

**Representative Marc K. Roberts** proposes the following substitute bill:

**FOOD REVISIONS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Marc K. Roberts**

Senate Sponsor: Scott D. Sandall

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**LONG TITLE**

**General Description:**

This bill creates permitting guidelines for agritourism food establishments.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ grants administrative authority to local health departments to:
  - create and issue agritourism food establishment permits;
  - charge fees for issuing permits and inspecting premises;
  - create standards and regulations for inspecting agritourism food establishments;

and

- inspect agritourism food establishments, including inspecting the locations

where food is prepared; and

- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**



26 ENACTS:

27 [26-15b-101](#), Utah Code Annotated 1953

28 [26-15b-102](#), Utah Code Annotated 1953

29 [26-15b-103](#), Utah Code Annotated 1953

30 [26-15b-104](#), Utah Code Annotated 1953

31 [26-15b-105](#), Utah Code Annotated 1953



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **26-15b-101** is enacted to read:

35 **CHAPTER 15b. AGRITOURISM FOOD ESTABLISHMENT ACT**

36 **26-15b-101. Title.**

37 This chapter is known as the "Agritourism Food Establishment Act."

38 Section 2. Section **26-15b-102** is enacted to read:

39 **26-15b-102. Definitions.**

40 As used in this chapter:

41 (1) "Agricultural tourism activity" means the same as that term is defined in Section  
42 [78B-4-512](#).

43 (2) "Agritourism" means the same as that term is defined in Section [78B-4-512](#).

44 (3) "Agritourism food establishment" means a non-commercial kitchen facility located  
45 on a farm where food is handled, stored, prepared, sold, or offered for sale in connection with  
46 an agricultural tourism activity.

47 (4) "Agritourism food establishment permit" means a permit issued by a local health  
48 department to the operator for the purposes of operating an agritourism food establishment.

49 (5) "Farm" means a working farm, ranch, or other commercial agricultural,  
50 aquacultural, horticultural, or forestry operation.

51 (6) "Food" means:

52 (a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or  
53 ingredient used or intended for use or for sale, in whole or in part, for human consumption; or

54 (b) chewing gum.

55 (7) "Local health department" means the same as that term is defined in Section  
56 [26A-1-102](#).

57 (8) "Operator" means a person who owns, manages, or controls, or who has the duty to  
58 manage or control, the farm.

59 (9) "Time/temperature control food" means food that requires time/temperature  
60 controls for safety to limit pathogenic microorganism growth or toxin formation.

61 Section 3. Section **26-15b-103** is enacted to read:

62 **26-15b-103. Permitting -- Fees.**

63 (1) A farm may not operate an agritourism food establishment unless the farm obtains a  
64 permit from the local health department that has jurisdiction over the area in which the farm is  
65 located.

66 (2) In accordance with Section [26A-1-121](#), and subject to the restrictions of Section  
67 [26-15b-105](#), a local health department shall make standards and regulations relating to the  
68 permitting of an agritourism food establishment.

69 (3) In accordance with Section [26A-1-114](#), a local health department shall impose a fee  
70 for an agritourism food establishment permit in an amount that reimburses the local health  
71 department for the cost of regulating the agritourism food establishment.

72 Section 4. Section **26-15b-104** is enacted to read:

73 **26-15b-104. Safety and health inspections and permits.**

74 (1) A local health department with jurisdiction over an area in which a farm is located  
75 may grant an agritourism food establishment permit to the farm.

76 (2) Nothing in this section prevents a local health department from revoking an  
77 agritourism food establishment permit issued by the local health department if the operation of  
78 the agritourism food establishment violates the terms of the permit or Section [26-15b-105](#).

79 Section 5. Section **26-15b-105** is enacted to read:

80 **26-15b-105. Permit requirements.**

81 (1) A farm may qualify for an agritourism food establishment permit if:

82 (a) poultry products that are served at the agritourism establishment are slaughtered  
83 and processed in compliance with the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et  
84 seq., and the applicable regulations issued pursuant to that act;

85 (b) meat not described in Subsection (1)(a) that is served at the agritourism food  
86 establishment is slaughtered and processed in compliance with the Federal Meat Inspection  
87 Act, 21 U.S.C. Sec. 601 et seq., and the applicable regulations issued pursuant to that act;

88 (c) a kitchen facility used to prepare food for the agritourism food establishment meets  
89 the requirements established by the department;

90 (d) the farm operates the agritourism food establishment for no more than 14  
91 consecutive days at a time; and

92 (e) the farm complies with the requirements of this section.

93 (2) The department shall, in accordance with Title 63G, Chapter 3, Utah  
94 Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance  
95 requirements for agritourism food establishments.

96 (3) A local health department shall:

97 (a) ensure compliance with the rules described in Subsection (2) when inspecting a  
98 kitchen facility;

99 (b) notwithstanding Section [26A-1-113](#), inspect the kitchen facility of a farm that  
100 requests an agritourism food establishment permit only:

101 (i) for an initial inspection, no more than one week before the agritourism food  
102 establishment is scheduled to begin operation;

103 (ii) for an unscheduled inspection:

104 (A) of an event scheduled to last no more than three days if the local health department  
105 conducts the inspection within three days before or after the day on which the agritourism food  
106 establishment is scheduled to begin operation; or

107 (B) of an event scheduled to last longer than three days if the local health department  
108 conducts the inspection within three days before or after the day on which the agritourism food  
109 establishment is scheduled to begin operation, or conducts the inspection during operating  
110 hours of the agritourism food establishment; or

111 (iii) for subsequent inspections if:

112 (A) the local health department provides the operator with reasonable advanced notice  
113 about an inspection; or

114 (B) the local health department has a valid reason to suspect that the agritourism food  
115 establishment is the source of an adulterated food or of an outbreak of illness caused by a  
116 contaminated food; and

117 (c) document the reason for any inspection after the permitting inspection, keep a copy  
118 of that documentation on file with the agritourism food establishment's permit, and provide a

119 copy of that documentation to the operator.

120 (4) An agritourism food establishment shall:

121 (a) take steps to avoid any potential contamination to:

122 (i) food;

123 (ii) equipment;

124 (iii) utensils; or

125 (iv) unwrapped single-service and single-use articles; and

126 (b) prevent an individual from entering the food preparation area while food is being

127 prepared if the individual is known to be suffering from:

128 (i) symptoms associated with acute gastrointestinal illness; or

129 (ii) a communicable disease that is transmissible through food.

130 (5) When making the rules described in Subsection (2), the department may not make

131 rules regarding:

132 (a) hand washing facilities, except to require that a hand washing station supplied with

133 warm water, soap, and disposable hand towels is conveniently located;

134 (b) kitchen sinks and dish sanitation, except to require that the kitchen sink has hot and

135 cold water, a sanitizing agent, is fully operational, and that dishes are sanitized between each

136 use;

137 (c) the individuals allowed access to the food preparation areas, food storage, and

138 washing areas, except during food preparation;

139 (d) display guards, covers, or containers for display foods, except to require that any

140 food on display that is not protected from the direct line of a consumer's mouth by an effective

141 means is not served or sold to any subsequent consumer;

142 (e) outdoor display and sale of food, except to require that food is maintained at proper

143 holding temperatures;

144 (f) reuse by an individual of drinking cups and tableware for multiple portions;

145 (g) utensils and equipment, except to require that utensils and equipment used in the

146 home kitchen:

147 (i) retain their characteristic qualities under normal use conditions;

148 (ii) are properly sanitized after use; and

149 (iii) are maintained in a sanitary manner between uses;

150 (h) food contact surfaces, except to require that food contact surfaces are smooth,  
151 easily cleanable, in good repair, and properly sanitized between tasks;

152 (i) non-food contact surfaces, if those surfaces are made of materials ordinarily used in  
153 residential settings, except to require that those surfaces are kept clean from the accumulation  
154 of residue and debris;

155 (j) clean-in-place equipment, except to require that the equipment is cleaned and  
156 sanitized between uses;

157 (k) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and  
158 smoke are able to escape the kitchen;

159 (l) fixed temperature measuring devices or product mimicking sensors for the holding  
160 equipment for time/temperature control food, except to require non-fixed temperature  
161 measuring devices for hot and cold holding of food during storage, serving, and cooling;

162 (m) fixed floor-mounted and table-mounted equipment except to require that  
163 floor-mounted and table-mounted equipment be in good repair and sanitized between uses;

164 (n) dedicated laundry facilities, except to require that linens used for the agritourism  
165 food establishment are stored and laundered separately from household laundry and that soiled  
166 laundry is stored to prevent contamination of food and equipment;

167 (o) water, plumbing, drainage, and waste, except to require that sinks be supplied with  
168 hot water;

169 (p) the number of and path of access to toilet facilities, except to require that toilet  
170 facilities are equipped with proper handwashing stations;

171 (q) lighting, except to require that food preparations are well lit by natural or artificial  
172 light whenever food is being prepared;

173 (r) designated dressing areas and storage facilities, except to require that items not  
174 ordinarily found in a home kitchen are placed or stored away from food preparation areas, that  
175 dressing takes place outside of the kitchen facility, and that food items are stored in a manner  
176 that does not allow for contamination;

177 (s) the presence and handling of animals, except to require that all animals are kept  
178 outside of food preparation and service areas during food service and food preparation;

179 (t) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces  
180 are smooth, of durable construction, easily cleanable, and kept clean and free of debris;

181 (u) kitchen facilities open to living areas, except to require that food is only prepared,  
182 handled, or stored in kitchen and food storage areas;

183 (v) submission of plans and specifications before construction or remodel of a kitchen  
184 facility;

185 (w) the number and type of time/temperature controlled food offered for sale;

186 (x) approved food sources, except those required by 9 C.F.R. 303.1;

187 (y) the use of items produced under Section 4-5-9.5 and this chapter;

188 (z) the use of an open air barbeque, grill, or outdoor wood-burning oven; or

189 (aa) food safety certification, except any individual who is involved in the preparation,  
190 storage, or service of food in the agritourism food establishment shall hold a food handler  
191 permit as defined in Section 26-15-5.

192 (6) An operator applying for an agritourism food establishment permit shall provide to  
193 the local health department:

194 (a) written consent to enter the premises where food is prepared, cooked, stored, or  
195 harvested for the agritourism food establishment; and

196 (b) written standard operating procedures that include:

197 (i) all food that will be stored, handled, and prepared;

198 (ii) the proposed procedures and methods of food preparation and handling;

199 (iii) procedures, methods, and schedules for cleaning utensils and equipment;

200 (iv) procedures and methods for the disposal of refuse; and

201 (v) a plan for maintaining time/temperature controlled food at the appropriate  
202 temperatures for each time/temperature controlled food.

203 (7) In addition to a fee charged under Section 26-15b-103, if the local health  
204 department is required to inspect the farm as a source of an adulterated food or an outbreak of  
205 illness caused by a contaminated food and finds, as a result of that inspection, that the farm has  
206 produced an adulterated food or was the source of an outbreak of illness caused by a  
207 contaminated food, the local health department may charge and collect from the farm a fee for  
208 that inspection.

209 (8) An agritourism food establishment permit:

210 (a) is nontransferable;

211 (b) is renewable on an annual basis;

212 (c) is restricted to the location listed on the permit; and

213 (d) shall provide the operator the opportunity to update the food types and products

214 handled without requiring the operator to renew the permit.

215 (9) This section does not prohibit an operator from applying for a different type of food

216 event permit from a local health department.