

1                   **MICROENTERPRISE HOME KITCHEN AMENDMENTS**

2                                   2021 GENERAL SESSION

3                                   STATE OF UTAH

4                           **Chief Sponsor: Christine F. Watkins**

5                           Senate Sponsor: \_\_\_\_\_

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7   **LONG TITLE**

8   **General Description:**

9           This bill creates permitting guidelines for microenterprise home kitchens.

10 **Highlighted Provisions:**

11       This bill:

- 12       ▶ defines terms;
- 13       ▶ grants administrative authority to the Department of Health to make rules regarding
- 14 the sanitation, equipment, and maintenance requirements for microenterprise home
- 15 kitchens; and
- 16       ▶ grants administrative authority to local health departments to:
  - 17       • create and issue microenterprise home kitchen permits;
  - 18       • charge fees for issuing permits and inspecting premises; and
  - 19       • inspect microenterprise home kitchens.

20 **Money Appropriated in this Bill:**

21       None

22 **Other Special Clauses:**

23       None

24 **Utah Code Sections Affected:**

25 ENACTS:

26       **26-15c-101**, Utah Code Annotated 1953

27       **26-15c-102**, Utah Code Annotated 1953



28 [26-15c-103](#), Utah Code Annotated 1953  
 29 [26-15c-104](#), Utah Code Annotated 1953  
 30 [26-15c-105](#), Utah Code Annotated 1953



32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section **26-15c-101** is enacted to read:

34 **CHAPTER 15c. MICROENTERPRISE HOME KITCHEN ACT**

35 **26-15c-101. Title.**

36 This chapter is known as the "Microenterprise Home Kitchen Act."

37 Section 2. Section **26-15c-102** is enacted to read:

38 **26-15c-102. Definitions.**

39 As used in this chapter:

40 (1) "Food" means:

41 (a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or  
 42 ingredient used or intended for use or for sale, in whole or in part, for human consumption; or

43 (b) chewing gum.

44 (2) "Local health department" means the same as that term is defined in Section  
 45 [26A-1-102](#).

46 (3) "Microenterprise home kitchen" means a non-commercial kitchen facility located in  
 47 a private home where food is handled, stored, prepared, or offered, for sale.

48 (4) "Microenterprise home kitchen permit" means a permit issued by a local health  
 49 department to the operator for the purpose of operating a microenterprise home kitchen.

50 (5) "Operator" means an individual who resides in the private home and who manages  
 51 or controls the microenterprise home kitchen.

52 (6) "Time or temperature control food" means food that requires time or temperature  
 53 controls for safety to limit pathogenic microorganism growth or toxin formation.

54 Section 3. Section **26-15c-103** is enacted to read:

55 **26-15c-103. Permitting -- Fees.**

56 (1) An operator may not operate a microenterprise home kitchen unless the operator  
 57 obtains a permit from the local health department that has jurisdiction over the area in which  
 58 the microenterprise home kitchen is located.

59           (2) In accordance with Section 26A-1-121, and subject to the restrictions of Section  
60 26-15c-105, a local health department shall make standards and regulations relating to the  
61 permitting of a microenterprise home kitchen.

62           (3) In accordance with Section 26A-1-114, a local health department shall impose a fee  
63 for a microenterprise home kitchen permit in an amount that reimburses the local health  
64 department for the cost of regulating the microenterprise home kitchen.

65           Section 4. Section **26-15c-104** is enacted to read:

66           **26-15c-104. Safety and health inspections and permits.**

67           (1) A local health department with jurisdiction over an area in which a microenterprise  
68 home kitchen is located may grant a microenterprise home kitchen permit to the operator.

69           (2) Nothing in this section prevents a local health department from revoking a  
70 microenterprise home kitchen permit issued by the local health department if the operation of  
71 the microenterprise home kitchen violates the terms of the permit or Section 26-15c-105.

72           Section 5. Section **26-15c-105** is enacted to read:

73           **26-15c-105. Permit requirements.**

74           (1) An operator may qualify for a microenterprise home kitchen permit if:

75           (a) food that is served at the microenterprise home kitchen is processed in compliance  
76 with state and federal regulations;

77           (b) a kitchen facility used to prepare food for the microenterprise home kitchen meets  
78 the requirements established by the department;

79           (c) the microenterprise home kitchen operates only during the hours approved in the  
80 microenterprise home kitchen permit; and

81           (d) the microenterprise home kitchen complies with the requirements of this section.

82           (2) The department shall, in accordance with Title 63G, Chapter 3, Utah  
83 Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance  
84 requirements for microenterprise home kitchens.

85           (3) A local health department shall:

86           (a) ensure compliance with the rules described in Subsection (2) when inspecting a  
87 microenterprise home kitchen;

88           (b) notwithstanding Section 26A-1-113, inspect a microenterprise home kitchen that  
89 requests a microenterprise home kitchen permit only;

90 (i) for an initial inspection, no more than one week before the microenterprise home  
91 kitchen is scheduled to begin operation;

92 (ii) for an unscheduled inspection, if the local health department conducts the  
93 inspection:

94 (A) within three days before or after the day on which the microenterprise home  
95 kitchen is scheduled to begin operation; or

96 (B) during operating hours of the microenterprise home kitchen; or

97 (iii) for subsequent inspections if:

98 (A) the local health department provides the operator with reasonable advanced notice  
99 of the inspection; or

100 (B) the local health department has a valid reason to suspect that the microenterprise  
101 home kitchen is the source of an adulterated food or of an outbreak of illness caused by a  
102 contaminated food; and

103 (c) document the reason for any inspection after the initial inspection, keep a copy of  
104 that documentation on file with the microenterprise home kitchen's permit, and provide a copy  
105 of that documentation to the operator.

106 (4) A microenterprise home kitchen shall:

107 (a) take steps to avoid any potential contamination to:

108 (i) food;

109 (ii) equipment;

110 (iii) utensils; or

111 (iv) unwrapped single-service and single-use articles; and

112 (b) prevent an individual from entering the food preparation area while food is being  
113 prepared if the individual is known to be suffering from:

114 (i) symptoms associated with acute gastrointestinal illness; or

115 (ii) a communicable disease that is transmissible through food.

116 (5) When making the rules described in Subsection (2), the department may not make  
117 rules regarding:

118 (a) hand washing facilities, except to require that a hand washing station supplied with  
119 warm water, soap, and disposable hand towels is conveniently located;

120 (b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that

121 the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes  
122 are sanitized between each use;

123 (c) the individuals allowed access to the food preparation areas, food storage areas, and  
124 washing areas, except during food preparation;

125 (d) display guards, covers, or containers for display foods, except to require that any  
126 food on display that is not protected from the direct line of a consumer's mouth by an effective  
127 means is not served or sold to any subsequent consumer;

128 (e) outdoor display and sale of food, except to require that food is maintained at proper  
129 holding temperatures;

130 (f) reuse by an individual of drinking cups and tableware for multiple portions;

131 (g) utensils and equipment, except to require that utensils and equipment used in the  
132 home kitchen:

133 (i) retain their characteristic qualities under normal use conditions;

134 (ii) are properly sanitized after use; and

135 (iii) are maintained in a sanitary manner between uses;

136 (h) food contact surfaces, except to require that food contact surfaces are smooth,  
137 easily cleanable, in good repair, and properly sanitized between tasks;

138 (i) non-food contact surfaces, if those surfaces are made of materials ordinarily used in  
139 residential settings, except to require that those surfaces are kept clean from the accumulation  
140 of residue and debris;

141 (j) clean-in-place equipment, except to require that the equipment is cleaned and  
142 sanitized between uses;

143 (k) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and  
144 smoke are able to escape the kitchen;

145 (l) fixed temperature measuring devices or product mimicking sensors for the holding  
146 equipment for time or temperature control food, except to require non-fixed temperature  
147 measuring devices for hot and cold holding of food during storage, serving, and cooling;

148 (m) fixed floor-mounted and table-mounted equipment, except to require that  
149 floor-mounted and table-mounted equipment be in good repair and sanitized between uses;

150 (n) dedicated laundry facilities, except to require that linens used for the  
151 microenterprise home kitchen are stored and laundered separately from household laundry and

152 that soiled laundry is stored to prevent contamination of food and equipment;

153 (o) water, plumbing, drainage, and waste, except to require that sinks be supplied with  
154 hot water;

155 (p) the number of and path of access to toilet facilities, except to require that toilet  
156 facilities are equipped with proper handwashing stations;

157 (q) lighting, except to require that food preparations are well lit by natural or artificial  
158 light whenever food is being prepared;

159 (r) designated dressing areas and storage facilities, except to require that items not  
160 ordinarily found in a home kitchen are placed or stored away from food preparation areas, that  
161 dressing takes place outside of the kitchen facility, and that food items are stored in a manner  
162 that does not allow for contamination;

163 (s) the presence and handling of animals, except to require that all animals are kept  
164 outside of food preparation and service areas during food service and food preparation;

165 (t) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces  
166 are smooth, of durable construction, easily cleanable, and kept clean and free of debris;

167 (u) kitchen facilities open to living areas, except to require that food is only prepared,  
168 handled, or stored in kitchen and food storage areas;

169 (v) submission of plans and specifications before construction or remodel of a kitchen  
170 facility;

171 (w) the number and type of time or temperature controlled food offered for sale;

172 (x) approved food sources, except those required by 9 C.F.R. Sec. 303.1;

173 (y) the use of items produced under this chapter;

174 (z) the use of an open air barbeque, grill, or outdoor wood-burning oven; or

175 (aa) food safety certification, except to require that any individual who is involved in  
176 the preparation, storage, or service of food in the microenterprise home kitchen shall hold a  
177 food handler permit as defined in Section [26-15-5](#).

178 (6) An operator applying for a microenterprise home kitchen permit shall provide to  
179 the local health department:

180 (a) written consent to enter the premises where food is prepared, cooked, stored, or  
181 harvested for the microenterprise home kitchen; and

182 (b) written standard operating procedures that include:

- 183 (i) all food that will be stored, handled, and prepared;
- 184 (ii) the proposed procedures and methods of food preparation and handling;
- 185 (iii) procedures, methods, and schedules for cleaning utensils and equipment;
- 186 (iv) procedures and methods for the disposal of refuse; and
- 187 (v) a plan for maintaining time or temperature controlled food at the appropriate
- 188 temperatures for each time or temperature controlled food.

189 (7) In addition to a fee charged under Section [26-15c-103](#), if the local health  
190 department is required to inspect the microenterprise home kitchen as a source of an  
191 adulterated food or an outbreak of illness caused by a contaminated food and finds, as a result  
192 of that inspection, that the microenterprise home kitchen has produced an adulterated food or  
193 was the source of an outbreak of illness caused by a contaminated food, the local health  
194 department may charge and collect from the farm a fee for that inspection.

195 (8) A microenterprise home kitchen permit:

- 196 (a) is nontransferable;
- 197 (b) is renewable on an annual basis;
- 198 (c) is restricted to the location and hours listed on the permit; and
- 199 (d) shall provide the operator the opportunity to update the food types and products
- 200 handled without requiring the operator to renew the permit.

201 (9) This section does not prohibit an operator from applying for a different type of food  
202 event permit from a local health department.