

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. _____

Wyoming Food Freedom Act.

Sponsored by: Joint Agriculture, State and Public Lands
and Water Resources Interim Committee

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 that specified food and agricultural products
5 that are produced, sold, transferred, possessed and used
6 exclusively within Wyoming shall be exempt from federal
7 regulation; creating offenses; providing penalties;
8 authorizing the attorney general to defend specified
9 actions; and providing for an effective date.

10

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

12

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

3

4

CHAPTER 49

5

Article 1

6

WYOMING FOOD FREEDOM ACT

7

8

11-49-101. Short title.

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

12

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11-49-102. Definitions.

14

15

(a) As used in this article:

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(i) "Agri-tourism" means a style of vacation that normally takes place on a farm or ranch and includes any farm or ranch that is open to the public at least part of the year. Agri-tourism may include the opportunity to participate in agricultural tasks, including harvesting fruits and vegetables, riding horses, tasting honey, learning about wine and shopping in farm or ranch gift

1 shops and farm stands for local and regional agricultural
2 produce or hand-crafted gifts;

3

4 (ii) "Delivery" means the transfer of a product
5 resulting from a transaction between a producer, or by the
6 producer's designated agent, and an informed end consumer.
7 The delivery may occur at a farm, ranch, farmers market,
8 agri-tourism establishment, home, office or any location
9 agreed to between the producer and the informed end
10 consumer;

11

12 (iii) "Farmers market" means as defined in W.S.
13 35-7-110(a)(xxviii);

14

15 (iv) "Home consumption" means consumed within a
16 private home;

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18 (v) "Homemade" means food that is prepared in a
19 private home kitchen, and the food is not licensed,
20 inspected or regulated;

21

22 (vi) "Informed end consumer" means a person who
23 is the last person to purchase any product, who does not

1 resell the product and who has been informed that the
2 product is not licensed, regulated, or inspected;

3

4 (vii) "Producer" means any person who harvests
5 any product of the soil or animals for food or drink;

6

7 (viii) "Transaction" means the exchange of
8 buying and selling.

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10 **11-49-103. Wyoming Food Freedom Act; purpose.**

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12 (a) The purpose of the Wyoming Food Freedom Act is to
13 allow for the sale and consumption of homemade foods and to
14 encourage the expansion and accessibility of farmers
15 markets, ranch, farm and home based sales and producer to
16 informed end consumer agricultural sales by:

17

18 (i) Facilitating the purchase and consumption of
19 fresh and local agricultural products;

20

21 (ii) Enhancing the agricultural economy;

22

1 (iii) Encouraging agri-tourism opportunities in
2 Wyoming;

3

4 (iv) Providing Wyoming citizens with unimpeded
5 access to healthy food from known sources; and

6

7 (v) Encouraging the expansion and accessibility
8 of farmers markets, ranch and farm based sales and direct
9 producer to informed end consumer agricultural sales.

10

11 (b) Any producer who is selling his product only at
12 farmers markets or by ranch, farm and home based sales
13 directly to the informed end consumer is exempt:

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15 (i) From licensing required by W.S. 35-7-124(g);
16 and

17

18 (ii) From inspection required by W.S. 35-7-121.

19

20 (c) Product transactions under this section shall:

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

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(ii) Only be for home consumption;

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(iii) Occur only in Wyoming;

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(iv) Not involve interstate commerce;

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(v) Not be subject to licensing, regulation or inspection.

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(d) Except for raw, unprocessed fruit and vegetables, food shall not be sold or used in any commercial food establishment unless the food has been licensed, regulated or inspected.

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(e) Any product sold at a farmers market shall be labeled and signs shall be conspicuously posted informing consumers that the product is not licensed, regulated or inspected.

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(f) Not potentially hazardous food as defined by W.S. 35-7-110(a)(xxx) shall not be licensed, regulated or

22

1 inspected, if it is sold at a farmers market or sold from a
2 producer to an informed end consumer.

3

4 (g) Meat and dairy products that have not been
5 licensed, regulated or inspected shall only be sold in a
6 direct sale between a producer and an informed end consumer
7 for home consumption and shall not be resold. Transactions
8 of animal products that have not been licensed, regulated
9 or inspected shall occur only at:

10

11 (i) Ranch or farm based sales; or at

12

13 (ii) A farmers market where the product is
14 labeled or the market has signage complying with this
15 subsection, indicating the product is not licensed,
16 regulated or inspected. The label on the product or the
17 signage at any farmers market, shall include the nature of
18 the product, the date of production and the complete
19 contact information of the producer.

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21 (h) Nothing in this article shall be construed to
22 impede the Wyoming department of health in any
23 investigation of an outbreak of food borne illness.

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2 (j) Nothing in this article shall be construed to
3 change the requirements for brand inspection or animal
4 health inspections.

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6 **11-49-104. Offenses and penalties; defense of Wyoming**
7 **citizens.**

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9 (a) No public servant as defined in W.S. 6-5-101
10 shall enforce or attempt to enforce any act, law, statute,
11 rule or regulation of the United States government relating
12 to food or any agricultural product that is produced in
13 Wyoming and that remains exclusively within the borders of
14 Wyoming.

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16 (b) Any official, agent or employee of the United
17 States government who enforces or attempts to enforce any
18 act, order, law, statute, rule or regulation of the United
19 States government upon a food or agricultural product
20 produced commercially or privately in Wyoming and that
21 remains exclusively within the borders of Wyoming shall be
22 guilty of a misdemeanor and, upon conviction, shall be
23 subject to imprisonment for not more than one (1) year, a

1 fine of not more than two thousand dollars (\$2,000.00), or
2 both.

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4 (c) The attorney general may defend a citizen of
5 Wyoming who is prosecuted by the United States government
6 for violation of a federal law relating to the production,
7 sale, transfer or possession of a food or agricultural
8 product produced and retained exclusively within the
9 borders of Wyoming.

10

11 **Section 2.** W.S. 35-7-110(a) by creating a new
12 paragraph (xxxi) and by renumbering paragraph (xxxi) as
13 (xxxii) and 35-7-124 by creating a new subsection (g) is
14 amended to read:

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16 **35-7-110. Definitions.**

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18 (a) As used in this act:

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20 (xxxi) "Commercial establishment" means and
21 includes any place or any area of any establishment that is
22 a wholesale or retail business where foods, drugs, devices
23 and cosmetics are displayed for sale, manufactured,

1 processed, packed, held or stored. "Commercial
2 establishment" shall not include:

3
4 (A) Any farmers market or establishment
5 engaged in agri-tourism; or

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7 (B) Any business or person engaged in
8 transactions pursuant to W.S. 11-49-103(b);

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10 ~~(xxxi)~~ (xxxii) This act means W.S. 35-7-109
11 through 35-7-127.

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13 **35-7-124. License required; exemptions; electronic**
14 **transmittals.**

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16 (g) The provisions of subsection (a) of this section
17 shall not apply to a producer selling food directly to the
18 informed end consumer at a farmers market or by ranch, farm
19 or home based sales pursuant to W.S. 11-49-103. The
20 definitions in W.S. 11-49-102 shall apply to this
21 subsection.

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1 **Section 3.** This act is effective July 1, 2011.

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(END)