

SENATE BILL NO. 441—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

MARCH 23, 2015

Referred to Committee on Health and Human Services

SUMMARY—Enacts provisions relating to craft food operations.
(BDR 40-988)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to craft food operations; exempting a craft food operation from certain inspections and other rules enforced by certain health authorities; providing certain requirements for a craft food operation; providing that certain pickled foods may be prepared and sold by a craft food operation; providing requirements for the training of and registration for a person who produces certain pickled foods for a craft food operation; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, a cottage food operation is not a food establishment for the
2 purposes of certain provisions of existing law and, as such, is not subject to certain
3 inspections and the enforcement of certain rules and regulations by certain state and
4 local health authorities. (NRS 446.020, 446.866) **Section 3** of this bill provides that
5 a craft food operation is not a food establishment for the same purposes as a cottage
6 food operation and, as such, is also not subject to certain inspections and
7 enforcement by health authorities. **Section 10** of this bill specifies the requirements
8 for a craft food operation and authorizes the production of acidified foods by a craft
9 food operation. “Acidified foods” are defined in **section 6** of this bill as “a food
10 item containing either fruits, vegetables or both fruits and vegetables which, when
11 prepared for sale, has a finished equilibrium pH of not more than 4.6.” **Section 11**
12 of this bill provides various requirements for a person who produces such acidified
13 foods, including certain required training, successful completion of an examination,
14 pH testing of the foods, the documentation of certain information about the foods
15 produced and registration with the State Department of Agriculture. **Section 12** of
16 this bill provides that the Department is authorized to charge a reasonable fee for
17 such training, examinations and registration and may inspect the premises of a
18 producer of acidified foods if: (1) it is suspected of being the source of an outbreak



19 of illness known or suspected to be caused by a contaminated food item; or (2) a
20 food item produced there may be deemed adulterated.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** (Deleted by amendment.)

2 **Sec. 2.** (Deleted by amendment.)

3 **Sec. 3.** NRS 446.020 is hereby amended to read as follows:

4 446.020 1. Except as otherwise limited by subsection 2,
5 “food establishment” means any place, structure, premises, vehicle
6 or vessel, or any part thereof, in which any food intended for
7 ultimate human consumption is manufactured or prepared by any
8 manner or means whatever, or in which any food is sold, offered or
9 displayed for sale or served.

10 2. The term does not include:

11 (a) Private homes, unless the food prepared or manufactured in
12 the home is sold, or offered or displayed for sale or for
13 compensation or contractual consideration of any kind;

14 (b) Fraternal or social clubhouses at which attendance is limited
15 to members of the club;

16 (c) Vehicles operated by common carriers engaged in interstate
17 commerce;

18 (d) Any establishment in which religious, charitable and other
19 nonprofit organizations sell food occasionally to raise money or in
20 which charitable organizations receive salvaged food in bulk
21 quantities for free distribution, unless the establishment is open on a
22 regular basis to sell food to members of the general public;

23 (e) Any establishment where animals are slaughtered which is
24 regulated and inspected by the State Department of Agriculture;

25 (f) Dairy farms and plants which process milk and products of
26 milk or frozen desserts which are regulated under chapter 584 of
27 NRS;

28 (g) The premises of a wholesale dealer of alcoholic beverages
29 licensed under chapter 369 of NRS who handles only alcoholic
30 beverages which are in sealed containers;

31 (h) A cottage food operation that meets the requirements of NRS
32 446.866 with respect to food items as defined in that section; ~~{or}~~

33 (i) *A craft food operation that meets the requirements of*
34 *section 10 of this act with respect to food items as defined in that*
35 *section; or*

36 (j) A farm for purposes of holding a farm-to-fork event.



1 **Sec. 4.** Chapter 583 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 5 to 14, inclusive, of this
3 act.

4 **Sec. 5.** *As used in sections 5 to 14, inclusive, of this act,*
5 *unless the context otherwise requires, the words and terms defined*
6 *in sections 6 to 9, inclusive, of this act have the meanings ascribed*
7 *to them in those sections.*

8 **Sec. 6. 1.** *“Acidified foods” means a food item containing*
9 *either fruits, vegetables or both fruits and vegetables which, when*
10 *prepared for sale, has a finished equilibrium pH level of not more*
11 *than 4.6.*

12 **2.** *The term does not include any product that includes,*
13 *without limitation, milk or milk products, eggs, meat, poultry, fish,*
14 *shellfish, edible crustacean ingredients or any other ingredients*
15 *capable of supporting the rapid growth of infectious or toxigenic*
16 *microorganisms.*

17 **Sec. 7.** *“Craft food operation” means a natural person who*
18 *manufactures or prepares acidified foods in his or her private*
19 *home or, if allowed by the health authority, in the kitchen of a*
20 *fraternal or social clubhouse, a school or a religious, charitable or*
21 *other nonprofit organization, for sale to a natural person for*
22 *consumption, and whose gross sales of such foods are not more*
23 *than \$35,000 per calendar year.*

24 **Sec. 8.** *“Department” means the State Department of*
25 *Agriculture.*

26 **Sec. 9.** *“Health authority” means the officers and agents of*
27 *the Division of Public and Behavioral Health of the Department of*
28 *Health and Human Services, or the officers and agents of the*
29 *local boards of health.*

30 **Sec. 10. 1.** *A craft food operation which manufactures or*
31 *prepares a food item by any manner or means whatever for sale,*
32 *or which offers or displays a food item for sale, is not a “food*
33 *establishment” pursuant to paragraph (i) of subsection 2 of NRS*
34 *446.020 if each such food item is:*

35 **(a)** *Sold on the private property of the natural person who*
36 *manufactures or prepares the food item or at a location where the*
37 *natural person who manufactures or prepares the food item sells*
38 *the food item directly to a consumer, including, without limitation,*
39 *a farmers’ market licensed pursuant to chapter 244 or 268 of*
40 *NRS, flea market, swap meet, church bazaar, garage sale or craft*
41 *fair, by means of an in-person transaction that does not involve*
42 *selling the food item by telephone or via the Internet;*

43 **(b)** *Sold to a natural person for his or her consumption and*
44 *not for resale;*



1 (c) *Affixed with a label which complies with the federal*
2 *labeling requirements set forth in 21 U.S.C. § 343(w) and 9 C.F.R.*
3 *Part 317 and 21 C.F.R. Part 101;*

4 (d) *Labeled with:*

5 (1) *The date the food item was produced; and*

6 (2) *“MADE IN A CRAFT FOOD OPERATION THAT IS*
7 *NOT SUBJECT TO GOVERNMENT FOOD SAFETY*
8 *INSPECTION” printed prominently on the label for the food*
9 *item;*

10 (e) *Prepackaged in a manner that protects the food item from*
11 *contamination during transport, display, sale and acquisition by*
12 *consumers; and*

13 (f) *Prepared and processed in the kitchen of the private home*
14 *of the natural person who manufactures or prepares the food item*
15 *or, if allowed by the health authority, in the kitchen of a fraternal*
16 *or social clubhouse, a school or a religious, charitable or other*
17 *nonprofit organization.*

18 2. *No local zoning board, planning commission or governing*
19 *body of an unincorporated town, incorporated city or county may*
20 *adopt any ordinance or other regulation that prohibits a natural*
21 *person from preparing food in a craft food operation.*

22 3. *As used in this section, “food item” means acidified foods*
23 *produced by a person who meets the requirements of sections 11 to*
24 *14, inclusive, of this act.*

25 **Sec. 11.** *For the purposes of a craft food operation, an*
26 *acidified food must be produced by a person who:*

27 1. *Complies with the requirements of section 10 of this act;*

28 2. *Is registered pursuant to section 12 of this act;*

29 3. *Maintains a log and supporting documentation for not less*
30 *than 5 years which must include:*

31 (a) *The name of each acidified food produced;*

32 (b) *The recipe for each acidified food produced, including,*
33 *without limitation, the ingredients and the process used in*
34 *preparation of the acidified food;*

35 (c) *The canning date of each batch produced; and*

36 (d) *The results of the pH test for each batch produced;*

37 4. *For the purposes of paragraph (c), uses a pH test meter*
38 *that meets the requirements of the regulations adopted by the State*
39 *Department of Agriculture; and*

40 5. *Uses only canning recipes that have been approved by, or*
41 *included in publications approved by, the State Department of*
42 *Agriculture.*

43 **Sec. 12.** 1. *The Department shall register a person who*
44 *produces acidified foods if the person:*



1 (a) Completes a course of training in basic food safety and the
2 preparation and canning of acidified foods which has been
3 approved by the Department;

4 (b) Passes an examination on the preparation of acidified
5 foods which has been approved by the Department;

6 (c) Pays the registration fee prescribed by the Department; and

7 (d) Provides the Department with such information as the
8 Department deems appropriate, including, without limitation:

9 (1) The name, address and contact information of the
10 natural person who is producing the acidified foods; and

11 (2) If the acidified foods are sold under a name other than
12 that of the natural person who produces the acidified foods, the
13 name under which the natural person sells the acidified foods.

14 2. A registration that is issued or otherwise recorded pursuant
15 to subsection 1 is valid for 3 years after the date of initial
16 registration and may be renewed pursuant to the provisions of
17 subsection 3.

18 3. The Department shall renew a registration that is issued or
19 otherwise recorded pursuant to subsection 1 every 3 years if the
20 person:

21 (a) Provides proof satisfactory to the Department that the
22 person has complied with the requirements of section 11 of this
23 act;

24 (b) Completes a course of training in basic food safety and the
25 preparation and canning of acidified foods which has been
26 approved by the Department;

27 (c) Passes an examination on the preparation of acidified
28 foods which has been approved by the Department;

29 (d) Pays the renewal fee prescribed by the Department; and

30 (e) Provides the Department with any such information as the
31 Department deems appropriate.

32 4. The Department shall provide to each person registered to
33 produce acidified foods pursuant to this section:

34 (a) Periodic updates on, without limitation, the testing and
35 preparation of acidified foods; and

36 (b) Information about workshops or other training
37 opportunities related to the safe production of acidified foods.

38 5. The Department may inspect the premises of a person
39 registered to produce acidified foods pursuant to this section only
40 to investigate a food item that may be deemed to be adulterated
41 pursuant to NRS 585.300 to 585.360, inclusive, or an outbreak or
42 suspected outbreak of illness known or suspected to be caused by a
43 contaminated food item. The producer of acidified foods shall
44 cooperate with the Department in any such inspection. If, as a
45 result of such an inspection, the Department determines that the



1 *producer of acidified foods has produced an adulterated food item*
2 *or was the source of an outbreak of illness caused by a*
3 *contaminated food item, the Department may charge and collect*
4 *from the producer of acidified foods a fee in an amount that does*
5 *not exceed the actual cost to the Department to conduct the*
6 *investigation.*

7 6. *The Department may charge a reasonable fee for:*

8 (a) *Registration pursuant to subsection 1;*

9 (b) *Renewal of a registration pursuant to subsection 3;*

10 (c) *A course of training pursuant to subsections 1 and 3;*

11 (d) *An examination pursuant to subsections 1 and 3; and*

12 (e) *An investigation conducted pursuant to subsection 5.*

13 7. *The Department shall adopt regulations necessary to carry*
14 *out the provisions of sections 5 to 14, inclusive, of this act.*

15 **Sec. 13.** 1. *In addition to any other requirements set forth*
16 *in sections 5 to 14, inclusive, of this act, an applicant for*
17 *registration or renewal of registration as a producer of acidified*
18 *foods shall:*

19 (a) *Include the social security number of the applicant in the*
20 *application submitted to the Department.*

21 (b) *Submit to the Department the statement prescribed by the*
22 *Division of Welfare and Supportive Services of the Department of*
23 *Health and Human Services pursuant to NRS 425.520. The*
24 *statement must be completed and signed by the applicant.*

25 2. *The Department shall include the statement required*
26 *pursuant to subsection 1 in:*

27 (a) *The application or any other forms that must be submitted*
28 *for registration or renewal of registration; or*

29 (b) *A separate form prescribed by the Department.*

30 3. *An applicant may not be registered or have his or her*
31 *registration renewed by the Department if the applicant:*

32 (a) *Fails to submit the statement required pursuant to*
33 *subsection 1; or*

34 (b) *Indicates on the statement submitted pursuant to*
35 *subsection 1 that the applicant is subject to a court order for the*
36 *support of a child and is not in compliance with the order or a*
37 *plan approved by the district attorney or other public agency*
38 *enforcing the order for the repayment of the amount owed*
39 *pursuant to the order.*

40 4. *If an applicant indicates on the statement submitted*
41 *pursuant to subsection 1 that the applicant is subject to a court*
42 *order for the support of a child and is not in compliance with the*
43 *order or a plan approved by the district attorney or other public*
44 *agency enforcing the order for the repayment of the amount owed*
45 *pursuant to the order, the Department shall advise the applicant to*



1 *contact the district attorney or other public agency enforcing the*
2 *order to determine the actions that the applicant may take to*
3 *satisfy the arrearage.*

4 **Sec. 14.** 1. *If the Department receives a copy of a court*
5 *order issued pursuant to NRS 425.540 that provides for the*
6 *suspension of all professional, occupational and recreational*
7 *licenses, certificates and permits issued to a person who is*
8 *registered as a producer of acidified foods, the Department shall*
9 *deem the registration of that person to be suspended at the end of*
10 *the 30th day after the date on which the court order was*
11 *issued unless the Department receives a letter issued to the*
12 *registrant by the district attorney or other public agency pursuant*
13 *to NRS 425.550 stating that the registrant has complied with the*
14 *subpoena or warrant or has satisfied the arrearage pursuant to*
15 *NRS 425.560.*

16 2. *The Department shall reinstate a registration that has been*
17 *suspended by a district court pursuant to NRS 425.540 if the*
18 *Department receives a letter issued by the district attorney or other*
19 *public agency pursuant to NRS 425.550 to the person whose*
20 *registration was suspended stating that the person whose*
21 *registration was suspended has complied with the subpoena or*
22 *warrant or has satisfied the arrearage pursuant to NRS 425.560.*

23 **Sec. 15.** 1. This act becomes effective:

24 (a) On passage and approval for the purpose of adopting
25 regulations and performing any other preparatory administrative
26 tasks necessary to carry out the provisions of this act; and

27 (b) On January 1, 2016, for all other purposes.

28 2. Sections 13 and 14 of this act expire by limitation on the
29 date on which the provisions of 42 U.S.C. § 666 requiring each state
30 to establish procedures under which the state has authority to
31 withhold or suspend, or to restrict the use of professional,
32 occupational and recreational licenses of persons who:

33 (a) Have failed to comply with a subpoena or warrant relating to
34 a proceeding to determine the paternity of a child or to establish or
35 enforce an obligation for the support of a child; or

36 (b) Are in arrears in the payment for the support of one or more
37 children,

38 ↪ are repealed by the Congress of the United States.

