



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-0037/2  
JAM:skw

## 2023 SENATE BILL 813

December 19, 2023 - Introduced by Senators JACQUE and STROEBEL, cosponsored by Representatives WICHGERS, OHNSTAD and SINICKI. Referred to Committee on Agriculture and Tourism.

1     **AN ACT to amend** 97.29 (2) (b) 2. c. and 97.29 (2) (b) 2. e.; and **to create** 97.29  
2           (1) (he), 97.29 (2) (b) 3. and 97.29 (7) of the statutes; **relating to:** qualification  
3           for exemptions from food product licensing requirements for sale of pickled  
4           fruits and vegetables, baked goods, and other shelf-stable food products.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a person is not required to obtain a food processing plant license from the Department of Agriculture, Trade and Consumer Protection to sell food products that the person prepares and cans at home in this state if all of the following apply: 1) the food products are a fruit or vegetable pickled at a certain pH level; 2) the person sells the food products at a community or social event or a farmers' market in this state; 3) the sold food products are labeled with certain information; 4) the person displays a sign at the place of sale stating that the food product is homemade and not subject to state inspection; and 5) the person receives less than \$5,000 per year from the sale of the food product. This bill increases the sales threshold from \$5,000 to \$25,000, adds sesame to a list of ingredients that must be listed by their common name on food labels, and includes in the food processing plant license exemption food products that are nonpotentially hazardous foods. "Nonpotentially hazardous food" is defined in the bill as prepared food that does not require time and temperature control for safety to limit pathogenic microorganism growth or toxin formation. The bill also requires a nonpotentially hazardous food preparer exempt from the food processing plant license whose business makes more than \$2,000 per year to register with and provide contact information to DATCP.

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For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 97.29 (1) (he) of the statutes is created to read:

2           97.29 (1) (he) “Nonpotentially hazardous food” means prepared food that does  
3 not require time and temperature control for safety to limit pathogenic  
4 microorganism growth or toxin formation.

5           **SECTION 2.** 97.29 (2) (b) 2. c. of the statutes is amended to read:

6           97.29 (2) (b) 2. c. The person receives less than ~~\$5,000~~ \$25,000 per year from  
7 the sale of the food products.

8           **SECTION 3.** 97.29 (2) (b) 2. e. of the statutes is amended to read:

9           97.29 (2) (b) 2. e. Each container of food product that is sold is labeled with the  
10 name and address of the person who prepared and canned the food product, the date  
11 on which the food product was canned, the statement “This product was made in a  
12 private home not subject to state licensing or inspection.”, and a list of ingredients  
13 in descending order of prominence. If any ingredient originates from milk, eggs, fish,  
14 crustacean shellfish, tree nuts, wheat, peanuts, sesame, or soybeans, the list of  
15 ingredients shall include the common name of the ingredient.

16           **SECTION 4.** 97.29 (2) (b) 3. of the statutes is created to read:

17           97.29 (2) (b) 3. A person is not required to obtain a license under this section  
18 to sell at retail food products that the person prepares at home in this state if all of  
19 the following apply:

20           a. The food products are nonpotentially hazardous foods.

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1           b. The person sells the food products directly to consumers at a community or  
2 social event or a farmers' market in this state.

3           c. The person's business receives less than \$25,000 per year from the sale of the  
4 food products.

5           d. The person displays a sign at the place of sale stating the following: "These  
6 food products are homemade and not subject to state inspection."

7           e. Each container of food product that is sold is labeled with the name and  
8 address of the person who prepared the food product, the date on which the food  
9 product was prepared, the statement "This product was made in a private home not  
10 subject to state licensing or inspection.", and a list of ingredients in descending order  
11 of prominence. If any ingredient originates from milk, eggs, fish, crustacean  
12 shellfish, tree nuts, wheat, peanuts, sesame, or soybeans, the list of ingredients shall  
13 include the common name of the ingredient.

14           **SECTION 5.** 97.29 (7) of the statutes is created to read:

15           **97.29 (7) REGISTRATION AND INFORMATION REQUIREMENTS FOR NONPOTENTIALLY**  
16 **HAZARDOUS FOOD PRODUCERS.** (a) If a person is exempted under sub. (2) (b) 3. from the  
17 license requirement under sub. (2) (a), and the person's business receives more than  
18 \$2,000 per year from the sale of nonpotentially hazardous food products, the person  
19 shall register with the department and provide to the department, in a manner  
20 determined by the department, the following information regarding the person's  
21 business associated with the sale of the nonpotentially hazardous food products:

22           1. The name of the business.

23           2. The operator of the business.

24           3. The physical address and telephone number of the business and, if available,  
25 an email address of the business.

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1 4. A complete list of food products that the business sells to the public.

2 5. Any other information, as required by the department.

3 (b) The department shall encourage persons to whom the exemption in sub. (2)

4 (b) 3. applies to attend and complete training that is approved by the department

5 concerning the preparation of nonpotentially hazardous foods and to have their

6 recipes and processes reviewed by a person who is knowledgeable about the

7 nonpotentially hazardous food industry and who is recognized by the department as

8 an authority on preparing nonpotentially hazardous foods.

9 (c) The department in cooperation with the University of Wisconsin-Madison

10 division of extension shall attempt to maximize the availability of information and

11 technical services and support for persons who wish to home prepare nonpotentially

12 hazardous foods.

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(END)