



Reprinted  
February 17, 2009

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## HOUSE BILL No. 1309

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DIGEST OF HB 1309 (Updated February 16, 2009 1:51 pm - DI 77)

**Citations Affected:** IC 16-18; IC 16-42.

**Synopsis:** Home based processors. Establishes a program to allow home based processors to prepare and sell certain food products. Establishes requirements for home based processors.

**Effective:** Upon passage.

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**Blanton, Brown T, Moseley, Welch**

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January 13, 2009, read first time and referred to Committee on Public Health.  
February 10, 2009, reported — Do Pass.  
February 16, 2009, read second time, amended, ordered engrossed.

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HB 1309—LS 7291/DI 77+



First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

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## HOUSE BILL No. 1309

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A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 16-18-2-1.6 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: **Sec. 1.6. "Acid food", for purposes of**  
4 **IC 16-42-11.4, has the meaning set forth in IC 16-42-11.4-1.**
- 5 SECTION 2. IC 16-18-2-1.7 IS ADDED TO THE INDIANA CODE  
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
7 UPON PASSAGE]: **Sec. 1.7. "Acidified food product", for purposes**  
8 **of IC 16-42-11.4, has the meaning set forth in IC 16-42-11.4-2.**
- 9 SECTION 3. IC 16-18-2-138.7 IS ADDED TO THE INDIANA  
10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
11 [EFFECTIVE UPON PASSAGE]: **Sec. 138.7. "Food products", for**  
12 **purposes of IC 16-42-11.4, has the meaning set forth in**  
13 **IC 16-42-11.4-3.**
- 14 SECTION 4. IC 16-18-2-139.7 IS ADDED TO THE INDIANA  
15 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
16 [EFFECTIVE UPON PASSAGE]: **Sec. 139.7. "Formulated acid food**  
17 **product", for purposes of IC 16-42-11.4, has the meaning set forth**

HB 1309—LS 7291/DI 77+



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**in IC 16-42-11.4-4.**

SECTION 5. IC 16-18-2-172 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 172. (a) "Home", for purposes of IC 16-33-4, has the meaning set forth in IC 16-33-4-3.

(b) "Home", for purposes of IC 16-42-11.4, has the meaning set forth in IC 16-42-11.4-5.

SECTION 6. IC 16-18-2-172.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 172.5. "Home based processor", for purposes of IC 16-42-10 and IC 16-42-11.4, has the meaning set forth in IC 16-42-11.4-6.

SECTION 7. IC 16-18-2-214.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 214.5. "Low acid food", for purposes of IC 16-42-11.4, has the meaning set forth in IC 16-42-11.4-7

SECTION 8. IC 16-42-10-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.5. This chapter does not apply to a home based processor who complies with IC 16-42-11.4.

SECTION 9. IC 16-42-11.4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 11.4. Food: Manufacture and Sale by Home Based Processors**

Sec. 1. As used in this chapter, "acid food" means foods that have a natural pH of not more than 4.6.

Sec. 2. As used in this chapter, "acidified food product" means a low acid food to which acid or acidic food is added and that has:

- (1) a water activity value of more than 0.85; and
- (2) a finished equilibrium pH of not more than 4.6.

Sec. 3. As used in this chapter, "food products" means whole fruit and vegetables, mixed greens, jams, jellies, sweet sorghum syrup, maple syrup, honey, shelled nuts, candy, confectionaries, baked goods, preserves, fruit butter, bread, fruit pies, cakes, cookies, or other foods that are not potentially hazardous.

Sec. 4. As used in this chapter, "formulated acid food product" means an acid food in which the addition of a small amount of low acid food results in a finished equilibrium pH of not more than 4.6 and that does not significantly differ from that of the predominant acid or acid food.

Sec. 5. As used in this chapter, "home" means a primary

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1 residence occupied by a home based processor.

2 Sec. 6. As used in this chapter, "home based processor" means

3 an individual who produces or processes food products in the

4 individual's home.

5 Sec. 7. As used in this chapter, "low acid food" means foods,

6 other than alcoholic beverages, with:

7 (1) a finished equilibrium pH greater than 4.6; and

8 (2) a water activity value of more than 0.85.

9 Sec. 8. The state health commissioner shall enforce this chapter

10 and may adopt rules under IC 4-22-2 to administer and enforce

11 this chapter.

12 Sec. 9. (a) If a home based processor meets the conditions in

13 subsection (b), the home based processor is exempt from the

14 requirements under:

15 (1) IC 16-42-1 through IC 16-42-4 concerning labeling

16 requirements and misbranded food;

17 (2) IC 16-42-5 (food service establishments); and

18 (3) IC 16-42-5.2 (food handlers).

19 (b) A home based processor must meet the following conditions

20 to be exempt from the requirements under subsection (a):

21 (1) All finished product containers must be clean, sanitary,

22 and labeled according to the requirements under section 12(a)

23 of this chapter.

24 (2) All home processed foods produced under this exemption

25 must be neither adulterated nor misbranded under section

26 12(b) of this chapter.

27 (3) All glass containers for jams, jellies, preserves, fruit

28 butter, and similar products are provided with suitable rigid

29 metal covers.

30 Sec. 10. The home of a home based processor may not contain

31 more than:

32 (1) two (2) ranges, ovens, or double ovens; and

33 (2) three (3) refrigerators used for cold storage.

34 The equipment under this section must be designed for home use

35 and not for commercial use, and must be operated in the kitchen

36 within the residence.

37 Sec. 11. A home based processor may not produce or process for

38 sale acid foods, acidified food products, formulated acid food

39 products, or canned low acid foods.

40 Sec. 12. (a) A home based processor shall affix a label to all of

41 its food products. The label must contain the following

42 information:

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- 1           (1) The name and address of the home based processing
- 2           operation.
- 3           (2) The common or usual name of the food product.
- 4           (3) The ingredients of the food product, in descending order
- 5           of predominance by weight.
- 6           (4) The net weight and volume of the food product by
- 7           standard measure or numerical count.
- 8           (5) The following statement in at least 10 point type: "This
- 9           product is home produced and processed."
- 10          (6) The date the food product was processed.

11           (b) Food products that are not labeled as required in subsection

12           (a) are considered to be misbranded.

13           **Sec. 13. Food products that are:**

- 14           (1) produced and processed under this chapter; and
- 15           (2) properly labeled under section 12(a) of this chapter;
- 16           may be offered for sale only at farmers markets, at roadside
- 17           stands, or from the processor's home. The food products may be
- 18           used in preparing and serving food.

19           **Sec. 14. Food products that are properly labeled under section**

20           **12(a) of this chapter are not required to be tested to determine**

21           **whether the food product is an acid food, acidified food product,**

22           **formulated acid food product, or low acid food.**

23           **Sec. 15. The state department annually may inspect the**

24           **processing facilities of a home based processor.**

25           **Sec. 16. A home based processor is subject to food sampling and**

26           **inspection if:**

- 27           (1) the state department determines that the home based
- 28           processor's food product is:
- 29           (A) misbranded under section 12(b) of this chapter; or
- 30           (B) adulterated; or
- 31           (2) a consumer complaint has been received.

32           **Sec. 17. If the state department has reason to believe that an**

33           **imminent health hazard exists, the state department may order**

34           **cessation of production and sale of the food product until the state**

35           **department determines that the hazardous situation has been**

36           **addressed.**

37           **Sec. 18. For purposes of this chapter, the state health**

38           **commissioner or the commissioner's authorized representatives**

39           **may take samples for analysis and conduct examinations and**

40           **investigations through any officers or employees under the state**

41           **health commissioner's supervision. Those officers and employees**

42           **may enter, at reasonable times, the facilities of a home based**

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1 processor and inspect any food products in those places and all  
2 pertinent equipment, materials, containers, and labeling.

3 Sec. 19. A home based processor may not sell or offer for sale in  
4 Indiana for human consumption a food product unless the food  
5 product conforms to the requirements under this chapter.

6 SECTION 10. An emergency is declared for this act.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1309, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BROWN C, Chair

Committee Vote: yeas 7, nays 1.

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 HOUSE MOTION

Mr. Speaker: I move that House Bill 1309 be amended to read as follows:

Replace the effective dates in SECTIONS 1 through 12 with "[EFFECTIVE UPON PASSAGE]".

Page 1, delete lines 9 through 16.

Page 2, line 4, delete "IC 16-42-11.4-5." and insert "**IC 16-42-11.4-3.**".

Page 2, line 9, delete "IC 16-42-11.4-6." and insert "**IC 16-42-11.4-4.**".

Page 2, line 14, delete "IC 16-42-11.4-7." and insert "**IC 16-42-11.4-5.**".

Page 2, delete lines 15 through 19.

Page 2, line 24, delete "IC 16-41-11.4-9." and insert "**IC 16-42-11.4-6.**".

Page 2, line 29, delete "IC 16-42-11.4-10." and insert "**IC 16-42-11.4-7.**".

Page 2, line 33, delete "or a home based microprocessor".

Page 2, line 39, delete "and Microprocessors".

Page 3, delete lines 4 through 18.

Page 3, line 19, delete "5." and insert "**3.**".

Page 3, line 21, after "syrup," insert "**maple syrup, honey, shelled nuts, candy, confectionaries, baked goods,**".

Page 3, line 21, delete "or cookies." and insert "**cookies, or other foods that are not potentially hazardous.**".

Page 3, line 22, delete "6." and insert "**4.**".

Page 3, line 27, delete "7." and insert "**5.**".

Page 3, line 28, delete "or a home based" and insert ".".

Page 3, delete lines 29 through 39.

Page 3, line 40, delete "9." and insert "**6.**".

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Page 3, line 41, delete "a farmer" and insert "**an individual**".  
 Page 3, line 41, delete "farmer's" and insert "**individual's**".  
 Page 4, line 1, delete "10." and insert "7."  
 Page 4, line 5, delete "11." and insert "8."  
 Page 4, line 8, delete "12." and insert "9."  
 Page 4, line 18, delete "15(a)" and insert "**12(a)**".  
 Page 4, line 22, delete "15(b)" and insert "**12(b)**".  
 Page 4, line 26, delete "13." and insert "**10**".  
 Page 4, line 33, delete "14." and insert "**11**".  
 Page 4, line 35, delete "low acid canned" and insert "**canned low acid**".  
 Page 4, line 36, delete "15." and insert "**12**".  
 Page 5, line 9, delete "16." and insert "**13**".  
 Page 5, line 11, delete "15(a)" and insert "**12(a)**".  
 Page 5, line 13, delete "on" and insert "**from**".  
 Page 5, line 13, delete "farm" and insert "**home**".  
 Page 5, line 15, delete "17." and insert "**14**".  
 Page 5, line 16, delete "15(a)" and insert "**12(a)**".  
 Page 5, line 19, delete "18." and insert "**15**".  
 Page 5, line 21, delete "19." and insert "**16**".  
 Page 5, line 25, delete "15(b)" and insert "**12(b)**".  
 Page 5, line 28, delete "20." and insert "**17**".  
 Page 5, delete lines 33 through 42.  
 Delete page 6.  
 Page 7, delete lines 1 through 12.  
 Page 7, line 13, delete "28." and insert "**18**".  
 Page 7, line 18, delete ":" and insert "**a home based processor**".  
 Page 7, delete lines 19 through 20.  
 Page 7, run in lines 18 through 21.  
 Page 7, line 23, delete "29. A:" and insert "**19. A home based processor**".  
 Page 7, delete lines 24 through 25.  
 Page 7, run in lines 23 through 26.  
 Page 7, after line 28, begin a new paragraph and insert:  
 "SECTION 10. **An emergency is declared for this act**".  
 Renumber all SECTIONS consecutively.

(Reference is to HB 1309 as printed February 10, 2009.)

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