



AN ACT REVISING THE LICENSING AND REGISTRATION PROVISIONS FOR RETAIL FOOD ESTABLISHMENTS; EXEMPTING THE SALE OF BAKED GOODS AND PRESERVES FOR CHARITABLE COMMUNITY PURPOSES FROM THE LICENSING REQUIREMENTS; REVISING THE REGISTRATION PROVISIONS FOR CERTAIN NONPROFIT ORGANIZATIONS; AMENDING SECTIONS 50-50-103 AND 50-50-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

WHEREAS, homemade foods are often the staple of fundraising efforts at the grassroots level in many communities where impromptu, nonprofessionally organized events that include homemade food are conducted to benefit individuals or organizations; and

WHEREAS, some fundraising events are not organized or sponsored by a nonprofit entity that has attained that status by meeting the requirements of 26 U.S.C. 501; and

WHEREAS, in many small communities, only a handful of nonprofit organizations are registered with the Internal Revenue Services as tax-exempt organizations; and

WHEREAS, many groups or individuals that want to offer their assistance to others by making and donating homemade foods for charitable purposes do not have the option of being affiliated with a registered nonprofit organization; and

WHEREAS, 50-50-202, MCA, is anti-community because it limits and eliminates the ability of community-based organizations, churches, and individuals from offering "the fruits of their kitchen labors" for fundraising purposes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 50-50-103, MCA, is amended to read:

**"50-50-103. Department authorized to adopt rules -- advisory council.** (1) To protect public health, the department may adopt rules relating to the operation of establishments defined in 50-50-102, including coverage of food, personnel, food equipment and utensils, sanitary facilities and controls, construction and

fixtures, and housekeeping.

(2) (a) The department and local health authorities may not adopt rules prohibiting the sale of baked goods and preserves by nonprofit organizations or by persons selling baked goods or preserves at farmer's markets or exclusively for a charitable community purpose.

(b) The department and local health authorities may not require that foods sold pursuant to this subsection (2) be prepared in certified or commercial kitchens.

(3) (a) The department shall establish a food safety task force or advisory council to assist in the development of administrative rules or to review any proposed legislation related to the provisions of this chapter.

(b) The task force or advisory council must be composed of equal numbers of representatives of the food establishments and representatives of state and local government.

(c) The department shall present administrative rules and any legislation to be proposed by the department to the task force or advisory council prior to its proposal or introduction. When the department learns of proposed legislation related to the provisions of this chapter that has not been proposed by the department, the department shall provide copies of that legislation for review by the task force or advisory council and shall provide to the legislature any comments of the task force or advisory council."

**Section 2.** Section 50-50-202, MCA, is amended to read:

**"50-50-202. Establishments exempt from license requirement -- farmer's market records.** (1) Establishments owned or operated by the state or a political subdivision of the state that employ a full-time sanitarian are exempt from licensure but shall comply with the requirements of this chapter and rules adopted by the department under this chapter.

(2) (a) A license is not required to operate an establishment if it is operated by a nonprofit organization for a period of less than 14 days in 1 calendar year. An establishment exempt from licensure under this subsection:

~~(a)(i)~~ must be operated in compliance with the remaining provisions of this chapter and rules adopted by the department under this chapter; ~~and~~

~~(b) prior to each operation, shall register with the local health officer or sanitarian on forms provided by the department; and~~

(ii) prior to each operation, shall register with the local health officer or sanitarian on forms provided by

the department.

(b) Nonprofit organizations or persons selling baked goods or preserves exclusively for a charitable community purpose are exempt from registration if they notify the local health officer or sanitarian, by phone or in person, before the event. The notification required is limited to the date and time of the event, items planned to be sold, and an estimate of the number of people expected to be served at the event.

(3) (a) A license is not required of a gardener, farm owner, or farm operator who sells raw and unprocessed farm products at a farmer's market.

(b) A license is not required of a person selling baked goods or preserves at a farmer's market or exclusively for a charitable community purpose.

(4) (a) A farmer's market that is an organized market authorized by a municipal or county authority shall keep registration records of all individuals and organizations that sell baked goods or preserves at the market.

(b) The registration records must include but are not limited to the name of the seller, the seller's address and telephone number, the products sold by the seller, and the date the products were sold.

(c) The registration records must be made available to the local health officer or the officer's agent."

**Section 3. Effective date.** [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,  
HB 0191, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

HOUSE BILL NO. 191

INTRODUCED BY K. FLYNN, MILLER, O'NEIL, MURPHY

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