

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Health and Provider Services, to which was referred House Bill No. 1309, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
2 "SECTION 1. IC 16-18-2-137, AS AMENDED BY P.L.3-2008,
3 SECTION 105, IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE UPON PASSAGE]: Sec. 137. (a) "Food establishment",
5 for purposes of IC 16-42-5 and IC 16-42-5.2, means any building,
6 room, basement, vehicle of transportation, cellar, or open or enclosed
7 area occupied or used for handling food.
8 (b) The term does not include the following:
9 (1) A dwelling where food is prepared on the premises by the
10 occupants, free of charge, for their consumption or for
11 consumption by their guests.
12 (2) A gathering of individuals at a venue of an organization that
13 is organized for educational purposes in a nonpublic educational
14 setting or for religious purposes, if:
15 (A) the individuals separately or jointly provide or prepare,
16 free of charge, and consume their own food or that of others
17 attending the gathering; and
18 (B) the gathering is for a purpose of the organization.
19 Gatherings for the purpose of the organization include funerals,
20 wedding receptions, christenings, bar or bat mitzvahs, baptisms,
21 communions, and other events or celebrations sponsored by the

- 1 organization.
- 2 (3) A vehicle used to transport food solely for distribution to the
- 3 needy, either free of charge or for a nominal donation.
- 4 (4) A private gathering of individuals who separately or jointly
- 5 provide or prepare and consume their own food or that of others
- 6 attending the gathering, regardless of whether the gathering is
- 7 held on public or private property.
- 8 (5) Except for food prepared by a for-profit entity, a venue of the
- 9 sale of food prepared **for an the** organization:
- 10 (A) that is organized for:
- 11 (i) religious purposes; or
- 12 (ii) educational purposes in a nonpublic educational setting;
- 13 (B) that is exempt from taxation under Section 501 of the
- 14 Internal Revenue Code; and
- 15 (C) that offers the food for sale to the final consumer at an
- 16 event held for the benefit of the organization;
- 17 unless the food is being provided in a restaurant or a cafeteria
- 18 with an extensive menu of prepared foods.
- 19 (6) Except for food prepared by a for-profit entity, an Indiana
- 20 nonprofit organization that:
- 21 (A) is organized for civic, fraternal, veterans, or charitable
- 22 purposes;
- 23 (B) is exempt from taxation under Section 501 of the Internal
- 24 Revenue Code; and
- 25 (C) offers food for sale to the final consumer at an event held
- 26 for the benefit of the organization;
- 27 if the events conducted by the organization take place for not
- 28 more than fifteen (15) days in a calendar year.
- 29 **(7) An individual vendor of a farmer's market or roadside**
- 30 **stand if the individual meets the requirements of**
- 31 **IC 16-42-5-29.**
- 32 SECTION 3. IC 16-18-2-287.8 IS ADDED TO THE INDIANA
- 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 34 [EFFECTIVE JULY 1, 2009]: **Sec. 287.8. "Potentially hazardous**
- 35 **food product", for purposes of IC 16-42-5-29, means a food that is**
- 36 **natural or synthetic and requires temperature control because it**
- 37 **is in a form capable of supporting any of the following:**
- 38 **(1) The rapid and progressive growth of infectious or**
- 39 **toxigenic microorganisms.**
- 40 **(2) The growth and toxin production of Clostridium**
- 41 **botulinum.**
- 42 **(3) In raw shell eggs, the growth of Salmonella enteritidis.**

- 1 **(b) The term includes the following:**
 2 **(1) A food of animal origin that is raw or heat treated.**
 3 **(2) A food of plant origin that is heat treated or consists of**
 4 **raw seed sprouts.**
 5 **(3) Cut melons.**
 6 **(4) Garlic-in-oil mixtures that are not modified in a way that**
 7 **results in mixtures that do not support growth described in**
 8 **subsection (a)."**

9 Delete pages 2 through 3.

10 Page 4, delete lines 1 through 24.

11 Page 4, line 25, delete "Sec. 16. A home based processor", begin a
 12 new paragraph and insert:

13 "SECTION 4. IC 16-42-5-29 IS ADDED TO THE INDIANA CODE
 14 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 15 **UPON PASSAGE]: Sec. 29. (a) This section applies to an individual**
 16 **vendor of a farmer's market or roadside stand.**

17 **(b) An individual vendor of a farmer's market or roadside stand**
 18 **is not considered to be a food establishment and is exempt from the**
 19 **requirements of this title that apply to food establishments if the**
 20 **individual vendor's food product:**

- 21 **(1) is made by an individual in the individual's primary**
 22 **residence;**
 23 **(2) is not a potentially hazardous food product;**
 24 **(3) is prepared by an individual who practices proper sanitary**
 25 **procedures, including:**
 26 **(A) proper hand washing;**
 27 **(B) sanitation of the container or other packaging in which**
 28 **the food product is contained; and**
 29 **(C) safe storage of the food product;**
 30 **(4) is not resold; and**
 31 **(5) includes a label that contains the following information:**
 32 **(A) The name and address of the producer of the food**
 33 **product.**
 34 **(B) The common or usual name of the food product.**
 35 **(C) The ingredients of the food product, in descending**
 36 **order by predominance by weight.**
 37 **(D) The net weight and volume of the food product by**
 38 **standard measure or numerical count.**
 39 **(E) The date on which the food product was processed.**
 40 **(F) The following statement in at least 10 point type: "This**
 41 **product is home produced and processed and the**
 42 **production area has not been inspected by the state**

- 1 **department of health."**
- 2 **(c) An individual vendor who meets the requirements in**
- 3 **subsection (b)".**
- 4 Page 4, line 27, delete "home based" and insert "**individual**
- 5 **vendor's"**.
- 6 Page 4, line 28, delete "processor's".
- 7 Page 4, line 31, delete "." and insert "**by the state department."**
- 8 Page 4, line 32, delete "Sec. 17." and insert "**(d)"**.
- 9 Page 4, line 33, delete "," and insert "**with respect to an individual**
- 10 **vendor's food product,"**.
- 11 Page 4, line 37, delete "Sec. 18. For purposes of this chapter," and
- 12 insert "**(e) For purposes of this section,"**
- 13 Page 4, line 42, delete "a home based" and insert "**an individual**
- 14 **vendor"**.
- 15 Page 5, line 1, delete "processor".
- 16 Page 5, delete lines 3 through 5, begin a new paragraph and insert:
- 17 "**(f) The state health commissioner may develop guidelines for**
- 18 **an individual vendor who seeks an exemption from regulation as**
- 19 **a food establishment as described in subsection (b). The guidelines**
- 20 **may include:**
- 21 **(1) standards for best safe food handling practices;**
- 22 **(2) disease control measures; and**
- 23 **(3) standards for potable water sources."**
- 24 Renumber all SECTIONS consecutively.
 (Reference is to HB 1309 as reprinted February 17, 2009.)

and when so amended that said bill do pass .

Committee Vote: Yeas 6, Nays 1.

Senator Miller, Chairperson