

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 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
17 non-potentially hazardous baked goods for sale by a religious,
18 charitable, or nonprofit organization for fundraising
19 purposes; the production or packaging of non-potentially
20 hazardous baked goods for these purposes is exempt from the
21 requirements of this Act. The following conditions must be met
22 in order to qualify as a home kitchen operation:

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (410 ILCS 625/4)

8 Sec. 4. Cottage food operation.

9 (a) For the purpose of this Section:

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

21 "Department" means the Department of Public Health.

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

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

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

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

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

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

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

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 or has been specified and adopted as~~
20 ~~allowed in administrative rules by the Department~~
21 ~~pursuant to subsection (c) of this Section.~~

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

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

16 (1.5) A cottage food operation may produce homemade
17 food and drink. However, a cottage food operation, unless
18 properly licensed, certified, and compliant with all
19 requirements to sell a listed food item under the laws and
20 regulations pertinent to that food item, shall not sell or
21 offer to sell the following food items or processed foods
22 containing the following food items, except as indicated:

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

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

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

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

7 (E) garlic in oil;

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

11 (G) sprouts;

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

14 (I) cut fresh tomato or melon;

15 (J) dehydrated tomato or melon;

16 (K) frozen cut melon;

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

18 (M) alcoholic beverages.

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

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

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

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

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

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

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

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

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

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

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

1 Service Sanitation Management Certificate.

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

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

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

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

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

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

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

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