



Sen. David Koehler

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10200SB2007sam001

LRB102 12761 CPF 24606 a

1 AMENDMENT TO SENATE BILL 2007

2 AMENDMENT NO. _____. Amend Senate Bill 2007 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Food Handling Regulation Enforcement Act
5 is 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 has been ~~are~~ heat processed
15 sufficiently under United States Department of Agriculture
16 guidelines to enable storing the food at normal home

1 temperatures.

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

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

13 "Department" means the Department of Public Health.

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

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

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

1 "Local health department" means the State-certified health
2 department of a unit of local government in which a cottage
3 food operation is located.

4 "Low-acid canned food" means any canned food with a
5 finished equilibrium pH greater than 4.6 and a water activity
6 (aw) greater than 0.85.

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

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

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

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

21 (b) (1) ~~Notwithstanding any other provision of law and~~
22 ~~except as provided in subsections (c), (d), and (e) of this~~
23 ~~Section, neither the Department nor the Department of~~
24 ~~Agriculture nor the health department of a unit of local~~
25 ~~government may regulate the transaction of food or drink by a~~
26 ~~cottage food operation providing that all of the following~~

1 ~~conditions are met: (1) (Blank). (1.5)~~ A cottage food
2 operation may produce homemade food and drink. A ~~However, a~~
3 cottage food operation, ~~unless properly licensed, certified,~~
4 ~~and compliant with all requirements to sell a listed food item~~
5 ~~under the laws and regulations pertinent to that food item,~~
6 shall not sell or offer to sell the following food items or
7 processed foods containing the following food items, except as
8 indicated:

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

10 (B) dairy, except as an ingredient in a
11 non-potentially hazardous food, such as a baked good
12 or candy, such as caramel, subject to paragraph (4),
13 or as an ingredient in a baked good frosting, such as
14 buttercream ~~(1.8)~~;

15 (C) eggs, except as an ingredient in a
16 non-potentially hazardous food, including dry noodles, or
17 as an ingredient in a baked good frosting, such as
18 buttercream, if the eggs are not raw ~~baked good or in dry~~
19 ~~noodles~~;

20 (D) pumpkin pies, sweet potato pies, cheesecakes,
21 custard pies, creme pies, and pastries with
22 potentially hazardous fillings or toppings;

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

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

1 ~~(i) fruit jams, fruit jellies, fruit~~
2 ~~preserves, or fruit butters;~~

3 ~~(ii) syrups;~~

4 ~~(iii) whole or cut fruit canned in syrup;~~

5 ~~(iv) acidified fruit or vegetables prepared~~
6 ~~and offered for sale in compliance with paragraph~~
7 ~~(1.6); and~~

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

13 (F) low-acid canned foods;

14 (G) sprouts;

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

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

19 (J) dehydrated tomato or melon;

20 (K) frozen cut melon;

21 (L) wild-harvested, non-cultivated mushrooms;

22 (M) alcoholic beverages; or

23 (N) kombucha.

24 (2) ~~(1.6)~~ In order to sell canned tomatoes or a canned
25 product containing tomatoes, a cottage food operator shall
26 either:

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

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

16 ~~(1.7) A State certified local public health department~~
17 ~~that regulates the service of food by a cottage food~~
18 ~~operation in accordance with subsection (d) of this~~
19 ~~Section may require a cottage food operation to submit a~~
20 ~~canned food that is subject to paragraph (1.6), at the~~
21 ~~cottage food operator's expense, to a commercial~~
22 ~~laboratory to verify that the product has a final~~
23 ~~equilibrium pH of 4.6 or below.~~

24 (3) In order to sell a fermented or acidified food, a
25 cottage food operation shall either:

26 (A) submit a recipe that has been tested by the

1 United States Department of Agriculture or a
2 Cooperative Extension System located in this State or
3 any other state in the United States; or

4 (B) submit a written food safety plan for each
5 category of products for which the cottage food
6 operator uses the same procedures, such as pickles,
7 kimchi, or hot sauce, and a pH test for a single
8 product that is representative of that category; the
9 written food safety plan shall be submitted annually
10 upon registration and each pH test shall be submitted
11 every 3 years; the food safety plan shall adhere to
12 guidelines developed by University of Illinois
13 Extension.

14 A fermented or acidified food shall be packaged
15 according to one of the following standards:

16 (A) Acidified and fermented foods that are canned
17 must be processed in a boiling water bath in a mason
18 style jar or glass container with a tight-fitting lid.

19 (B) Acidified and fermented foods that are not
20 canned shall be sold in any container that is new,
21 clean, and seals properly and must be stored,
22 transported, and sold at or below 41 degrees.

23 (4) ~~(1.8)~~ A ~~State-certified~~ local ~~public~~ health
24 department that regulates the service of food by a cottage
25 food operation in accordance with subsection (d) of this
26 Section may require a cottage food operation to submit a

1 recipe for any baked good containing cheese, at the
2 cottage food operator's expense, to a commercial
3 laboratory to verify that it is non-potentially hazardous
4 before allowing the cottage food operation to sell the
5 baked good as a cottage food.

6 (5) The food and drink produced by a cottage food
7 operation shall be sold directly to consumers for their
8 own consumption and not for resale. Sales directly to
9 consumers include, but are not limited to: sales at
10 farmers' markets, fairs, festivals, or public events or
11 online; pickup from the private home or farm of the
12 cottage food operator if not prohibited by laws of the
13 unit of local government that apply equally to all cottage
14 food operations; delivery to the customer; or pickup from
15 a third-party private property with the consent of the
16 third-party property holder. Cottage food products shall
17 not be shipped out of State.

18 (6) For cottage food operations that are not utilizing
19 municipal water supplies, such as operations using private
20 wells, a local health department may require a water
21 sample test to verify that the water source being used
22 meets public safety standards related to E. coli coliform.
23 If a test is requested, it must be conducted at the cottage
24 food operator's expense.

25 ~~(2) The food is to be sold at a farmers' market, with~~
26 ~~the exception that cottage foods that have a locally grown~~

1 ~~agricultural product as the main ingredient may be sold on~~
2 ~~the farm where the agricultural product is grown or~~
3 ~~delivered directly to the consumer.~~

4 ~~(3) (Blank).~~

5 (7) The food packaging must conform to the labeling
6 requirements of the Illinois Food, Drug, and Cosmetic Act.
7 The food packaging may include the designation
8 "Illinois-grown", "Illinois-sourced", or "Illinois farm
9 product" if the products are local farm or food products
10 as defined in Section 5 of the Local Food, Farms, and Jobs
11 Act. Cottage food products shall be prepackaged and the
12 food packaging shall be affixed with a prominent label
13 that includes the following items, unless the local health
14 department where the product is sold has granted
15 permission to sell products that are not prepackaged, in
16 which case other prominent written notice shall be
17 provided to the purchaser that includes the following
18 labeling requirements: ~~(4) The food packaging conforms to~~
19 ~~the labeling requirements of the Illinois Food, Drug and~~
20 ~~Cosmetic Act and includes the following information on the~~
21 ~~label of each of its products:~~

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

24 (B) the identifying registration number provided
25 by the local health department on the certification of
26 registration and the name of the municipality or

1 county in which the registration was filed;

2 (C) ~~(B)~~ the common or usual name of the food
3 product;

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

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

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

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

17 (8) ~~(5)~~ The name and residence of the person preparing
18 and selling products as a cottage food operation must be
19 ~~are~~ registered with the local health department and the
20 certificate of registration must be available at the point
21 of sale. A cottage food operation is required to register
22 with the local health department for the unit of local
23 government in which it is located, but may sell products
24 outside of the unit of local government where the cottage
25 food operation is located. ~~of a unit of local government~~
26 ~~where the cottage food operation resides. No fees shall be~~

1 ~~charged for registration. Registration shall be for a~~
2 ~~minimum period of one year.~~

3 (9) (6) The person preparing or packaging products as
4 part of a cottage food operation must be a
5 Department-approved certified food protection manager ~~has~~
6 ~~a Department approved Food Service Sanitation Management~~
7 ~~Certificate.~~

8 (10) (7) At the point of sale, notice must be provided
9 ~~a placard is displayed~~ in a prominent location that states
10 the following: "This product was produced in a home
11 kitchen not inspected by a health department ~~subject to~~
12 ~~public health inspection~~ that may also process common food
13 allergens.". At a physical display, notice shall be a
14 placard. Online, notice shall be a message on the cottage
15 food operation's online sales interface.

16 (b-5) A home rule unit may not regulate cottage food
17 operations in a manner inconsistent with the regulation by the
18 State of cottage food operations under this Section. This
19 Section is a limitation under subsection (i) of Section 6 of
20 Article VII of the Illinois Constitution on the concurrent
21 exercise by home rule units of powers and functions exercised
22 by the State.

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

1 health hazard exists or that a cottage food operation's
2 product has been found to be misbranded, adulterated, or not
3 in compliance with the exception for cottage food operations
4 pursuant to this Section, then it may invoke cessation of
5 sales of cottage food products until it deems that the
6 situation has been addressed to the satisfaction of the
7 Department or the local health department. If the situation is
8 not amenable to being addressed, the Department or local
9 health department may revoke the cottage food operation's
10 registration following a process outlined by the Department or
11 local health department.

12 (d) A local health department shall register any eligible
13 cottage food operation that meets the requirements of this
14 Section and shall issue a certificate of registration with an
15 identifying registration number to each registered cottage
16 food operation. Registration shall be completed annually and
17 the local health department may impose a reasonable fee that
18 is no greater than \$25. The regulation by a local health
19 department may include all of the following requirements:
20 ~~Notwithstanding the provisions of subsection (b) of this~~
21 ~~Section, a State-certified local public health department may,~~
22 ~~upon providing a written statement to the Department, regulate~~
23 ~~the service of food by a cottage food operation. The~~
24 ~~regulation by a State-certified local public health department~~
25 ~~may include all of the following requirements:~~

26 (1) That the cottage food operation ~~(A) register with~~

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

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

17 (e) A person who produces or packages a non-potentially
18 hazardous baked good for sale by a religious, charitable, or
19 nonprofit organization for fundraising purposes is exempt from
20 the requirements of this Section.

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

23 (Source: P.A. 100-35, eff. 1-1-18; 100-1069, eff. 8-24-18;
24 101-81, eff. 7-12-19.)".