

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 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 and a water activity greater than 0.85; or (ii) it is fermented  
12 to produce a final equilibrium pH of 4.6 or below.

13 "Canned food" means food that has been heat processed  
14 sufficiently under United States Department of Agriculture  
15 guidelines to enable storing the food at normal home  
16 temperatures.

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

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

4 "Department" means the Department of Public Health.

5 "Employee" means a person who is employed by and receives  
6 monetary compensation from a cottage food operator.

7 "Equilibrium pH" means the final potential of hydrogen  
8 measured in an acidified food after all the components of the  
9 food have achieved the same acidity.

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

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

20 "Local health department" means a State-certified health  
21 department of a unit of local government in which a cottage  
22 food operation is located or, if the cottage food operation is  
23 located in a county that does not have a local health  
24 department, is registered.

25 "Local public health department association" means an  
26 association solely representing 2 or more State-certified

1 local health departments.

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

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

7 "Mobile farmers markets" means a farmers market that is  
8 operated from a movable motor drive or propelled vehicle or  
9 trailer that can change location, including a farmers market  
10 that is owned and operated by a farmer or a third party selling  
11 products on behalf of farmers or cottage food operations with  
12 the intent of a direct sale to an end consumer.

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

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

22 "Time/temperature control for safety food" means a food  
23 that is stored under time or temperature control for food  
24 safety according to the Department's administrative rules.

25 (b) A cottage food operation may produce homemade food and  
26 drink provided that all of the following conditions are met:

1 (1) (Blank).

2 (1.3) A cottage food operation must register with the  
3 local health department for the unit of local government  
4 in which it is located, but may sell products outside of  
5 the unit of local government where the cottage food  
6 operation is located. If a county does not have a local  
7 health department, the county shall enter into an  
8 agreement or contract with a local health department in an  
9 adjacent county to register cottage food operations in the  
10 jurisdiction of the county that does not have a health  
11 department. The adjacent local health department where the  
12 cottage food operation registers has the powers described  
13 in subsection (d). A copy of the certificate of  
14 registration must be available upon request by any local  
15 health department.

16 (1.5) A cottage food operation shall not sell or offer  
17 to sell the following food items or processed foods  
18 containing the following food items, except as indicated:

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

20 (B) dairy, except as an ingredient in a  
21 ~~non-potentially hazardous~~ baked good or candy that is  
22 not a time/temperature control for safety food, such  
23 as caramel, subject to paragraph (4), or as an  
24 ingredient in a baked good frosting, such as  
25 buttercream;

26 (C) eggs, except as an ingredient in a food that is

1           not a time/temperature control for safety food  
2           ~~non-potentially hazardous food~~, including dry noodles,  
3           or as an ingredient in a baked good frosting, such as  
4           buttercream, if the eggs are not raw;

5           (D) pumpkin pies, sweet potato pies, cheesecakes,  
6           custard pies, creme pies, and pastries with  
7           time/temperature control for safety foods that are  
8           ~~potentially hazardous~~ fillings or toppings;

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

11           (F) low-acid canned foods;

12           (G) sprouts;

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

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

17           (J) dehydrated tomato or melon;

18           (K) frozen cut melon;

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

20           (M) alcoholic beverages; or

21           (N) kombucha.

22           (1.6) In order to sell canned tomatoes or a canned  
23           product containing tomatoes, a cottage food operator shall  
24           either:

25           (A) follow exactly a recipe that has been tested  
26           by the United States Department of Agriculture or by a

1 state cooperative extension located in this State or  
2 any other state in the United States; or

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

14 (2) In order to sell a fermented or acidified food, a  
15 cottage food operation shall either:

16 (A) submit a recipe that has been tested by the  
17 United States Department of Agriculture or a  
18 cooperative extension system located in this State or  
19 any other state in the United States; or

20 (B) submit a written food safety plan for each  
21 category of products for which the cottage food  
22 operator uses the same procedures, such as pickles,  
23 kimchi, or hot sauce, and a pH test for a single  
24 product that is representative of that category; the  
25 written food safety plan shall be submitted annually  
26 upon registration and each pH test shall be submitted

1 every 3 years; the food safety plan shall adhere to  
2 guidelines developed by the Department.

3 (3) A fermented or acidified food shall be packaged  
4 according to one of the following standards:

5 (A) A fermented or acidified food that is canned  
6 must be processed in a boiling water bath in a  
7 Mason-style jar or glass container with a  
8 tight-fitting lid.

9 (B) A fermented or acidified food that is not  
10 canned shall be sold in any container that is new,  
11 clean, and seals properly and must be stored,  
12 transported, and sold at or below 41 degrees.

13 (4) In order to sell a baked good with cheese, a local  
14 health department may require a cottage food operation to  
15 submit a recipe, at the cottage food operator's expense,  
16 to a commercial laboratory to verify that it is not a  
17 time-or-temperature control for safety food  
18 ~~non-potentially hazardous~~ before allowing the cottage food  
19 operation to sell the baked good as a cottage food.

20 (5) For a cottage food operation that does not utilize  
21 a municipal water supply, such as an operation using a  
22 private well, a local health department may require a  
23 water sample test to verify that the water source being  
24 used meets public safety standards related to E. coli  
25 coliform. If a test is requested, it must be conducted at  
26 the cottage food operator's expense.

1           (6) A person preparing or packaging a product as part  
2 of a cottage food operation must be a Department-approved  
3 certified food protection manager.

4           (7) Food packaging must conform with the labeling  
5 requirements of the Illinois Food, Drug and Cosmetic Act.  
6 A cottage food product shall be prepackaged and the food  
7 packaging shall be affixed with a prominent label that  
8 includes the following:

9           (A) the name of the cottage food operation and  
10 unit of local government in which the cottage food  
11 operation is located;

12           (B) the identifying registration number provided  
13 by the local health department on the certificate of  
14 registration and the name of the municipality or  
15 county in which the registration was filed;

16           (C) the common or usual name of the food product;

17           (D) all ingredients of the food product, including  
18 any color, artificial flavor, and preservative, listed  
19 in descending order by predominance of weight shown  
20 with the common or usual names;

21           (E) the following phrase in prominent lettering:  
22 "This product was produced in a home kitchen not  
23 inspected by a health department that may also process  
24 common food allergens. If you have safety concerns,  
25 contact your local health department.";

26           (F) the date the product was processed; and



1 (G) allergen labeling as specified under federal  
2 labeling requirements.

3 (8) Food packaging may include the designation  
4 "Illinois-grown", "Illinois-sourced", or "Illinois farm  
5 product" if the packaged product is a local farm or food  
6 product as that term is defined in Section 5 of the Local  
7 Food, Farms, and Jobs Act.

8 (9) In the case of a product that is difficult to  
9 properly label or package, or for other reasons, the local  
10 health department of the location where the product is  
11 sold may grant permission to sell products that are not  
12 prepackaged, in which case other prominent written notice  
13 shall be provided to the purchaser.

14 (10) At the point of sale, notice must be provided in a  
15 prominent location that states the following: "This  
16 product was produced in a home kitchen not inspected by a  
17 health department that may also process common food  
18 allergens." At a physical display, notice shall be a  
19 placard. Online, notice shall be a message on the cottage  
20 food operation's online sales interface at the point of  
21 sale.

22 (11) Food and drink produced by a cottage food  
23 operation shall be sold directly to consumers for their  
24 own consumption and not for resale. Sales directly to  
25 consumers include, but are not limited to, sales at or  
26 through:

1 (A) farmers' markets;  
2 (B) fairs, festivals, public events, or online;  
3 (C) pickup from the private home or farm of the  
4 cottage food operator, if the pickup is not prohibited  
5 by any law of the unit of local government that applies  
6 equally to all cottage food operations; in a  
7 municipality with a population of 1,000,000 or more, a  
8 cottage food operator shall comply with any law of the  
9 municipality that applies equally to all home-based  
10 businesses;

11 (D) delivery to the customer; ~~and~~

12 (E) pickup from a third-party private property  
13 with the consent of the third-party property holder;  
14 and

15 (F) mobile farmers markets.

16 (12) Only food that is not a time-or-temperature  
17 control for safety food ~~non-potentially hazardous~~ may be  
18 shipped. A cottage food product shall not be shipped out  
19 of State. Each cottage food product that is shipped must  
20 be sealed in a manner that reveals tampering, including,  
21 but not limited to, a sticker or pop top.

22 (13) Alcohol may be used to make extracts, such as  
23 vanilla extract, or may be used as an ingredient in baked  
24 goods as long as the created product is not intended for  
25 use as a beverage.

26 (14) Time/temperature control for safety foods shall

1 be maintained and transported at holding temperatures as  
2 set in the Department's administrative rules to ensure the  
3 food's safety and limit microorganism growth or toxin  
4 formation.

5 (15) A product assessment of pH and water activity may  
6 be used to show that a product is non-time or temperature  
7 controlled for food safety and does not require  
8 temperature control.

9 (c) A local health department shall register any eligible  
10 cottage food operation that meets the requirements of this  
11 Section and shall issue a certificate of registration with an  
12 identifying registration number to each registered cottage  
13 food operation. A local health department may establish a  
14 self-certification program for cottage food operators to  
15 affirm compliance with applicable laws, rules, and  
16 regulations. Registration shall be completed annually and the  
17 local health department may impose a fee not to exceed \$50.

18 (d) In the event of a consumer complaint or foodborne  
19 illness outbreak, upon notice from a different local health  
20 department, or if the Department or a local health department  
21 has reason to believe that an imminent health hazard exists or  
22 that a cottage food operation's product has been found to be  
23 misbranded, adulterated, or not in compliance with the  
24 conditions for cottage food operations set forth in this  
25 Section, the Department or the local health department may:

26 (1) inspect the premises of the cottage food operation

1 in question;

2 (2) set a reasonable fee for the inspection; and

3 (3) invoke penalties and the cessation of the sale of  
4 cottage food products until it deems that the situation  
5 has been addressed to the satisfaction of the Department  
6 or local health department; if the situation is not  
7 amenable to being addressed, the local health department  
8 may revoke the cottage food operation's registration  
9 following a process outlined by the local health  
10 department.

11 (e) A local health department that receives a consumer  
12 complaint or a report of foodborne illness related to a  
13 cottage food operator in another jurisdiction shall refer the  
14 complaint or report to the local health department where the  
15 cottage food operator is registered.

16 (f) By January 1, 2022, the Department, in collaboration  
17 with local public health department associations and other  
18 stakeholder groups, shall write and issue administrative  
19 guidance to local health departments on the following:

20 (1) development of a standard registration form,  
21 including, if applicable, a written food safety plan;

22 (2) development of a Home-Certification Self Checklist  
23 Form;

24 (3) development of a standard inspection form and  
25 inspection procedures; and

26 (4) procedures for cottage food operation workspaces

1           that include, but are not limited to, cleaning products,  
2           general sanitation, and requirements for functional  
3           equipment.

4           (g) A person who produces or packages a ~~non-potentially~~  
5           ~~hazardous~~ baked good that is not a time/temperature control  
6           for safety food for sale by a religious, charitable, or  
7           nonprofit organization for fundraising purposes is exempt from  
8           the requirements of this Section.

9           (h) A home rule unit may not regulate cottage food  
10          operations in a manner inconsistent with the regulation by the  
11          State of cottage food operations under this Section. This  
12          Section is a limitation under subsection (i) of Section 6 of  
13          Article VII of the Illinois Constitution on the concurrent  
14          exercise by home rule units of powers and functions exercised  
15          by the State.

16          (i) The Department may adopt rules as may be necessary to  
17          implement the provisions of this Section.

18          (Source: P.A. 101-81, eff. 7-12-19; 102-633, eff. 1-1-22.)