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# HOUSE BILL No. 1309

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-18-2; IC 16-42.

**Synopsis:** Home based processors and microprocessors. Establishes a program to allow home based processors and microprocessors to prepare and sell certain food products. Establishes requirements for home based processors and microprocessors. Establishes certification requirements for home based microprocessors. Requires the Purdue University cooperative extension service to provide training programs for home based microprocessors.

**Effective:** July 1, 2009.

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January 13, 2009, read first time and referred to Committee on Public Health.

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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



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 JULY
- 3 1, 2009]: **Sec. 1.6. "Acid food", for purposes of IC 16-42-11.4, has**
- 4 **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 JULY
- 7 1, 2009]: **Sec. 1.7. "Acidified food product", for purposes of**
- 8 **IC 16-42-11.4, has the meaning set forth in IC 16-42-11.4-2.**
- 9 SECTION 3. IC 16-18-2-51.3 IS ADDED TO THE INDIANA
- 10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 11 [EFFECTIVE JULY 1, 2009]: **Sec. 51.3. "Certified", for purposes of**
- 12 **IC 16-42-11.4, has the meaning set forth in IC 16-42-11.4-3.**
- 13 SECTION 4. IC 16-18-2-123.1 IS ADDED TO THE INDIANA
- 14 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 15 [EFFECTIVE JULY 1, 2009]: **Sec. 123.1. "Farmer", for purposes of**
- 16 **IC 16-42-11.4, has the meaning set forth in IC 16-42-11.4-4.**
- 17 SECTION 5. IC 16-18-2-138.7 IS ADDED TO THE INDIANA



1 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 2 [EFFECTIVE JULY 1, 2009]: **Sec. 138.7. "Food products", for**  
 3 **purposes of IC 16-42-11.4, has the meaning set forth in**  
 4 **IC 16-42-11.4-5.**

5 SECTION 6. IC 16-18-2-139.7 IS ADDED TO THE INDIANA  
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 7 [EFFECTIVE JULY 1, 2009]: **Sec. 139.7. "Formulated acid food**  
 8 **product", for purposes of IC 16-42-11.4, has the meaning set forth**  
 9 **in IC 16-42-11.4-6.**

10 SECTION 7. IC 16-18-2-172 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 172. (a) "Home", for**  
 12 **purposes of IC 16-33-4, has the meaning set forth in IC 16-33-4-3.**

13 **(b) "Home", for purposes of IC 16-42-11.4, has the meaning set**  
 14 **forth in IC 16-42-11.4-7.**

15 SECTION 8. IC 16-18-2-172.4 IS ADDED TO THE INDIANA  
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 17 [EFFECTIVE JULY 1, 2009]: **Sec. 172.4. "Home based**  
 18 **microprocessor", for purposes of IC 16-42-10 and IC 16-42-11.4,**  
 19 **has the meaning set forth in IC 16-42-11.4-8.**

20 SECTION 9. IC 16-18-2-172.5 IS ADDED TO THE INDIANA  
 21 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 22 [EFFECTIVE JULY 1, 2009]: **Sec. 172.5. "Home based processor",**  
 23 **for purposes of IC 16-42-10 and IC 16-42-11.4, has the meaning set**  
 24 **forth in IC 16-42-11.4-9.**

25 SECTION 10. IC 16-18-2-214.5 IS ADDED TO THE INDIANA  
 26 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 2009]: **Sec. 214.5. "Low acid food", for**  
 28 **purposes of IC 16-42-11.4, has the meaning set forth in**  
 29 **IC 16-42-11.4-10.**

30 SECTION 11. IC 16-42-10-0.5 IS ADDED TO THE INDIANA  
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 32 [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. This chapter does not apply**  
 33 **to a home based processor or a home based microprocessor who**  
 34 **complies with IC 16-42-11.4.**

35 SECTION 12. IC 16-42-11.4 IS ADDED TO THE INDIANA  
 36 CODE AS A NEW CHAPTER TO READ AS FOLLOWS  
 37 [EFFECTIVE JULY 1, 2009]:

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

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

42 **Sec. 2. As used in this chapter, "acidified food product" means**

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1 a low acid food to which acid or acidic food is added and that has:

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

4 Sec. 3. As used in this chapter, "certified" refers to a home  
 5 based microprocessor or individual who:

- 6 (1) has attended and satisfactorily completed:  
 7 (A) the Purdue University cooperative extension service's  
 8 microprocessing program; or  
 9 (B) a school microprocessing program approved under 21  
 10 CFR 114.10; and  
 11 (2) meets the certification requirements under this chapter.

12 Sec. 4. As used in this chapter, "farmer" means an individual  
 13 who is a resident of Indiana and who:

- 14 (1) owns or rents agricultural land that has been assessed as  
 15 agricultural land for property tax; or  
 16 (2) has grown the primary horticultural and agronomic  
 17 ingredients used in the home based processed food products  
 18 that the individual has produced.

19 Sec. 5. As used in this chapter, "food products" means whole  
 20 fruit and vegetables, mixed greens, jams, jellies, sweet sorghum  
 21 syrup, preserves, fruit butter, bread, fruit pies, cakes, or cookies.

22 Sec. 6. As used in this chapter, "formulated acid food product"  
 23 means an acid food in which the addition of a small amount of low  
 24 acid food results in a finished equilibrium pH of not more than 4.6  
 25 and that does not significantly differ from that of the predominant  
 26 acid or acid food.

27 Sec. 7. As used in this chapter, "home" means a primary  
 28 residence occupied by a home based processor or a home based  
 29 microprocessor.

30 Sec. 8. As used in this chapter, "home based microprocessor"  
 31 means a farmer who:

- 32 (1) in the farmer's home produces or processes:  
 33 (A) acid foods;  
 34 (B) formulated acid food products;  
 35 (C) acidified food products; or  
 36 (D) low acid canned foods; and  
 37 (2) has a net income of not more than thirty-five thousand  
 38 dollars (\$35,000) annually from the sale of the produced and  
 39 processed food products.

40 Sec. 9. As used in this chapter, "home based processor" means  
 41 a farmer who produces or processes food products in the farmer's  
 42 home.

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1           **Sec. 10. As used in this chapter, "low acid food" means foods,**  
2 **other than alcoholic beverages, with:**  
3           (1) a finished equilibrium pH greater than 4.6; and  
4           (2) a water activity value of more than 0.85.

5           **Sec. 11. The state health commissioner shall enforce this chapter**  
6 **and may adopt rules under IC 4-22-2 to administer and enforce**  
7 **this chapter.**

8           **Sec. 12. (a) If a home based processor meets the conditions in**  
9 **subsection (b), the home based processor is exempt from the**  
10 **requirements under:**  
11           (1) IC 16-42-1 through IC 16-42-4 concerning labeling  
12           requirements and misbranded food;  
13           (2) IC 16-42-5 (food service establishments); and  
14           (3) IC 16-42-5.2 (food handlers).

15           **(b) A home based processor must meet the following conditions**  
16 **to be exempt from the requirements under subsection (a):**  
17           (1) All finished product containers must be clean, sanitary,  
18           and labeled according to the requirements under section 15(a)  
19           of this chapter.  
20           (2) All home processed foods produced under this exemption  
21           must be neither adulterated nor misbranded under section  
22           15(b) of this chapter.  
23           (3) All glass containers for jams, jellies, preserves, fruit  
24           butter, and similar products are provided with suitable rigid  
25           metal covers.

26           **Sec. 13. The home of a home based processor may not contain**  
27 **more than:**  
28           (1) two (2) ranges, ovens, or double ovens; and  
29           (2) three (3) refrigerators used for cold storage.

30           **The equipment under this section must be designed for home use**  
31 **and not for commercial use, and must be operated in the kitchen**  
32 **within the residence.**

33           **Sec. 14. A home based processor may not produce or process for**  
34 **sale acid foods, acidified food products, formulated acid food**  
35 **products, or low acid canned foods.**

36           **Sec. 15. (a) A home based processor shall affix a label to all of**  
37 **its food products. The label must contain the following**  
38 **information:**  
39           (1) The name and address of the home based processing  
40           operation.  
41           (2) The common or usual name of the food product.  
42           (3) The ingredients of the food product, in descending order

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1 of predominance by weight.  
 2 (4) The net weight and volume of the food product by  
 3 standard measure or numerical count.  
 4 (5) The following statement in at least 10 point type: "This  
 5 product is home produced and processed."  
 6 (6) The date the food product was processed.  
 7 (b) Food products that are not labeled as required in subsection  
 8 (a) are considered to be misbranded.  
 9 Sec. 16. Food products that are:  
 10 (1) produced and processed under this chapter; and  
 11 (2) properly labeled under section 15(a) of this chapter;  
 12 may be offered for sale only at farmers markets, at roadside  
 13 stands, or on the processor's farm. The food products may be used  
 14 in preparing and serving food.  
 15 Sec. 17. Food products that are properly labeled under section  
 16 15(a) of this chapter are not required to be tested to determine  
 17 whether the food product is an acid food, acidified food product,  
 18 formulated acid food product, or low acid food.  
 19 Sec. 18. The state department annually may inspect the  
 20 processing facilities of a home based processor.  
 21 Sec. 19. A home based processor is subject to food sampling and  
 22 inspection if:  
 23 (1) the state department determines that the home based  
 24 processor's food product is:  
 25 (A) misbranded under section 15(b) of this chapter; or  
 26 (B) adulterated; or  
 27 (2) a consumer complaint has been received.  
 28 Sec. 20. If the state department has reason to believe that an  
 29 imminent health hazard exists, the state department may order  
 30 cessation of production and sale of the food product until the state  
 31 department determines that the hazardous situation has been  
 32 addressed.  
 33 Sec. 21. The state department shall adopt rules under IC 4-22-2  
 34 to accommodate the specific circumstances of certified home based  
 35 microprocessors. In order to protect public health while  
 36 encouraging the marketing of home processed foods, the rules must  
 37 include standards for the following:  
 38 (1) Installation, design, location, and maintenance of toilet  
 39 rooms.  
 40 (2) Installation and maintenance of hand washing facilities.  
 41 (3) Manual and mechanical cleaning and sanitizing processes.  
 42 (4) Installation and location of equipment.

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**(5) Construction and covering of floors.**

**(6) Construction, materials, and maintenance of walls and ceilings.**

**Sec. 22. Food products that are produced or processed by a certified home based microprocessor and in compliance with rules adopted under this chapter may be offered for sale only at farmers markets, at roadside stands, or on the processor's farm. The food products may be used in preparing and serving food.**

**Sec. 23. (a) The Purdue University cooperative extension service shall develop, implement, and administer a program to train home based microprocessors or the personnel of a home based microprocessor in compliance with 21 CFR 114.10.**

**(b) The state department shall evaluate and certify home based microprocessors or the personnel of home based microprocessors who have completed the Purdue University cooperative extension service's microprocessing program or a microprocessing program approved under 21 CFR 114.10. The state department shall issue a certificate to a home based microprocessor or to the personnel of a home based microprocessor who is certified under this chapter.**

**Sec. 24. Before January 1, 2010, the state department shall adopt rules concerning home based microprocessors and the personnel of home based microprocessors to:**

- (1) establish certification terms, conditions, and length of time the certification is valid;**
- (2) establish terms, conditions, and standards for recertification; and**
- (3) establish fees for certification and recertification.**

**Sec. 25. Before January 1, 2010, the state department and the Purdue University cooperative extension service shall adopt joint rules concerning the microprocessing program and certification requirements, including rules to:**

- (1) develop a certification examination for home based microprocessors and the personnel of home based microprocessors;**
- (2) establish examination subject matter;**
- (3) establish criteria for program completion; and**
- (4) establish fees for the microprocessing program.**

**Sec. 26. Upon satisfactory completion of the microprocessing program, a home based microprocessor and the personnel of a home based microprocessor are considered to be certified and to have met the training requirements provided in 21 CFR 114.10.**

**Sec. 27. (a) Before January 1, 2010, the Purdue University**

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1 cooperative extension service shall establish and administer a  
 2 microprocessing program to train and instruct:  
 3 (1) home based microprocessors; and  
 4 (2) personnel of home based microprocessors;  
 5 in food handling techniques, food protection principles, personal  
 6 hygiene, processing sanitation practices, pH controls, and critical  
 7 factors in acidification.  
 8 (b) The Purdue University cooperative extension service shall  
 9 offer at least four (4) program workshops annually to home based  
 10 microprocessors and personnel of home based microprocessors,  
 11 which must be held in separate and distinct geographical locations  
 12 within Indiana.  
 13 Sec. 28. For purposes of this chapter, the state health  
 14 commissioner or the commissioner's authorized representatives  
 15 may take samples for analysis and conduct examinations and  
 16 investigations through any officers or employees under the state  
 17 health commissioner's supervision. Those officers and employees  
 18 may enter, at reasonable times, the facilities of:  
 19 (1) a home based processor; or  
 20 (2) a home based microprocessor;  
 21 and inspect any food products in those places and all pertinent  
 22 equipment, materials, containers, and labeling.  
 23 Sec. 29. A:  
 24 (1) home based processor; or  
 25 (2) home based microprocessor;  
 26 may not sell or offer for sale in Indiana for human consumption a  
 27 food product unless the food product conforms to the requirements  
 28 under this chapter.

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