

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1309

AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

SOURCE: IC 16-18-2-137; (09)HE1309.1.1. -->

SECTION 1. IC 16-18-2-137, AS AMENDED BY P.L.3-2008, SECTION 105, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 137. (a) "Food establishment", for purposes of IC 16-42-5 and IC 16-42-5.2, means any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or used for handling food.

(b) The term does not include the following:

(1) A dwelling where food is prepared on the premises by the occupants, free of charge, for their consumption or for consumption by their guests.

(2) A gathering of individuals at a venue of an organization that is organized for educational purposes in a nonpublic educational setting or for religious purposes, if:

(A) the individuals separately or jointly provide or prepare, free of charge, and consume their own food or that of others attending the gathering; and

(B) the gathering is for a purpose of the organization.

Gatherings for the purpose of the organization include funerals, wedding receptions, christenings, bar or bat mitzvahs, baptisms, communions, and other events or celebrations sponsored by the organization.

(3) A vehicle used to transport food solely for distribution to the needy, either free of charge or for a nominal donation.

(4) A private gathering of individuals who separately or jointly provide or prepare and consume their own food or that of others attending the gathering, regardless of whether the gathering is held on public or private property.

(5) Except for food prepared by a for-profit entity, a venue of the sale of food prepared **for** an ~~the~~ organization:

(A) that is organized for:

(i) religious purposes; or

(ii) educational purposes in a nonpublic educational setting;

(B) that is exempt from taxation under Section 501 of the Internal Revenue Code; and

(C) that offers the food for sale to the final consumer at an event held for the benefit of the organization;

unless the food is being provided in a restaurant or a cafeteria with an extensive menu of prepared foods.

(6) Except for food prepared by a for-profit entity, an Indiana nonprofit organization that:

(A) is organized for civic, fraternal, veterans, or charitable purposes;

(B) is exempt from taxation under Section 501 of the Internal Revenue Code; and

(C) offers food for sale to the final consumer at an event held for the benefit of the organization;

if the events conducted by the organization take place for not more than fifteen (15) days in a calendar year.

(7) An individual vendor of a farmer's market or roadside stand if the individual meets the requirements of IC 16-42-5-29.

SOURCE: IC 16-18-2-287.8; (09)HE1309.1.2. --> SECTION 2. IC 16-18-2-287.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 287.8. (a) "Potentially hazardous food product", for purposes of IC 16-42-5-29, means a food that is natural or synthetic and requires temperature control because it is in a form capable of supporting any of the following:**

(1) The rapid and progressive growth of infectious or toxigenic microorganisms.

(2) The growth and toxin production of *Clostridium botulinum*.

(3) In raw shell eggs, the growth of *Salmonella enteritidis*.

(b) The term includes the following:

(1) A food of animal origin that is raw or heat treated.

(2) A food of plant origin that is heat treated or consists of raw seed sprouts.

(3) Cut melons.

(4) Garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth described in subsection (a).

SOURCE: IC 16-42-5-29; (09)HE1309.1.3. --> SECTION 3. IC 16-42-5-29 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. (a) This section applies to an individual vendor of a farmer's market or roadside stand.

(b) An individual vendor of a farmer's market or roadside stand is not considered to be a food establishment and is exempt from the requirements of this title that apply to food establishments if the individual vendor's food product:

(1) is made by an individual in the individual's primary residence;

(2) is not a potentially hazardous food product;

(3) is prepared by an individual who practices proper sanitary procedures, including:

(A) proper hand washing;

(B) sanitation of the container or other packaging in which the food product is contained; and

(C) safe storage of the food product;

(4) is not resold; and

(5) includes a label that contains the following information:

(A) The name and address of the producer of the food product.

(B) The common or usual name of the food product.

(C) The ingredients of the food product, in descending order by predominance by weight.

(D) The net weight and volume of the food product by standard measure or numerical count.

(E) The date on which the food product was processed.

(F) The following statement in at least 10 point type: "This product is home produced and processed and the production area has not been inspected by the state department of health."

(c) An individual vendor who meets the requirements in subsection (b) is subject to food sampling and inspection if:

(1) the state department determines that the individual vendor's food product is:

(A) misbranded under section 12(b) of this chapter; or

(B) adulterated; or

(2) a consumer complaint has been received by the state department.

(d) If the state department has reason to believe that an imminent health hazard exists with respect to an individual vendor's food product, the state department may order cessation of production and sale of the food product until the state department

determines that the hazardous situation has been addressed.

(e) For purposes of this section, the state health commissioner or the commissioner's authorized representatives may take samples for analysis and conduct examinations and investigations through any officers or employees under the state health commissioner's supervision. Those officers and employees may enter, at reasonable times, the facilities of an individual vendor and inspect any food products in those places and all pertinent equipment, materials, containers, and labeling.

(f) The state health commissioner may develop guidelines for an individual vendor who seeks an exemption from regulation as a food establishment as described in subsection (b). The guidelines may include:

- (1) standards for best safe food handling practices;
- (2) disease control measures; and
- (3) standards for potable water sources.

SOURCE: ; (09)HE1309.1.4. --> SECTION 4. An emergency is declared for this act.

HEA 1309 _ Concur

Figure

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