



2020 South Dakota Legislature

House Bill 1125

Introduced by: **Representative** York

1 **An Act to revise conditions for selling non-temperature-controlled baked goods**
 2 **without license.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1.** That § 34-18-37 be AMENDED:

5 **34-18-37. Labeling of baked and canned goods--Contents of label--**

6 **Identification number.**

7 ~~No~~Unless otherwise provided in this section, no baked good or canned good may
 8 be sold unless it has a label that includes the following information:

9 (1) Name of the product;

10 (2) ~~Producer and contact information~~Name of the producer;

11 (3) Physical address of production;

12 (4) Mailing address of the producer;

13 (5) Telephone number of the producer;

14 ~~(3)~~(6) Date the product was made or processed;

15 ~~(4)~~(7) Ingredients; and

16 ~~(5)~~(8) Disclaimer. The disclaimer ~~shall state that states:~~ "This product was not produced
 17 in a commercial kitchen. It has been home-processed in a kitchen that may also
 18 process common food allergens such as tree nuts, peanuts, eggs, soy, wheat, milk,
 19 fish, and crustacean shellfish."

20 Any producer exempt from licensure under this chapter may request an
 21 identification number from the department that, if kept active within the department, may
 22 be used on the label required by this section in lieu of the producer's physical address of
 23 production, mailing address, and telephone number. When using an identification number,
 24 the label must include a statement that reads: "The producer's physical address of
 25 production, mailing address, and telephone number have been recorded with the South
 26 Dakota Department of Health and may be requested for a legal purpose."

1 **Section 2.** That a NEW SECTION be added:

2 **34-18-37.1. Identification number database--Requests for information--**

3 **Purpose.**

4 The department shall create and maintain a database that associates each
5 identification number assigned under § 34-18-37 with the following up-to-date
6 information about the producer:

- 7 (1) Name;
8 (2) Physical address of production;
9 (3) Mailing address; and
10 (4) Telephone number.

11 The department shall provide a producer's physical address of production, mailing
12 address, and telephone number upon written request to any person who represents, under
13 penalty of perjury, that the information will only be utilized for a legal purpose. The
14 department shall retain a file of all requests that are made under § 34-18-37.

15 **Section 3.** That a NEW SECTION be added:

16 **34-18-37.2. Promulgation of rules.**

17 The department shall promulgate rules, pursuant to chapter 1-26, to specify the
18 manner in which a person may:

- 19 (1) Obtain an identification number under § 34-18-37;
20 (2) Keep an assigned identification number active, which shall include the producer
21 notifying the department of any change of information; and
22 (3) Request and obtain from the department under § 34-18-37.1 the producer's
23 physical address of production, mailing address, and telephone number.

24 **Section 4.** That § 34-18-38 be AMENDED:

25 **34-18-38. Sale of non-temperature-controlled baked goods from primary**
26 **residence--Exemption from licensure--Conditions for exemption.**

27 Any person selling non-temperature-controlled baked goods ~~from~~ at the person's
28 ~~own~~ primary residence is exempt from the licensing and license fee provisions of this
29 chapter ~~under the following conditions~~ if:

- 30 (1) ~~Any non-temperature-controlled baked goods sold from a person's own primary~~
31 ~~residence is for consumption off the premises;~~
32 (2) ~~Any~~ The non-temperature-controlled baked goods sold from a person's ~~own primary~~

1 residence ~~meets~~ meet the requirements of § 34-18-37; ~~and~~
2 ~~(3)(2) The total gross receipts from the sale of non-temperature-controlled baked goods~~
3 ~~from the person's own primary residence does not exceed five thousand dollars in~~
4 ~~a calendar year are sold in the seller's physical presence at:~~
5 (a) The seller's primary residence;
6 (b) A farmer's market;
7 (c) A roadside stand; or
8 (d) Other temporary sale venue; and
9 (3) The seller, or a person residing at the seller's primary residence, personally delivers
10 the non-temperature-controlled baked goods to the buyer at the completion of the
11 sale.