

## Tennessee-Made Food for Tennesseans

1 Purpose. The purpose of this bill is to provide the Commissioner of Agriculture with the legal  
2 authority and legal requirement to establish the Tennessee-Made Food for Tennesseans  
3 Program. Short Intrastate Food Distribution Channel(s) for Tennessee-Made Food and food  
4 products shall be subsidized through investments which would be recovered in future economic  
5 activity. Investments for the Short Intrastate Food Distribution Channel(s) shall be made by the  
6 Department of Revenue through the award of Transferrable State Tax Credits.

7 Effective Date. The Tennessee-Made Food for Tennesseans Program shall become effective on  
8 July 1, 2022. The program is meant to complement existing food distribution channels. The  
9 program is also meant to complement existing State and Federal agriculture enhancement  
10 programs.

11 Duration. Tennessee-Made Food for Tennesseans shall be authorized for a twenty-year period  
12 from the effective date, unless otherwise extended by the Legislature.

13 Narrative. Tennesseans are concerned about two issues that drive this legislation: food  
14 security and rural economic development. Rural economic development has been a priority of  
15 the Lee Administration since inception. Food security is quickly becoming a top priority for all  
16 Tennesseans. Tennessee-Made Food for Tennesseans proposes to simultaneously address both  
17 critical issues. Tennessee-Made Food for Tennesseans shall invest in, provide food safety  
18 regulation and inspection for, and support the establishment of short, intrastate, producer to  
19 consumer food distribution channels, sometimes called farm-to-plate. Tennessee-Made Food  
20 for Tennesseans participants would be awarded Transferrable State Tax Credits that may be  
21 monetized to offset a significant portion of the capital expenditure related to establishing or  
22 expanding Short Intrastate Food Distribution Channel(s). This measure is necessary to help  
23 small and medium-sized producers, processors and producer/processors to clear the  
24 significantly high food safety and inspection regulatory hurdle to reach the Tennessee  
25 consumer with Tennessee-Made Food.

26 Authority.

27 The United States Constitution ([https://www.archives.gov/founding-docs/constitution-](https://www.archives.gov/founding-docs/constitution-transcript)  
28 [transcript](https://www.archives.gov/founding-docs/constitution-transcript)) signed on September 17, 1787:

29 Article VI, Clause 2: The Supremacy Clause

30 Article I, Section. 8: The Commerce Clause

31 Amendment X: The Bill of Rights, signed on December 15, 1791

32 Delegation of Authority.

33 Food safety and inspection regulation has a significant impact on the conduct of intrastate  
34 commerce. The Legislature delegates authority to the Commissioner of Agriculture to establish  
35 food safety and inspection regulation for the Short Intrastate Food Distribution Channel(s)  
36 contained within this legislation, pursuant to Tennessee Law and without regard to any other  
37 body of law, policy, or precedent. Intrastate commerce falls outside of the enumerated powers  
38 conveyed to the Federal Government by the U.S. Constitution. Therefore, intrastate commerce  
39 is a power of the State Legislature. No other authority shall infringe upon the power of the  
40 State Legislature of Tennessee to control or to influence intrastate commerce.

41 Definitions:

42 Tennessean a legal citizen of the United States of America that resides in the State of  
43 Tennessee. Additionally, for the purposes of this legislation a restaurant, institution, assisted  
44 living facility, or other entity that prepares food for consumption is also considered to be a  
45 Tennessean.

46 Transferable State Tax Credit means a credit that may offset, dollar for dollar, for a tax liability  
47 payable to the Tennessee Department of Revenue, or alternatively may be sold to a domestic  
48 or foreign entity that may, dollar for dollar, use the credit to pay a Tennessee tax liability.

49 Capital Expenditure means an investment in plant and equipment or rolling stock related to the  
50 establishment of an Intrastate Distribution Channel. Further, as it pertains to this bill, any non-

51 recurring expenditure associated with the compliance of Local, State or Federal food safety  
52 regulation shall be considered a Capital Expenditure.

53 Operation means a unique business entity as defined by the Secretary of State that is engaged  
54 in the production or processing of food or the combined production and processing of food  
55 within the boundaries of the State of Tennessee for one or more Short Intrastate Distribution  
56 Channel(s). Retailers, restaurants and institutions are not considered to be an Operation for  
57 the purpose of this legislation unless the retailer, restaurant or institution performs a significant  
58 amount of food processing or preparation, as determined by the Commissioner of Agriculture,  
59 which is normally associated with a lower level of the food and food products value chain.

60 Short Intrastate Food Distribution Channel means a direct sale or sales limited to no more than  
61 two transactions that can be a sale through retailer, or a sale through wholesaler or through  
62 distributor, or a sale through agent by a Tennessee Food Producer or a Tennessee Food  
63 Processor to a Tennessee Resident or Tennessee restaurant, hotel, college or university,  
64 institution, assisted living facility or other business entity that prepares food for consumption  
65 within the boundaries of the State of Tennessee. The Intrastate Distribution Channel must be  
66 complete from end to end or stated another way from producer to consumer. Short Intrastate  
67 Food Distribution Channel(s) must be scalable to accommodate Tennessee-Made Food  
68 originating from the smallest, properly equipped Operation to the largest commercial-scale  
69 Operation.

70 Tennessee-Made Food means any fruits or vegetables, meat, milk, poultry, fish, and egg  
71 produced in Tennessee, and products containing two-thirds of those Tennessee-produced  
72 components to include fermented products not limited to beer, wine, hard cider, mead, and  
73 perry, but not including distilled liquors that is produced or processed within the border of the  
74 State of Tennessee.

75 Transaction means an act of commerce through which ownership of Tennessee-Made Food  
76 changes hands.

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79 Bill Provisions:

80 The Commissioner of Agriculture shall support and encourage the development of Short  
81 Intrastate Food Distribution Channel(s) by Tennessee food producers, food processors and food  
82 producer/processors (Operations). To that desirable end, the Commissioner of Agriculture shall  
83 pre-approve Operations to claim an amount of transferable State Tax Credits not to exceed 80%  
84 of Capital Expenditures per Operation for the expansion of existing Intrastate Food Distribution  
85 Channel or Channels, or the establishment of a new Intrastate Food Distribution Channel or  
86 Channels for Tennessee-Made Food. The transferable State Tax Credits may be claimed over  
87 three consecutive years during the life of the Operation while not exceeding USD\$1,000,000 in  
88 cumulative, Transferable State Tax Credits. The Short Intrastate Food Distribution Channel(s)  
89 for which the Transferable State Tax Credits are claimed may consist of no more than two  
90 Transactions between the producer of the food and the consumer, with the retail Transaction  
91 to the consumer counted as one of the two possible Transactions. The Operation shall provide  
92 an online method to enable the consumer to clearly and easily understand where the  
93 Tennessee-Made Food was produced, the Operation which produced the Tennessee-Made  
94 Food, how the Tennessee-Made Food was processed in Tennessee and any recommended food  
95 safety information regarding the handling of that Tennessee-Made Food in preparation for  
96 consumption. Notwithstanding food procured through the Good Neighbor exemption, below,  
97 the Operation shall also enroll the Tennessee-Made Food into the Pick Tennessee Products  
98 Program sponsored by the Tennessee Department of Agriculture.

99 Tennessee-Made Food is food that has been grown and harvested in Tennessee, or food  
100 products that are made with a minimum of two-thirds Tennessee food content, with the  
101 following 'Good Neighbor' exception. The Good Neighbor exception allows food and food  
102 products from the bordering states of Arkansas, Missouri, Kentucky, Virginia, North Carolina,  
103 Georgia, Alabama and Mississippi to be introduced into the Short Intrastate Food Distribution  
104 Channel(s), provided the food and food products from those border states is/are compliant  
105 with both Federal Food Safety and Inspection Regulation, as well as food safety and inspection  
106 regulation established for the Short Intrastate Food Distribution Channel(s). Written relief from  
107 Federal Food Safety and Inspection Regulation may be obtained at the discretion of the federal

108 agencies involved. Border state Operations that participate in the Short Intrastate Food  
109 Distribution Channel(s) shall be subject to the same requirements as Tennessee Operations,  
110 except for the requirements of the Pick Tennessee Program. The introduction of food and food  
111 products from the border states into the Short Intrastate Food Distribution Channel(s) shall  
112 count as one transaction against the two-transaction limit of the distribution channel(s).  
113 Transferrable State Tax Credits may only be awarded for Short Intrastate Food Distribution  
114 Channel(s) that exist within the boundary of the State of Tennessee.

115 Proceeds from the Transferrable State Tax Credits may only be used for Capital Expenditure  
116 related to the establishment of Short Intrastate Food Distribution Channel(s). Interstate  
117 Commerce from the Short Intrastate Food Distribution Channel(s) is prohibited and shall result  
118 in a liability to the Operation for the face value of cumulative Transferrable Tax Credits.

119 Department Assignments:

120 Department of Agriculture.

121 The Department of Agriculture shall be the lead agency for the Tennessee-Made Food for  
122 Tennesseans Program among the participating State departments and agencies. The  
123 Commissioner of Agriculture shall oversee the development and regulation of Short Intrastate  
124 Food Distribution Channel(s).

125 The Commissioner shall insure the Short Intrastate Food Distribution Channel(s) are complete,  
126 from producer to consumer. The Short Intrastate Food Distribution Channel(s) may be no  
127 longer than two transactions in length, with the transaction to consumer counting as one of the  
128 available transactions. No part of the Short Intrastate Food Distribution Channel may exist  
129 outside of the boundaries of the State of Tennessee. In addition to establishing and enforcing  
130 food safety and inspection regulation for the Short Intrastate Food Distribution Channels, the  
131 Commissioner shall provide remote food inspection, remote grading, remote weights and  
132 measures, and remote labeling at no cost to the Operation. Short Intrastate Food Distribution  
133 Channel(s) must be scalable to accommodate Tennessee-Made Food originating from the  
134 smallest, properly equipped Operation to the largest commercial-scale Operation.

135 An Operation may be either a food producer, a food processor or a food producer/processor.  
136 Retailers and restaurants or institutions are not considered to be an Operation for the purpose  
137 of Tennessee-Made Food for Tennesseans unless the retailer, restaurant or institution performs  
138 a significant amount of food processing or preparation, as determined by the Commissioner,  
139 which is normally associated with a lower level of the food and food products value chain.

140 The Commissioner shall ensure that a minimum of 10% of Transferrable State Tax Credits are  
141 awarded to entry-level Operations with less than five years of food production or processing  
142 experience.

143 Producers, Processors and Producer/Processors are encouraged to utilize reusable food  
144 containers to purvey food and food products through the Short Intrastate Food Distribution  
145 Channel(s). Initial stockage and maintenance of the supply of reusable food containers as well  
146 as a food container sanitation and exchange policy shall be established by the Commissioner  
147 when it is practical to do so.

148 Department of Revenue.

149 The Department of Revenue shall be responsive to the Department of Agriculture and the  
150 Department of Financial Institutions to employ a simple method to award, track, and redeem  
151 Transferrable State Tax Credits. Transferrable State Tax Credits may be used by the Operation  
152 or end-user of the credits to satisfy any tax liability to the State of Tennessee on a dollar-for-  
153 dollar basis. Any income generated from the sale or resale of Transferrable State Tax Credits  
154 shall be exempt from state taxation. Transferrable state tax credits shall have no expiration.  
155 Transferrable State Tax Credits are intended to invest in the intrastate commerce of food and  
156 food products. Any Operation that uses proceeds from the Transferrable State Tax Credits to  
157 conduct interstate commerce of Tennessee-made food or food products shall incur a liability to  
158 the State for the full-face value of the Transferrable tax credit award.

159 Department of Financial Institutions.

160 The Department of Financial Institutions shall be responsive to the Department of Agriculture  
161 and the Department of Revenue to oversee the development and employment of regulations  
162 that enable state chartered financial institutions to act as a broker or dealer, or end-user of

163 Transferrable State Tax Credits issued through this legislation. Notwithstanding reasonable fee,  
164 risk premium and/or discount which may be charged during the transfer of State Tax Credits,  
165 the Commissioner of Financial Institutions shall institute measures to ensure the Operation,  
166 which is the target of this legislation, receives the maximum possible financial benefit from  
167 state tax credits that are transferred.

168 Department of Economic and Community Development.

169 The Department of Economic and Community Development shall be responsive to the  
170 Department of Agriculture to promote Tennessee-Made Food for Tennesseans to all  
171 Tennesseans in cooperation with the University of Tennessee Agriculture Extension Agency.  
172 The Commissioner of Economic and Community Development shall act as lead agent, with  
173 support from the University of Tennessee Agriculture Extension Agency to monitor annual  
174 investments and costs of Tennessee-Made Food for Tennesseans and provide periodic reports  
175 to the Legislature of the economic impact of Tennessee-Made Food for Tennesseans and  
176 annualized return on investment. When there exists a greater requirement for Transferrable  
177 Tax Credits than those Transferrable Tax Credits available for any fiscal year, the Commissioner  
178 of Economic and Community Development shall devise a plan, in concert with the Department  
179 of Revenue and Department of Agriculture, to award available Transferrable Tax Credits in a  
180 manner that prioritizes food security and that is in the best interest of all Tennesseans and  
181 includes a 10% allocation for entry-level Operations.

182 University of Tennessee Agriculture Extension Agency.

183 The University of Tennessee Agriculture Extension Agency shall be responsive to the  
184 Department of Agriculture to establish an outreach program to inform Operations of  
185 Tennessee-Made Food for Tennesseans. Assistance in the planning and implementation of  
186 Tennessee-Made Food for Tennesseans shall be rendered to Operations as required. The  
187 University of Tennessee Agriculture Extension Agency shall work closely with the Commissioner  
188 of Economic and Community Development to measure the effectiveness of Tennessee-Made  
189 Food for Tennesseans.

190 Department of Commerce and Insurance.

191 All Operations shall be insured against the liabilities associated with the production, processing  
192 and distribution of Tennessee-Made Food. Operations that follow the food safety protocols  
193 and regulations established by the Commissioner of Agriculture shall be insured against food-  
194 borne illness. The Commissioner of Commerce and Insurance shall competitively source and  
195 offer a subsidized comprehensive liability insurance policy, inclusive of Workman's  
196 Compensation Coverage, to Operations in such a way that the total cost of liability insurance  
197 policy does not exceed .2% of the total revenue generated by the Tennessee-Made Food at  
198 each Transaction.

199 All Tennessean employees or contract labor that work at least half time to produce, process or  
200 distribute Tennessee-Made Food, and their dependent family members that are also  
201 Tennesseans shall qualify for health, vision and dental insurance through the TennCare Program  
202 at no cost.

203 Secretary of the Treasury.

204 The Treasurer shall budget the following investments for the Tennessee-Made Food for  
205 Tennesseans Program:

206 Year 1: USD\$10,000,000 to be used by the Commissioner of Agriculture to establish the  
207 Program which may include the resourcing of consultants, proof of concept, building and  
208 equipment, or any other expense deemed necessary by the Commissioner. Proof of Concept  
209 food distribution warehouses shall be established and networked between Nashville,  
210 Cookeville, and Lawrenceburg. Tennessee-Made Food shall be accepted from Operations,  
211 warehoused, distributed between these warehouses on a fee-for-service basis to support sales  
212 made by the Operations pursuant to this bill.

213 Year 2: USD\$20,000,00 of which a minimum of USD\$10,000,000 shall be used to award  
214 Transferrable Tax Credits to Operations, with the balance available to the Commissioner to  
215 complete the establishment of the Program.

216 Years 3-20: USD\$30,000,000 for the award of Transferrable Tax Credits to Operations, less the  
217 cost of Program implementation. When the gross economic impact of the Program reaches  
218 USD\$30,000,000 as determined by the Commissioner of Economic and Community



219 Development, the annual investment shall increase by USD\$3,000,000 per annum until a total  
220 outlay of USD\$60,000,000 per annum is reached.

221 Investments into the Tennessee-Made Food for Tennesseans shall only be made when there is  
222 a budget surplus for any given fiscal year. Should surplus funds not exist during a fiscal year,  
223 the Treasurer shall resource only the administrative costs necessary to maintain the Program.  
224 In that event, an additional year shall be added to the duration of the Program.

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