
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,
17 preparing, packaging, handling, or distributing
18 any cottage food product intended for sale;

19 (4) Maintains a clean and sanitary facility that has, at
20 minimum:

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. The
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 register with the department. To become
5 registered, a cottage food operator shall provide the department
6 with the following information by application on a form and in a
7 manner to be 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 fees collected shall be used solely to administer
18 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
11 year.

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

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

21 "Home kitchen" means a kitchen primarily intended for use
22 by residents of a domestic residence that may contain one or



1 more stoves or ovens, including a double oven, designed for
2 residential use. Home kitchens shall not include commercial
3 types of equipment.

4 "Nonpotentially hazardous food" includes foods with a low
5 water activity and high acid level that inhibits the growth of
6 pathogenic or toxigenic microorganisms, including *Clostridium*
7 *botulinum*."

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

10 SECTION 4. New statutory material is underscored.

11 SECTION 5. This Act shall take effect on January 20, 2050.



Report Title:

Cottage Food Products; Home Kitchen; Exemption

Description:

Provides an exemption from Department of Health rules 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. Effective January 20, 2050.

(HB2153 HD1)

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