

As Introduced

136th General Assembly

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H. B. No. 134

Representatives Gross, Humphrey

**Cosponsors: Representatives Fischer, Brennan, Denson, Synenberg, Jarrells,
McClain, Ferguson, Deeter, Barhorst, Swearingen, Workman, Dean, Mullins, Sims,
McNally, Brewer, Klopfenstein**

A BILL

To amend sections 3715.01, 3715.021, 3715.022,	1
3715.023, and 3717.22 and to enact section	2
3715.026 of the Revised Code to authorize the	3
sale of certain homemade foods under a	4
microenterprise home kitchen operation	5
registration.	6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3715.01, 3715.021, 3715.022,	7
3715.023, and 3717.22 be amended and section 3715.026 of the	8
Revised Code be enacted to read as follows:	9

Sec. 3715.01. (A) As used in this chapter:	10
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(1) "Person" means an individual, partnership,	11
corporation, or association.	12

(2) "Food" means:	13
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(a) Articles used for food or drink for humans or animals;	14
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(b) Chewing gum;	15
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(c) Articles used for components of any such articles.	16
(3) "Drug" means:	17
(a) Articles recognized in the United States pharmacopoeia and national formulary, or any supplement to them;	18 19
(b) Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;	20 21 22
(c) Articles, other than food, intended to affect the structure or any function of the body of humans or other animals;	23 24 25
(d) Articles intended for use as a component of any of the foregoing articles, other than devices or their components, parts, or accessories.	26 27 28
(4) "Device," except when used in division (B)(1) of this section and in division (A)(10) of section 3715.52, division (F) of section 3715.60, division (A)(5) of section 3715.64, and division (C) of section 3715.67 of the Revised Code, means any instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, that is any of the following:	29 30 31 32 33 34 35
(a) Recognized in the United States pharmacopoeia and national formulary, or any supplement to them;	36 37
(b) Intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease in humans or animals;	38 39 40
(c) Intended to affect the structure or any function of the body of humans or animals, and that does not achieve any of its principal intended purposes through chemical action within	41 42 43

or on the body of humans or animals and is not dependent upon 44
being metabolized for the achievement of any of its principal 45
intended purposes. 46

(5) "Cosmetic" means: 47

(a) Articles intended to be rubbed, poured, sprinkled, or 48
sprayed on, introduced into, or otherwise applied to the human 49
body or any part thereof for cleansing, beautifying, promoting 50
attractiveness, or altering the appearance; 51

(b) Articles intended for use as a component of any such 52
article, except that "cosmetic" does not include soap. 53

(6) "Label" means a display of written, printed, or 54
graphic matter upon the immediate container, exclusive of 55
package liners, of any article. 56

Any word, statement, or other information required by this 57
chapter to appear on the label must appear on the outside 58
container or wrapper, if any, of the retail package of the 59
article, or the label must be easily legible through the outside 60
container or wrapper. 61

(7) "Labeling" means all labels and other written, 62
printed, or graphic matter: 63

(a) Upon an article or any of its containers or wrappers; 64

(b) Accompanying such article. 65

(8) "Advertisement" means all representations disseminated 66
in any manner or by any means, other than by labeling, for the 67
purpose of inducing, or that are likely to induce, directly or 68
indirectly, the purchase of food, drugs, devices, or cosmetics. 69

(9) "New drug" means: 70

(a) Any drug the composition of which is such that the 71
drug is not generally recognized among experts qualified by 72
scientific training and experience to evaluate the safety of 73
drugs, as safe for use under the conditions prescribed, 74
recommended, or suggested in the labeling thereof; 75

(b) Any drug the composition of which is such that the 76
drug, as a result of investigation to determine its safety for 77
use under such conditions, has become so recognized, but that 78
has not, other than in an investigation, been used to a material 79
extent or for a material time under such conditions. 80

(10) "Contaminated with filth" applies to any food, drug, 81
device, or cosmetic that has not been protected as far as may be 82
necessary by all reasonable means from dust, dirt, and all 83
foreign or injurious substances. 84

(11) "Honey" means the nectar and saccharine exudation of 85
plants that has been gathered, modified, and stored in a 86
honeycomb by honeybees. 87

(12) "Finished dosage form" means the form of a drug that 88
is, or is intended to be, dispensed or administered to humans or 89
animals and requires no further manufacturing or processing 90
other than packaging, reconstituting, or labeling. 91

(13) (a) "Manufacture" means the planting, cultivating, 92
harvesting, processing, making, preparing, or otherwise engaging 93
in any part of the production of a drug by propagating, 94
compounding, converting, or processing, either directly or 95
indirectly by extracting from substances of natural origin, or 96
independently by means of chemical synthesis, or by a 97
combination of extraction and chemical synthesis, and includes 98
the following: 99

(i) Any packaging or repackaging of the drug or labeling	100
or relabeling of its container, the promotion and marketing of	101
the drug, and other activities incident to production;	102
(ii) The preparation and promotion of commercially	103
available products from bulk compounds for resale by pharmacies,	104
licensed health professionals authorized to prescribe drugs, or	105
other persons.	106
(b) "Manufacture" does not include the preparation,	107
compounding, packaging, or labeling of a drug by a pharmacist as	108
an incident to either of the following:	109
(i) Dispensing a drug in the usual course of professional	110
practice;	111
(ii) Providing a licensed health professional authorized	112
to prescribe drugs with a drug for the purpose of administering	113
to patients or for using the drug in treating patients in the	114
professional's office.	115
(14) "Dangerous drug" has the same meaning as in section	116
4729.01 of the Revised Code.	117
(15) "Generically equivalent drug" means a drug that	118
contains identical amounts of the identical active ingredients,	119
but not necessarily containing the same inactive ingredients,	120
that meets the identical compendial or other applicable standard	121
of identity, strength, quality, and purity, including potency,	122
and where applicable, content uniformity, disintegration times,	123
or dissolution rates, as the prescribed brand name drug and the	124
manufacturer or distributor holds, if applicable, either an	125
approved new drug application or an approved abbreviated new	126
drug application unless other approval by law or from the	127
federal food and drug administration is required.	128

No drug shall be considered a generically equivalent drug 129
for the purposes of this chapter if it has been listed by the 130
federal food and drug administration as having proven 131
bioequivalence problems. 132

(16) "Licensed health professional authorized to prescribe 133
drugs" and "prescriber" have the same meanings as in section 134
4729.01 of the Revised Code. 135

(17) "Home" means the primary residence occupied by the 136
residence's owner, on the condition that the residence contains 137
only one stove or oven used for cooking, which may be a double 138
oven, designed for common residence usage and not for commercial 139
usage, and that the stove or oven be operated in an ordinary 140
kitchen within the residence. 141

(18) "Potentially hazardous food" means a food that is 142
natural or synthetic, to which any of the following apply: 143

(a) It has a pH level greater than 4.6 when measured at 144
seventy-five degrees fahrenheit or twenty-four degrees celsius. 145

(b) It has a water activity value greater than 0.85. 146

(c) It requires temperature control because it is in a 147
form capable of supporting the rapid and progressive growth of 148
infectious or toxigenic microorganisms, the growth and toxin 149
production of clostridium botulinum, or in the case of raw 150
shell eggs, the growth of salmonella enteritidis. 151

(19) "Cottage food production operation" means a person 152
who, in the person's home, produces food items that are not 153
potentially hazardous foods, including bakery products, jams, 154
jellies, candy, fruit butter, and similar products specified in 155
rules adopted pursuant to section 3715.025 of the Revised Code. 156

(20) "Biological product" means, except as provided in 157
section 3715.011 of the Revised Code, a drug that is a 158
biological product, as defined ~~on the effective date of this~~ 159
~~amendment~~ March 21, 2017, in subsection (i) of section 351 of 160
the "Public Health Service Act," 42 U.S.C. 262(i). 161

(21) "Interchangeable biological product" means, except as 162
provided in section 3715.011 of the Revised Code, both of the 163
following: 164

(a) A biological product that, ~~on the effective date of~~ 165
~~this amendment~~ March 21, 2017, has been determined by the United 166
States food and drug administration to meet the standards for 167
interchangeability set forth in subsection (k) of section 351 of 168
the "Public Health Service Act," 42 U.S.C. 262(k), as amended, 169
and has been licensed under that subsection; 170

(b) A biological product that, ~~prior to the effective date~~ 171
~~of this amendment~~ March 21, 2017, was determined by the United 172
States food and drug administration to be therapeutically 173
equivalent as set forth in its publication titled "Approved Drug 174
Products with Therapeutic Equivalence Evaluations." 175

(22) "Microenterprise home kitchen operation" means a 176
person who registers with the department of agriculture to sell 177
and deliver food that is produced at the person's home in 178
accordance with section 3715.026 of the Revised Code. 179

(B) For the purposes of sections 3715.52 to 3715.72 of the 180
Revised Code: 181

(1) If an article is alleged to be misbranded because the 182
labeling is misleading, or if an advertisement is alleged to be 183
false because it is misleading, then in determining whether the 184
labeling or advertisement is misleading, there shall be taken 185

into account, among other things, not only representations made 186
or suggested by statement, word, design, device, sound, or in 187
any combination thereof, but also the extent to which the 188
labeling or advertisement fails to reveal facts material in the 189
light of such representations or material with respect to 190
consequence which may result from the use of the article to 191
which the labeling or advertisement relates under the conditions 192
of use prescribed in the labeling or advertisement thereof or 193
under such conditions of use as are customary or usual. 194

(2) The provisions regarding the selling of food, drugs, 195
devices, or cosmetics include the manufacture, production, 196
processing, packing, exposure, offer, possession, and holding of 197
any such article for sale; and the sale, dispensing, and giving 198
of any such article, and the supplying or applying of any such 199
articles in the conduct of any food, drug, or cosmetic 200
establishment. The provisions do not prohibit a licensed health 201
professional authorized to prescribe drugs from administering or 202
personally furnishing a drug or device to a patient. 203

(3) The representation of a drug, in its labeling or 204
advertisement, as an antiseptic is a representation that it is a 205
germicide, except in the case of a drug purporting to be, or 206
represented as, an antiseptic for inhibitory use as a wet 207
dressing, ointment, dusting powder, or other use that involves 208
prolonged contact with the body. 209

(4) Whenever jurisdiction is vested in the director of 210
agriculture or the state board of pharmacy, the jurisdiction of 211
the board shall be limited to the sale, offering for sale, 212
giving away, delivery, or dispensing in any manner of drugs at 213
the wholesale and retail levels or to the consumer and shall be 214
exclusive in the case of such sale, offering for sale, giving 215

away, delivery, or dispensing in any manner of drugs at the 216
wholesale and retail levels or to the consumer in any place 217
where prescriptions are dispensed or compounded. 218

(5) To assist in effectuating the provisions of those 219
sections, the director of agriculture or state board of pharmacy 220
may request assistance or data from any government or private 221
agency or individual. 222

Sec. 3715.021. (A) As used in this section, "food 223
processing establishment" means a premises or part of a premises 224
where food is processed, packaged, manufactured, or otherwise 225
held or handled for distribution to another location or for sale 226
at wholesale. "Food processing establishment" includes the 227
activities of a bakery, confectionery, cannery, bottler, 228
warehouse, or distributor, and the activities of an entity that 229
receives or salvages distressed food for sale or use as food. A 230
"food processing establishment" does not include a cottage food 231
production operation; a microenterprise home kitchen operation; 232
a processor of tree syrup who boils sap when a minimum of 233
seventy-five per cent of the sap used to produce the syrup is 234
collected directly from trees by that processor; a processor of 235
sorghum who processes sorghum juice when a minimum of seventy- 236
five per cent of the sorghum juice used to produce the sorghum 237
is extracted directly from sorghum plants by that processor; a 238
beekeeper who jars honey when a minimum of seventy-five per cent 239
of the honey is from that beekeeper's own hives; or a processor 240
of apple syrup or apple butter who directly harvests from trees 241
a minimum of seventy-five per cent of the apples used to produce 242
the apple syrup or apple butter. 243

(B) The director of agriculture shall adopt rules in 244
accordance with Chapter 119. of the Revised Code that establish, 245

when otherwise not established by the Revised Code, standards 246
and good manufacturing practices for food processing 247
establishments, including the facilities of food processing 248
establishments and their sanitation. The rules shall conform 249
with or be equivalent to the standards for foods established by 250
the United States food and drug administration in Title 21 of 251
the Code of Federal Regulations. 252

A business or that portion of a business that is regulated 253
by the department of agriculture under Chapter 917. or 918. of 254
the Revised Code is not subject to regulation under this section 255
as a food processing establishment. 256

Sec. 3715.022. (A) All food products, including those 257
produced and packaged by a cottage food production operation or 258
microenterprise home kitchen operation, and all packaged maple 259
syrup, sorghum, and honey, are subject to food sampling 260
conducted by the director of agriculture, or a representative 261
the director authorizes, to determine if a food product is 262
misbranded or adulterated. A component of the food sampling 263
conducted under this section may include the performance of 264
sample analyses in accordance with section 3715.02 of the 265
Revised Code. 266

The director of agriculture shall adopt rules as the 267
director considers necessary to establish standards for food 268
sampling and procedures for administration of this section. The 269
rules shall be adopted in accordance with Chapter 119. of the 270
Revised Code. 271

(B) Labeling requirements do not apply to fruit butter 272
produced at a festival or celebration, if the festival or 273
celebration is organized by a political subdivision of this 274
state and the fruit butter is sold during the festival or 275

celebration from the production site. 276

Sec. 3715.023. (A) A cottage food production operation, a 277
microenterprise home kitchen operation, and a maple syrup or 278
sorghum processor and beekeeper described in division (A) of 279
section 3715.021 of the Revised Code shall label each of their 280
food products and include the following information on the label 281
of each of their food products: 282

(1) The name and address of the business of the cottage 283
food production operation, microenterprise home kitchen 284
operation, processor, or beekeeper; 285

(2) The name of the food product; 286

(3) The ingredients of the food product, in descending 287
order of predominance by weight; 288

(4) The net weight and volume of the food product; 289

(5) In the case of a cottage food production operation or 290
microenterprise home kitchen operation, the following statement 291
in ten-point type: "This product is home produced." 292

(B) ~~Food~~ Except as provided in section 3715.026 of the 293
Revised Code, food products identified and labeled in accordance 294
with division (A) of this section are acceptable food products 295
that a retail food establishment or food service operation 296
licensed under Chapter 3717. of the Revised Code may offer for 297
sale or use in preparing and serving food. 298

Sec. 3715.026. (A) As used in this section: 299

(1) "Homemade food item" means any food made at the home 300
of a microenterprise home kitchen operation. "Homemade food 301
item" does not include alcoholic beverages or food containing 302
any drug. 303

(2) "Home kitchen" means the home kitchen in which the 304
microenterprise home kitchen operation does or will prepare all 305
homemade food items for sale to a consumer. 306

(B) (1) The director of agriculture shall issue an 307
microenterprise home kitchen operation registration to a 308
microenterprise home kitchen operation when application is made 309
by an operation in accordance with procedures established by the 310
director of agriculture. Such registration shall be valid from 311
the date it is issued through the last day of January of the 312
following year; however registrations issued between the first 313
day of January through the thirtieth day of January of a year 314
expire on the thirty-first day of January of that year. An 315
application for registration shall be accompanied by a 316
registration fee of twenty-five dollars. However, if a person 317
submits an application for registration within six months of the 318
expiration date of the registration, the fee shall be one-half 319
of the registration fee. 320

(2) The department shall renew a microenterprise home 321
kitchen operation registration if the operation is in compliance 322
with this section, submits a renewal application in accordance 323
with procedures established by the director of agriculture, and 324
pays a twenty-five-dollar renewal fee. A renewed registration 325
shall be valid from the first day of February through the last 326
day of January of the following year. 327

(C) (1) The director or the director's designee shall 328
inspect the premises of every microenterprise home kitchen 329
operation not more than once per year, unless it is 330
investigating a report of foodborne illness, has reasonable 331
suspicion of an immediate threat to public health, or is re- 332
inspecting a microenterprise home kitchen operation that had a 333

violation detected in a prior inspection. Inspections shall be 334
limited to the home kitchen in the home. 335

(2) The director or the director's designee shall obtain 336
an administrative warrant prior to conducting any inspection 337
under this section. 338

(3) The director may charge a fee to a microenterprise 339
home kitchen operation to cover the administrative costs of 340
conducting inspections that shall not exceed seventy-five 341
dollars annually. 342

(4) The department shall publish its inspection standards 343
on its web site and shall ensure that each operation receives a 344
copy of the inspection standards and criteria it uses to conduct 345
inspections when submitting an application for registration with 346
the department. 347

(D) A microenterprise home kitchen operation shall do all 348
of the following: 349

(1) Allow the department to conduct home kitchen 350
inspections in accordance with division (C) of this section; 351

(2) Produce all homemade food items in the inspected 352
kitchen; 353

(3) Label the homemade food items in accordance with 354
section 3715.023 of the Revised Code; 355

(4) Operate the home kitchen and premises in which the 356
home kitchen is located in accordance with the requirements 357
described in division (E) of this section; 358

(5) Store and prepare food in accordance with the 359
requirements described in division (F) of this section; 360

(6) Sell and deliver homemade food items in accordance 361
with the requirements in division (G) of this section. 362

(E) A microenterprise home kitchen operation shall not 363
operate unless all of the following requirements are met: 364

(1) The home kitchen shall be equipped with at least one 365
accessible hand washing sink plumbed with hot and cold potable 366
water and supplied with hand soap. 367

(2) The home kitchen shall have surfaces that are easy to 368
clean and sanitized with a sanitizer that is safe to use on food 369
preparation surfaces. 370

(3) The home kitchen shall be free from pests. 371

(4) Garbage and refuse shall be kept in closed containers 372
and removed from the premises regularly. 373

(5) The home kitchen shall have mechanical refrigeration 374
with sufficient capacity to maintain the temperature of 375
potentially hazardous food at forty-one degrees Fahrenheit or 376
below. 377

(6) All equipment, utensils, and containers used in the 378
preparation of food in the home kitchen shall be washed with 379
soap and water or sanitizer for cleaning food contact surfaces 380
and kept clean. 381

(7) Animals, including pets, shall not enter the home 382
kitchen while food is being prepared. 383

(F) A microenterprise home kitchen operation shall comply 384
with all of the following food storage and preparation 385
requirements: 386

(1) Food shall be in sound condition, free from spoilage, 387

filth, or other contamination, and shall be safe for human 388
consumption. Food products shall not be stored on the floor, and 389
food shall only be prepared in the home kitchen. 390

(2) Prepared potentially hazardous food shall be 391
maintained at forty-one degrees Fahrenheit or below under 392
mechanical refrigeration. 393

(3) Prepared potentially hazardous food shall be cooled to 394
forty-one degrees Fahrenheit or below within four hours of 395
preparation. 396

(4) Food ingredients shall be stored in original 397
containers. If removed from the original container, food and 398
ingredients shall be stored in labeled and closed containers of 399
a material that will prevent the food from becoming adulterated. 400

(5) Any person preparing food in the home kitchen shall do 401
all the following: 402

(a) Be free from contagious or communicable diseases, 403
sores, or infected wounds, and keep their hair restrained; 404

(b) Keep themselves and their clothing clean; 405

(c) Ensure that their hands are washed as frequently as 406
necessary to maintain good sanitation and not cross-contaminate 407
food; 408

(d) Minimize bare hand contact with prepared food; 409

(e) Not smoke while handling or preparing food or in food 410
preparation or storage areas while preparing food. 411

(G) A microenterprise home kitchen operation shall comply 412
with all of the following sale and delivery requirements: 413

(1) A homemade food item that does not contain dairy or 414

meat may be sold by the microenterprise home kitchen operation 415
to the consumer in person or remotely, including by telephone or 416
internet, or by an agent of the microenterprise home kitchen 417
operation or a third-party vendor, such as a retail shop or 418
grocery store, and may be delivered by the microenterprise home 419
kitchen operation or third-party carrier, such as the United 420
States postal service. 421

(2) Homemade food items that contain dairy or meat shall 422
be sold by the microenterprise home kitchen operation to the 423
consumer, either in person or remotely, including by telephone 424
or internet, or by an agent of the microenterprise home kitchen 425
operation or a third-party vendor, but shall be delivered by the 426
microenterprise home kitchen operation to the consumer in 427
person. 428

(3) If a potentially hazardous food item is transported 429
before final delivery to the consumer, the food shall be 430
maintained at an appropriate temperature during transport, shall 431
not be transported more than once, and shall not be transported 432
for longer than two hours. 433

(H) The director or the director's designee may issue a 434
fine not to exceed seventy-five dollars to a microenterprise 435
home kitchen operation that is found to be in violation of any 436
of the requirements of this section. The director or the 437
director's designee shall first issue a warning and give the 438
microenterprise home kitchen operation the opportunity to 439
correct a violation before issuing a fine. 440

(I) (1) The director or the director's designee may issue 441
an order suspending or revoking a microenterprise home kitchen 442
operation registration for a violation of this section. Except 443
as provided in division (I) (2) of this section, a registration 444

shall not be suspended or revoked until the registration holder 445
is provided a warning, has had an opportunity to correct the 446
violation, and has had an opportunity to appeal the suspension 447
or revocation in accordance with Chapter 119. of the Revised 448
Code. 449

(2) If the director or the director's designee determines 450
that a microenterprise home kitchen operation presents an 451
immediate danger to the public health, the director may issue an 452
order immediately suspending the operation's registration 453
without affording the registration holder a warning or an 454
opportunity for a hearing. The director then shall afford the 455
registration holder an opportunity for a hearing for 456
registration reinstatement in accordance with Chapter 119. of 457
the Revised Code not later than ten days after the date of 458
suspension. 459

(J) This section does not prohibit a person from operating 460
as an exempt cottage food operation if the person only sells and 461
delivers food permitted under this chapter for a cottage food 462
operation. 463

(K) This section does not prohibit a local government from 464
enforcing a generally applicable zoning law. 465

Sec. 3717.22. (A) The following are not retail food 466
establishments: 467

(1) A food service operation licensed under this chapter, 468
including a food service operation that provides the services of 469
a retail food establishment pursuant to an endorsement issued 470
under section 3717.44 of the Revised Code; 471

(2) An entity exempt under divisions (B)(1) to (9), (11) 472
to (13), or (15) of section 3717.42 of the Revised Code from the 473

requirement to be licensed as a food service operation and an 474
entity exempt under division (B) (10) of that section if the 475
entity is regulated by the department of agriculture as a food 476
processing establishment under section 3715.021 of the Revised 477
Code; 478

(3) A business or that portion of a business that is 479
regulated by the federal government or the department of 480
agriculture as a food manufacturing or food processing business, 481
including a business or that portion of a business regulated by 482
the department of agriculture under Chapter 911., 913., 915., 483
917., 918., or 925. of the Revised Code. 484

(B) All of the following are exempt from the requirement 485
to be licensed as a retail food establishment: 486

(1) An establishment with commercially prepackaged foods 487
that are not potentially hazardous and contained in displays, 488
the total space of which equals less than two hundred cubic 489
feet; 490

(2) A person at a farmers market that offers for sale only 491
one or more of the following: 492

(a) Fresh unprocessed fruits or vegetables; 493

(b) Products of a cottage food production operation or 494
microenterprise home kitchen operation; 495

(c) Tree syrup, sorghum, honey, apple syrup, or apple 496
butter that is produced by a tree syrup or sorghum producer, 497
beekeeper, or apple syrup or apple butter processor described in 498
division (A) of section 3715.021 of the Revised Code; 499

(d) Wine as authorized under section 4303.2010 of the 500
Revised Code; 501

(e) Commercially prepackaged food that is not potentially 502
hazardous, on the condition that the food is contained in 503
displays, the total space of which equals less than one hundred 504
cubic feet on the premises where the person conducts business at 505
the farmers market. 506

(3) A person who offers for sale at a roadside stand only 507
fresh fruits and fresh vegetables that are unprocessed; 508

(4) A nonprofit organization exempt from federal income 509
taxation under section 501(c)(3) of the "Internal Revenue Code 510
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, that raises 511
funds by selling foods and that, if required to be licensed, 512
would be classified as risk level one in accordance with rules 513
establishing licensing categories for retail food establishments 514
adopted under section 3717.33 of the Revised Code, if the sales 515
occur inside a building and are for not more than seven 516
consecutive days or more than fifty-two separate days during a 517
licensing period. This exemption extends to any individual or 518
group raising all of its funds during the time periods specified 519
in division (B)(4) of this section for the benefit of the 520
nonprofit organization by selling foods under the same 521
conditions. 522

(5) An establishment that offers food contained in 523
displays of less than five hundred square feet, and if required 524
to be licensed would be classified as risk level one pursuant to 525
rules establishing licensing categories for retail food 526
establishments adopted under section 3717.33 of the Revised 527
Code, on the condition that the establishment offers the food 528
for sale at retail not more than six months in each calendar 529
year; 530

(6) A cottage food production operation, on the condition 531

that the operation offers its products directly to the consumer 532
from the site where the products are produced; 533

(7) A tree syrup and sorghum processor, beekeeper, or 534
apple syrup and apple butter processor described in division (A) 535
of section 3715.021 of the Revised Code, on the condition that 536
the processor or beekeeper offers only tree syrup, sorghum, 537
honey, apple syrup, or apple butter directly to the consumer 538
from the site where those products are processed; 539

(8) A person who annually maintains five hundred or fewer 540
birds, on the condition that the person offers the eggs from 541
those birds directly to the consumer from the location where the 542
eggs are produced or at a farm product auction to which division 543
(B) (11) of this section applies; 544

(9) A person who annually raises and slaughters one 545
thousand or fewer chickens, on the condition that the person 546
offers dressed chickens directly to the consumer from the 547
location where the chickens are raised and slaughtered or at a 548
farm product auction to which division (B) (11) of this section 549
applies; 550

(10) A person who raises, slaughters, and processes the 551
meat of nonamenable species described in divisions (A) and (B) 552
of section 918.12 of the Revised Code, on the condition that the 553
person offers the meat directly to the consumer from the 554
location where the meat is processed or at a farm product 555
auction to which division (B) (11) of this section applies; 556

(11) A farm product auction, on the condition that it is 557
registered with the director pursuant to section 3717.221 of the 558
Revised Code that offers for sale at the farm product auction 559
only one or more of the following: 560

(a) The products described in divisions (B) (8) to (10) of 561
this section that are produced, raised, slaughtered, or 562
processed, as appropriate, by persons described in divisions (B) 563
(8) to (10) of this section; 564

(b) Fresh unprocessed fruits or vegetables; 565

(c) Products of a cottage food production operation or 566
microenterprise home kitchen operation; 567

(d) Tree syrup, sorghum, honey, apple syrup, or apple 568
butter that is produced by a tree syrup or sorghum producer, 569
beekeeper, or apple syrup or apple butter processor described in 570
division (A) of section 3715.021 of the Revised Code. 571

(12) An establishment that, with respect to offering food 572
for sale, offers only alcoholic beverages or prepackaged 573
beverages that are not potentially hazardous; 574

(13) An establishment that, with respect to offering food 575
for sale, offers only alcoholic beverages, prepackaged beverages 576
that are not potentially hazardous, or commercially prepackaged 577
food that is not potentially hazardous, on the condition that 578
the commercially prepackaged food is contained in displays, the 579
total space of which equals less than two hundred cubic feet on 580
the premises of the establishment; 581

(14) An establishment that, with respect to offering food 582
for sale, offers only fountain beverages that are not 583
potentially hazardous; 584

(15) A person who offers for sale only one or more of the 585
following foods at a festival or celebration, on the condition 586
that the festival or celebration is organized by a political 587
subdivision of the state and lasts for a period not longer than 588
seven consecutive days: 589

(a) Fresh unprocessed fruits or vegetables;	590
(b) Products of a cottage food production operation <u>or</u>	591
<u>microenterprise home kitchen operation;</u>	592
(c) Tree syrup, sorghum, honey, apple syrup, or apple	593
butter if produced by a tree syrup or sorghum processor,	594
beekeeper, or apple syrup or apple butter processor as described	595
in division (A) of section 3715.021 of the Revised Code;	596
(d) Commercially prepackaged food that is not potentially	597
hazardous, on the condition that the food is contained in	598
displays, the total space of which equals less than one hundred	599
cubic feet;	600
(e) Fruit butter produced at the festival or celebration	601
and sold from the production site.	602
(16) A farm market on the condition that it is registered	603
with the director pursuant to section 3717.221 of the Revised	604
Code that offers for sale at the farm market only one or more of	605
the following:	606
(a) Fresh unprocessed fruits or vegetables;	607
(b) Products of a cottage food production operation <u>or</u>	608
<u>microenterprise home kitchen operation;</u>	609
(c) Tree syrup, sorghum, honey, apple syrup, or apple	610
butter that is produced by a tree syrup or sorghum producer,	611
beekeeper, or apple syrup or apple butter processor described in	612
division (A) of section 3715.021 of the Revised Code;	613
(d) Commercially prepackaged food that is not potentially	614
hazardous, on the condition that the food is contained in	615
displays, the total space of which equals less than one hundred	616
cubic feet on the premises where the person conducts business at	617

the farm market; 618

(e) Cider and other juices manufactured on site at the 619
farm market; 620

(f) The products or items described in divisions (B) (8) to 621
(10) of this section, on the condition that those products or 622
items were produced by the person offering to sell them, and 623
further conditioned that, with respect to eggs offered, the 624
person offering to sell them annually maintains five hundred or 625
fewer birds, and with respect to dressed chickens offered, the 626
person annually raises and slaughters one thousand or fewer 627
chickens. 628

(17) (a) An establishment to which all of the following 629
apply: 630

(i) The establishment has been issued an A-2 permit under 631
section 4303.03 of the Revised Code or an A-2f permit under 632
section 4303.031 of the Revised Code, annually produces ten 633
thousand gallons or less of wine, and sells that wine in 634
accordance with Chapter 4303. of the Revised Code on the 635
premises of the establishment. 636

(ii) The establishment serves unopened commercially 637
prepackaged food, other than wine. 638

(iii) The amount of the establishment's commercially 639
prepackaged food sales, other than wine sales, for the previous 640
calendar year did not exceed five per cent of the 641
establishment's total gross receipts. 642

(b) The owner or operator of the establishment shall 643
notify the director that it is exempt from licensure because it 644
qualifies under division (B) (17) (a) of this section. The owner 645
or operator also shall display a notice in a place conspicuous 646

to all of its guests informing them that the establishment is 647
not required to be licensed as a retail food establishment. 648

(18) A microenterprise home kitchen operation that sells 649
and delivers food in accordance with section 3715.026 of the 650
Revised Code. 651

Section 2. That existing sections 3715.01, 3715.021, 652
3715.022, 3715.023, and 3717.22 of the Revised Code are hereby 653
repealed. 654