SUMMARY—Requires certain food products made with corn masa to be fortified with folic acid.

(BDR 51-249)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.

Effect on the State: May have Fiscal Impact.

Effect on the State Highway Fund: No.

AN ACT relating to food; prohibiting certain persons from manufacturing, selling, delivering, distributing, holding, offering for sale or using as an ingredient in the manufacture of food in this State certain food products made with corn masa unless such products contain a certain level of folic acid; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing federal regulations authorize folic acid to be used in food as a nutrient in accordance with certain prescribed conditions. (21 C.F.R. § 172.345) Existing law authorizes the Commissioner of Food and Drugs, and such other agents as he or she may deem necessary, to enforce the Nevada Food, Drug and Cosmetic Act. (NRS 585.200) Existing law also provides that a person who violates any provision of the Act, with certain exceptions, is guilty of a gross misdemeanor. (NRS 585.990)

Section 1 of this bill prohibits a person from manufacturing, selling, delivering, distributing, holding, offering for sale or using as an ingredient in the manufacture of food in this State: (1) corn masa flour unless the corn masa flour contains 0.7 milligrams of folic acid per pound of corn masa flour within an acceptable standard of error established by the Commissioner; or (2) wet corn masa product unless the wet corn masa contains 0.4 milligrams of folic acid per pound of end product within an acceptable standard of error established by the Commissioner.

Section 1 provides that the provisions relating to folic acid in corn masa do not apply to: (1) cottage food operations; (2) craft food operations; (3) certain religious, charitable and other nonprofit organizations; (4) a person operating a grocery store under certain circumstances; (5) any other person who prepares food for ultimate human consumption that is to be sold, offered or displayed for sale or served in this State; and (6) the manufacture, sale, delivery, distribution, holding or offering for sale of snack foods in this State.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 585 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a person shall not manufacture, sell, deliver, distribute, hold, offer for sale or use as an ingredient in the manufacture of food in this State:

(a) Corn masa flour unless the corn masa flour contains 0.7 milligrams of folic acid per pound of corn masa flour within an acceptable standard of error established by the Commissioner; or

(b) Wet corn masa product unless the wet corn masa product contains 0.4 milligrams of folic acid per pound of end product within an acceptable standard of error established by the Commissioner.

2. The provisions of subsection 1 do not apply to:

(a) A cottage food operation as defined in NRS 585.710;

(b) A craft food operation as defined in NRS 587.693;

(c) Any religious, charitable or other nonprofit organization which sells food occasionally to raise money or receives salvaged food in bulk quantities for free distribution to the general public;

(d) A person operating a grocery store, as defined in NRS 597.225, that offers for retail sale corn masa flour or wet corn masa product that does not contain folic acid, so long as the grocery store also offers for retail sale corn masa flour or wet corn masa product that contains the level of folic acid required pursuant to subsection 1;

(e) Any other person who prepares food for ultimate human consumption that is to be sold, offered or displayed for sale or served in this State; and

(f) The manufacture, sale, delivery, distribution, holding or offering for sale of snack foods in this State.

3. As used in this section:

(a) "Corn masa flour" means a dry flour-like product made from corn that has been treated with slaked lime or otherwise undergoes a process known as nixtamalization.

(b) "Snack food" means a food product that is intended for immediate consumption and is primarily consumed between meals, regardless of packaging size, including, without limitation, chips, crisps and extruded food products. The term does not include food made primarily from corn masa flour or wet corn masa product that is bulk packaged or is commonly used as a primary ingredient in meal preparation, including, without limitation, tortillas.

(c) "Wet corn masa product" means food manufactured by using an alkali solution with corn kernels to transform the corn kernels into nixtamal. The term does not include products made with corn masa flour.