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# A BILL FOR AN ACT

RELATING TO COTTAGE FOOD BUSINESSES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Many states have cottage food laws that govern  
2 home-based food production businesses. These laws allow a  
3 person to prepare food products, including baked goods, jams,  
4 jellies, preserves, and spice rubs from the home kitchen of a  
5 domestic residence and sell them directly to consumers. Hawaii  
6 is among the few states that do not have some type of cottage  
7 food law.

8           The legislature finds that cottage food laws promote  
9 economic recovery and vitality through small business ownership,  
10 as well as food security and sustainability by fostering  
11 connections between businesses, island-based farmers, and local  
12 communities.

13           The purpose of this Act, therefore, is to establish a  
14 cottage food law to allow home-based food production businesses  
15 to sell food items directly to consumers if certain conditions  
16 are met.



1 SECTION 2. Chapter 328, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§328- Cottage food products; exemption. (a) The sale  
5 of cottage food products shall be permitted if the cottage food  
6 operator:

7 (1) Is registered with the department pursuant to  
8 subsection (d);

9 (2) Sells the cottage food products directly to consumers;  
10 provided that no cottage food operator shall offer any  
11 cottage food product for sale to consumers or  
12 otherwise via internet transaction;

13 (3) Takes all reasonable steps to protect the cottage food  
14 products intended for sale from contamination during  
15 preparation, processing, packaging, storage, handling,  
16 and distribution. Reasonable steps include, but are  
17 not limited to:

18 (A) Maintaining direct supervision of any person,  
19 other than the cottage food operator, engaged in  
20 the processing, preparing, packaging, storing,  
21 handling, or distribution of the cottage food  
22 product intended for sale;



1           (B) Prohibiting all animals from entering the area in  
2           the dwelling where cottage food products are  
3           processed, prepared, packaged, stored, handled,  
4           or distributed, and prohibiting all animals from  
5           having access to, or coming into contact with,  
6           stored ingredients used for cottage food products  
7           intended for sale;

8           (C) Prohibiting all domestic activities in the area  
9           while cottage food products intended for sale are  
10          being processed, prepared, packaged, handled, or  
11          distributed; and

12          (D) Prohibiting any person infected with a  
13          communicable disease, who is a carrier of  
14          organisms that can cause a communicable disease,  
15          who has an infected wound, or who has an acute  
16          respiratory infection from processing, preparing,  
17          packaging, handling, or distributing any cottage  
18          food product intended for sale;

19          (4) Maintains a clean and sanitary facility, including but  
20          not limited to:

21           (A) Access to a municipal water source and proper  
22           sewage disposal;



- 1            (B) Adequate hand washing facilities;
- 2            (C) A separate storage place for all ingredients used
- 3            in processing or preparing any cottage food
- 4            product intended for sale;
- 5            (D) A properly functioning refrigeration unit;
- 6            (E) A properly functioning toilet facility;
- 7            (F) A sink with adequate hot water to clean and
- 8            sanitize all utensils and equipment used by the
- 9            cottage food business;
- 10           (G) Adequate facilities for the storage of utensils
- 11           and equipment used by the cottage food business;
- 12           and
- 13           (H) No evidence of insect or rodent activity;
- 14           (5) Labels all cottage food products sold pursuant to this
- 15           section with:
- 16           (A) The name and address of the cottage food
- 17           operator;
- 18           (B) The name of the cottage food product being sold;
- 19           (C) The date the cottage food product was produced;
- 20           (D) The ingredients used to make the cottage food
- 21           product, in descending order of predominance by
- 22           weight; and



- 1           (E) The following statements, in clear and  
2           conspicuous print:
- 3           (i) "This food product is home-produced and  
4           processed"; and
- 5           (ii) "This food product was not produced or  
6           packaged in a Department of Health-inspected  
7           facility";
- 8           (6) Ensures that all individuals engaged in processing,  
9           preparing, packaging, handling, or distributing any  
10           cottage food product intended for sale are  
11           knowledgeable of and follow safe food handling  
12           practices; and
- 13           (7) Complies with all rules adopted by the department to  
14           protect the health and safety of the public.
- 15           (b) In the event of a foodborne illness or foodborne  
16           illness outbreak resulting from a cottage food product, the  
17           department shall require the cottage food operator who produced  
18           the cottage food product to immediately cease all operations and  
19           sales.
- 20           (c) A cottage food operator shall complete a department-  
21           sanctioned online course in food safety prior to selling any  
22           cottage food product. The online course shall provide a



1 certificate or other certification of completion. Such  
2 certification shall be renewed at least every five years.

3 (d) Prior to selling a cottage food product, a cottage  
4 food operator shall be registered by the department. To become  
5 registered, a cottage food operator shall provide the department  
6 with the following information on a form and in a manner to be  
7 determined by the department:

8 (1) The business name and home address of the cottage food  
9 operator;

10 (2) A list of all cottage food products the cottage food  
11 operator intends to produce for sale; and

12 (3) Proof that the cottage food operator has completed a  
13 department-sanctioned online course in food safety  
14 pursuant to subsection (c).

15 The department may charge a reasonable application and  
16 registration fee to oversee the requirements of this section;  
17 provided that the proceeds from such fee shall be used solely to  
18 administer this section.

19 (e) The department shall adopt rules pursuant to chapter  
20 91 to effectuate the purpose of this section. Such rules shall  
21 include, but not be limited to procedures for the application  
22 and registration of cottage food operators, a list of non-



1 potentially hazardous foods that may be produced and sold under  
2 this section, and procedures to address the outbreak of a  
3 foodborne illness resulting from cottage food products.

4 (f) As used in this section, unless the context clearly  
5 indicates otherwise:

6 "Cottage food operator" means a person who produces cottage  
7 food products in the home kitchen of that person's primary  
8 domestic residence in Hawaii and only for sale directly to the  
9 consumer, and whose net earnings from the sale of the cottage  
10 food product are more than \$            but less than \$            a year.

11 "Cottage food product" means non-potentially hazardous  
12 baked goods, jams, jellies, preserves, and other non-potentially  
13 hazardous foods as determined by the director, that are produced  
14 in a home kitchen.

15 "Domestic residence" means a single-family home,  
16 condominium unit, or area within a rental unit where a single  
17 person or family actually reside, but does not include any group  
18 or communal residential setting within any type of structure or  
19 an outbuilding, shed, barn or other similar structure.

20 "Home kitchen" means a kitchen primarily intended for use  
21 by residents of a domestic residence that may contain one or  
22 more stoves or ovens, including a double oven, designed for



1 residential use. Home kitchens shall not include commercial  
2 types of equipment.

3 "Non-potentially hazardous food" includes foods with a low  
4 water activity and high acid level that inhibits the growth of  
5 pathogenic or toxigenic microorganisms, including *Clostridium*  
6 *botullinum*."

7 SECTION 3. The department of health shall adopt the rules  
8 required by this Act no later than December 31, 2014.

9 SECTION 4. New statutory material is underscored.

10 SECTION 5. This Act shall take effect upon its approval.

11

INTRODUCED BY:



JAN 21 2014





# H.B. NO. 2153

**Report Title:**

Cottage Food Products; Home Kitchen; Exemption

**Description:**

Provides an exemption from Department of Health regulations to certain cottage food products sold directly to consumers under certain conditions. Requires the Department of Health to adopt rules no later than December 31, 2014.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

