



Sen. David Koehler

Filed: 4/20/2018

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LRB100 05001 MJP 39093 a

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 "Acidify" means to reduce the potential of hydrogen of a
10 food to 4.6 or lower by means of pickling, fermenting, or
11 adding an acidic ingredient, such as vinegar, citric acid, or
12 citrus juice.

13 "Canned food" means food processed and preserved in a new
14 glass jar or bottle that has been sealed with a new lid by
15 means of heat or pressure.

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

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

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

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

26 "Potentially hazardous food" means a food that is

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

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

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

16 (1) (Blank).

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

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

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

1 caramel;

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

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

8 (E) raw garlic in oil or oil infused with raw
9 garlic, except if the raw garlic oil is acidified;

10 (F) canned foods, except for the following, which
11 may be canned only in new jars or bottles with new
12 lids:

13 (i) fruit jams, fruit jellies, fruit
14 preserves, or fruit butters;⁷

15 (ii) syrups;

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

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

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

25 (G) sprouts;

26 (H) cut leafy greens, except for cut leafy greens

1 that are dehydrated, acidified, or blanched and
2 frozen;

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

4 (J) dehydrated tomato or melon;

5 (K) frozen cut melon;

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

7 (M) alcoholic beverages, except when trace amounts
8 of alcohol are incidentally present in a beverage, such
9 as kombucha, that is commonly sold without age
10 restriction.

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 recipe for
6 any baked good containing cheese, at the cottage food
7 operator's expense, to a commercial laboratory to verify
8 that it is non-potentially hazardous before allowing the
9 cottage food operation to sell the baked good as a cottage
10 food.

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

16 (3) (Blank).

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

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

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

24 (C) all ingredients of the food product, including
25 any colors, artificial flavors, and preservatives,
26 listed in descending order by predominance of weight

1 shown with common or usual names;

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

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

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

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

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

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

23 (c) Notwithstanding the provisions of subsection (b) of
24 this Section, if the Department or the health department of a
25 unit of local government has received a consumer complaint or
26 has reason to believe that an imminent health hazard exists or

1 that a cottage food operation's product has been found to be
2 misbranded, adulterated, or not in compliance with the
3 exception for cottage food operations pursuant to this Section,
4 then it may invoke cessation of sales of cottage food products
5 until it deems that the situation has been addressed to the
6 satisfaction of the Department.

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

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

24 (2) That in the event of a consumer complaint or
25 foodborne illness outbreak the State-certified local
26 public health department is allowed to (A) inspect the

1 premises of the cottage food operation in question and (B)
2 set a reasonable fee for that inspection.

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

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

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