



Rep. Will Guzzardi

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1 AMENDMENT TO SENATE BILL 457

2 AMENDMENT NO. _____. Amend Senate Bill 457 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 A food is "acidified" if: (i) acid or acid ingredients are
10 added to it to produce a final equilibrium pH of 4.6 or below;
11 or (ii) it is fermented to produce a final equilibrium pH of
12 4.6 or below.

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

16 "Cottage food operation" means an operation conducted by a

1 person who produces or packages food or drink, other than foods
2 and drinks listed as prohibited in paragraph (1.5) of
3 subsection (b) of this Section, in a kitchen located in that
4 person's primary domestic residence or another appropriately
5 designed and equipped residential or commercial-style kitchen
6 on that property for direct sale by the owner, a family member,
7 or employee.

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

11 "Department" means the Department of Public Health.

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

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

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

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

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

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

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

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

19 (1) (Blank).

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

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

2 (B) dairy, except as an ingredient in a
3 non-potentially hazardous baked good or candy, such as
4 caramel, subject to paragraph (1.8);

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

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

11 (E) garlic in oil or oil infused with garlic,
12 except if the garlic oil is acidified;

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

15 (i) fruit jams, fruit jellies, fruit
16 preserves, or fruit butters;~~;~~

17 (ii) syrups;

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

19 (iv) acidified fruit or vegetables prepared
20 and offered for sale in compliance with paragraph
21 (1.6); and

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

1 (G) sprouts;

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

5 (I) cut or pureed fresh tomato or melon;

6 (J) dehydrated tomato or melon;

7 (K) frozen cut melon;

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

9 (M) alcoholic beverages; or

10 (N) kombucha.

11 (1.6) In order to sell canned tomatoes or a canned
12 product containing tomatoes, a cottage food operator shall
13 either:

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

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

1 (d).

2 (1.7) A State-certified local public health department
3 that regulates the service of food by a cottage food
4 operation in accordance with subsection (d) of this Section
5 may require a cottage food operation to submit a canned
6 food that is subject to paragraph (1.6), at the cottage
7 food operator's expense, to a commercial laboratory to
8 verify that the product has a final equilibrium pH of 4.6
9 or below.

10 (1.8) A State-certified local public health department
11 that regulates the service of food by a cottage food
12 operation in accordance with subsection (d) of this Section
13 may require a cottage food operation to submit a recipe for
14 any baked good containing cheese, at the cottage food
15 operator's expense, to a commercial laboratory to verify
16 that it is non-potentially hazardous before allowing the
17 cottage food operation to sell the baked good as a cottage
18 food.

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).

25 (4) The food packaging conforms to the labeling
26 requirements of the Illinois Food, Drug and Cosmetic Act

1 and includes the following information on the label of each
2 of its products:

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

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

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

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

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

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

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

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

26 (7) At the point of sale a placard is displayed in a

1 prominent location that states the following: "This
2 product was produced in a home kitchen not subject to
3 public health inspection that may also process common food
4 allergens."

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

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

21 (1) That the cottage food operation (A) register with
22 the State-certified local public health department, which
23 shall be for a minimum of one year and include a reasonable
24 fee set by the State-certified local public health
25 department that is no greater than \$25 notwithstanding
26 paragraph (5) of subsection (b) of this Section and (B)

1 agree in writing at the time of registration to grant
2 access to the State-certified local public health
3 department to conduct an inspection of the cottage food
4 operation's primary domestic residence in the event of a
5 consumer complaint or foodborne illness outbreak.

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

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

13 (Source: P.A. 99-191, eff. 1-1-16; 100-35, eff. 1-1-18.)

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