

**As Reported by the Senate Agriculture and Natural Resources
Committee**

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Am. S. B. No. 195

Senator Schaffer

Cosponsors: Senators Fedor, Maharath, Hoagland, Kunze

A BILL

To amend section 3717.22 of the Revised Code to
revise the exemption from retail food
establishment licensure that applies to certain
wineries.

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

Section 1. That section 3717.22 of the Revised Code be
amended to read as follows:

Sec. 3717.22. (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; 18
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(3) A business or that portion of a business that is 20
regulated by the federal government or the department of 21
agriculture as a food manufacturing or food processing business, 22
including a business or that portion of a business regulated by 23
the department of agriculture under Chapter 911., 913., 915., 24
917., 918., or 925. of the Revised Code. 25

(B) All of the following are exempt from the requirement 26
to be licensed as a retail food establishment: 27

(1) An establishment with commercially prepackaged foods 28
that are not potentially hazardous and contained in displays, 29
the total space of which equals less than two hundred cubic 30
feet; 31

(2) A person at a farmers market that is registered with 32
the director of agriculture pursuant to section 3717.221 of the 33
Revised Code that offers for sale only one or more of the 34
following: 35

(a) Fresh unprocessed fruits or vegetables; 36

(b) Products of a cottage food production operation; 37

(c) Tree syrup, sorghum, honey, apple syrup, or apple 38
butter that is produced by a tree syrup or sorghum producer, 39
beekeeper, or apple syrup or apple butter processor described in 40
division (A) of section 3715.021 of the Revised Code; 41

(d) Wine as authorized under section 4303.2010 of the 42
Revised Code; 43

(e) Commercially prepackaged food that is not potentially 44
hazardous, on the condition that the food is contained in 45

displays, the total space of which equals less than one hundred 46
cubic feet on the premises where the person conducts business at 47
the farmers market. 48

(3) A person who offers for sale at a roadside stand only 49
fresh fruits and fresh vegetables that are unprocessed; 50

(4) A nonprofit organization exempt from federal income 51
taxation under section 501(c)(3) of the "Internal Revenue Code 52
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, that raises 53
funds by selling foods and that, if required to be licensed, 54
would be classified as risk level one in accordance with rules 55
establishing licensing categories for retail food establishments 56
adopted under section 3717.33 of the Revised Code, if the sales 57
occur inside a building and are for not more than seven 58
consecutive days or more than fifty-two separate days during a 59
licensing period. This exemption extends to any individual or 60
group raising all of its funds during the time periods specified 61
in division (B)(4) of this section for the benefit of the 62
nonprofit organization by selling foods under the same 63
conditions. 64

(5) An establishment that offers food contained in 65
displays of less than five hundred square feet, and if required 66
to be licensed would be classified as risk level one pursuant to 67
rules establishing licensing categories for retail food 68
establishments adopted under section 3717.33 of the Revised 69
Code, on the condition that the establishment offers the food 70
for sale at retail not more than six months in each calendar 71
year; 72

(6) A cottage food production operation, on the condition 73
that the operation offers its products directly to the consumer 74
from the site where the products are produced; 75

(7) A tree syrup and sorghum processor, beekeeper, or 76
apple syrup and apple butter processor described in division (A) 77
of section 3715.021 of the Revised Code, on the condition that 78
the processor or beekeeper offers only tree syrup, sorghum, 79
honey, apple syrup, or apple butter directly to the consumer 80
from the site where those products are processed; 81

(8) A person who annually maintains five hundred or fewer 82
birds, on the condition that the person offers the eggs from 83
those birds directly to the consumer from the location where the 84
eggs are produced or at a farm product auction to which division 85
(B) (11) of this section applies; 86

(9) A person who annually raises and slaughters one 87
thousand or fewer chickens, on the condition that the person 88
offers dressed chickens directly to the consumer from the 89
location where the chickens are raised and slaughtered or at a 90
farm product auction to which division (B) (11) of this section 91
applies; 92

(10) A person who raises, slaughters, and processes the 93
meat of nonamenable species described in divisions (A) and (B) 94
of section 918.12 of the Revised Code, on the condition that the 95
person offers the meat directly to the consumer from the 96
location where the meat is processed or at a farm product 97
auction to which division (B) (11) of this section applies; 98

(11) A farm product auction, on the condition that it is 99
registered with the director pursuant to section 3717.221 of the 100
Revised Code that offers for sale at the farm product auction 101
only one or more of the following: 102

(a) The products described in divisions (B) (8) to (10) of 103
this section that are produced, raised, slaughtered, or 104

processed, as appropriate, by persons described in divisions (B)	105
(8) to (10) of this section;	106
(b) Fresh unprocessed fruits or vegetables;	107
(c) Products of a cottage food production operation;	108
(d) Tree syrup, sorghum, honey, apple syrup, or apple	109
butter that is produced by a tree syrup or sorghum producer,	110
beekeeper, or apple syrup or apple butter processor described in	111
division (A) of section 3715.021 of the Revised Code.	112
(12) An establishment that, with respect to offering food	113
for sale, offers only alcoholic beverages or prepackaged	114
beverages that are not potentially hazardous;	115
(13) An establishment that, with respect to offering food	116
for sale, offers only alcoholic beverages, prepackaged beverages	117
that are not potentially hazardous, or commercially prepackaged	118
food that is not potentially hazardous, on the condition that	119
the commercially prepackaged food is contained in displays, the	120
total space of which equals less than two hundred cubic feet on	121
the premises of the establishment;	122
(14) An establishment that, with respect to offering food	123
for sale, offers only fountain beverages that are not	124
potentially hazardous;	125
(15) A person who offers for sale only one or more of the	126
following foods at a festival or celebration, on the condition	127
that the festival or celebration is organized by a political	128
subdivision of the state and lasts for a period not longer than	129
seven consecutive days:	130
(a) Fresh unprocessed fruits or vegetables;	131
(b) Products of a cottage food production operation;	132

(c) Tree syrup, sorghum, honey, apple syrup, or apple butter if produced by a tree syrup or sorghum processor,	133
beekeeper, or apple syrup or apple butter processor as described	134
in division (A) of section 3715.021 of the Revised Code;	135
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(d) Commercially prepackaged food that is not potentially	137
hazardous, on the condition that the food is contained in	138
displays, the total space of which equals less than one hundred	139
cubic feet;	140
(e) Fruit butter produced at the festival or celebration	141
and sold from the production site.	142
(16) A farm market on the condition that it is registered	143
with the director pursuant to section 3717.221 of the Revised	144
Code that offers for sale at the farm market only one or more of	145
the following:	146
(a) Fresh unprocessed fruits or vegetables;	147
(b) Products of a cottage food production operation;	148
(c) Tree syrup, sorghum, honey, apple syrup, or apple	149
butter that is produced by a tree syrup or sorghum producer,	150
beekeeper, or apple syrup or apple butter processor described in	151
division (A) of section 3715.021 of the Revised Code;	152
(d) Commercially prepackaged food that is not potentially	153
hazardous, on the condition that the food is contained in	154
displays, the total space of which equals less than one hundred	155
cubic feet on the premises where the person conducts business at	156
the farm market;	157
(e) Cider and other juices manufactured on site at the	158
farm market;	159
(f) The products or items described in divisions (B) (8) to	160

(10) of this section, on the condition that those products or 161
items were produced by the person offering to sell them, and 162
further conditioned that, with respect to eggs offered, the 163
person offering to sell them annually maintains five hundred or 164
fewer birds, and with respect to dressed chickens offered, the 165
person annually raises and slaughters one thousand or fewer 166
chickens. 167

(17) (a) An establishment to which ~~all~~ both of the 168
following apply: 169

(i) The establishment ~~serves~~ has been issued an A-2 permit 170
under section 4303.03 of the Revised Code or an A-2f permit 171
under section 4303.031 of the Revised Code, annually produces 172
ten thousand gallons or less of wine, and sells that wine in 173
accordance with Chapter 4303. of the Revised Code on the 174
premises of the establishment; 175

(ii) The establishment serves unopened commercially 176
prepackaged food, other than wine in a form that prevents direct 177
human contact prior to and during service; 178

~~(ii) Sales of the prepackaged food do not exceed more than~~ 179
~~five per cent of the total gross receipts of the establishment;~~ 180

(iii) The establishment ~~has been issued an A-2 permit~~ 181
~~under section 4303.03 or an A-2f permit under section 4303.031~~ 182
~~of the Revised Code and annually produces ten thousand gallons~~ 183
~~or less of wine;~~ amount of the establishment's commercially 184
prepackaged food sales, other than wine sales, for the previous 185
calendar year did not exceed five per cent of the 186
establishment's total gross receipts. 187

(b) The owner or operator of the establishment shall 188
notify the director that it is exempt from licensure because it 189

qualifies under division (B) (17) (a) of this section. The owner 190
or operator also shall ~~disclose to customers that the~~ 191
~~establishment is exempt from licensure~~ display a notice in a 192
place conspicuous to all of its guests informing them that the 193
establishment is not required to be licensed as a retail food 194
establishment. 195

Section 2. That existing section 3717.22 of the Revised 196
Code is hereby repealed. 197