



State of Wisconsin  
2017 - 2018 LEGISLATURE

LRB-3683/1  
KP:wlj

## 2017 BILL

1     **AN ACT** *to repeal* 97.29 (2) (c) 1.; *to renumber and amend* 97.09 (4); *to amend*  
2             97.29 (1) (g), 97.30 (1) (c), 134.63 (2) (b) 3. and 134.63 (5); and *to create* 97.09  
3             (4) (b) of the statutes; **relating to:** the regulation of bakeries and the sale of  
4             baked goods.

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### *Analysis by the Legislative Reference Bureau*

This bill eliminates the authority of the Department of Agriculture, Trade and Consumer Protection to regulate the activities of a bakery and the sale of baked goods. Under current law, a food processing license is generally required to operate certain facilities at which food is manufactured or prepared for sale through processes such as baking, canning, freezing, and bottling, and DATCP may promulgate rules governing the operation of those facilities. If the food will be sold at retail at the same location as it was manufactured or prepared, a retail food establishment license may also be required, and DATCP has authority to promulgate rules governing those operations, as well. Under current law, a bakery is defined as a place where a food product that has flour or meal as its principal ingredient is baked, cooked, or dried, or is prepared or mixed for baking, cooking, or drying.

Under the bill, performing the activities of a bakery does not require a food processing license and is not subject to rules promulgated by DATCP governing the operation of facilities at which food is manufactured or prepared. In addition, the bill provides that a bakery is not required to be licensed as a retail food establishment and is not subject to rules promulgated by DATCP governing the operation of retail food establishments.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 97.09 (4) of the statutes is renumbered 97.09 (4) (a) and amended  
2 to read:

3           97.09 (4) (a) The Except as provided in par. (b), the department may, by rule,  
4 establish and enforce standards governing the production, processing, packaging,  
5 labeling, transportation, storage, handling, display, sale, including retail sale, and  
6 distribution of foods that are needed to protect the public from the sale of adulterated  
7 or misbranded foods.

8           **SECTION 2.** 97.09 (4) (b) of the statutes is created to read:

9           97.09 (4) (b) The department may not promulgate a rule regulating the  
10 activities of a bakery, as defined in s. 97.29 (1) (b).

11           **SECTION 3.** 97.29 (1) (g) of the statutes is amended to read:

12           97.29 (1) (g) “Food processing” means the manufacture or preparation of food  
13 for sale through the process of canning, extracting, fermenting, distilling, pickling,  
14 freezing, ~~baking~~, drying, smoking, grinding, cutting, mixing, coating, stuffing,  
15 packing, bottling, or packaging, or through any other treatment or preservation  
16 process including baking, except for the activities of a bakery. “Food processing”  
17 includes the activities of a ~~bakery~~, confectionary, or bottling establishment, and also  
18 includes the receipt and salvaging of distressed food for sale or use as food.

19           **SECTION 4.** 97.29 (2) (c) 1. of the statutes is repealed.

20           **SECTION 5.** 97.30 (1) (c) of the statutes is amended to read:

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1           97.30 (1) (c) "Retail food establishment" means a permanent or mobile food  
2           processing facility where food processing is conducted primarily for direct retail sale  
3           to consumers at the facility, a mobile facility from which potentially hazardous food  
4           is sold to consumers at retail or a permanent facility from which food is sold to  
5           consumers at retail, whether or not that facility sells potentially hazardous food or  
6           is engaged in food processing. "Retail food establishment" includes a restaurant or  
7           temporary restaurant, but does not include an establishment holding a license under  
8           s. 97.605, to the extent that the activities of the establishment are covered by that  
9           license, and does not include a bakery, as defined in s. 97.29 (1) (b).

10           **SECTION 6.** 134.63 (2) (b) 3. of the statutes is amended to read:

11           134.63 (2) (b) 3. A retail food establishment, as defined in s. 97.30 (1) (c), or a  
12           bakery, as defined in s. 97.29 (1) (b).

13           **SECTION 7.** 134.63 (5) of the statutes is amended to read:

14           134.63 (5) Subsections (3) and (4) do not apply to a retail food establishment,  
15           as defined in s. 97.30 (1) (c), or a bakery, as defined in s. 97.29 (1) (b).

16    **(END)**