



Sen. Jason Plummer

**Filed: 4/5/2024**

10300SB2617sam002

LRB103 34813 CES 71331 a

1 AMENDMENT TO SENATE BILL 2617

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2617, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Food Handling Regulation Enforcement Act  
6 is amended by changing Section 4 as follows:

7 (410 ILCS 625/4)

8 Sec. 4. Cottage food operation.

9 (a) For the purpose of this Section:

10 A food is "acidified" if: (i) acid or acid ingredients are  
11 added to it to produce a final equilibrium pH of 4.6 or below  
12 and a water activity greater than 0.85; or (ii) it is fermented  
13 to produce a final equilibrium pH of 4.6 or below.

14 "Canned food" means food that has been 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 (1.5) of  
5 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 for direct sale by the  
8 owner, a family member, or employee.

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

12 "Department" means the Department of Public Health.

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

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

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

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

1 or parsley.

2 "Local health department" means a State-certified health  
3 department of a unit of local government in which a cottage  
4 food operation is located or, if the cottage food operation is  
5 located in a county that does not have a local health  
6 department, is registered.

7 "Local public health department association" means an  
8 association solely representing 2 or more State-certified  
9 local health departments.

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

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

15 "Mobile farmers markets" means a farmers market that is  
16 operated from a movable motor drive or propelled vehicle or  
17 trailer that can change location, including a farmers market  
18 that is owned and operated by a farmer or a third party selling  
19 products on behalf of farmers or cottage food operations with  
20 the intent of a direct sale to an end consumer.

21 ~~"Potentially hazardous food" means a food that is~~  
22 ~~potentially hazardous according to the Department's~~  
23 ~~administrative rules. Potentially hazardous food (PHF) in~~  
24 ~~general means a food that requires time and temperature~~  
25 ~~control for safety (TCS) to limit pathogenic microorganism~~  
26 ~~growth or toxin formation.~~

1 "Sprout" means any seedling intended for human consumption  
2 that was produced in a manner that does not meet the definition  
3 of microgreen.

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

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

9 (1) (Blank).

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

24 (1.5) A cottage food operation shall not sell or offer  
25 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 that is  
4 not a time/temperature control for safety food, such  
5 as caramel, subject to paragraph (4), or as an  
6 ingredient in a baked good frosting, such as  
7 buttercream;

8 (C) eggs, except as an ingredient in a food that is  
9 not a time/temperature control for safety food  
10 ~~non-potentially hazardous food~~, including dry noodles,  
11 or as an ingredient in a baked good frosting, such as  
12 buttercream, if the eggs are not raw;

13 (D) pumpkin pies, sweet potato pies, cheesecakes,  
14 custard pies, creme pies, and pastries with  
15 time/temperature control for safety foods that are  
16 ~~potentially hazardous~~ fillings or toppings;

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

19 (F) low-acid canned foods;

20 (G) sprouts;

21 (H) cut leafy greens, except for cut leafy greens  
22 that are dehydrated, acidified, or blanched and  
23 frozen;

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

25 (J) dehydrated tomato or melon;

26 (K) frozen cut melon;

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

2 (M) alcoholic beverages; or

3 (N) kombucha.

4 (1.6) In order to sell canned tomatoes or a canned  
5 product containing tomatoes, a cottage food operator shall  
6 either:

7 (A) follow exactly a recipe that has been tested  
8 by the United States Department of Agriculture or by a  
9 state cooperative extension located in this State or  
10 any other state in the United States; or

11 (B) submit the recipe, at the cottage food  
12 operator's expense, to a commercial laboratory  
13 according to the commercial laboratory's directions to  
14 test that the product has been adequately acidified;  
15 use only the varietal or proportionate varietals of  
16 tomato included in the tested recipe for all  
17 subsequent batches of such recipe; and provide  
18 documentation of the annual test results of the recipe  
19 submitted under this subparagraph upon registration  
20 and to an inspector upon request during any inspection  
21 authorized by subsection (d).

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

24 (A) submit a recipe that has been tested by the  
25 United States Department of Agriculture or a  
26 cooperative extension system located in this State or

1 any other state in the United States; or

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

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

13 (A) A fermented or acidified food that is canned  
14 must be processed in a boiling water bath in a  
15 Mason-style jar or glass container with a  
16 tight-fitting lid.

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

21 (4) In order to sell a baked good with cheese, a local  
22 health department may require a cottage food operation to  
23 submit a recipe, at the cottage food operator's expense,  
24 to a commercial laboratory to verify that it is not a  
25 time-or-temperature control for safety food  
26 ~~non-potentially hazardous~~ before allowing the cottage food

1 operation to sell the baked good as a cottage food.

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

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

12 (7) Food packaging must conform with the labeling  
13 requirements of the Illinois Food, Drug and Cosmetic Act.  
14 A cottage food product shall be prepackaged and the food  
15 packaging shall be affixed with a prominent label that  
16 includes the following:

17 (A) the name of the cottage food operation and  
18 unit of local government in which the cottage food  
19 operation is located;

20 (B) the identifying registration number provided  
21 by the local health department on the certificate of  
22 registration and the name of the municipality or  
23 county in which the registration was filed;

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

25 (D) all ingredients of the food product, including  
26 any color, artificial flavor, and preservative, listed



1 in descending order by predominance of weight shown  
2 with the common or usual names;

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

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

9 (G) allergen labeling as specified under federal  
10 labeling requirements.

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

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

22 (10) At the point of sale, notice must be provided in a  
23 prominent location that states the following: "This  
24 product was produced in a home kitchen not inspected by a  
25 health department that may also process common food  
26 allergens." At a physical display, notice shall be a

1 placard. Online, notice shall be a message on the cottage  
2 food operation's online sales interface at the point of  
3 sale.

4 (11) Food and drink produced by a cottage food  
5 operation shall be sold directly to consumers for their  
6 own consumption and not for resale. Sales directly to  
7 consumers include, but are not limited to, sales at or  
8 through:

9 (A) farmers' markets;

10 (B) fairs, festivals, public events, or online;

11 (C) pickup from the private home or farm of the  
12 cottage food operator, if the pickup is not prohibited  
13 by any law of the unit of local government that applies  
14 equally to all cottage food operations; in a  
15 municipality with a population of 1,000,000 or more, a  
16 cottage food operator shall comply with any law of the  
17 municipality that applies equally to all home-based  
18 businesses;

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

20 (E) pickup from a third-party private property  
21 with the consent of the third-party property holder;  
22 and

23 (F) mobile farmers markets.

24 (12) Only food that is not a time-or-temperature  
25 control for safety food ~~non-potentially hazardous~~ may be  
26 shipped. A cottage food product shall not be shipped out

1 of State. Each cottage food product that is shipped must  
2 be sealed in a manner that reveals tampering, including,  
3 but not limited to, a sticker or pop top.

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

8 (14) Time/temperature control for safety foods shall  
9 be maintained and transported at holding temperatures as  
10 set in the Department's administrative rules to ensure the  
11 food's safety and limit microorganism growth or toxin  
12 formation.

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

17 (c) A local health department shall register any eligible  
18 cottage food operation that meets the requirements of this  
19 Section and shall issue a certificate of registration with an  
20 identifying registration number to each registered cottage  
21 food operation. A local health department may establish a  
22 self-certification program for cottage food operators to  
23 affirm compliance with applicable laws, rules, and  
24 regulations. Registration shall be completed annually and the  
25 local health department may impose a fee not to exceed \$50.

26 (d) In the event of a consumer complaint or foodborne

1 illness outbreak, upon notice from a different local health  
2 department, or if the Department or a local health department  
3 has reason to believe that an imminent health hazard exists or  
4 that a cottage food operation's product has been found to be  
5 misbranded, adulterated, or not in compliance with the  
6 conditions for cottage food operations set forth in this  
7 Section, the Department or the local health department may:

8 (1) inspect the premises of the cottage food operation  
9 in question;

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

11 (3) invoke penalties and the cessation of the sale of  
12 cottage food products until it deems that the situation  
13 has been addressed to the satisfaction of the Department  
14 or local health department; if the situation is not  
15 amenable to being addressed, the local health department  
16 may revoke the cottage food operation's registration  
17 following a process outlined by the local health  
18 department.

19 (e) A local health department that receives a consumer  
20 complaint or a report of foodborne illness related to a  
21 cottage food operator in another jurisdiction shall refer the  
22 complaint or report to the local health department where the  
23 cottage food operator is registered.

24 (f) By January 1, 2022, the Department, in collaboration  
25 with local public health department associations and other  
26 stakeholder groups, shall write and issue administrative

1 guidance to local health departments on the following:

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

4 (2) development of a Home-Certification Self Checklist  
5 Form;

6 (3) development of a standard inspection form and  
7 inspection procedures; and

8 (4) procedures for cottage food operation workspaces  
9 that include, but are not limited to, cleaning products,  
10 general sanitation, and requirements for functional  
11 equipment.

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

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

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

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