(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;

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

(7) A food service operation serving five 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.

Sec. 3717.43 Application for license or renewal; temporary licensor; display of license; computerization.

(A) Each person or government entity requesting a food service operation license or the renewal of a license shall apply to the appropriate licensor on a form provided by the licensor. Licensors shall use a form prescribed and furnished to the licensor by the director of health or a form prescribed by the licensor that has been approved by the director. The applicant shall include with the application all information necessary for the licensor to process the application, as requested by the licensor.

An application for food service operation license other than an application for a mobile or catering food service operation license, shall be submitted to the licensor for the health district in which the food service operation is located. An application for mobile food service operation license shall be submitted to the licensor for the health district in which the applicant's business headquarters are located, or, if the headquarters are located outside this state, to the licensor for the district where the applicant will first operate in this state. An application for a catering food service operation license shall be submitted to the licensor for the district where the applicant's base of operation is located.

(B) The licensor shall review all applications received. The licensor shall issue a license for a new food service operation when the applicant submits a complete application and the
Amended Substitute Senate Bill 136 Exemption Summary (as of 10/23/01)

The following is a summary of the exemptions that will directly affect licensing of retail food establishments.

- An establishment with commercially prepackaged nonpotentially hazardous foods that are contained in displays, the total space of which equals less than two hundred cubic feet.
- A person at farmers market that offers only one or more of the following:
  - Fresh unprocessed fruits and vegetables
  - Products of Cottage food production operation
  - Maple syrup, honey, or sorghum from an exempt processor
  - Commercially prepackaged non potentially hazardous foods contained in displays, the total space of which equals less than one hundred cubic feet.
- A roadside stand offering only fresh fruits and fresh vegetables that are unprocessed.
- A nonprofit organization (501c3) raising funds by selling foods that are not potentially hazardous for no more than 7 consecutive days or 52 separate days in a year. This exemption applies to any person or group raising all its funds for the benefit of the nonprofit organization.
- A Risk Level 1 type of establishment with displays of food less than 500 square feet that only offers food for sale not more than six months each calendar year.
- Cottage Food Operation: Selling food directly to consumer from site where products are produced. Cottage food operation is defined in 3715 of ORC – (person who in person’s home, produces food items that are not potentially hazardous (bakery products, jams, jellies, fruit butter, candy).
- Maple syrup, sorghum and honey from an exempt processor: Selling product direct to consumer from premise where produced.
- Shell eggs: Selling eggs direct to consumer from site where person maintains 500 birds annually.
- Poultry: Selling poultry direct to the consumer from the site where 1,000 chickens or less are maintained, raised and slaughtered annually.
- Non-amenable meat (rabbit, bison, etc.): Selling non-amenable meat direct to the consumer from the site where it is raised, slaughtered and processed.
- Farm Product Auction: A place where the following are offered for sale:
  - eggs from a producer that maintains 500 birds or less annually;
  - chicken from producer that maintains, raises and slaughters 1,000 or less chickens annually;
  - nonamenable meat from the person who raises and slaughters meat;
  - unprocessed fruits and vegetables;
  - cottage food products;
  - maple syrup, sorghum, honey from an exempt processor.
A place selling only alcoholic beverages or prepackaged non potentially hazardous beverages: There is no space limitation on this exemption.

A place selling alcoholic beverages or commercially prepackaged non potentially hazardous beverages and commercially prepackaged nonpotentially hazardous foods that are contained in displays, the total space of which equals less than two hundred cubic feet.

A place that only offers fountain beverages that are not potentially hazardous.

A person at a festival or celebration that offers one or more of the following:

- unprocessed fruits and vegetables;
- cottage food products;
- maple syrup, sorghum, honey from an exempt processor;
- commercially prepackaged non potentially hazardous foods that are contained in displays, the total space of which equals less than one hundred cubic feet;
- fruit butter produced at the festival or celebration.

A farm market offering one or more of the following:

- unprocessed fruits and vegetables;
- cottage food products;
- maple syrup, sorghum, honey from an exempt processor;
- commercially prepackaged non potentially hazardous foods that are contained in displays, the total space of which equals less than one hundred cubic feet;
- cider and other juices manufactured on site;
- eggs offered by the farm market operator who maintains 500 birds or less annually;
- poultry offered by the farm market operator who maintains, raises and slaughters 1,000 chickens or less annually;
- non amenable meats offered by the farm market operator from animals maintained, raised and slaughtered by the farm market operator.

**Definition Changes:**

Definition Change: The definition of retail food establishment no longer includes the phrase: “over the counter drugs, nutrients designed for use in lieu of pharmaceuticals, and products designed for use as dietary supplements”.

*Therefore an establishment that only sells these products is no longer licensable as a retail food establishment.*

Definition Addition: A “mobile retail food establishment” is now defined in the Ohio Revised Code. The determination of whether a mobile unit is an RFE versus an FSO is based upon the same criteria used for permanent facilities, i.e. Primary business and individual portion service of ready to eat foods.

The bill as passed by the House can be found at the following web address. The exemptions are in Section 3717.22:

http://www.legislature.state.oh.us/bills.cfm?ID=124_SB_136