

HOUSE BILL NO. HB0108

Food Freedom Act.

Sponsored by: Representative(s) Wallis, Blake, Jaggi,
Kroeker and Winters and Senator(s) Hicks

A BILL

for

1 AN ACT relating to agriculture; creating the Wyoming Food
2 Freedom Act; exempting certain sales from licensure,
3 certification and inspection; providing definitions;
4 providing conforming amendments; providing rulemaking
5 authority; providing for severability; and providing for an
6 effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 11-49-101 through 11-49-104 are
11 created to read:

12

13

CHAPTER 49

14

WYOMING FOOD FREEDOM ACT

15

16 **11-49-101. Short title.**

1

2 This article is known and may be cited as the "Wyoming Food
3 Freedom Act."

4

5 **11-49-102. Definitions.**

6

7 (a) As used in this article:

8

9 (i) "Delivery" means the transfer of a product
10 resulting from a transaction between a producer, or by the
11 producer's designated agent, and an informed end consumer.
12 The delivery may occur at a farm, ranch, farmers market,
13 home, office or any location agreed to between the producer
14 and the informed end consumer;

15

16 (ii) "Farmers market" means as defined in W.S.
17 35-7-110(a)(xxviii);

18

19 (iii) "Home consumption" means consumed within a
20 private home, or food from a private home that is only
21 consumed by family members, employees or nonpaying guests;

22

1 (iv) "Homemade" means food that is prepared in a
2 private home kitchen, which kitchen is not licensed,
3 inspected or regulated;

4
5 (v) "Informed end consumer" means a person who
6 is the last person to purchase any product, who does not
7 resell the product and who has been informed that the
8 product is not licensed, regulated or inspected;

9
10 (vi) "Producer" means any person who harvests
11 any product of the soil or animals for food or drink;

12
13 (vii) "Transaction" means the exchange of buying
14 and selling.

15
16 **11-49-103. Wyoming Food Freedom Act; purpose;**
17 **exemptions; assumption of risk.**

18
19 (a) The purpose of the Wyoming Food Freedom Act is to
20 allow for the sale and consumption of homemade foods and to
21 encourage the expansion of agricultural sales by farmers
22 markets, ranches, farms and home based producers and
23 accessibility of the same to informed end consumers by:

24

1 (i) Facilitating the purchase and consumption of
2 fresh and local agricultural products;

3

4 (ii) Enhancing the agricultural economy;

5

6 (iii) Providing Wyoming citizens with unimpeded
7 access to healthy food from known sources.

8

9 (b) Except as provided by W.S. 11-49-104 and
10 notwithstanding any other provisions of law, there shall be
11 no licensure, permitting, certification, inspection,
12 packaging or labeling required by any state governmental
13 agency or any agency of any political subdivision of the
14 state which pertains to the preparation, serving, use,
15 consumption, or storage of foods or food products under the
16 Wyoming Food Freedom Act. Nothing in this article shall
17 preclude an agency from providing assistance, consultation
18 or inspection, when requested by the producer.

19

20 (c) Transactions under this section shall:

21

22 (i) Be directly between the producer and the
23 informed end consumer;

24

1 (ii) Only be for home consumption;

2

3 (iii) Occur only in Wyoming;

4

5 (iv) Not involve interstate commerce.

6

7 (d) Except for raw, unprocessed fruit and vegetables,
8 food shall not be sold or used in any commercial food
9 establishment unless the food has been labeled, licensed,
10 packaged, regulated or inspected as required by law.

11

12 (e) Any food product sold at a farmers market shall
13 be labeled and signs shall be conspicuously posted
14 informing consumers that the food product or food is not
15 certified, labeled, licensed, packaged, regulated or
16 inspected.

17

18 (f) Not potentially hazardous food as defined by W.S.
19 35-7-110(a)(xxx) shall not be labeled, licensed, regulated,
20 packaged or inspected, if it is sold at a farmers market or
21 sold from a producer to an informed end consumer.

22

1 (g) Nothing in this article shall be construed to
2 impede the Wyoming department of health in any
3 investigation of food borne illness.

4

5 (h) Nothing in this article shall be construed to
6 change the requirements for brand inspection or animal
7 health inspections.

8

9 (j) Any informed end consumer purchasing products
10 under the Wyoming Food Freedom Act assumes the inherent
11 risks in the purchase, use or ingestion of the food or food
12 products purchased, whether those risks are known or
13 unknown, and is legally responsible for any and all damage,
14 injury or death to himself or other persons or property
15 that results from the inherent risks of purchasing or
16 ingesting food or food products under the Wyoming Food
17 Freedom Act.

18

19 (k) A producer as defined by W.S. 11-49-102(a)(vi) is
20 not required to eliminate, alter or control the inherent
21 risks related to the purchase, ingestion or use of food or
22 food products related to a transaction under the Wyoming
23 Food Freedom Act, except as otherwise required under
24 subsection (e) of this section.

1

2 (m) Actions based upon negligence of the producer
3 wherein the damage, injury or death is not the result of an
4 inherent risk of the purchase, ingestion or use of food or
5 food products related to a transaction under the Wyoming
6 Food Freedom Act shall be preserved pursuant to W.S.
7 1-1-109.

8

9 (n) The assumption of risk provisions in subsections
10 (j) through (m) of this section apply irrespective of the
11 age of the person assuming the risk.

12

13 **11-49-104. Sale of custom processed meat; rulemaking**
14 **authority.**

15

16 (a) Meat which is processed by a custom meat
17 processor may be sold by a producer to an informed end
18 consumer under this act if the meat is inspected and
19 approved under the state meat inspection program developed
20 pursuant to W.S. 35-7-123(a)(x).

21

22 (b) The department of agriculture shall promulgate
23 rules and regulations necessary to carry out the provisions
24 of this section.

1

2 **Section 2.** W.S. 35-7-110(a) by creating a new
3 paragraph (xxxi) and by renumbering (xxxi) as (xxxii) and
4 35-7-124 by creating a new subsection (h) are amended to
5 read:

6

7 **35-7-110. Definitions.**

8

9 (a) As used in this act:

10

11 ~~(xxxi)~~ "Commercial establishment" means and
12 includes any place or any area of any establishment that is
13 a wholesale or retail business where foods, drugs, devices
14 and cosmetics are displayed for sale, manufactured,
15 processed, packed, held or stored. "Commercial
16 establishment" shall not include:

17

18 (A) Any farmers market; or

19

20 (B) Any business or person engaged in
21 transactions pursuant to W.S. 11-49-103.

22

23 ~~(xxxi)~~ (xxxii) "This act" means W.S. 35-7-109
24 through 35-7-127.

1

2 **35-7-124. License required; exemptions; electronic**
3 **transmittals.**

4

5 (h) The provisions of subsection (a) of this section
6 shall not apply to a producer selling food directly to the
7 informed end consumer at a farmers market or by ranch, farm
8 or home based sales pursuant to W.S. 11-49-103. The
9 definitions in W.S. 11-49-102 shall apply to this
10 subsection.

11

12 **Section 3.** If any provision of this act or the
13 application thereof to any person or circumstance is held
14 invalid or suspended by order of a court of competent
15 jurisdiction, such actions shall not affect other
16 provisions or applications of this act or existing Wyoming
17 law which can be given effect without the invalid provision
18 or application; and to this end the provisions of this act
19 are severable.

20

21 **Section 4.** This act is effective July 1, 2013.

22

23

(END)