



2013 ASSEMBLY BILL 182

April 30, 2013 - Introduced by Representatives BROOKS, RINGHAND, BALLWEG, BERCEAU, BERNIER, BEWLEY, BIES, CRAIG, DANOU, ENDSLEY, HULSEY, JACQUE, KAHL, KOLSTE, KRUG, MARKLEIN, MILROY, MURSAU, OHNSTAD, A. OTT, POPE, PRIDEMORE, RIPP, STONE, C. TAYLOR and WRIGHT, cosponsored by Senators HARSDFORF, T. CULLEN, GROTHMAN, LASSA, LEHMAN, SCHULTZ, L. TAYLOR, TIFFANY and VINEHOUT. Referred to Committee on Small Business Development.

1 **AN ACT** *to repeal* 97.29 (2) (b) 2. b.; *to amend* 97.29 (2) (b) 2. (intro.), 97.29 (2)
2 (b) 2. c., 97.29 (6) (title) and 97.29 (6) (b); and *to create* 97.29 (1) (he), 97.29 (1)
3 (j) and 97.29 (2) (b) 3. of the statutes; **relating to:** the sale of homemade baked
4 goods and homemade canned goods.

Analysis by the Legislative Reference Bureau

Current law requires food processing plant licenses from the Department of Agriculture, Trade and Consumer Protection (DATCP) for certain facilities at which food is manufactured or prepared for sale through processes such as baking, canning, freezing, and bottling, with specified exemptions.

This bill provides an exemption from the requirement to obtain a food processing plant license for the face-to-face sale of nonhazardous homemade baked goods to consumers by a person who receives less than \$10,000 per year from the sale of the food, registers with DATCP, and complies with requirements concerning labeling and signage. A baked good is nonhazardous if it is acidic or has a low amount of moisture and will not support the growth of dangerous organisms.

Current law provides an exemption from the requirement to obtain a food processing plant license for the sale of food products, such as pickles, that are prepared and canned by a person at home if certain requirements are met. Under current law, the sales of the canned products must take place at a community or social event or a farmer's market. This bill replaces that requirement with a requirement that the sales be face-to-face sales to consumers. Under current law, the exemption only applies if the person receives less than \$5,000 per year from the

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sale of the canned products. Under this bill, the exemption applies if the person receives less than \$10,000 per year from the sales.

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

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) “Nonhazardous baked goods” means baked goods that either
3 have a water activity value of 0.85 or less or an equilibrium pH value of 4.6 or lower,
4 that will not, in whole or part, support growth of or toxin formation by pathogenic
5 microorganisms, and that do not, in whole or part, contain pathogenic organisms at
6 a level sufficient to cause illness when the food is consumed.

7 **SECTION 2.** 97.29 (1) (j) of the statutes is created to read:

8 97.29 (1) (j) “Water activity value” means a measure of free moisture in a food
9 product, calculated by dividing the water vapor pressure of the food product by the
10 vapor pressure of pure water at the same temperature.

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

12 97.29 (2) (b) 2. (intro.) A person is not required to obtain a license under this
13 section to sell ~~at retail, through face-to-face sales to consumers,~~ food products that
14 the person prepares and cans at home in this state if all of the following apply:

15 **SECTION 4.** 97.29 (2) (b) 2. b. of the statutes is repealed.

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

17 97.29 (2) (b) 2. c. The person receives less than ~~\$5,000~~ \$10,000 in gross receipts
18 per year from the sale of the food products.

19 **SECTION 6.** 97.29 (2) (b) 3. of the statutes is created to read:

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1 97.29 (2) (b) 3. A person is not required to obtain a license under this section
2 to sell, through face-to-face sales to consumers, food products that the person
3 prepares and bakes at home in this state if all of the following apply:

4 a. The food products are nonhazardous baked goods.

5 b. The person registers with the department.

6 c. The person receives less than \$10,000 in gross receipts per year from the sale
7 of the nonhazardous baked goods.

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

15 e. The person displays a sign at the place of sale stating: "These baked goods
16 are homemade and not subject to state inspection."

17 **SECTION 7.** 97.29 (6) (title) of the statutes is amended to read:

18 97.29 (6) (title) INFORMATION ABOUT HOME CANNING AND BAKING.

19 **SECTION 8.** 97.29 (6) (b) of the statutes is amended to read:

20 97.29 (6) (b) The department, in cooperation with the University of
21 Wisconsin-Extension, shall attempt to maximize the availability of information and
22 technical services and support for persons who wish to home prepare and home can
23 low-acid high-acid and acidified food products and persons who register under sub.
24 (2) (b) 3. b. to sell nonhazardous baked goods.

25 **(END)**