

CHAPTER 163

HB 1402 – FINAL VERSION

15Feb2012... 0624h

17May2012... 1946EBA

2012 SESSION

12-2648

08/04

HOUSE BILL 1402

AN ACT relative to the sale of homemade food and licensing of certain milk producer-distributors.

SPONSORS: Rep. Comtois, Belk 5; Rep. Groen, Straf 1; Rep. S. Palmer, Hills 6; Rep. Okerman, Rock 4

COMMITTEE: Environment and Agriculture

AMENDED ANALYSIS

This bill exempts certain homestead food operations and homestead food products from licensure by the department of health and human services.

This bill allows for direct sales of raw milk products without a milk producer-distributor license for certain small scale dairy producer-distributors.

Explanation: Matter added to current law appears in bold italics.

Matter removed from current law appears [in brackets and struckthrough.]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twelve

AN ACT relative to the sale of homemade food and licensing of certain milk producer-distributors.

Be it Enacted by the Senate and House of Representatives in General Court convened:

163:1 New Paragraph; Homestead Food Operations; Exemption. Amend RSA 143-A:5 by inserting after paragraph VI the following new paragraph:

VII. Homestead food operations selling less than a maximum annual gross sales of \$10,000 of food, excluding potentially hazardous food as defined in RSA 143-A:12, I(b), from the homestead residence, at the owner's farm stand, or at farmers' markets.

163:2 Homestead Food License Required. RSA 143-A:12 is repealed and reenacted to read as follows:

143-A:12 Homestead Food License Required.

I. In this subdivision:

(a) "Homestead food operation" means a person who produces homestead food products, excluding potentially hazardous food, only in the home kitchen of that person's primary residence in New Hampshire and only for sale directly to the consumer from the homestead residence, the owner's farm stand, or at farmers' markets.

(b) "Potentially hazardous food" means foods requiring temperature control for safety because they are capable of supporting the rapid growth of pathogenic or toxigenic microorganisms, and the growth of toxin production of clostridium botulinum. Potentially hazardous foods also include processed acidified and low acid canned foods.

(c) "Homestead food products" means all food except potentially hazardous food, and as defined in rule by the commissioner of the department of health and human services through rulemaking under RSA 143-A:13.

II. Homestead food operations selling less than a maximum annual gross sales of \$10,000 of food, excluding potentially hazardous food, from the homestead residence, at the owner's own farm stand, or at farmers' markets are exempt from licensure under this subdivision.

III. Homestead food operations that exceed the \$10,000 maximum annual gross sales limit or homestead food operations who wish to sell food products, excluding potentially hazardous food, to restaurants or other retail food establishments, over the Internet, by mail order, or to wholesalers, brokers, or other food distributors who will resell the homestead product shall be licensed under RSA 143-A:4.

IV. All homestead food products sold in packages from the home kitchen or farm stand of a homestead food operation or at farmers' markets shall have individual labels on each package containing the following information: name, address, and phone number of the homestead food operation; name of the homestead food product; the ingredients of the homestead product, in descending order of predominance by weight; and allergy information. Such products shall also be clearly labeled with the following statement: "This product is exempt from New Hampshire licensing and inspection."

163:3 Rulemaking. RSA 143-A:13 is repealed and reenacted to read as follows:

143-A:13 Rulemaking. The commissioner, in consultation with the commissioner of the department of agriculture, markets, and food shall adopt rules, pursuant to RSA 541-A, relative to:

I. Foods which may be made in a homestead food operation and potentially hazardous foods, which shall not be made in a homestead food operation.

II. Content and format of all labeling requirements.

III. Licensing requirements for homestead food operations exceeding the annual maximum gross sales limit or homestead food operations who wish to sell food products, excluding potentially hazardous foods, to restaurants or other retail food establishments, over the Internet, by mail order, or to wholesalers, brokers, or other food distributors who will resell the homestead food product.

IV. Content and format of all forms required under this subdivision.

V. Fees for non-exempt homestead food operation licenses, including application fees and fees for renewal.

163:4 New Paragraph; Milk Sanitation Code. Amend RSA 184:84 by inserting after paragraph IV the following new paragraph.

V. A milk producer-distributor who daily produces for sale less than 20 gallons of raw milk or processes less than 20 gallons of raw milk into cheese aged at least 60 days, yogurt, cream, butter, or kefir shall not require a milk producer-distributor license, provided these products are offered as direct sales from the producer-distributor's own farm, farm stand, or at a farmers' market to the food consumer within the state of New Hampshire only.

(a) Any product containing raw milk from the milk producer-distributor's farm or farm stand or at farmers' markets shall be clearly labeled. If the product is sold in containers provided by the producer-distributor, the individual container shall have a label which contains the name, address, and phone number of the milk producer-distributor's farm; the name of the product; and the following statement: "This product is made with raw milk and is exempt from New Hampshire licensing and inspection."

(b) A milk producer-distributor selling raw milk products under this paragraph shall place a sign at the point of sale which contains the name, address, and phone number of the milk producer-distributor's farm; and the following statement: "Products from this farm made from raw milk are exempt from New Hampshire licensing and inspection."

163:5 Effective Date. This act shall take effect upon its passage.

Approved: June 7, 2012

Effective Date: June 7, 2012