

Sixty-fifth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1433

Introduced by

Representatives Simons, Rick C. Becker, Johnston, Kiefert, B. Koppelman, Magrum, Olson,  
Schatz, Toman

Senators Kannianen, O. Larsen

1 | A BILL for an Act to create and enact a new ~~section to chapter 19-02.1~~chapter to title 23 of the  
2 | North Dakota Century Code, relating to the direct sale of food by the producer to a consumer; to  
3 | amend and reenact sections 19-07-01 and 36-24-06 of the North Dakota Century Code, relating  
4 | to the sale and production of animal-based products.

5 | **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 | **SECTION 1. AMENDMENT.** Section 19-07-01 of the North Dakota Century Code is  
7 | amended and reenacted as follows:

8 | **19-07-01. Eggs to be graded - Exemption.**

9 | All eggs sold or offered for sale to an ultimate consumer in this state must be candled,  
10 | graded, and labeled with the correct grade designation. "Eggs" in this chapter means eggs in  
11 | the shell which are the product of the domesticated ~~chicken~~poultry. A producer of eggs when  
12 | selling only eggs of the producer's own flock production is exempt from the provisions of this  
13 | chapter.

14 | ~~**SECTION 2.** A new section to chapter 19-02.1 of the North Dakota Century Code is created  
15 | and enacted as follows:~~

16 | ~~**Direct producer to consumer sales of foods.**~~

17 | ~~**1. As used in this section:**~~

18 | ~~**a. "Delivery" means the transfer of a product resulting from a transaction between a  
19 | producer and an informed end consumer.**~~

20 | ~~**b. "Farmers market" means a market or group of booths where farmers and other  
21 | producers sell products directly to consumers.**~~

- 1 ~~c. "Home consumption" means food consumed within a private home or food from a~~  
2 ~~private home consumed only by family members, employees, or nonpaying~~  
3 ~~guests.~~
- 4 ~~d. "Informed end consumer" means an individual who is the last individual to~~  
5 ~~purchase a product and has been informed the product is not licensed, regulated,~~  
6 ~~or inspected.~~
- 7 ~~e. "Producer" means any individual who harvests or produces any product that may~~  
8 ~~be consumed as food or drink.~~
- 9 ~~f. "Transaction" means the exchange of buying and selling.~~
- 10 ~~2. Notwithstanding any other provision of law, a state agency or political subdivision may~~  
11 ~~not require licensure, permitting, certification, inspection, packaging, or labeling that~~  
12 ~~pertains to the preparation, serving, use, consumption, or storage of foods or food~~  
13 ~~products under this section. This section does not preclude an agency from providing~~  
14 ~~assistance, consultation, or inspection, upon request, of a producer.~~
- 15 ~~3. Transactions under this section must be directly between the producer and the~~  
16 ~~informed end consumer and be only for home consumption. Transactions may occur~~  
17 ~~at a farm, ranch, farmers market, farm stand, home-based kitchen, or any other venue~~  
18 ~~not otherwise prohibited by law or through delivery.~~
- 19 ~~4. Transactions under this section may not:~~
- 20 ~~a. Involve interstate commerce;~~
- 21 ~~b. Include the sale of uninspected products made from meat, except as provided~~  
22 ~~under subdivision c; or~~
- 23 ~~c. Include the sale of uninspected products made from poultry, unless:~~
- 24 ~~(1) The producer slaughters no more than one thousand poultry raised by the~~  
25 ~~producer during the calendar year;~~
- 26 ~~(2) The producer does not buy or sell poultry products, except products~~  
27 ~~produced from poultry raised by the producer; and~~
- 28 ~~(3) The poultry product is not adulterated or misbranded.~~
- 29 ~~5. Except for raw, unprocessed fruits and vegetables, food may not be sold or used in~~  
30 ~~any commercial food establishment unless the food has been labeled, licensed,~~  
31 ~~packaged, or inspected as required by law.~~

1 ~~6. The producer shall inform the end consumer that any food product or food sold under~~  
2 ~~this section is not certified, labeled, licensed, packaged, regulated, or inspected.~~

3 ~~7. This section does not change any requirement for brand inspection or animal health~~  
4 ~~inspections.~~

5 **SECTION 2.** A new chapter to title 23 of the North Dakota Century Code is created and  
6 enacted as follows:

7 **Definitions.**

8 As used in this chapter:

9 1. "Cottage food operator" means an individual who produces or packages cottage food  
10 products in a kitchen designed and intended for use by the residents of a private  
11 home.

12 2. "Cottage food product" means baked goods, jams, jellies, and other food and drink  
13 products produced by a cottage food operator.

14 3. "Delivery" means the transfer of a cottage food product resulting from a transaction  
15 between a cottage food operator and an informed end consumer.

16 4. "Farmers market" means a market or group of booths where farmers and other  
17 cottage food operators sell cottage food products directly to consumers.

18 5. "Home consumption" means food consumed within a private home or food from a  
19 private home consumed only by family members, employees, or nonpaying guests.

20 6. "Informed end consumer" means an individual who is the last individual to purchase a  
21 cottage food product and has been informed the cottage food product is not licensed,  
22 regulated, or inspected.

23 7. "Transaction" means the exchange of buying and selling.

24 **Direct producer to consumer sales of cottage food products.**

25 1. Notwithstanding any other provision of law, a state agency or political subdivision may  
26 not require licensure, permitting, certification, inspection, packaging, or labeling that  
27 pertains to the preparation or sale of cottage food products under this section. This  
28 section does not preclude an agency from providing assistance, consultation, or  
29 inspection, upon request, of a producer.

30 2. Transactions under this section must be directly between the cottage food operator  
31 and the informed end consumer and be only for home consumption. Transactions may

1 occur at a farm, ranch, farmers market, farm stand, home-based kitchen, or any other  
2 venue not otherwise prohibited by law or through delivery.

3 3. Transactions under this section may not:

4 a. Involve interstate commerce;

5 b. Be conducted over the internet or phone, through the mail, or by consignment;

6 c. Include the sale of uninspected products made from meat, except as provided  
7 under subdivision d; or

8 d. Include the sale of uninspected products made from poultry, unless:

9 (1) The cottage food operator slaughters no more than one thousand poultry  
10 raised by the cottage food operator during the calendar year;

11 (2) The cottage food operator does not buy or sell poultry products, except  
12 products produced from poultry raised by the cottage food operator; and

13 (3) The poultry product is not adulterated or misbranded.

14 4. Except for whole, unprocessed fruits and vegetables, food prepared by a cottage food  
15 operator may not be sold or used in any food establishment, food processing plant, or  
16 food store.

17 5. The cottage food operator shall inform the end consumer that any cottage food  
18 product or food sold under this section is not certified, labeled, licensed, packaged,  
19 regulated, or inspected.

20 6. This section does not change any requirement for brand inspection or animal health  
21 inspections.

22 7. A cottage food operator shall label all cottage food products that require refrigeration,  
23 such as baked goods containing cream, custard, meringue, cheesecake, pumpkin pie,  
24 and cream cheese, with safe handling instructions and a product disclosure statement  
25 indicating the product was transported and maintained frozen.

26 8. A cottage food operator shall display a consumer advisory sign at the point of sale or  
27 place a label on the cottage food product with the following statement:

28 "This product is made in a home kitchen that is not inspected by the state or local  
29 health department."

30 9. The state department of health or a local regulating authority may conduct an  
31 investigation upon complaint of an illness or environmental health complaint.

1       **SECTION 3. AMENDMENT.** Section 36-24-06 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **36-24-06. Prohibitions.**

4       AUnless otherwise provided in ~~chapter 19-02.1~~ section 1 of this Act, a person may not:

- 5       1. Slaughter an animal or prepare an article usable as human food at any establishment  
6       preparing articles solely for intrastate commerce, unless the person complies with this  
7       chapter;
- 8       2. Sell, transport, offer for sale or transportation, or receive for transportation, in  
9       intrastate commerce any article that is usable as human food and which is adulterated  
10      or misbranded or any article that has not been inspected and passed under this  
11      chapter; or
- 12      3. Alter an article that is usable as human food while the article is being transported in  
13      intrastate commerce or held for sale after transportation, if the alteration is intended to  
14      cause or has the effect of causing the article to be adulterated or misbranded.