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## Exemption List

### Food Safety Program

#### **3717.22 [Effective 10/17/2011] Excluded operations and entities**

##### **(A) The following are not retail food establishments:**

- (1) A food service operation licensed under this chapter, including a food service operation that provides the services of a retail food establishment pursuant to an endorsement issued under section 3717.44 of the Revised Code;
- (2) An entity exempt under divisions (B)(1) to (9) or (11) to (13) of section 3717.42 of the Revised Code from the requirement to be licensed as a food service operation and an entity exempt under division (B)(10) of that section if the entity is regulated by the department of agriculture as a food processing establishment under section 3715.021 of the Revised Code;
- (3) A business or that portion of a business that is regulated by the federal government or the department of agriculture as a food manufacturing or food processing business, including a business or that portion of a business regulated by the department of agriculture under Chapter 911., 913., 915., 917., 918., or 925. of the Revised Code.

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

- (1) An establishment with commercially prepackaged foods that are not potentially hazardous and contained in displays, the total space of which equals less than two hundred cubic feet;
- (2) A person at a farmers market that is registered with the director of agriculture pursuant to section 3717.221 of the Revised Code that offers for sale only one or more of the following:
  - (a) Fresh unprocessed fruits or vegetables;
  - (b) Products of a cottage food production operation;
  - (c) Maple syrup, sorghum, or honey that is produced by a maple syrup or sorghum producer or beekeeper described in division (A) of section 3715.021 of the Revised Code;
  - (d) Commercially prepackaged food that is not potentially hazardous, on the condition that the food is contained in displays, the total space of which equals less than one hundred cubic feet on the premises where the person conducts business at the farmers market.
- (3) A person who offers for sale at a roadside stand only fresh fruits and fresh vegetables that are unprocessed;
- (4) A nonprofit organization exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, that raises funds by selling foods and that, if required to be licensed, would be classified as risk level one in accordance with rules establishing licensing categories for retail food establishments adopted under section 3717.33 of the Revised Code, if the sales occur inside a building and are for not more than seven consecutive days or more than fifty-two separate days during a licensing period. This exemption extends to any individual or group raising all of its funds during the time periods specified in division (B)(4) of this section for the benefit of the nonprofit organization by selling foods under the same conditions.
- (5) An establishment that offers food contained in displays of less than five hundred square feet, and if required to be licensed would be classified as risk level one pursuant to rules establishing licensing categories for retail

food establishments adopted under section 3717.33 of the Revised Code, on the condition that the establishment offers the food for sale at retail not more than six months in each calendar year;

(6) A cottage food production operation, on the condition that the operation offers its products directly to the consumer from the site where the products are produced;

(7) A maple syrup and sorghum processor and beekeeper described in division (A) of section 3715.021 of the Revised Code, on the condition that the processor or beekeeper offers only maple syrup, sorghum, or honey directly to the consumer from the site where those products are processed;

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

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

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

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

- (a) The products described in divisions (B)(8) to (10) of this section that are produced, raised, slaughtered, or processed, as appropriate, by persons described in divisions (B)(8) to (10) of this section;
- b) Fresh unprocessed fruits or vegetables;
- (c) Products of a cottage food production operation;
- (d) Maple syrup, sorghum, or honey that is produced by a maple syrup or sorghum producer or beekeeper described in division (A) of section 3715.021 of the Revised Code.

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

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

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

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

- (a) Fresh unprocessed fruits or vegetables;
- (b) Products of a cottage food production operation;
- (c) Maple syrup, sorghum, or honey if produced by a maple syrup or sorghum processor or beekeeper as described in division (A) of section 3715.021 of the Revised Code;
- (d) Commercially prepackaged food that is not potentially hazardous, on the condition that the food is contained in displays, the total space of which equals less than one hundred cubic feet;
- (e) Fruit butter produced at the festival or celebration and sold from the production site.

(16) A farm market on the condition that it is registered with the director pursuant to section 3717.221 of the Revised Code that offers for sale at the farm market only one or more of the following:

- (a) Fresh unprocessed fruits or vegetables;
- (b) Products of a cottage food production operation;
- (c) Maple syrup, sorghum, or honey that is produced by a maple syrup or sorghum producer or beekeeper described in division (A) of section 3715.021 of the Revised Code;
- (d) Commercially prepackaged food that is not potentially hazardous, on the condition that the food is contained in displays, the total space of which equals less than one hundred cubic feet on the premises where the person conducts business at the farm market;
- (e) Cider and other juices manufactured on site at the farm market;
- (f) The products or items described in divisions (B)(8) to (10) of this section, on the condition that those products or items were produced by the person offering to sell them, and further conditioned that, with respect to eggs offered, the person offering to sell them annually maintains five hundred or fewer birds, and with respect to dressed chickens offered, the person annually raises and slaughters one thousand or fewer chickens.

Amended by 129th General Assembly File No. 42, HB 229, § 1, eff. 10/17/2011.

Effective Date: 11-21-2001

## **3717.42 Exclusions - exemptions from license requirement.**

### **(A) The following are not food service operations:**

(1) A retail food establishment licensed under this chapter, including a retail food establishment that provides the services of a food service operation pursuant to an endorsement issued under section [3717.24](#) of the Revised Code;

(2) An entity exempt from the requirement to be licensed as a retail food establishment under division (B) of section [3717.22](#) of the Revised Code;

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

### **(B) All of the following are exempt from the requirement to be licensed as a food service operation:**

(1) A private home in which individuals related by blood, marriage, or law reside and in which the food that is prepared or served is intended only for those individuals and their nonpaying guests;

(2) A private home operated as a bed-and-breakfast that prepares and offers food to guests, if the home is owner-occupied, the number of available guest bedrooms does not exceed six, breakfast is the only meal offered, and the number of guests served does not exceed sixteen;

(3) A stand operated on the premises of a private home by one or more children under the age of twelve, if the food served is not potentially hazardous;

(4) A residential facility that accommodates not more than sixteen residents; is licensed, certified, registered, or otherwise regulated by the federal government or by the state or a political subdivision of the state; and prepares food for or serves food to only the residents of the facility, the staff of the facility, and any nonpaying guests of residents or staff;

(5) A church, school, fraternal or veterans' organization, volunteer fire organization, or volunteer emergency medical service organization preparing or serving food intended for individual portion service on its premises for not more than seven consecutive days or not more than fifty-two separate days during a licensing period. This exemption extends to any individual or group raising all of its funds during the time periods specified in division (B)(5) of this section for the benefit of the church, school, or organization by preparing or serving food intended for individual portion service under the same conditions.

(6) A common carrier that prepares or serves food, if the carrier is regulated by the federal government;

(7) A food service operation serving thirteen or fewer individuals daily;

(8) A type A or type B family day-care home, as defined in section [5104.01](#) of the Revised Code, that prepares or serves food for the children receiving day-care;

(9) A vending machine location where the only foods dispensed are foods from one or both of the following categories:

(a) Prepackaged foods that are not potentially hazardous;

(b) Nuts, panned or wrapped bulk chewing gum, or panned or wrapped bulk candies.

(10) A place servicing the vending machines at a vending machine location described in division (B)(9) of this section;

(11) A commissary servicing vending machines that dispense only milk, milk products, or frozen desserts that are under a state or federal inspection and analysis program;

(12) A "controlled location vending machine location," which means a vending machine location at which all of the following apply:

(a) The vending machines dispense only foods that are not potentially hazardous;

(b) The machines are designed to be filled and maintained in a sanitary manner by untrained persons;

(c) Minimal protection is necessary to ensure against contamination of food and equipment.

(13) A private home that prepares and offers food to guests, if the home is owner-occupied, meals are served on the premises of that home, the number of meals served does not exceed one hundred fifteen per week, and the home displays a notice in a place conspicuous to all of its guests informing them that the home is not required to be licensed as a food service operation;

(14) An individual who prepares full meals or meal components, such as pies or baked goods, in the individual's home to be served off the premises of that home, if the number of meals or meal components prepared for that purpose does not exceed twenty in a seven-day period.

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