



Rep. Will Guzzardi

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1 AMENDMENT TO HOUSE BILL 3063

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3063 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 Sections 3.6 and 4 as follows:

6 (410 ILCS 625/3.6)

7 Sec. 3.6. Home kitchen operation.

8 (a) For the purpose of this Section, "home kitchen  
9 operation" means a person who produces or packages  
10 non-potentially hazardous baked goods, as allowed by  
11 subsection (a-5), in a kitchen of that person's primary  
12 domestic residence for direct sale by the owner or a family  
13 member. ~~As used in this Section, "baked good" has the meaning~~  
14 ~~given to that term under subparagraph (C) of paragraph (1) of~~  
15 ~~subsection (b) of Section 4 of this Act.~~ A home kitchen  
16 operation does not include a person who produces or packages

1 non-potentially hazardous baked goods for sale by a religious,  
2 charitable, or nonprofit organization for fundraising  
3 purposes; the production or packaging of non-potentially  
4 hazardous baked goods for these purposes is exempt from the  
5 requirements of this Act. The following conditions must be met  
6 in order to qualify as a home kitchen operation:

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

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

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

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

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

15 and

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

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

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

22 (a-5) Baked goods, such as, but not limited to, breads,  
23 cookies, cakes, pies, and pastries are allowed. Only high-acid  
24 fruit pies that use the following fruits are allowed: apple,  
25 apricot, grape, peach, plum, quince, orange, nectarine,  
26 tangerine, blackberry, raspberry, blueberry, boysenberry,

1 cherry, cranberry, strawberry, red currants, or a combination  
2 of these fruits.

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

7 (c) The requirements of this Section apply only to a home  
8 kitchen operation located in a municipality, township, or  
9 county where the local governing body having the jurisdiction  
10 to enforce this Act or the rules adopted under this Act has  
11 adopted an ordinance authorizing home kitchen operations.

12 (Source: P.A. 98-643, eff. 6-10-14; 99-78, eff. 7-20-15;  
13 99-191, eff. 1-1-16.)

14 (410 ILCS 625/4)

15 Sec. 4. Cottage food operation.

16 (a) For the purpose of this Section:

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

1 ~~commercial style kitchen on that property where the food is~~  
2 ~~made.~~

3 "Department" means the Department of Public Health.

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

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

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

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

24 (1) (Blank). ~~The food is a non-potentially hazardous~~  
25 ~~baked good, jam, jelly, preserve, fruit butter, dry herb,~~  
26 ~~dry herb blend, dry tea blend, or similar product as~~

1 ~~adopted and specified by Department rules pursuant to~~  
2 ~~subsection (c) of this Section, and is intended for end use~~  
3 ~~only. The following provisions shall apply:~~

4 ~~(A) The following jams, jellies and preserves are~~  
5 ~~allowed: apple, apricot, grape, peach, plum, quince,~~  
6 ~~orange, nectarine, tangerine, blackberry, raspberry,~~  
7 ~~blueberry, boysenberry, cherry, cranberry, strawberry,~~  
8 ~~red currants, or a combination of these fruits. Any~~  
9 ~~other jams, jellies, or preserves not listed may be~~  
10 ~~produced by a cottage food operation provided their~~  
11 ~~recipe has been tested and documented by a commercial~~  
12 ~~laboratory, at the expense of the cottage food~~  
13 ~~operation, as being not potentially hazardous,~~  
14 ~~containing a pH equilibrium of less than 4.6 or has~~  
15 ~~been specified and adopted as allowed in~~  
16 ~~administrative rules by the Department pursuant to~~  
17 ~~subsection (c) of this Section.~~

18 ~~(B) The following fruit butters are allowed:~~  
19 ~~apple, apricot, grape, peach, plum, quince, and prune.~~  
20 ~~Pumpkin butter, banana butter, and pear butter are not~~  
21 ~~allowed. Fruit butters not listed may be produced by a~~  
22 ~~cottage food operation provided their recipe has been~~  
23 ~~tested and documented by a commercial laboratory, at~~  
24 ~~the expense of the cottage food operation, as being not~~  
25 ~~potentially hazardous, containing a pH equilibrium of~~  
26 ~~less than 4.6 or has been specified and adopted as~~

1 ~~allowed in administrative rules by the Department~~  
2 ~~pursuant to subsection (c) of this Section.~~

3 ~~(C) Baked goods, such as, but not limited to,~~  
4 ~~breads, cookies, cakes, pies, and pastries are~~  
5 ~~allowed. Only high acid fruit pies that use the~~  
6 ~~following fruits are allowed: apple, apricot, grape,~~  
7 ~~peach, plum, quince, orange, nectarine, tangerine,~~  
8 ~~blackberry, raspberry, blueberry, boysenberry, cherry,~~  
9 ~~cranberry, strawberry, red currants or a combination~~  
10 ~~of these fruits. Fruit pies not listed may be produced~~  
11 ~~by a cottage food operation provided their recipe has~~  
12 ~~been tested and documented by a commercial laboratory,~~  
13 ~~at the expense of the cottage food operation, as being~~  
14 ~~not potentially hazardous, containing a pH equilibrium~~  
15 ~~of less than 4.6 or has been specified and adopted as~~  
16 ~~allowed in administrative rules by the Department~~  
17 ~~pursuant to subsection (c) of this Section. The~~  
18 ~~following are potentially hazardous and prohibited~~  
19 ~~from production and sale by a cottage food operation:~~  
20 ~~pumpkin pie, sweet potato pie, cheesecake, custard~~  
21 ~~pies, creme pies, and pastries with potentially~~  
22 ~~hazardous fillings or toppings.~~

23 (1.5) A cottage food operation may produce homemade  
24 food and drink. However, a cottage food operation, unless  
25 properly licensed, certified, and compliant with all  
26 requirements to sell a listed food item under the laws and

1 regulations pertinent to that food item, shall not sell or  
2 offer to sell the following food items or processed foods  
3 containing the following food items, except as indicated:

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

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

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

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

14 (E) garlic in oil;

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

18 (G) sprouts;

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

21 (I) cut fresh tomato or melon;

22 (J) dehydrated tomato or melon;

23 (K) frozen cut melon;

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

25 (M) alcoholic beverages.

26 (2) The food is to be sold at a farmers' market, with

1 the exception that cottage foods that have a locally grown  
2 agricultural product as the main ingredient may be sold on  
3 the farm where the agricultural product is grown or  
4 delivered directly to the consumer.

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

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

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

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

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

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

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

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

26 (5) The name and residence of the person preparing and



1 selling products as a cottage food operation is registered  
2 with the health department of a unit of local government  
3 where the cottage food operation resides. No fees shall be  
4 charged for registration. Registration shall be for a  
5 minimum period of one year.

6 (6) The person preparing or packaging products as a  
7 cottage food operation has a Department approved Food  
8 Service Sanitation Management Certificate.

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

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

24 (d) Notwithstanding the provisions of subsection (b) of  
25 this Section, a State-certified local public health department  
26 may, upon providing a written statement to the Department,

1 regulate the service of food by a cottage food operation. The  
2 regulation by a State-certified local public health department  
3 may include all of the following requirements:

4 (1) That the cottage food operation (A) register with  
5 the State-certified local public health department, which  
6 shall be for a minimum of one year and include a reasonable  
7 fee set by the State-certified local public health  
8 department that is no greater than \$25 notwithstanding  
9 paragraph (5) of subsection (b) of this Section and (B)  
10 agree in writing at the time of registration to grant  
11 access to the State-certified local public health  
12 department to conduct an inspection of the cottage food  
13 operation's primary domestic residence in the event of a  
14 consumer complaint or foodborne illness outbreak.

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

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

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