

# 2020 South Dakota Legislature

## House Bill 1125

### AMENDMENT 1125B FOR THE INTRODUCED BILL

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 ~~A 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."~~

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

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

**~~Purpose:~~**

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

~~(1) Name;~~

~~(2) Physical address of production;~~

~~(3) Mailing address; and~~

~~(4) Telephone number.~~

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

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

**~~34-18-37.2. Promulgation of rules:~~**

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

~~(1) Obtain an identification number under § 34-18-37;~~

~~(2) Keep an assigned identification number active, which shall include the producer notifying the department of any change of information; and~~

~~(3) Request and obtain from the department under § 34-18-37.1 the producer's physical address of production, mailing address, and telephone number.~~

**Section 2. That § 34-18-38 be AMENDED:**

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

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

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

(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.