements pursuant to Section 10-1-203.

# Homemade Food – Requirements

- Food or food products sold under this section shall be labeled with:
  - the producer's name and address;
  - a disclosure statement indicating that the product is:
    - not for resale; and
    - processed and prepared without state or local inspection; and
    - a statement listing whether the food or food product contains, or was prepared in a location that also handles, common allergens including milk, soy, wheat, eggs, peanuts or tree nuts, fish, or shellfish.



# Homemade Food – Limitations

- Except as provided below, homemade food or a homemade food product that is exempt from certain regulations as described in this chapter may not be sold to, or used by, a restaurant or commercial establishment.
- A producer may sell a raw, unprocessed fruit or vegetable to a restaurant or commercial establishment.

# Homemade Food – Limitations

- This chapter does not apply to the sale of:
  - raw dairy or raw dairy products; or meat products, with the following exceptions:
  - the sale of poultry and poultry products if the producer:
    - slaughters no more than 1,000 birds per year in accordance with the United States Department of Agriculture 1,000 bird exemption; and
    - follows the United States Department of Agriculture's, Food Safety and Inspection Service document titled "Guidance for Determining Whether A Poultry Slaughter or Processing Operation is Exempt from Inspection Requirements of the Poultry Products Inspection Act"; and
  - the sale of domesticated rabbit meat, pending approval from the United States Department of Agriculture that the state's role in meat inspection is preserved.

# Homemade Food – Summary

- Food produced in a home kitchen
- Can only be sold directly to the informed, end consumer and only within the state of Utah
- Cannot be wholesaled or sold at retail
- Exempt from inspection, certification, licensing
  - (may need a business license.)
- Requires labeling
- Does not include raw dairy or dairy products
- Can sell poultry and rabbit under USDA criteria

# Cottage Food Act

Allows for an individual to make and sell homemade food under regulation.

# Cottage Food – Definitions

- "Cottage food operation" means a person who produces a cottage food product in a home kitchen.
- "Cottage food product" means a non-potentially hazardous baked good, jam, jelly, or other non-potentially hazardous food produced in a home kitchen.
- "Potentially hazardous food" means:
  - a food of animal origin;
  - raw seed sprouts; or
  - a food that requires time or temperature control, or both, for safety to limit pathogenic microorganism growth or toxin formation, as identified by the department in rule.

# Cottage Food - Requirements

- The operator of a cottage food operation shall:
  - register with the department as a cottage food operation before operating as a cottage food operation;
  - hold a valid food handler's permit; and
  - package a cottage food product with a label, as specified by the department in rule.

# Cottage Food - Rules (R70-560-3)

- Prior to producing a food, the operator of a cottage food production operation shall:
  - At the discretion of the Department, provide written confirmation from a Department approved food laboratory or process authority that the food is not potentially hazardous; and
  - Receive approval from the Department to produce the food.
- A cottage food production operation may only sell Department approved foods to the public.
- When food includes fruits or vegetables grown by the operator of a cottage food production operation, the operator must have a current private pesticide applicator certification issued by the Department under Title 4, Chapter 14, Utah Code Annotated.

# Cottage Food - Rules (R70-560-4)

- A cottage food production operation shall:
  - Ensure that each operator holds a valid food handler's permit;
  - Use finished and cleanable surfaces;
  - Maintain acceptable sanitary standards and practices;
  - Provide separate storage from domestic storage, including refrigerated storage;
  - Provide for annual water testing if not connected to a public water system; and
  - Keep a sample of each food for 14 days. The samples shall be labeled with the production date and time.
- A cottage food production operation shall comply with R70-530, except that it shall not be required to:
  - Have commercial surfaces such as stainless steel counters or cabinets;
  - Have a commercial grade sink, dishwasher or oven;
  - Have a separate kitchen; or
  - Submit plans and specifications before construction or remodeling;
- A cottage food production operation is prohibited from all of the following:
  - Conducting domestic activities in the kitchen when producing food;
  - Allowing pets in the kitchen;
  - Allowing free-roaming pets in the residence;
  - Washing out or cleaning pet cages, pans and similar items in the kitchen; and
  - Allowing entry of non-employees into the kitchen while producing food.



# Cottage Food - Rules (R70-560-4)

- A cottage food must be prepared by following the recipe used to prepare the food when it was submitted for the approval testing required in Subsection R70-560-3(1). When a process authority has recommended or stipulated production processes or criteria for a food, these must be followed when the food is produced. The recipe and process authority recommendations and stipulations shall be available in the facility for review by the department.

# Cottage Food - Rules (R70-560-6)

- A cottage food production operation shall:
  - Properly label all foods in accordance with state and federal law
- Label information shall include:
  - The name specified by regulation or, in the absence thereof, the name commonly used for that food or an adequately descriptive name;
  - A list of ingredients in descending order of predominance by weight, when the food is made from two or more ingredients;
  - The name of the food source for each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient;
  - An accurate declaration of the net quantity of contents;
  - The name and place of business of the cottage food production operation;
  - The telephone number of the cottage food production operation;
  - Nutritional labeling unless the product qualifies for an exemption; and
  - The words "Home Produced" in bold and conspicuous 12 point type on the principal display panel.

# Cottage Food - Rules (R70-560-7)

- Food shall be obtained from sources that comply with the law.
- An ingredient used in a cottage food production operation, that is from a hermetically-sealed container, must have been produced at a food processing plant that is regulated by the appropriate food regulatory agency with jurisdiction over the plant.
- A food offered for sale shall be safe, unadulterated, and honestly presented.
  - Food shall be offered for human consumption in a way that does not mislead or misinform the consumer.
  - Food or color additives, colored over-wraps, or lights may not be used to misrepresent the true appearance, color, or quality of the food.
  - Food may not contain unapproved food additives, additives in unsafe amounts, or additives that exceed the amount necessary to achieve the needed effect.
  - Food shall be protected from contamination, including contamination from chemical and pesticide hazards.
- Food packages shall be in good condition and protect the integrity of the contents so that the food is not exposed to adulteration or potential contaminants.
- Food that is unsafe, adulterated, or not honestly presented shall be discarded.
- Except for unprocessed raw agricultural products, foods shall not be displayed or stored on the ground.
- Ingredients used in a cottage food shall be in good condition, unspoiled and otherwise unadulterated. Ingredients cannot be used past the expiration date on the container if produced at a regulated food processing facility. Other ingredients may not be used if over 9 months old.

# Cottage Food – Limitations

- A food service establishment as defined in Section 26-15a-102 may not use a product produced in a cottage food operation as an ingredient in a food that is prepared by the food establishment and offered by the food establishment to the public for consumption.
- Many individuals who start out in the cottage food program move on into commercial food manufacturing and regulated under the Wholesome Food Act.

# Cottage Food – Summary

- Non-potentially hazardous foods
- Requires registration
- Requires a food handler permit
- Requires product labeling
- Food must be produced under sanitary conditions (food safety)
- Can be retailed, but cannot be used as an ingredient at food service

# Wholesome Food Act

Food produced under full state and / or federal regulation

# Wholesome Food Act

- Food prepared in dedicated facility that meets construction and sanitary requirements
- Potentially hazardous food and non-potentially hazardous food
- Labeling
- Can be sold at retail or wholesale and interstate

# Dairy

Raw milk and raw milk product



# Cow Share Program - Overview

- "Cow-share program" means a program in which a person acquires an undivided interest in a milk producing hoofed mammal through an agreement with a producer that includes:
  - a bill of sale for an interest in the mammal;
  - a boarding arrangement under which the person boards the mammal with the producer for the care and milking of the mammal and the boarding arrangement and bill of sale documents remain with the program operator;
  - an arrangement under which the person receives raw milk for personal use not to be sold or distributed in a retail environment or for profit; and
  - no more than two cows, 10 goats, and 10 sheep per farm in the program.

# Cow Share Program - Requirements

- A producer who is in a cow-share program shall notify the department of the cow-share program and include in the notification:
  - the producer's name; and
  - a valid, current address of the farm on which the milk producing hoofed mammal in the cow- share program is located.
- Upon receipt, the department shall keep a notification of a cow-share program
- We currently have 30 registrants

# Raw for Retail - Definitions

- "Raw milk" means milk that has not been pasteurized, or heat treated. The word milk shall be interpreted to include the normal lacteal secretion, practically free of colostrum, obtained by the complete milking of one or more healthy hoofed mammals
- "Raw milk product" means raw milk, cream produced from raw milk, and butter produced from raw milk

# Raw for Retail – Requirements

Raw milk product may be manufactured, distributed, sold, delivered, held, stored, or offered for sale if:

- Producer obtains a permit
- Sold from the premises or in a self owned retail store
- Product is for personal use and not resold
- Raw milk is bottled under sanitary conditions
- Product label meets requirements
- Raw milk or raw milk used to produce the raw milk product is:
  - cooled to 50 degrees within one hour; cooled to 41 degrees Fahrenheit within two hours; and
  - maintained at 41 degrees Fahrenheit or a lower temperature until the raw milk is delivered to the consumer or used to produce the raw milk product;
- raw milk product does not exceed 20,000 colony forming units per milliliter;
- raw milk used to produce the raw milk product does not exceed 10 colony forming units per milliliter;
- the production of the raw milk product conforms to departmental rules for the production of grade A milk products;
  - the dairy animals on the premises are:
  - permanently and individually identifiable; and
  - free of tuberculosis, brucellosis, and other diseases carried through milk;
- any person on the premises performing any work in connection with the production, bottling, packaging, handling, or sale of the raw milk product is free from communicable disease.

# Raw for Retail – Requirements

Requirements for displaying and retailing

- Store or display at 41 degrees F
- Places a sign that says “Keep Refrigerated”
- Label the bottles with a 9 day “Use by Date”
- Use a black cap
- Label - *“Raw milk products, no matter how carefully produced, may be unsafe”*
- Refrain from selling until receiving lab test results
- Maintains a database of sales

# Raw for Retail – Alternatively

- A producer may, without meeting the requirements above, sell up to 120 gallons of raw milk per month if:
- the sale is directly to an end consumer, for household use and not for resale;
- the sale and delivery of the raw milk is made upon the premises where the raw milk is produced;
- the producer labels the raw milk with:
  - the producer's name and address;
  - a date, no more than nine days after the raw milk is produced, by which the raw milk should be sold;
  - the statement "This raw milk has not been licensed or inspected by the state of Utah. Raw milk, no matter how carefully produced, may be unsafe."; and
  - handling instructions to preserve quality and avoid contamination or spoilage
- the raw milk is properly cooled
- the producer conducts a monthly test ensuring the coliform count of the raw milk does not exceed 10 colony-forming units per milliliter;
- the producer maintains records of tests and sales for a minimum of two years

# Raw Milk Product

- "Raw milk product" means raw milk, cream produced from raw milk, and butter
- Operates under the same provisions as Raw for Retail outlined above
- Rule making authority for standard of identity (milk fat)

Questions?