

JAN 21 2011

A BILL FOR AN ACT

RELATING TO FOOD ESTABLISHMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that in rural and
2 isolated areas, specifically along the Hana Highway on Maui,
3 residents sell fruit, food, and beverages to visitors and other
4 residents. Food items can include simple items such as a plate
5 lunch with a main dish, often smoked or grilled, rice, and
6 macaroni salad, or more elaborate dishes such as barbecue ribs
7 or chicken, chicken curry, summer rolls, and pad Thai. One
8 stand offers fruit smoothies, mixed in blenders powered by
9 bicycle. Other stands offer fresh coconuts. Customers purchase
10 food or beverages at stands along the roadside or eat at outdoor
11 tables under canopies or tents. These stands provide both
12 visitors and residents alike with ample opportunities for local
13 cuisine or fruit in an area otherwise empty of traditional
14 restaurants. Moreover, these roadside stands have become
15 tourist attractions by themselves.

16 Vendors often prepare the food items in their private
17 kitchens or on grills in their yards. Under the current
18 department of health administrative rules, however, preparation



1 of food in private kitchens for sale to consumers is not
2 authorized, because the private kitchens do not meet all the
3 requirements of a "food establishment". The legislature finds
4 that these requirements, particularly relating to facilities and
5 equipment, are extensive because they are intended to apply to
6 traditional restaurants.

7 While the legislature acknowledges that the department of
8 health's rules regarding food establishments are intended to
9 protect the public health and safety, the role that these rural
10 area private kitchens and roadside stands play in the local
11 economy and for the residents of and visitors to these isolated
12 areas must be taken into account. Because remote areas have
13 limited opportunities for employment, these types of food sales
14 provide residents with economic prospects that would be
15 otherwise unavailable. Moreover, for both residents and
16 visitors alike, traditional restaurants can be many miles away,
17 severely limiting the available choices for restaurants or
18 prepared food. Further, food security in these rural areas,
19 including the encouragement and advancement of local
20 agriculture, can be increased by promoting local production and
21 preparation of food for sale to residents and vacationers.



1 The purpose of this Act is to authorize the preparation of
2 food in private kitchens for sale to customers in remote
3 locations, while making the preparation and sales subject to
4 sanitation standards to balance the public's need for safe and
5 healthy food sources.

6 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
7 amended by adding a new part to be appropriately designated and
8 to read as follows:

9 **"PART . CERTIFIED HOME KITCHENS**

10 **§321-A Purpose.** The purpose of this part is to authorize
11 the sale of food prepared in private kitchens from roadside
12 stands in remote or rural areas for the following reasons:

- 13 (1) To promote economic stability in rural areas that have
14 few opportunities for employment or economic prospects
15 for its residents;
- 16 (2) To appropriately address the fact that there are few
17 commercial businesses that qualify under department of
18 health rules as "food establishments" in isolated
19 areas, thereby limiting restaurant resources for
20 residents and vacationers; and



1 (3) To increase food security in rural areas by promoting
2 local production and preparation of food for sale to
3 residents and vacationers.

4 By authorizing preparation of food in private kitchens for sale
5 at roadside stands in rural or remote areas, these goals can be
6 balanced with the need to protect the public health and safety.

7 **§321-B Definitions.** For the purposes of this part:

8 "Aw" means water activity which is a measure of the free
9 moisture in a food, is the quotient of the water vapor pressure
10 of the substance divided by the vapor pressure of pure water at
11 the same temperature, and is indicated by the symbol Aw.

12 "Certified home kitchen" means a private kitchen that is
13 approved by the department under this part and is used or
14 operated for the purpose of storing, preparing, serving,
15 manufacturing, packaging, transporting, or otherwise handling
16 food at the retail or wholesale level.

17 "Department" means the department of health.

18 "Director" means the director of health.

19 "Egg" means the shell egg of avian species such as chicken,
20 duck, goose, quail, emu, ostrich, rhea, or turkey.

21 "FDA" means the United States Food and Drug Administration.



1 "Food" means any raw, cooked, or processed edible
2 substance, ice, beverage, water, or other ingredient used or
3 intended for use or for sale in whole or in part for human
4 consumption.

5 "Home kitchen" means a private kitchen that is used or
6 operated for the purpose of storing, preparing, serving,
7 manufacturing, packaging, transporting, or otherwise handling
8 food at the retail or wholesale level.

9 "Licensed area" means the area of the private home or yard
10 area in which food preparation will occur.

11 "Person" means an individual, or a firm, partnership,
12 company, corporation, trustee, association, or any public or
13 private entity.

14 "pH" means the symbol for the negative logarithm of the
15 hydrogen ion concentration, which is a measure of the degree of
16 acidity or alkalinity of a solution.

17 "Potentially hazardous food" means a food that requires
18 time/temperature control for safety to limit pathogenic
19 microorganism growth or toxic formation. For purposes of this
20 definition, a potentially hazardous food includes an animal food
21 that is raw or heat-treated; a plant food that is heat-treated
22 or consists of raw seed sprouts, cut melons, cut leafy greens,



1 cut tomatoes or mixtures of cut tomatoes that are not modified
2 in a way so that they are unable to support pathogenic
3 microorganism growth or toxin formation, or garlic-in-oil
4 mixtures that are not modified in a way so that they are unable
5 to support pathogenic microorganism growth or toxin formation;
6 and except as specifically excluded in this definition, a food
7 that, because of the interaction of its Aw and pH values is
8 designated as "Product Assessment Required" by the FDA.

9 For purposes of this definition, a potentially hazardous
10 food does not include the following:

- 11 (1) An air-cooled, hard-boiled egg with shell intact, or
12 an egg with shell intact that is not hard-boiled, but
13 has been pasteurized to destroy all viable
14 salmonellae;
- 15 (2) A food in an unopened hermetically sealed container
16 that is commercially processed to achieve and maintain
17 commercial sterility under conditions of non-
18 refrigerated storage and distribution;
- 19 (3) A food with an Aw value of 0.85 or less;
- 20 (4) A food with a pH level of 4.6 or below when measured
21 at 24° Celsius (75° Fahrenheit); and



1 (5) A food for which a variance granted by the department
2 is based upon laboratory evidence demonstrating that
3 rapid and progressive growth of infectious and
4 toxigenic microorganisms or the slower growth of C.
5 botulinum cannot occur.

6 "Private kitchen" means a kitchen in a private home.

7 "Rural area" means an area that is:

8 (1) Not within a fifteen-mile radius of a town or
9 population center with a population of 5,000 residents
10 or more; and

11 (2) Not located on an island with a population of more
12 than 200,000.

13 **§321-C Permit.** (a) No person shall operate a home
14 kitchen within the State without a permit issued by the
15 director.

16 (b) Upon application to the director, the director shall
17 issue a permit to the person applying to operate a home kitchen,
18 provided that the following criteria are met:

19 (1) The home kitchen is located in a rural area;

20 (2) A certified home kitchen is a permitted use in the
21 applicable state land use district;



- 1 (3) The applicant conforms to the minimum standards for a
2 certified home kitchen in section 321-E;
- 3 (4) The applicant submits to the director a complete menu
4 of the foods that the certified home kitchen will be
5 serving or any changes in the menu, to enable the
6 director to determine whether the applicant will serve
7 potentially hazardous foods;
- 8 (5) The applicant submits a plan and the additional
9 information required under section 321-D; and
- 10 (6) The applicant submits sufficient information to enable
11 the director to assure that the applicant meets all
12 requirements of this part and any rules adopted
13 pursuant to this part for a certified home kitchen.
- 14 (c) The permit shall be renewed every two years from the
15 permit issuance date; provided that:
- 16 (1) Each person holding a permit shall apply for renewal
17 of the permit by submitting the form provided by the
18 director before the date of expiration of the permit;
19 and
- 20 (2) Failure, neglect, or refusal of any permittee to renew
21 the permit without cause may result in the nonrenewal
22 of the permit.



1 (d) Upon issuance of the permit, the permittee may sell
2 food prepared in the certified home kitchen in the adjacent
3 outside service area.

4 §321-D Plan submittal; designation of licensed area and
5 private living quarters. (a) As part of the application for a
6 certified home kitchen, the applicant shall submit a plan or
7 drawing designating the boundaries of the licensed area, the
8 portion of the private residence constituting private living
9 quarters, and any outside service areas, including areas where
10 customers will park to access the outside service area.
11 Additionally, the plan or drawing shall label the outside access
12 to be used for the licensed premises. If the outside access to
13 the licensed area is connected to the private living quarters
14 and would require a department inspector to go through the
15 private living quarters to gain access to the licensed premises
16 for purposes of inspection, then the plan or drawing shall
17 designate the pathway through the private living quarters.

18 (b) Upon issuance of a permit designating private living
19 quarters, the private living quarters of the permittee shall be
20 deemed separate from the licensed premises. For purposes of
21 enforcement of this part or for any other searches by law
22 enforcement officials, law enforcement officials and department



1 inspectors shall obtain a search warrant before they can search
2 the area designated as private living quarters; provided,
3 however, that access through any pathways designated within the
4 private living quarters described in subsection (a) shall not
5 require a search warrant when used by department inspectors to
6 access the licensed area for inspection purposes. When the
7 department issues the certified home kitchen permit, the
8 department shall also provide to the permittee a brochure or
9 flier describing the permittee's rights and duties regarding
10 inspections, including information describing the constitutional
11 search and seizure doctrine of plain view as it relates to the
12 permittee's private living quarters.

13 (c) Permittees may not store any business inventory,
14 supplies, or equipment for the certified home kitchen within the
15 area designated as private living quarters. All books and
16 records with regard to the certified home kitchen business shall
17 remain in the area designated as the licensed premises and not
18 in the private living quarters.

19 (d) A copy of the plan or drawing shall be appended to the
20 permit, and the words "living quarters" shall be printed at the
21 bottom of the certified home kitchen permit.



1 (e) Outside service areas shall be adjacent to the
2 licensed premises and shall be considered as an extension of the
3 licensed premises. In the permit application, the applicant
4 shall state how the applicant plans to minimize noise from the
5 food sales activity and parking so it will not disturb
6 neighbors.

7 **§321-E Minimum standards.** (a) The department may adopt
8 rules governing sanitary requirements for certified home
9 kitchens relating to the following:

- 10 (1) Receipt of wholesome food and water from an approved
11 source;
- 12 (2) Temperature control, including cooling and
13 refrigeration, proper hot holding of potentially
14 hazardous foods, and adequate cooking and reheating of
15 potentially hazardous foods;
- 16 (3) Protection of foods from contamination and cross-
17 contamination;
- 18 (4) Sanitization of equipment and utensils; and
19 (5) Sanitary facilities.

20 (b) Department rules for other food establishments
21 primarily related to aesthetics or that are applicable to
22 commercial kitchens, such as employee clothing, employee



1 practices, construction and maintenance of physical facilities,
2 and garbage and rubbish disposal shall not be applicable to
3 certified home kitchens. The department, however, may adopt
4 rules specifically addressing certified home kitchens; provided
5 that the rules shall not impose equipment or facility
6 requirements on a certified home kitchen that are unreasonable
7 or onerous to the permittee in terms of compliance.

8 **§321-F Enforcement.** (a) The department may conduct one
9 or more preoperational inspections to verify that that the home
10 kitchen meets the minimum standards set forth in section 321-E
11 and the plans submitted with the permit application and is in
12 compliance with this part and any rules adopted pursuant to this
13 part.

14 (b) After the issuance of the permit, the department may
15 inspect the certified home kitchen at least once every year.

16 (c) After the department inspector presents official
17 credentials and provides notice of the purpose of, and an intent
18 to conduct, an inspection, the permittee or person in charge
19 shall allow the department inspector to determine if the
20 certified home kitchen is in compliance with this part and any
21 rules adopted pursuant to this part by allowing access to the
22 certified home kitchen, allowing inspection, and providing



1 information and records specified by rule, if any, and to which
2 the department inspector is entitled by law, during the
3 certified home kitchen's hours of operation and other reasonable
4 times. Notwithstanding the foregoing, if the permittee has
5 designated an area as "private living quarters", then the
6 department inspector may not inspect such area without a duly
7 authorized warrant."

8 SECTION 3. Section 205-2, Hawaii Revised Statutes, is
9 amended by amending subsections (c), (d), and (e) to read as
10 follows:

11 "(c) Rural districts shall include activities or uses as
12 characterized by low density residential lots of not more than
13 one dwelling house per one-half acre, except as provided by
14 county ordinance pursuant to section 46-4(c), in areas where
15 "city-like" concentration of people, structures, streets, and
16 urban level of services are absent, and where small farms are
17 intermixed with low density residential lots except that within
18 a subdivision, as defined in section 484-1, the commission for
19 good cause may allow one lot of less than one-half acre, but not
20 less than 18,500 square feet, or an equivalent residential
21 density, within a rural subdivision and permit the construction
22 of one dwelling on such lot, provided that all other dwellings



1 in the subdivision shall have a minimum lot size of one-half
2 acre or 21,780 square feet. Such petition for variance may be
3 processed under the special permit procedure. These districts
4 may include contiguous areas which are not suited to low density
5 residential lots or small farms by reason of topography, soils,
6 and other related characteristics. Rural districts shall also
7 include golf courses, golf driving ranges, and golf-related
8 facilities. Certified home kitchens and roadside stands selling
9 the foods prepared in certified home kitchens, as authorized by
10 part of chapter 321, shall also be permitted uses within
11 rural districts.

12 (d) Agricultural districts shall include:

13 (1) Activities or uses as characterized by the cultivation
14 of crops, crops for bioenergy, orchards, forage, and
15 forestry;

16 (2) Farming activities or uses related to animal husbandry
17 and game and fish propagation;

18 (3) Aquaculture, which means the production of aquatic
19 plant and animal life within ponds and other bodies of
20 water;

21 (4) Wind generated energy production for public, private,
22 and commercial use;



- 1 (5) Biofuel production, as described in section
- 2 205-4.5(a)(15), for public, private, and commercial
- 3 use;
- 4 (6) Solar energy facilities; provided that this paragraph
- 5 shall apply only to land with soil classified by the
- 6 land study bureau's detailed land classification as
- 7 overall (master) productivity rating class D or E;
- 8 (7) Bona fide agricultural services and uses that support
- 9 the agricultural activities of the fee or leasehold
- 10 owner of the property and accessory to any of the
- 11 above activities, regardless of whether conducted on
- 12 the same premises as the agricultural activities to
- 13 which they are accessory, including farm dwellings as
- 14 defined in section 205-4.5(a)(4), employee housing,
- 15 farm buildings, mills, storage facilities, processing
- 16 facilities, agricultural-energy facilities as defined
- 17 in section 205-4.5(a)(16), vehicle and equipment
- 18 storage areas, roadside stands for the sale of
- 19 products grown on the premises, and plantation
- 20 community subdivisions as defined in section
- 21 205-4.5(a)(12);
- 22 (8) Wind machines and wind farms;



- 1 (9) Small-scale meteorological, air quality, noise, and
2 other scientific and environmental data collection and
3 monitoring facilities occupying less than one-half
4 acre of land; provided that these facilities shall not
5 be used as or equipped for use as living quarters or
6 dwellings;
- 7 (10) Agricultural parks;
- 8 (11) Agricultural tourism conducted on a working farm, or a
9 farming operation as defined in section 165-2, for the
10 enjoyment, education, or involvement of visitors;
11 provided that the agricultural tourism activity is
12 accessory and secondary to the principal agricultural
13 use and does not interfere with surrounding farm
14 operations; and provided further that this paragraph
15 shall apply only to a county that has adopted
16 ordinances regulating agricultural tourism under
17 section 205-5; [and]
- 18 (12) Certified home kitchens and roadside stands selling
19 the foods prepared in certified home kitchens, as
20 authorized by part of chapter 321; and
- 21 [~~(12)~~] (13) Open area recreational facilities.



1 Agricultural districts shall not include golf courses and golf
2 driving ranges, except as provided in section 205-4.5(d).
3 Agricultural districts include areas that are not used for, or
4 that are not suited to, agricultural and ancillary activities by
5 reason of topography, soils, and other related characteristics.

6 (e) Conservation districts shall include areas necessary
7 for protecting watersheds and water sources; preserving scenic
8 and historic areas; providing park lands, wilderness, and beach
9 reserves; conserving indigenous or endemic plants, fish, and
10 wildlife, including those which are threatened or endangered;
11 preventing floods and soil erosion; forestry; open space areas
12 whose existing openness, natural condition, or present state of
13 use, if retained, would enhance the present or potential value
14 of abutting or surrounding communities, or would maintain or
15 enhance the conservation of natural or scenic resources; areas
16 of value for recreational purposes; certified home kitchens and
17 roadside stands selling the foods prepared in certified home
18 kitchens, as authorized by part of chapter 321; other
19 related activities; and other permitted uses not detrimental to
20 a multiple use conservation concept."

21 SECTION 4. Section 205-4.5, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) Within the agricultural district, all lands with soil
2 classified by the land study bureau's detailed land
3 classification as overall (master) productivity rating class A
4 or B shall be restricted to the following permitted uses:

5 (1) Cultivation of crops, including crops for bioenergy,
6 flowers, vegetables, foliage, fruits, forage, and
7 timber;

8 (2) Game and fish propagation;

9 (3) Raising of livestock, including poultry, bees, fish,
10 or other animal or aquatic life that are propagated
11 for economic or personal use;

12 (4) Farm dwellings, employee housing, farm buildings, or
13 activities or uses related to farming and animal
14 husbandry. "Farm dwelling", as used in this
15 paragraph, means a single-family dwelling located on
16 and used in connection with a farm, including clusters
17 of single-family farm dwellings permitted within
18 agricultural parks developed by the State, or where
19 agricultural activity provides income to the family
20 occupying the dwelling;

21 (5) Public institutions and buildings that are necessary
22 for agricultural practices;



- 1 (6) Public and private open area types of recreational
2 uses, including day camps, picnic grounds, parks, and
3 riding stables, but not including dragstrips,
4 airports, drive-in theaters, golf courses, golf
5 driving ranges, country clubs, and overnight camps;
- 6 (7) Public, private, and quasi-public utility lines and
7 roadways, transformer stations, communications
8 equipment buildings, solid waste transfer stations,
9 major water storage tanks, and appurtenant small
10 buildings such as booster pumping stations, but not
11 including offices or yards for equipment, material,
12 vehicle storage, repair or maintenance, treatment
13 plants, corporation yards, or other similar
14 structures;
- 15 (8) Retention, restoration, rehabilitation, or improvement
16 of buildings or sites of historic or scenic interest;
- 17 (9) Roadside stands for the sale of agricultural products
18 grown on the premises[7] or for the sale of food
19 prepared in a certified home kitchen, as authorized by
20 part of chapter 321. For the purposes of this
21 paragraph, "food" means any raw, cooked, or processed
22 edible substance, ice, beverage, water, or other



- 1 ingredient used or intended for use or for sale in
2 whole or in part for human consumption;
- 3 (10) Certified home kitchens, as described in part of
4 chapter 321;
- 5 ~~(10)~~ (11) Buildings and uses, including mills, storage,
6 and processing facilities, maintenance facilities, and
7 vehicle and equipment storage areas that are normally
8 considered directly accessory to the above-mentioned
9 uses and are permitted under section 205-2(d);
- 10 ~~(11)~~ (12) Agricultural parks;
- 11 ~~(12)~~ (13) Plantation community subdivisions, which as used
12 in this chapter means an established subdivision or
13 cluster of employee housing, community buildings, and
14 agricultural support buildings on land currently or
15 formerly owned, leased, or operated by a sugar or
16 pineapple plantation; provided that the existing
17 structures may be used or rehabilitated for use, and
18 new employee housing and agricultural support
19 buildings may be allowed on land within the
20 subdivision as follows:



- 1 (A) The employee housing is occupied by employees or
- 2 former employees of the plantation who have a
- 3 property interest in the land;
- 4 (B) The employee housing units not owned by their
- 5 occupants shall be rented or leased at affordable
- 6 rates for agricultural workers; or
- 7 (C) The agricultural support buildings shall be
- 8 rented or leased to agricultural business
- 9 operators or agricultural support services;
- 10 [~~(13)~~] (14) Agricultural tourism conducted on a working
- 11 farm, or a farming operation as defined in section
- 12 165-2, for the enjoyment, education, or involvement of
- 13 visitors; provided that the agricultural tourism
- 14 activity is accessory and secondary to the principal
- 15 agricultural use and does not interfere with
- 16 surrounding farm operations; and provided further that
- 17 this paragraph shall apply only to a county that has
- 18 adopted ordinances regulating agricultural tourism
- 19 under section 205-5;
- 20 [~~(14)~~] (15) Wind energy facilities, including the
- 21 appurtenances associated with the production and
- 22 transmission of wind generated energy; provided that



1 the wind energy facilities and appurtenances are
2 compatible with agriculture uses and cause minimal
3 adverse impact on agricultural land;

4 ~~(15)~~ (16) Biofuel processing facilities, including the
5 appurtenances associated with the production and
6 refining of biofuels that is normally considered
7 directly accessory and secondary to the growing of the
8 energy feedstock; provided that biofuels processing
9 facilities and appurtenances do not adversely impact
10 agricultural land and other agricultural uses in the
11 vicinity.

12 For the purposes of this paragraph:

13 "Appurtenances" means operational infrastructure
14 of the appropriate type and scale for economic
15 commercial storage and distribution, and other similar
16 handling of feedstock, fuels, and other products of
17 biofuels processing facilities.

18 "Biofuel processing facility" means a facility
19 that produces liquid or gaseous fuels from organic
20 sources such as biomass crops, agricultural residues,
21 and oil crops, including palm, canola, soybean, and
22 waste cooking oils; grease; food wastes; and animal



1 residues and wastes that can be used to generate
2 energy;

3 [~~(16)~~] (17) Agricultural-energy facilities, including
4 appurtenances necessary for an agricultural-energy
5 enterprise; provided that the primary activity of the
6 agricultural-energy enterprise is agricultural
7 activity. To be considered the primary activity of an
8 agricultural-energy enterprise, the total acreage
9 devoted to agricultural activity shall be not less
10 than ninety per cent of the total acreage of the
11 agricultural-energy enterprise. The agricultural-
12 energy facility shall be limited to lands owned,
13 leased, licensed, or operated by the entity conducting
14 the agricultural activity.

15 As used in this paragraph:

16 "Agricultural activity" means any activity
17 described in paragraphs (1) to (3) of this subsection.

18 "Agricultural-energy enterprise" means an
19 enterprise that integrally incorporates an
20 agricultural activity with an agricultural-energy
21 facility.



1 "Agricultural-energy facility" means a facility
2 that generates, stores, or distributes renewable
3 energy as defined in section 269-91 or renewable fuel
4 including electrical or thermal energy or liquid or
5 gaseous fuels from products of agricultural activities
6 from agricultural lands located in the State.

7 "Appurtenances" means operational infrastructure
8 of the appropriate type and scale for the economic
9 commercial generation, storage, distribution, and
10 other similar handling of energy, including equipment,
11 feedstock, fuels, and other products of agricultural-
12 energy facilities;

13 [~~(17)~~] (18) Construction and operation of wireless
14 communication antennas; provided that, for the
15 purposes of this paragraph, "wireless communication
16 antenna" means communications equipment that is either
17 freestanding or placed upon or attached to an already
18 existing structure and that transmits and receives
19 electromagnetic radio signals used in the provision of
20 all types of wireless communications services;
21 provided further that nothing in this paragraph shall
22 be construed to permit the construction of any new



1 structure that is not deemed a permitted use under
2 this subsection; or
3 ~~(18)~~ (19) Agricultural education programs conducted on a
4 farming operation as defined in section 165-2, for the
5 education and participation of the general public;
6 provided that the agricultural education programs are
7 accessory and secondary to the principal agricultural
8 use of the parcels or lots on which the agricultural
9 education programs are to occur and do not interfere
10 with surrounding farm operations. For the purposes of
11 this section, "agricultural education programs" means
12 activities or events designed to promote knowledge and
13 understanding of agricultural activities and practices
14 conducted on a farming operation as defined in section
15 165-2."

16 SECTION 5. Section 321-11, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§321-11 **Subjects of health rules, generally.** The
19 department of health pursuant to chapter 91 may adopt rules that
20 it deems necessary for the public health and safety respecting:

- 21 (1) Nuisances, foul or noxious odors, gases, vapors,
22 waters in which mosquitoes breed or may breed, sources



- 1 of filth, and causes of sickness or disease, within
2 the respective districts of the State, and on board
3 any vessel;
- 4 (2) Adulteration and misbranding of food or drugs;
- 5 (3) Location, air space, ventilation, sanitation,
6 drainage, sewage disposal, and other health conditions
7 of buildings, courts, construction projects,
8 excavations, pools, watercourses, areas, and alleys;
- 9 (4) Privy vaults and cesspools;
- 10 (5) Fish and fishing;
- 11 (6) Interments and dead bodies;
- 12 (7) Disinterments of dead human bodies, including the
13 exposing, disturbing, or removing of these bodies from
14 their place of burial, or the opening, removing, or
15 disturbing after due interment of any receptacle,
16 coffin, or container holding human remains or a dead
17 human body or a part thereof and the issuance and
18 terms of permits for the aforesaid disinterments of
19 dead human bodies;
- 20 (8) Cemeteries and burying grounds;
- 21 (9) Laundries, and the laundering, sanitation, and
22 sterilization of articles including linen and uniforms



1 used by or in the following businesses and
2 professions: barber shops, manicure shops, beauty
3 parlors, electrology shops, restaurants, soda
4 fountains, hotels, rooming and boarding houses,
5 bakeries, butcher shops, public bathhouses, midwives,
6 masseurs, and others in similar calling, public or
7 private hospitals, and canneries and bottling works
8 where foods or beverages are canned or bottled for
9 public consumption or sale; provided that nothing in
10 this chapter shall be construed as authorizing the
11 prohibiting of laundering, sanitation, and
12 sterilization by those conducting any of these
13 businesses or professions where the laundering or
14 sterilization is done in an efficient and sanitary
15 manner;

16 (10) Hospitals, freestanding surgical outpatient
17 facilities, skilled nursing facilities, intermediate
18 care facilities, adult residential care homes, adult
19 foster homes, assisted living facilities, special
20 treatment facilities and programs, home health
21 agencies, home care agencies, hospices, freestanding
22 birthing facilities, adult day health centers,



1 independent group residences, and therapeutic living
2 programs, but excluding youth shelter facilities
3 unless clinical treatment of mental, emotional, or
4 physical disease or handicap is a part of the routine
5 program or constitutes the main purpose of the
6 facility, as defined in section 346-16 under "child
7 [†]caring[†] institution". For the purpose of this
8 paragraph, "adult foster home" has the same meaning as
9 provided in section 321-11.2;

10 (11) Hotels, rooming houses, lodging houses, apartment
11 houses, tenements, and residences for persons with
12 developmental disabilities including those built under
13 federal funding;

14 (12) Laboratories;

15 (13) Any place or building where noisome or noxious trades
16 or manufacturing is carried on, or intended to be
17 carried on;

18 (14) Milk;

19 (15) Poisons and hazardous substances, the latter term
20 including any substance or mixture of substances that:

21 (A) Is corrosive;

22 (B) Is an irritant;



- 1 (C) Is a strong sensitizer;
- 2 (D) Is inflammable; or
- 3 (E) Generates pressure through decomposition, heat,
- 4 or other means,
- 5 if the substance or mixture of substances may cause
- 6 substantial personal injury or substantial illness
- 7 during or as a proximate result of any customary or
- 8 reasonably foreseeable handling or use, including
- 9 reasonably foreseeable ingestion by children;
- 10 (16) Pig and duck ranches;
- 11 (17) Places of business, industry, employment, and
- 12 commerce, and the processes, materials, tools,
- 13 machinery, and methods of work done therein; and
- 14 places of public gathering, recreation, or
- 15 entertainment;
- 16 (18) Any restaurant, theater, market, stand, shop, store,
- 17 factory, building, wagon, vehicle, certified home
- 18 kitchen and accessory roadside stand, or place where
- 19 any food, drug, or cosmetic is manufactured,
- 20 compounded, processed, extracted, prepared, stored,
- 21 distributed, sold, offered for sale, or offered for
- 22 human consumption or use;



- 1 (19) Foods, drugs, and cosmetics, and the manufacture,
2 compounding, processing, extracting, preparing,
3 storing, selling, and offering for sale, consumption,
4 or use of any food, drug, or cosmetic;
- 5 (20) [†]Device[†] as defined in section 328-1;
- 6 (21) Sources of ionizing radiation;
- 7 (22) Medical examination, vaccination, revaccination, and
8 immunization of school children. No child shall be
9 subjected to medical examination, vaccination,
10 revaccination, or immunization, whose parent or
11 guardian objects in writing thereto on grounds that
12 the requirements are not in accordance with the
13 religious tenets of an established church of which the
14 parent or guardian is a member or adherent, but no
15 objection shall be recognized when, in the opinion of
16 the department, there is danger of an epidemic from
17 any communicable disease;
- 18 (23) Disinsectization of aircraft entering or within the
19 State as may be necessary to prevent the introduction,
20 transmission, or spread of disease or the introduction
21 or spread of any insect or other vector of
22 significance to health;



1 (24) Fumigation, including the process by which substances
2 emit or liberate gases, fumes, or vapors that may be
3 used for the destruction or control of insects,
4 vermin, rodents, or other pests, which, in the opinion
5 of the department, may be lethal, poisonous, noxious,
6 or dangerous to human life;

7 (25) Ambulances and ambulance equipment;

8 (26) Development, review, approval, or disapproval of
9 management plans submitted pursuant to the Asbestos
10 Hazard Emergency Response Act of 1986, Public Law 99-
11 519; and

12 (27) Development, review, approval, or disapproval of an
13 accreditation program for specially trained persons
14 pursuant to the Residential Lead-Based Paint Hazard
15 Reduction Act of 1992, Public Law 102-550.

16 The department of health may require any certificates,
17 permits, or licenses that it may deem necessary to adequately
18 regulate the conditions or businesses referred to in this
19 section."

20 SECTION 6. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

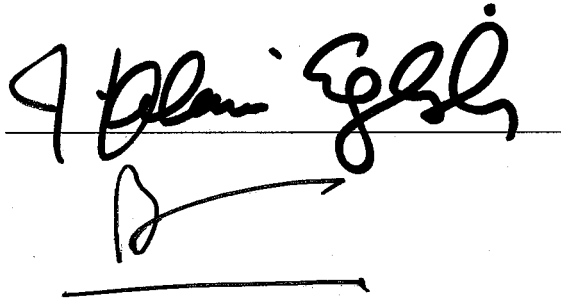


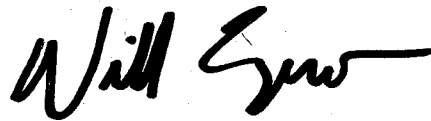
1 SECTION 7. In codifying the new sections added by section
2 2 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 8. This Act shall take effect on July 1, 2011.

6

INTRODUCED BY:


A handwritten signature in cursive script, appearing to read "J. Blaine Eggen", is written over a horizontal line. Below the signature, there is a large, stylized flourish or scribble, also in cursive, which is also underlined.


A handwritten signature in cursive script, appearing to read "Will Egan", is written below the signature above.



Report Title:

Food Establishments; Certified Home Kitchens; Roadside Stands

Description:

Authorizes preparation of food in private kitchens for sale to consumers from roadside stands in rural areas. Requires the director of health to issue a certified home kitchen permit to an applicant, provided that the applicant meets certain requirements. Defines minimum standards for certified home kitchens. Allows the permittee to designate a portion of the residence as "private living quarters", and deems these areas as separate for purposes of inspection purposes or for law enforcement searches. Makes certified home kitchens and roadside stands a permitted use in the agricultural, conservation, and rural state land use districts.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

