



Sen. James F. Clayborne, Jr.

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LRB098 05043 RPM 57083 a

1 AMENDMENT TO SENATE BILL 825

2 AMENDMENT NO. _____. Amend Senate Bill 825 by replacing
3 everything after the enacting clause with the following:

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 "Cottage food operation" means a person who produces or
10 packages non-potentially hazardous food in a kitchen of that
11 person's primary domestic residence for direct sale by the
12 owner or a family member, stored in the residence where the
13 food is made.

14 "Farmers' market" means a common facility or area where
15 farmers gather to sell a variety of fresh fruits and vegetables
16 and other locally produced farm and food products directly to

1 consumers.

2 "Potentially hazardous food" means a food that is
3 potentially hazardous according to the Federal Food and Drug
4 Administration 2009 Food Code (FDA 2009 Food Code) or any
5 subsequent amendments to the FDA 2009 Food Code. Potentially
6 hazardous food (PHF) in general means a food that requires time
7 and temperature control for safety (TCS) to limit pathogenic
8 microorganism growth or toxin formation. In accordance with the
9 FDA 2009 Food Code, potentially hazardous food does not include
10 a food item that because of its pH or Aw value, or interaction
11 of Aw and pH values, is designated as a non-PHF/non-TCS food in
12 Table A or B of the FDA 2009 Food Code's potentially hazardous
13 food definition.

14 (b) Notwithstanding any other provision of law and except
15 as provided in subsections (c) and (d) of this Section, neither
16 the Department of Public Health nor the Department of
17 Agriculture nor the health department of a unit of local
18 government may regulate the service of food by a cottage food
19 operation providing that all of the following conditions are
20 met:

21 (1) The food is not a potentially hazardous baked good,
22 jam, jelly, preserve, fruit butter, dry herb, dry herb
23 blend, or dry tea blend and is intended for end-use only.

24 The following provisions shall apply:

25 (A) The following jams, jellies and preserves are
26 allowed: apple, apricot, grape, peach, plum, quince,

1 orange, nectarine, tangerine, blackberry, raspberry,
2 blueberry, boysenberry, cherry, cranberry, strawberry,
3 red currants, or a combination of these fruits.
4 Rhubarb, tomato, and pepper jellies or jams are not
5 allowed. Any other jams, jellies, or preserves not
6 listed may be produced by a cottage food operation
7 provided their recipe has been tested and documented by
8 a commercial laboratory, at the expense of the cottage
9 food operation, as being not potentially hazardous,
10 containing a pH equilibrium of less than 4.6.

11 (B) The following fruit butters are allowed:
12 apple, apricot, grape, peach, plum, quince, and prune.
13 Pumpkin butter, banana butter, and pear butter are not
14 allowed. Fruit butters not listed may be produced by a
15 cottage food operation provided their recipe has been
16 tested and documented by a commercial laboratory, at
17 the expense of the cottage food operation, as being not
18 potentially hazardous, containing a pH equilibrium of
19 less than 4.6.

20 (C) Baked goods, such as, but not limited to,
21 breads, cookies, cakes, pies, and pastries are
22 allowed. Only high-acid fruit pies that use the
23 following fruits are allowed: apple, apricot, grape,
24 peach, plum, quince, orange, nectarine, tangerine,
25 blackberry, raspberry, blueberry, boysenberry, cherry,
26 cranberry, strawberry, red currants or a combination

1 of these fruits. Fruit pies not listed may be produced
2 by a cottage food operation provided their recipe has
3 been tested and documented by a commercial laboratory,
4 at the expense of the cottage food operation, as being
5 not potentially hazardous, containing a pH equilibrium
6 of less than 4.6. The following are potentially
7 hazardous and prohibited from production and sale by a
8 cottage food operation: pumpkin pie, sweet potato pie,
9 cheesecake, custard pies, creme pies, and pastries
10 with potentially hazardous fillings or toppings.

11 (2) The food is to be sold at a farmers' market or in
12 the home where it is prepared.

13 (3) Gross receipts from the sale of food exempted under
14 this Section do not exceed \$25,000 in a calendar year.

15 (4) The food packaging conforms to the labeling
16 requirements of the Illinois Food, Drug and Cosmetic Act
17 and includes the following information on the label of each
18 of its products:

19 (A) the name and address of the cottage food
20 operation;

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

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

26 (D) the following phrase: "This product was

1 produced in a home kitchen not subject to public health
2 inspection that may also process common food
3 allergens.";

4 (E) the date the product was processed; and

5 (F) allergen labeling as specified in federal
6 labeling requirements.

7 (5) The name and residence of the person preparing and
8 selling products as a cottage food operation is registered
9 with the health department of a unit of local government
10 where the cottage food operation resides. No fees shall be
11 charged for registration.

12 (6) The person preparing and selling products as a
13 cottage food operation has a Department of Public Health
14 approved Food Service Sanitation Management Certificate.

15 (7) At the point of sale a placard is displayed in a
16 prominent location that states the following: "This
17 product was produced in a home kitchen not subject to
18 public health inspection that may also process common food
19 allergens."

20 (c) Notwithstanding the provisions of subsection (b) of
21 this Section, if the Department of Public Health or the health
22 department of a unit of local government has received a
23 consumer complaint or has reason to believe that an imminent
24 health hazard exists or that a cottage food operation's product
25 has been found to be misbranded, adulterated, or not in
26 compliance with the exception for cottage food operations

1 pursuant to this Section, then it may invoke cessation of sales
2 until it deems that the situation has been addressed to the
3 satisfaction of the Department.

4 (d) Notwithstanding the provisions of subsection (b) of
5 this Section, a State-certified local public health department
6 may, upon providing a written statement to the Department of
7 Public Health, regulate the service of food by a cottage food
8 operation. The regulation by a State-certified local public
9 health department may include all of the following
10 requirements:

11 (1) That the cottage food operation (A) register with
12 the State-certified local public health department, which
13 may include a reasonable fee set by the State-certified
14 local public health department notwithstanding paragraph
15 (5) of subsection (b) of this Section and (B) agree in
16 writing at the time of registration to grant access to the
17 State-certified local public health department to conduct
18 an inspection of the cottage food operation's primary
19 domestic residence in the event of a consumer complaint or
20 foodborne illness outbreak.

21 (2) That in the event of a consumer complaint or
22 foodborne illness outbreak the State-certified local
23 public health department is allowed to (A) inspect the
24 premises of the cottage food operation in question and (B)
25 set a reasonable fee for that inspection.

26 (Source: P.A. 97-393, eff. 1-1-12.)"