

By: Representatives Eubanks, Criswell

To: Agriculture

HOUSE BILL NO. 951

1 AN ACT TO CREATE THE MISSISSIPPI ON-FARM SALES AND FOOD  
2 FREEDOM ACT; TO DEFINE CERTAIN TERMS; TO PROHIBIT ANY COUNTY,  
3 MUNICIPALITY OR OTHER POLITICAL SUBDIVISION OF THIS STATE FROM  
4 REGULATING CERTAIN PRACTICES INVOLVED IN THE PRODUCTION OF  
5 AGRICULTURAL OR FARM PRODUCTS ON ANY PRIVATE PROPERTY; TO PROHIBIT  
6 ANY COUNTY, MUNICIPALITY OR OTHER POLITICAL SUBDIVISION FROM  
7 RESTRICTING THE RETAIL SALE OR DISTRIBUTION OF UNPROCESSED  
8 AGRICULTURAL OR FARM PRODUCTS GROWN OR RAISED IN THIS STATE  
9 DIRECTLY FROM THE PRODUCER TO THE CONSUMER; TO PROHIBIT ANY  
10 COUNTY, MUNICIPALITY OR OTHER POLITICAL SUBDIVISION FROM REQUIRING  
11 ANY PERMIT FOR THE GROWING OR RAISING OF AGRICULTURAL PRODUCTS ON  
12 CERTAIN PROPERTIES WHEN THOSE PRODUCTS ARE USED FOR NONCOMMERCIAL  
13 PURPOSES; TO CLARIFY THAT THIS ACT MAY NOT BE CONSTRUED TO GIVE  
14 INDIVIDUAL RIGHTS THAT SUPERSEDE ANY LOCAL ZONING ORDINANCE OR  
15 NUISANCE LAW; TO REQUIRE AGRICULTURAL OR FARM PRODUCTS SOLD UNDER  
16 THIS ACT TO BE CLEARLY MARKED AND LABELED WITH A "BUYERS BEWARE"  
17 LABEL OUTLINING THE INHERENT RISK ASSOCIATED WITH CONSUMING  
18 UNPROCESSED PRODUCTS; TO AMEND SECTION 75-31-65, MISSISSIPPI CODE  
19 OF 1972, TO REVISE THE PROVISIONS RELATING TO THE INCIDENTAL SALES  
20 OF RAW GOAT MILK OR RAW MILK PRODUCTS TO INCLUDE MILK PRODUCED  
21 FROM COWS; TO AMEND SECTION 69-3-11, MISSISSIPPI CODE OF 1972, IN  
22 CONFORMITY TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

24 **SECTION 1.** Sections 1 through 6 of this act shall be known  
25 and may be cited as the "Mississippi On-Farm Sales and Food  
26 Freedom Act."



27           **SECTION 2.** As used in Sections 1 through 6 of this act, the  
28 following words and phrases have the meanings as defined in this  
29 section unless the context clearly requires otherwise:

30           (a) "Agricultural product" means any food product grown  
31 on Mississippi farms or gardens and includes, but is not limited  
32 to, fruits, vegetables, grains, nuts and all annual or perennial  
33 plants, trees and shrubs grown in Mississippi, as well as all  
34 animal and animal related bi-products, including meat, poultry,  
35 eggs, milk and cheese, which are raised, harvested or produced in  
36 Mississippi. The term "agricultural product" does not include any  
37 item considered to be an illegal base, derivative, drug or  
38 narcotic.

39           (b) "Buyer beware label" means a statement clearly  
40 affixed to the container or packaging of agricultural or farm  
41 products which informs the purchaser or consumer of potential  
42 risks associated with the consumption of products in their  
43 natural, raw or unprocessed form.

44           (c) "Crops" means fruits and products of all annual or  
45 perennial plants, trees and shrubs.

46           (d) "Milk goat" means a doe kept for the purpose of  
47 producing milk and any unweaned kid goats.

48           (e) "On-farm sales" means the sale, purchase, barter or  
49 trade of agricultural or farm products within the State of  
50 Mississippi by and for Mississippi residents on the actual  
51 grower's or producer's property, at farmers' markets by the actual



52 grower or producer, or any other arm's length transaction by the  
53 grower or producer which results in the delivery of the  
54 agricultural or farm products directly to the consumer. The term  
55 "on-farm sales" does not include the commercial production of  
56 agricultural or farm products grown, produced or processed for  
57 wholesale or mass distribution for third parties.

58 (f) "Raw milk" means milk that has not been  
59 pasteurized.

60 (g) "Resident" means any person domiciled in the State  
61 of Mississippi and any other person who maintains a legal or  
62 actual residence within the state.

63 (h) "Unprocessed" means agricultural or farm products  
64 that have not been canned, cooked, fermented, distilled,  
65 preserved, ground, crushed or slaughtered.

66 **SECTION 3.** (1) (a) A county, municipality or other  
67 political subdivision of this state shall not adopt or enforce any  
68 ordinance, rule, regulation or resolution regulating crop  
69 management or animal husbandry practices involved in the  
70 production of agricultural or farm products on any private  
71 property.

72 (b) A county, municipality or other political  
73 subdivision of this state shall not adopt or enforce any  
74 ordinance, rule, regulation or resolution that prohibits or  
75 regulates the retail sale or distribution of processed or  
76 unprocessed agricultural or farm products grown or raised in this



77 state directly from the producer to the consumer as food for human  
78 consumption or seed for replanting.

79 (2) Subsection (1) of this section may not be interpreted to  
80 impair the power of any county or municipal governing authority or  
81 other political subdivision to adopt or enforce any zoning  
82 ordinance or make any other zoning decision or to authorize any  
83 individual to supersede any local zoning ordinance.

84 (3) Subsection (1) of this section may not be interpreted to  
85 impair the power of a county or municipal governing authority or  
86 other political subdivision to adopt or enforce any ordinance,  
87 rule, regulation or resolution regulating land application of  
88 human waste.

89 **SECTION 4.** (1) Sections 1 through 6 of this act and any  
90 rule or regulation adopted under the authority provided in the act  
91 does not prohibit or regulate the retail sale or distribution of  
92 unprocessed agricultural or farm products grown or raised in this  
93 state directly from the producer to the consumer as food for human  
94 consumption or seeds for replanting.

95 (2) The seeds produced from crops grown in this state must  
96 remain the sole property of the producer, which may be stored and  
97 preserved for replanting or sold without penalty.

98 **SECTION 5.** (1) A county, municipality or other political  
99 subdivision of this state shall not prohibit or require any permit  
100 for the growing or raising of food crops or chickens, rabbits or  
101 milk goats in:



102 (a) Home gardens, coops, or pens on private residential  
103 property so long as the food crops or animals or the products  
104 thereof are used for human consumption by the occupant of the  
105 property and members of his or her household and not for  
106 commercial purposes; or

107 (b) Community or cooperative gardens, coops or pens on  
108 any portion of any private lot made available for such purposes by  
109 the occupant of the lot so long as the total lot size is not more  
110 than two and three-fourths (2-3/4) acres and the food crops or  
111 animals or the products thereof are used for human consumption by  
112 the growers and raisers and members of their households and not  
113 for commercial purposes. However, the slaughter of goats kept  
114 under the authority of this section is prohibited.

115 (2) This section does not prohibit or impair:

116 (a) The authority of a local governmental entity to  
117 abate a public nuisance;

118 (b) Any cause of action brought by a private citizen to  
119 abate a private nuisance under Section 97-44-15; or

120 (c) Any private covenant or other private agreement  
121 restricting the use of real property.

122 (3) This act may not be construed to give individual rights  
123 that supersede any local zoning ordinance or nuisance law.

124 **SECTION 6.** (1) Agricultural and farm products sold under  
125 this act must be marked and labeled clearly with a warning in the  
126 form of a "Buyers Beware" label outlining the inherent risk



127 associated with consuming unprocessed products. In each case, the  
128 label statement must appear in a conspicuous and easily legible  
129 bold-faced print or type in distinct contrast to other matters on  
130 the package. The label statement must appear as a distinct item  
131 on the principal display panel in letters in a type size  
132 established in relationship to the area of the principal display  
133 panel of the package. The label must be uniform for all packages  
134 of substantially the same size and must comply with the following  
135 type specifications:

136 (a) Not less than one-eighth (1/8) inch in height on  
137 packages that have a principal display panel that is twenty-five  
138 (25) square inches or less;

139 (b) Not less than three-sixteenths (3/16) inch in  
140 height on packages that have a principal display panel that is  
141 more than twenty-five (25) but not more than one hundred (100)  
142 square inches;

143 (c) Not less than one-fourth (1/4) inch in height on  
144 packages that have a principal display panel that is more than one  
145 hundred (100) square inches but not more than four hundred (400)  
146 square inches; or

147 (d) Not less than one-half (1/2) inch in height on  
148 packages that have a principal display panel that is more than  
149 four hundred (400) square inches.

150 (2) The "Buyers Beware" label must contain the following  
151 notice of warning:



152 "BUYERS BEWARE

153 The consumption of fruit, vegetable, grain, nut and  
154 animal bi-products that have not been irradiated,  
155 processed, pasteurized, homogenized or the like carry  
156 with it certain inherent health risks. Consume at your  
157 own risk."

158 (3) Raw milk or cream or cottage cheese, butter, buttermilk,  
159 kefir or cheeses made from raw milk or cream must be displayed for  
160 sale separately from, and may not be commingled with, pasteurized  
161 dairy products. The display must be marked prominently "raw milk"  
162 or "raw milk products" on the principal display panel of the  
163 label. Any person who sells raw milk or raw milk products in  
164 violation of this section or who causes any raw milk or raw milk  
165 products to be introduced into interstate commerce by selling such  
166 products across state lines as prohibited under the Food, Drug,  
167 and Cosmetic Act (FDCA) (21 USCS Section 331), as regulated by 21  
168 CFR Section 1240.61, will be punished as provided for under 21  
169 USCS Section 333(a) (1).

170 (4) (a) All sales, purchases, barter or trade exchanges of  
171 agricultural and farm products may occur only within the  
172 boundaries of the state and only between residents of the state,  
173 with the understanding that the products will be consumed within  
174 the state.

175 (b) All transactions for agricultural and farm products  
176 under this act must be by and for Mississippi residents and may



177 occur only on the actual grower's or producer's property, at  
178 farmers' markets by the actual grower or producer, or by any other  
179 arm's length transaction by the grower or producer that results in  
180 the delivery of the agricultural or farm products directly to the  
181 consumer within the State of Mississippi.

182 **SECTION 7.** Section 75-31-65, Mississippi Code of 1972, is  
183 amended as follows:

184 75-31-65. (1) The State Board of Health shall:

185 (a) Exercise general supervision over the production,  
186 processing and sale of milk and milk products and the processing  
187 and sale of frozen desserts \* \* \*;

188 (b) Adopt, modify, repeal and promulgate rules and  
189 regulations, after due notice and hearing, and, where not  
190 otherwise prohibited by federal law or state law, make exceptions  
191 to, grant exemptions from and enforce rules and regulations  
192 implementing or effectuating the duties of the board under this  
193 section to protect the public health \* \* \*; and

194 (c) Use the most current edition of the Pasteurized  
195 Milk Ordinance, or its successor, as the basis for regulation of  
196 Grade "A" milk and milk products. Unless as otherwise provided by  
197 law, the board, in its discretion, may amend, modify or make  
198 additions to the Pasteurized Milk Ordinance if the board  
199 determines that such amendment, modification or addition is in the  
200 best interest of public health.





201 (2) The board shall assess fees in the following amount and  
202 for the following purpose:

203 Milk product processing plant annual permit fee.....\$300.00

204 Frozen dessert processing plant annual permit fee.....\$300.00

205 Any increase in the fees charged by the board under this  
206 subsection shall be in accordance with the provisions of Section  
207 41-3-65.

208 The fees authorized under this subsection shall not be  
209 assessed for milk or frozen dessert processing plants operated by  
210 public schools, by public junior colleges or by state agencies or  
211 institutions, including, without limitation, the state  
212 institutions of higher learning.

213 (3) Incidental sales of raw \* \* \* milk shall be legal if:

214 (a) The milk is sold directly to the consumer on the  
215 premises where the milk is produced or at a farmers' market in an  
216 on-farm sales transaction as defined in Section 2(e) of this act;

217 (b) No more than nine (9) producing goats are located  
218 on the premises where goat milk is produced; however, there is no  
219 restriction on the number of cows that may be located on the  
220 premises where cow milk is produced for incidental on-farm sales;

221 (c) The person selling the raw milk does not advertise  
222 the milk for sale and provides adequate notice to potential  
223 consumers of the inherent risks associated with the consumption of  
224 unprocessed products, as required under Section 6 of this act; and



225 (d) The following conditions, which apply to the  
226 milking of goats and cows involved in legal incidental sales of  
227 raw \* \* \* milk, are satisfied:

228 (i) The milking takes place in a clean environment  
229 on a cement or comparable floor;

230 (ii) The milking place is enclosed by a wall  
231 and/or a screen to prevent insects from entering the milking area;

232 (iii) A fly strap is located in the milking area;  
233 and

234 (iv) Sterile containers are used in the milking  
235 process and for storage.

236 It shall not be unlawful to store raw goat or cow milk in a  
237 separate sterile place from pasteurized goat or cow milk. The  
238 Cooperative Extension Service at Alcorn State University shall  
239 publish and make available literature on the requirements of this  
240 subsection, and other related milk \* \* \* maintenance, explaining  
241 the recommended care of milk goats \* \* \* and cows, the process of  
242 goat and cow milk production and other related subjects. For the  
243 purposes of this subsection, the term "incidental sales" means  
244 sales from a farm where not more than nine (9) goats are producing  
245 milk or at a farmers' market, or, in the case of cows, in an  
246 on-farm sales transaction as defined in Section 2(e) of this act.

247 (4) For purposes of this section, the term "person" includes  
248 an individual, firm, partnership, association or corporation,  
249 foreign or domestic \* \* \* ; however, as used in subsection (3) of



250 this section, the term "person" only means an individual acting in  
251 his or her independent capacity for the incidental sale, purchase  
252 or on-farm sale of raw milk for personal consumption and who is  
253 not acting as an agent of any firm, partnership, association or  
254 corporation, foreign or domestic.

255 (5) All fees collected by the board under this section shall  
256 be paid into a special fund within the Department of Health to be  
257 used by the department to discharge its duties under this section.

258 (6) Any person coming within the provisions of this section  
259 who fails to comply with or violates any of the provisions of this  
260 section or regulations promulgated thereunder, unless otherwise  
261 specifically provided in this section, is guilty of a misdemeanor  
262 and, upon conviction, shall be fined not more than One Hundred  
263 Dollars (\$100.00) or confined in jail for not more than sixty (60)  
264 days, or both.

265 (7) Any person who sells or offers for sale adulterated milk  
266 or milk products or cream or frozen desserts or any milk or cream  
267 having therein any foreign substance or coloring matter or any  
268 chemicals or preservatives, whether for the purpose of increasing  
269 the quantity of milk or cream or for improving its appearance or  
270 for the purpose of preserving the condition of sweetness thereof,  
271 or for any other purpose whatsoever, or unpasteurized milk or milk  
272 products except as otherwise authorized by law, is guilty of a  
273 misdemeanor, and, upon conviction, shall be fined not more than  
274 Five Hundred Dollars (\$500.00) or confined in jail not more than



275 sixty (60) days, or both; however, nothing in this subsection  
276 shall be construed to prevent the addition of vitamins to milk or  
277 milk products in accordance with the rules and regulations  
278 promulgated by the board or to prohibit the sale of pasteurized  
279 milk or cream or frozen desserts except unlawful cream or unlawful  
280 milk products or unlawful frozen desserts as defined in the rules  
281 and regulations promulgated by the board.

282 (8) (a) Any person doing business in the State of  
283 Mississippi and engaged in the production, manufacture, sale or  
284 distribution of any dairy products that, for the purpose of  
285 destroying the business of a competitor in any locality or  
286 creating a monopoly, discriminates between different sections,  
287 localities, communities, cities or towns of the state by selling  
288 such commodity at a lower rate or price in one (1) section,  
289 locality, community, city or town than such commodity is sold by  
290 such person in any other section, locality, community, city or  
291 town, after making due allowance for the difference, if any, in  
292 the grade or quality and in the actual cost of the transportation  
293 from the point of production or purchase, if a raw product, to the  
294 place of sale, storage or distribution, is guilty of unfair  
295 discrimination, which is prohibited and declared unlawful;  
296 however, prices made to meet competition in such section,  
297 locality, community, city or town shall not be in violation of  
298 this subsection.



299           (b) Any person doing business in the State of  
300 Mississippi and engaged in the business of purchasing for  
301 manufacture, storage, sale or distribution of any dairy product,  
302 that, for the purpose of destroying the business of a competitor  
303 or creating a monopoly, discriminates between different sections,  
304 localities, communities, cities or towns in the state by  
305 purchasing such commodity at a higher rate or price in one (1)  
306 section, locality, community, city or town than is paid for such  
307 commodity by such person in any other section, locality,  
308 community, city or town, after making due allowance for the  
309 difference, if any, in the grade or quality, and in the actual  
310 cost of transportation from the point of purchase to the point of  
311 manufacture, sale or distribution or storage, is guilty of unfair  
312 discrimination, which is prohibited and declared to be unlawful;  
313 however, prices made to meet competition in such locality,  
314 section, community, city or town shall not be a violation of this  
315 subsection.

316           (c) Any person convicted of a violation of this  
317 subsection, shall be fined not less than Five Hundred Dollars  
318 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) or shall  
319 be imprisoned in jail not more than twelve (12) months, or both.

320           (9) Nothing in this section shall be construed to apply to  
321 any person who does not sell his milk, cream, butter or other  
322 products mentioned herein to others.



323           **SECTION 8.** Section 69-3-11, Mississippi Code of 1972, is  
324 amended as follows:

325           69-3-11. Agricultural seed or mixtures of same, vegetable  
326 seed, flower seed, and tree and shrub seed shall be exempt from  
327 provisions of this article:

328           (1) When sold and delivered by a farmer-grower of this  
329 state on his own premises or any individual authorized under  
330 Sections 1 through 6 of this act, but a farmer-grower or other  
331 authorized individual is required to label seed when sold and  
332 shipped away from his premises, but is not required to hold the  
333 seedsman's permit. These provisions do not apply to commercial  
334 growers of seed.

335           (2) When sold or represented to be sold for purposes  
336 other than seeding, providing that the vendor shall make it  
337 unmistakably clear to the purchaser of such seed that it is not  
338 for seeding purposes.

339           (3) When seed for processing is being transported to,  
340 or consigned to, or stored in a processing or cleaning  
341 establishment, provided that the invoice or labeling  
342 accompanying \* \* \* the seed bears the statement "seed for  
343 processing." Other labeling or representation which may be made  
344 with respect to the uncleaned or unprocessed seed shall be subject  
345 to this article.

346           (4) No label shall be required, unless requested by the  
347 purchaser, on agricultural seed, mixtures of same, vegetable seed,



348 flower seed, and tree and shrub seed when such seeds are sold  
349 directly to and in the presence of the purchaser and taken from a  
350 container labeled in accordance with this article.

351 (5) No person shall be subjected to the penalties of  
352 this article for having sold, offered or exposed for sale in this  
353 state agricultural seed, mixtures of same, vegetable seed, flower  
354 seed, or tree and shrub seed which were incorrectly labeled or  
355 represented as to kind, variety or origin, which seed cannot be  
356 identified by examination thereof, unless he has failed to obtain  
357 an invoice or grower's declaration or other labeling information  
358 and to take such other precautions as may be reasonable to ensure  
359 the identity to be that stated.

360 **SECTION 9.** This act shall take effect and be in force from  
361 and after July 1, 2020.

