



Reprinted  
February 15, 2012

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## ENGROSSED HOUSE BILL No. 1312

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DIGEST OF HB 1312 (Updated February 14, 2012 3:01 pm - DI 77)

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

**Synopsis:** Sale of poultry at farmer's markets. Provides that an individual vendor of a farmer's market or roadside stand is not considered to be a food establishment if the individual vendor's food product is made, grown, or raised by an individual at the individual's primary residence, property owned by the individual, or property leased by the individual. (Current law requires the food product to be made in the vendor's primary residence.) Requires the department of health to adopt rules that: (1) incorporate certain federal rules; and (2) require the poultry to be frozen at the point of sale and labeled in compliance with federal requirements. Requires the legislative council to establish an interim study committee to study obstacles to local food production, processing, and distribution.

**Effective:** May 31, 2012; July 1, 2012.

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### Ellspermann, Clere, Davisson

(SENATE SPONSORS — YOUNG R, BANKS, KRUSE)

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January 11, 2012, read first time and referred to Committee on Agriculture and Rural Development.

January 23, 2012, reported — Do Pass.

January 30, 2012, read second time, amended, ordered engrossed.

January 31, 2012, engrossed. Read third time, passed. Yeas 73, nays 24.

SENATE ACTION

February 1, 2012, read first time and referred to Committee on Commerce and Economic Development.

February 7, 2012, reported favorably — Do Pass.

February 14, 2012, read second time, amended, ordered engrossed.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1312

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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 16-42-5-29, AS ADDED BY P.L.86-2009,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 MAY 31, 2012]: Sec. 29. (a) This section applies to an individual  
4 vendor of a farmer's market or roadside stand.  
5 (b) An individual vendor of a farmer's market or roadside stand is  
6 not considered to be a food establishment and is exempt from the  
7 requirements of this title that apply to food establishments if the  
8 individual vendor's food product:  
9 (1) is made, **grown, or raised** by an individual ~~in~~ **at** the  
10 individual's primary residence, **property owned by the**  
11 **individual, or property leased by the individual;**  
12 (2) is not a potentially hazardous food product;  
13 (3) is prepared by an individual who practices proper sanitary  
14 procedures, including:  
15 (A) proper hand washing;  
16 (B) sanitation of the container or other packaging in which the  
17 food product is contained; and

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- 1 (C) safe storage of the food product;  
 2 (4) is not resold; and  
 3 (5) includes a label that contains the following information:  
 4 (A) The name and address of the producer of the food product.  
 5 (B) The common or usual name of the food product.  
 6 (C) The ingredients of the food product, in descending order  
 7 by predominance by weight.  
 8 (D) The net weight and volume of the food product by  
 9 standard measure or numerical count.  
 10 (E) The date on which the food product was processed.  
 11 (F) The following statement in at least 10 point type: "This  
 12 product is home produced and processed and the production  
 13 area has not been inspected by the state department of health."  
 14 (c) An individual vendor who meets the requirements in subsection  
 15 (b) is subject to food sampling and inspection if:  
 16 (1) the state department determines that the individual vendor's  
 17 food product is:  
 18 (A) misbranded under ~~section 12(b) of this chapter;~~  
 19 **IC 16-42-2-3**; or  
 20 (B) adulterated; or  
 21 (2) a consumer complaint has been received by the state  
 22 department.  
 23 (d) If the state department has reason to believe that an imminent  
 24 health hazard exists with respect to an individual vendor's food  
 25 product, the state department may order cessation of production and  
 26 sale of the food product until the state department determines that the  
 27 hazardous situation has been addressed.  
 28 (e) For purposes of this section, the state health commissioner or the  
 29 commissioner's authorized representatives may take samples for  
 30 analysis and conduct examinations and investigations through any  
 31 officers or employees under the state health commissioner's  
 32 supervision. Those officers and employees may enter, at reasonable  
 33 times, the facilities of an individual vendor and inspect any food  
 34 products in those places and all pertinent equipment, materials,  
 35 containers, and labeling.  
 36 (f) The state health commissioner may develop guidelines for an  
 37 individual vendor who seeks an exemption from regulation as a food  
 38 establishment as described in subsection (b). The guidelines may  
 39 include:  
 40 (1) standards for best safe food handling practices;  
 41 (2) disease control measures; and  
 42 (3) standards for potable water sources.

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- (g) The department shall adopt rules that:**
  - (1) incorporate by reference 9 CFR 381.10(c) (allowing poultry products slaughtered and processed on a farm for the purpose of conducting limited sales on the farm, at a farmer's market, and at a roadside stand); and**
  - (2) require that poultry processed under this section be frozen at the point of sale and labeled in compliance with the requirements of 9 CFR 381.10.**

**SECTION 2. [EFFECTIVE JULY 1, 2012] (a) The legislative council shall establish an interim study committee to:**

- (1) study obstacles to local food production, processing, and distribution in Indiana; and**
- (2) make recommendations for action that will encourage farmers and residents to produce, process, and distribute locally grown food.**

**(b) The interim study committee described in subsection (a) shall submit a final report to the legislative council before November 1, 2012. The report must include the interim study committee's findings and recommendations, including any recommended legislation concerning the issue of local food production, processing, and distribution. The interim committee shall operate under the policies and procedures of the legislative council.**

**(c) This SECTION expires January 1, 2013.**

**SECTION 3. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred House Bill 1312, 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.

LEHE, Chair

Committee Vote: yeas 7, nays 2.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1312 be amended to read as follows:

Page 2, delete line 42, begin a new paragraph and insert:

**"(g) The department shall adopt rules that allow limited sales of home processed, uninspected poultry products at farmer's markets and roadside stands. The rules must comply with the requirements of the federal Poultry Products Inspection Act (21 U.S.C. 451 et seq.)"**

Page 3, delete lines 1 through 15.

(Reference is to HB 1312 as printed January 23, 2012.)

ELLSPERMANN

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1312 be amended to read as follows:

Page 3, between lines 15 and 16, begin a new paragraph and insert:

**"SECTION 2. [EFFECTIVE JULY 1, 2012] (a) The legislative council shall establish an interim study committee to:**

- (1) study obstacles to local food production, processing, and distribution in Indiana; and**
- (2) make recommendations for action that will encourage farmers and residents to produce, process, and distribute locally grown food.**

**(b) The interim study committee described in subsection (a) shall submit a final report to the legislative council before November 1, 2012. The report must include the interim study**

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**committee's findings and recommendations, including any recommended legislation concerning the issue of local food production, processing, and distribution. The interim committee shall operate under the policies and procedures of the legislative council.**

**(c) This SECTION expires January 1, 2013."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1312 as printed January 23, 2012.)

SULLIVAN

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COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Economic Development, to which was referred House Bill No. 1312, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1312 as printed January 31, 2012.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 9, Nays 0.

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1312 be amended to read as follows:

Page 2, line 18, strike "section 12(b) of this chapter;" and insert "**IC 16-42-2-3;**".

Page 2, delete line 42, begin a new paragraph and insert:

**"(g) The department shall adopt rules that:**

**(1) incorporate by reference 9 CFR 381.10(c) (allowing poultry products slaughtered and processed on a farm for the purpose of conducting limited sales on the farm, at a farmer's market, and at a roadside stand); and**

**(2) require that poultry processed under this section be frozen at the point of sale and labeled in compliance with the requirements of 9 CFR 381.10."**



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Page 3, delete lines 1 through 4.

(Reference is to EHB 1312 as printed February 8, 2012.)

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