

AN ACT concerning health.

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

Section 5. The Food Handling Regulation Enforcement Act is amended by changing Sections 3.6 and 4 as follows:

(410 ILCS 625/3.6)

Sec. 3.6. Home kitchen operation.

(a) For the purpose of this Section, "home kitchen operation" means a person who produces or packages non-potentially hazardous baked goods, as allowed by subsection (a-5), in a kitchen of that person's primary domestic residence for direct sale by the owner or a family member. ~~As used in this Section, "baked good" has the meaning given to that term under subparagraph (C) of paragraph (1) of subsection (b) of Section 4 of this Act.~~ A home kitchen operation does not include a person who produces or packages non-potentially hazardous baked goods for sale by a religious, charitable, or nonprofit organization for fundraising purposes; the production or packaging of non-potentially hazardous baked goods for these purposes is exempt from the requirements of this Act. The following conditions must be met in order to qualify as a home kitchen operation:

(1) Monthly gross sales do not exceed \$1,000.

(2) The food is a non-potentially hazardous baked good, as described in Section 4 of this Act.

(3) A notice is provided to the purchaser that the product was produced in a home kitchen.

(4) The food package is affixed with a label or other written notice is provided to the purchaser that includes:

(i) the common or usual name of the food product;
and

(ii) allergen labeling as specified in federal labeling requirements by the United States Food and Drug Administration.

(5) The food is sold directly to the consumer.

(6) The food is stored in the residence where it is produced or packaged.

(a-5) Baked goods, such as, but not limited to, breads, cookies, cakes, pies, and pastries are allowed. Only high-acid fruit pies that use the following fruits are allowed: apple, apricot, grape, peach, plum, quince, orange, nectarine, tangerine, blackberry, raspberry, blueberry, boysenberry, cherry, cranberry, strawberry, red currants, or a combination of these fruits.

(b) The Department of Public Health or the health department of a unit of local government may inspect a home kitchen operation in the event of a complaint or disease outbreak.

(c) The requirements of this Section apply only to a home

kitchen operation located in a municipality, township, or county where the local governing body having the jurisdiction to enforce this Act or the rules adopted under this Act has adopted an ordinance authorizing home kitchen operations.

(Source: P.A. 98-643, eff. 6-10-14; 99-78, eff. 7-20-15; 99-191, eff. 1-1-16.)

(410 ILCS 625/4)

Sec. 4. Cottage food operation.

(a) For the purpose of this Section:

"Cottage food operation" means an operation conducted by a person who produces or packages ~~non-potentially hazardous~~ food or drink, other than foods and drinks listed as prohibited in paragraph (1.5) of subsection (b) of this Section, in a kitchen located in that person's primary domestic residence or another appropriately designed and equipped residential or commercial-style kitchen on that property for direct sale by the owner, a family member, or employee ~~stored in the residence or appropriately designed and equipped residential or commercial-style kitchen on that property where the food is made.~~

"Department" means the Department of Public Health.

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

"Main ingredient" means an agricultural product that is the defining or distinctive ingredient in a cottage food product, though not necessarily by predominance of weight.

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

(b) Notwithstanding any other provision of law and except as provided in subsections (c), (d), and (e) of this Section, neither the Department nor the Department of Agriculture nor the health department of a unit of local government may regulate the transaction ~~service~~ of food or drink by a cottage food operation providing that all of the following conditions are met:

(1) (Blank). ~~The food is a non-potentially hazardous baked good, jam, jelly, preserve, fruit butter, dry herb, dry herb blend, dry tea blend, or similar product as adopted and specified by Department rules pursuant to subsection (c) of this Section, and is intended for end use only. The following provisions shall apply:~~

~~(A) The following jams, jellies and preserves are allowed: apple, apricot, grape, peach, plum, quince, orange, nectarine, tangerine, blackberry, raspberry, blueberry, boysenberry, cherry, cranberry, strawberry,~~

~~red currants, or a combination of these fruits. Any other jams, jellies, or preserves not listed may be produced by a cottage food operation provided their recipe has been tested and documented by a commercial laboratory, at the expense of the cottage food operation, as being not potentially hazardous, containing a pH equilibrium of less than 4.6 or has been specified and adopted as allowed in administrative rules by the Department pursuant to subsection (c) of this Section.~~

~~(B) The following fruit butters are allowed: apple, apricot, grape, peach, plum, quince, and prune. Pumpkin butter, banana butter, and pear butter are not allowed. Fruit butters not listed may be produced by a cottage food operation provided their recipe has been tested and documented by a commercial laboratory, at the expense of the cottage food operation, as being not potentially hazardous, containing a pH equilibrium of less than 4.6 or has been specified and adopted as allowed in administrative rules by the Department pursuant to subsection (c) of this Section.~~

~~(C) Baked goods, such as, but not limited to, breads, cookies, cakes, pies, and pastries are allowed. Only high-acid fruit pies that use the following fruits are allowed: apple, apricot, grape, peach, plum, quince, orange, nectarine, tangerine,~~

~~blackberry, raspberry, blueberry, boysenberry, cherry, cranberry, strawberry, red currants or a combination of these fruits. Fruit pies not listed may be produced by a cottage food operation provided their recipe has been tested and documented by a commercial laboratory, at the expense of the cottage food operation, as being not potentially hazardous, containing a pH equilibrium of less than 4.6 or has been specified and adopted as allowed in administrative rules by the Department pursuant to subsection (c) of this Section. The following are potentially hazardous and prohibited from production and sale by a cottage food operation: pumpkin pie, sweet potato pie, cheesecake, custard pies, creme pies, and pastries with potentially hazardous fillings or toppings.~~

(1.5) A cottage food operation may produce homemade food and drink. However, a cottage food operation, unless properly licensed, certified, and compliant with all requirements to sell a listed food item under the laws and regulations pertinent to that food item, shall not sell or offer to sell the following food items or processed foods containing the following food items, except as indicated:

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

(B) dairy, except as an ingredient in a non-potentially hazardous baked good or candy, such as caramel;

(C) eggs, except as an ingredient in a non-potentially hazardous baked good or in dry noodles;

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

(E) garlic in oil;

(F) canned foods, except for fruit jams, fruit jellies, fruit preserves, fruit butters, and acidified vegetables;

(G) sprouts;

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

(I) cut fresh tomato or melon;

(J) dehydrated tomato or melon;

(K) frozen cut melon;

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

(M) alcoholic beverages.

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

(3) (Blank). ~~Gross receipts from the sale of food exempted under this Section do not exceed \$36,000 in a calendar year.~~

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

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

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

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

(D) the following phrase: "This product was produced in a home kitchen not subject to public health inspection that may also process common food allergens.";

(E) the date the product was processed; and

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

(5) The name and residence of the person preparing and selling products as a cottage food operation is registered with the health department of a unit of local government where the cottage food operation resides. No fees shall be charged for registration. Registration shall be for a minimum period of one year.

(6) The person preparing or packaging products as a cottage food operation has a Department approved Food

Service Sanitation Management Certificate.

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

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

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

(1) That the cottage food operation (A) register with the State-certified local public health department, which shall be for a minimum of one year and include a reasonable fee set by the State-certified local public health

department that is no greater than \$25 notwithstanding paragraph (5) of subsection (b) of this Section and (B) agree in writing at the time of registration to grant access to the State-certified local public health department to conduct an inspection of the cottage food operation's primary domestic residence in the event of a consumer complaint or foodborne illness outbreak.

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

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

(Source: P.A. 98-660, eff. 6-23-14; 99-191, eff. 1-1-16.)