

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011

# A Bill

HOUSE BILL 1323

4  
5 By: Representatives Benedict, D. Altes, Collins-Smith, Bell, Eubanks, Harris, Hickerson, Hobbs, D.  
6 Hutchinson, Jean, King, Mauch, Patterson, Pennartz, Rice, G. Smith, Stubblefield, Wardlaw  
7 By: Senators Irvin, J. Key

## For An Act To Be Entitled

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10 AN ACT TO EXEMPT COTTAGE FOOD OPERATIONS, FARMERS'  
11 MARKETS, AND OTHER SIMILAR FOOD SALES ENTITIES FROM  
12 PERMITS REQUIREMENTS; TO DECLARE AN EMERGENCY; AND  
13 FOR OTHER PURPOSES.

## Subtitle

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17 AN ACT TO EXEMPT COTTAGE FOOD OPERATIONS,  
18 FARMERS' MARKETS, AND OTHER SIMILAR FOOD  
19 SALES ENTITIES FROM PERMITS REQUIREMENTS  
20 AND TO DECLARE AN EMERGENCY.

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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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25 SECTION 1. Arkansas Code § 20-57-201 is amended to read as follows:  
26 20-57-201. Definitions.

27 As used in §§ 20-57-202 – 20-57-205, ~~unless the context otherwise~~  
28 ~~requires:~~

29 (1) "Cottage food production operation" means a person who  
30 produces food items in the person's home that are not potentially hazardous  
31 foods, including without limitation:

- 32 (A) Bakery products;
- 33 (B) Candy;
- 34 (C) Fruit butter;
- 35 (D) Jams;
- 36 (E) Jellies; and



1                    (F) Similar products specified in rules adopted by the  
 2 Department of Health;

3                    ~~(1)(A)(2)(A)(i)~~ “Food service establishment” means any place  
 4 where food is prepared, processed, stored, or intended for use or consumption  
 5 by the public regardless of whether there is a charge for the food.

6                    (ii) The term “Food service establishment” includes  
 7 wholesale and retail food stores, convenience stores, food markets,  
 8 delicatessens, restaurants, food processing or manufacturing plants, bottling  
 9 and canning plants, wholesale and retail block and prepackaged ice  
 10 manufacturing plants, food caterers, and food warehouses.

11                    (iii) The term “Food service establishment” does not  
 12 include supply vehicles or locations of vending machines.

13                    (B) The following are also exempt:

14                    (i) Group homes routinely serving ten (10) or fewer  
 15 persons;

16                    (ii) Daycare centers routinely serving ten (10) or  
 17 fewer persons;

18                    (iii) Potluck suppers, community picnics, or other  
 19 group gatherings where food is served but not sold;

20                    (iv) A person at a farmers’ market that offers for  
 21 sale only one (1) or more of the following:

22                    (a) Fresh unprocessed fruits or vegetables;

23                    (b) Maple syrup, sorghum, or honey that is  
 24 produced by a maple syrup or sorghum producer or beekeeper; or

25                    (c) Commercially prepackaged food that is not  
 26 potentially hazardous, on the condition that the food is contained in  
 27 displays, the total space of which equals less than one hundred cubic feet  
 28 (100 cu. ft.) on the premises where the person conducts business at the  
 29 farmers’ market;

30                    (v) A person who offers for sale at a roadside stand  
 31 only fresh fruits and fresh vegetables that are unprocessed;

32                    (vi)(a) A cottage food production operation, on the  
 33 condition that the operation offers its products directly to the consumer:

34                    (1) From the site where the products are  
 35 produced;

36                    (2) At a farmers’ market;

1 (3) At a county fair; or

2 (4) At a special event.

3 (b)(1) Upon request, each product offered  
 4 under subdivision (2)(B)(vi)(a) of this section shall be made available to  
 5 the Department of Health for sampling.

6 (2) Each product shall be clearly  
 7 labeled and shall make no nutritional claims.

8 (3) The label required under subdivision  
 9 (2)(B)(vi)(b)(2) of this section shall include the following:

10 (A) The name and address of the  
 11 business;

12 (B) The name of the product;

13 (C) The ingredients in the  
 14 product; and

15 (D) The following statement in 10-  
 16 point type: "This Product is Home-Produced";

17 (vii) A maple syrup and sorghum processor and  
 18 beekeeper if the processor or beekeeper offers only maple syrup, sorghum, or  
 19 honey directly to the consumer from the site where those products are  
 20 processed;

21 (viii) A person who offers for sale only one (1) or  
 22 more of the following foods at a festival or celebration, on the condition  
 23 that the festival or celebration is organized by a political subdivision of  
 24 the state and lasts for a period not longer than seven (7) consecutive days:

25 (a) Fresh unprocessed fruits or vegetables;

26 (b) Maple syrup, sorghum, or honey if produced  
 27 by a maple syrup or sorghum processor or beekeeper; or

28 (c) Commercially prepackaged food that is not  
 29 potentially hazardous, on the condition that the food is contained in  
 30 displays, the total space of which equals less than one hundred cubic feet  
 31 (100 cu. ft.);

32 (ix) A farm market that offers for sale at the farm  
 33 market only one (1) or more of the following:

34 (a) Fresh unprocessed fruits or vegetables;

35 (b) Maple syrup, sorghum, or honey that is  
 36 produced by a maple syrup or sorghum producer or beekeeper; or

1                                    (c) Commercially prepackaged food that is not  
 2 potentially hazardous, on the condition that the food is contained in  
 3 displays, the total space of which equals less than one hundred cubic feet  
 4 (100 cu. ft.) on the premises where the person conducts business at the farm  
 5 market;

6                                    ~~(iv)~~(x) An establishment that offers only  
 7 prepackaged foods that are not potentially hazardous as defined by the State  
 8 Board of Health; and

9                                    ~~(v)~~(xi) Ice vending machines or kiosks where ice is  
 10 dispensed in the open air and that are totally self-contained; and

11                                    ~~(2)~~(3) “Food service industry” means the aggregate of food  
 12 service establishments.

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 14                                    SECTION 2. EMERGENCY CLAUSE. It is found and determined by the  
 15 General Assembly of the State of Arkansas that with growing season quickly  
 16 approaching, a crop could be lost if the effective date of this act is  
 17 delayed; that a delay in the effective date of this act could cause  
 18 significant economic hardship for food producers; and that this act is  
 19 necessary to ensure the maximum positive effect in the community. Therefore,  
 20 an emergency is declared to exist and this act being immediately necessary  
 21 for the preservation of the public peace, health, and safety shall become  
 22 effective on:

23                                    (1) The date of its approval by the Governor;

24                                    (2) If the bill is neither approved nor vetoed by the Governor,  
 25 the expiration of the period of time during which the Governor may veto the  
 26 bill; or

27                                    (3) If the bill is vetoed by the Governor and the veto is  
 28 overridden, the date the last house overrides the veto.

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