

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Food Handling Regulation Enforcement Act is
5 amended by changing Section 4 as follows:

6 (410 ILCS 625/4)

7 Sec. 4. Cottage food operation.

8 (a) For the purpose of this Section:

9 A food is "acidified" if: (i) acid or acid ingredients are
10 added to it to produce a final equilibrium pH of 4.6 or below;
11 or (ii) it is fermented to produce a final equilibrium pH of
12 4.6 or below.

13 "Canned food" means food ~~preserved in air tight,~~
14 ~~vacuum sealed containers~~ that has been ~~are~~ heat processed
15 sufficiently under United States Department of Agriculture
16 guidelines to enable storing the food at normal home
17 temperatures.

18 "Cottage food operation" means an operation conducted by a
19 person who produces or packages food or drink, other than
20 foods and drinks listed as prohibited in paragraph (1) ~~(1.5)~~
21 of subsection (b) of this Section, in a kitchen located in that
22 person's primary domestic residence or another appropriately
23 designed and equipped kitchen on a farm ~~residential or~~

1 ~~commercial style kitchen on that property~~ for direct sale by
2 the owner, a family member, or employee.

3 "Cut leafy greens" means fresh leafy greens whose leaves
4 have been cut, shredded, sliced, chopped, or torn. "Cut leafy
5 greens" does not mean cut-to-harvest leafy greens.

6 "Department" means the Department of Public Health.

7 "Equilibrium pH" means the final potential of hydrogen
8 measured in an acidified food after all the components of the
9 food have achieved the same acidity.

10 "Farmers' market" means a common facility or area where
11 farmers gather to sell a variety of fresh fruits and
12 vegetables and other locally produced farm and food products
13 directly to consumers.

14 "Leafy greens" includes iceberg lettuce; romaine lettuce;
15 leaf lettuce; butter lettuce; baby leaf lettuce, such as
16 immature lettuce or leafy greens; escarole; endive; spring
17 mix; spinach; cabbage; kale; arugula; and chard. "Leafy
18 greens" does not include microgreens or herbs such as cilantro
19 or parsley.

20 "Local health department" means the State-certified health
21 department of a unit of local government in which a cottage
22 food operation is located.

23 "Low-acid canned food" means any canned food with a
24 finished equilibrium pH greater than 4.6 and a water activity
25 (aw) greater than 0.85.

26 ~~"Main ingredient" means an agricultural product that is~~

1 ~~the defining or distinctive ingredient in a cottage food~~
2 ~~product, though not necessarily by predominance of weight.~~

3 "Microgreen" means an edible plant seedling grown in soil
4 or substrate and harvested above the soil or substrate line.

5 "Potentially hazardous food" means a food that is
6 potentially hazardous according to the Department's
7 administrative rules. Potentially hazardous food (PHF) in
8 general means a food that requires time and temperature
9 control for safety (TCS) to limit pathogenic microorganism
10 growth or toxin formation.

11 "Sprout" means any seedling intended for human consumption
12 that was produced in a manner that does not meet the definition
13 of microgreen.

14 (b) (1) ~~Notwithstanding any other provision of law and~~
15 ~~except as provided in subsections (c), (d), and (e) of this~~
16 ~~Section, neither the Department nor the Department of~~
17 ~~Agriculture nor the health department of a unit of local~~
18 ~~government may regulate the transaction of food or drink by a~~
19 ~~cottage food operation providing that all of the following~~
20 ~~conditions are met: (1) (Blank). (1.5) A cottage food~~
21 ~~operation may produce homemade food and drink. A However, a~~
22 ~~cottage food operation, unless properly licensed, certified,~~
23 ~~and compliant with all requirements to sell a listed food item~~
24 ~~under the laws and regulations pertinent to that food item,~~
25 shall not sell or offer to sell the following food items or
26 processed foods containing the following food items, except as

1 indicated:

2 (A) meat, poultry, fish, seafood, or shellfish;

3 (B) dairy, except as an ingredient in a
4 non-potentially hazardous food, such as a baked good
5 or candy, such as caramel, subject to paragraph (4),
6 or as an ingredient in a baked good frosting, such as
7 buttercream ~~(1.8)~~;

8 (C) eggs, except as an ingredient in a
9 non-potentially hazardous food, including dry noodles, or
10 as an ingredient in a baked good frosting, such as
11 buttercream, if the eggs are not raw ~~baked good or in dry~~
12 ~~noodles~~;

13 (D) pumpkin pies, sweet potato pies, cheesecakes,
14 custard pies, creme pies, and pastries with
15 potentially hazardous fillings or toppings;

16 (E) garlic in oil or oil infused with garlic,
17 except if the garlic oil is acidified;

18 ~~(F) canned foods, except for the following, which~~
19 ~~may be canned only in Mason style jars with new lids:~~

20 ~~(i) fruit jams, fruit jellies, fruit~~
21 ~~preserves, or fruit butters;~~

22 ~~(ii) syrups;~~

23 ~~(iii) whole or cut fruit canned in syrup;~~

24 ~~(iv) acidified fruit or vegetables prepared~~
25 ~~and offered for sale in compliance with paragraph~~
26 ~~(1.6); and~~

1 ~~(v) condiments such as prepared mustard,~~
2 ~~horseradish, or ketchup that do not contain~~
3 ~~ingredients prohibited under this Section and that~~
4 ~~are prepared and offered for sale in compliance~~
5 ~~with paragraph (1.6);~~

6 (F) low-acid canned foods;

7 (G) sprouts;

8 (H) cut leafy greens, except for cut leafy greens
9 that are dehydrated, acidified, or blanched and
10 frozen;

11 (I) cut or pureed fresh tomato or melon;

12 (J) dehydrated tomato or melon;

13 (K) frozen cut melon;

14 (L) wild-harvested, non-cultivated mushrooms;

15 (M) alcoholic beverages; or

16 (N) kombucha.

17 (2) ~~(1.6)~~ In order to sell canned tomatoes or a canned
18 product containing tomatoes, a cottage food operator shall
19 either:

20 (A) follow exactly a recipe that has been tested
21 by the United States Department of Agriculture or by a
22 state cooperative extension located in this State or
23 any other state in the United States; or

24 (B) submit the recipe, at the cottage food
25 operator's expense, to a commercial laboratory
26 according to the commercial laboratory's direction to

1 test that the product has been adequately acidified;
2 use only the varietal or proportionate varietals of
3 tomato included in the tested recipe for all
4 subsequent batches of such recipe; and provide
5 documentation of the test results of the recipe
6 submitted under this subparagraph to an inspector upon
7 request during any inspection authorized by paragraph
8 (2) of subsection (d).

9 ~~(1.7) A State certified local public health department~~
10 ~~that regulates the service of food by a cottage food~~
11 ~~operation in accordance with subsection (d) of this~~
12 ~~Section may require a cottage food operation to submit a~~
13 ~~canned food that is subject to paragraph (1.6), at the~~
14 ~~cottage food operator's expense, to a commercial~~
15 ~~laboratory to verify that the product has a final~~
16 ~~equilibrium pH of 4.6 or below.~~

17 (3) In order to sell a fermented or acidified food, a
18 cottage food operation shall either:

19 (A) submit a recipe that has been tested by the
20 United States Department of Agriculture or a
21 Cooperative Extension System located in this State or
22 any other state in the United States; or

23 (B) submit a written food safety plan for each
24 category of products for which the cottage food
25 operator uses the same procedures, such as pickles,
26 kimchi, or hot sauce, and a pH test for a single

1 product that is representative of that category; the
2 written food safety plan shall be submitted annually
3 upon registration and each pH test shall be submitted
4 every 3 years; the food safety plan shall adhere to
5 guidelines developed by University of Illinois
6 Extension.

7 A fermented or acidified food shall be packaged
8 according to one of the following standards:

9 (A) Acidified and fermented foods that are canned
10 must be processed in a boiling water bath in a mason
11 style jar or glass container with a tight-fitting lid.

12 (B) Acidified and fermented foods that are not
13 canned shall be sold in any container that is new,
14 clean, and seals properly and must be stored,
15 transported, and sold at or below 41 degrees.

16 (4) ~~(1.8)~~ A ~~State certified~~ local ~~public~~ health
17 department that regulates the service of food by a cottage
18 food operation in accordance with subsection (d) of this
19 Section may require a cottage food operation to submit a
20 recipe for any baked good containing cheese, at the
21 cottage food operator's expense, to a commercial
22 laboratory to verify that it is non-potentially hazardous
23 before allowing the cottage food operation to sell the
24 baked good as a cottage food.

25 (5) The food and drink produced by a cottage food
26 operation shall be sold directly to consumers for their

1 own consumption and not for resale. Sales directly to
2 consumers include, but are not limited to: sales at
3 farmers' markets, fairs, festivals, or public events or
4 online; pickup from the private home or farm of the
5 cottage food operator if not prohibited by laws of the
6 unit of local government that apply equally to all cottage
7 food operations; delivery to the customer; or pickup from
8 a third-party private property with the consent of the
9 third-party property holder. Cottage food products shall
10 not be shipped out of State.

11 (6) For cottage food operations that are not utilizing
12 municipal water supplies, such as operations using private
13 wells, a local health department may require a water
14 sample test to verify that the water source being used
15 meets public safety standards related to E. coli coliform.
16 If a test is requested, it must be conducted at the cottage
17 food operator's expense.

18 ~~(2) The food is to be sold at a farmers' market, with~~
19 ~~the exception that cottage foods that have a locally grown~~
20 ~~agricultural product as the main ingredient may be sold on~~
21 ~~the farm where the agricultural product is grown or~~
22 ~~delivered directly to the consumer.~~

23 ~~(3) (Blank).~~

24 (7) The food packaging must conform to the labeling
25 requirements of the Illinois Food, Drug, and Cosmetic Act.
26 The food packaging may include the designation

1 "Illinois-grown", "Illinois-sourced", or "Illinois farm
2 product" if the products are local farm or food products
3 as defined in Section 5 of the Local Food, Farms, and Jobs
4 Act. Cottage food products shall be prepackaged and the
5 food packaging shall be affixed with a prominent label
6 that includes the following items, unless the local health
7 department where the product is sold has granted
8 permission to sell products that are not prepackaged, in
9 which case other prominent written notice shall be
10 provided to the purchaser that includes the following
11 labeling requirements: ~~(4) The food packaging conforms to~~
12 ~~the labeling requirements of the Illinois Food, Drug and~~
13 ~~Cosmetic Act and includes the following information on the~~
14 ~~label of each of its products:~~

15 (A) the name ~~and address~~ of the cottage food
16 operation;

17 (B) the identifying registration number provided
18 by the local health department on the certification of
19 registration and the name of the municipality or
20 county in which the registration was filed;

21 (C) ~~(B)~~ the common or usual name of the food
22 product;

23 (D) ~~(C)~~ all ingredients of the food product,
24 including any colors, artificial flavors, and
25 preservatives, listed in descending order by
26 predominance of weight shown with common or usual

1 names;

2 (E) ~~(D)~~ the following phrase in prominent
3 lettering: "This product was produced in a home
4 kitchen not inspected by a health department ~~subject~~
5 ~~to public health inspection~~ that may also process
6 common food allergens.";

7 (F) ~~(E)~~ the date the product was processed; and

8 (G) ~~(F)~~ allergen labeling as specified in federal
9 labeling requirements.

10 (8) ~~(5)~~ The name and residence of the person preparing
11 and selling products as a cottage food operation must be
12 ~~are~~ registered with the local health department and the
13 certificate of registration must be available at the point
14 of sale. A cottage food operation is required to register
15 with the local health department for the unit of local
16 government in which it is located, but may sell products
17 outside of the unit of local government where the cottage
18 food operation is located. ~~of a unit of local government~~
19 ~~where the cottage food operation resides. No fees shall be~~
20 ~~charged for registration. Registration shall be for a~~
21 ~~minimum period of one year.~~

22 (9) ~~(6)~~ The person preparing or packaging products as
23 part of a cottage food operation must be a
24 Department-approved certified food protection manager ~~has~~
25 ~~a Department approved Food Service Sanitation Management~~
26 ~~Certificate.~~

1 (10) ~~(7)~~ At the point of sale, notice must be provided
2 ~~a placard is displayed~~ in a prominent location that states
3 the following: "This product was produced in a home
4 kitchen not inspected by a health department ~~subject to~~
5 ~~public health inspection~~ that may also process common food
6 allergens.". At a physical display, notice shall be a
7 placard. Online, notice shall be a message on the cottage
8 food operation's online sales interface.

9 (b-5) A home rule unit may not regulate cottage food
10 operations in a manner inconsistent with the regulation by the
11 State of cottage food operations under this Section. This
12 Section is a limitation under subsection (i) of Section 6 of
13 Article VII of the Illinois Constitution on the concurrent
14 exercise by home rule units of powers and functions exercised
15 by the State.

16 (c) Notwithstanding the provisions of subsection (b) of
17 this Section, if the Department or a local ~~the~~ health
18 department ~~of a unit of local government~~ has received a
19 consumer complaint or has reason to believe that an imminent
20 health hazard exists or that a cottage food operation's
21 product has been found to be misbranded, adulterated, or not
22 in compliance with the exception for cottage food operations
23 pursuant to this Section, then it may invoke cessation of
24 sales of cottage food products until it deems that the
25 situation has been addressed to the satisfaction of the
26 Department or the local health department. If the situation is

1 not amenable to being addressed, the Department or local
2 health department may revoke the cottage food operation's
3 registration following a process outlined by the Department or
4 local health department.

5 (d) A local health department shall register any eligible
6 cottage food operation that meets the requirements of this
7 Section and shall issue a certificate of registration with an
8 identifying registration number to each registered cottage
9 food operation. Registration shall be completed annually and
10 the local health department may impose a reasonable fee that
11 is no greater than \$25. The regulation by a local health
12 department may include all of the following requirements:
13 ~~Notwithstanding the provisions of subsection (b) of this~~
14 ~~Section, a State certified local public health department may,~~
15 ~~upon providing a written statement to the Department, regulate~~
16 ~~the service of food by a cottage food operation. The~~
17 ~~regulation by a State certified local public health department~~
18 ~~may include all of the following requirements:~~

19 (1) That the cottage food operation ~~(A) register with~~
20 ~~the State certified local public health department, which~~
21 ~~shall be for a minimum of one year and include a reasonable~~
22 ~~fee set by the State certified local public health~~
23 ~~department that is no greater than \$25 notwithstanding~~
24 ~~paragraph (5) of subsection (b) of this Section and (B)~~
25 agree in writing at the time of registration to grant
26 access to the ~~State certified~~ local public health

1 department to conduct an inspection of the premises of the
2 cottage food operation ~~cottage food operation's primary~~
3 ~~domestic residence~~ in the event of a consumer complaint or
4 foodborne illness outbreak.

5 (2) That in the event of a consumer complaint or
6 foodborne illness outbreak the ~~State certified~~ local
7 ~~public~~ health department is allowed to (A) inspect the
8 premises of the cottage food operation in question and (B)
9 set a reasonable fee for that inspection.

10 (e) A person who produces or packages a non-potentially
11 hazardous baked good for sale by a religious, charitable, or
12 nonprofit organization for fundraising purposes is exempt from
13 the requirements of this Section.

14 (f) ~~(e)~~ The Department may adopt rules as may be necessary
15 to implement the provisions of this Section.

16 (Source: P.A. 100-35, eff. 1-1-18; 100-1069, eff. 8-24-18;
17 101-81, eff. 7-12-19.)