

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 Section 4 as follows:

(410 ILCS 625/4)

Sec. 4. Cottage food operation.

(a) For the purpose of this Section:

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

"Canned food" means food preserved in air-tight, vacuum-sealed containers that are heat processed sufficiently to enable storing the food at normal home temperatures.

"Cottage food operation" means an operation conducted by a person who produces or packages 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.

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

"Department" means the Department of Public Health.

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

"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.

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

"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.

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

"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.

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

(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 of food or drink by a cottage food operation providing that all of the following conditions are met:

(1) (Blank).

(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, subject to paragraph (1.8);

(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 or oil infused with garlic, except if the garlic oil is acidified;

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

(i) fruit jams, fruit jellies, fruit preserves, or fruit butters;

(ii) syrups;

(iii) whole or cut fruit canned in syrup; and

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

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

(G) sprouts;

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

(I) cut or pureed fresh tomato or melon;

(J) dehydrated tomato or melon;

(K) frozen cut melon;

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

(M) alcoholic beverages; or

(N) kombucha.

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

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

(B) submit the recipe, at the cottage food operator's expense, to a commercial laboratory to test that the product has been adequately acidified; use only the varietal or proportionate varietals of tomato included in the tested recipe for all subsequent batches of such recipe; and provide documentation of the test results of the recipe submitted under this subparagraph to an inspector upon request during any inspection authorized by paragraph (2) of subsection (d).

(1.7) A State-certified local public health department that regulates the service of food by a cottage food operation in accordance with subsection (d) of this Section may require a cottage food operation to submit a canned food that is subject to paragraph (1.6), at the cottage food operator's expense, to a commercial laboratory to

verify that the product has a final equilibrium pH of 4.6 or below.

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

(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).

(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. 99-191, eff. 1-1-16; 100-35, eff. 1-1-18.)

Section 99. Effective date. This Act takes effect upon becoming law.