
A BILL FOR AN ACT

RELATING TO COTTAGE FOODS.

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, chocolates, and spice rubs from the home
5 kitchen of a domestic residence and sell them directly to
6 consumers. Studies conducted across the United States have
7 indicated minimal risk to the public associated with cottage
8 food businesses, profits are reinvested in the local community,
9 and they serve as incubators for business development. Hawaii is
10 one of three states that does not provide exemptions for cottage
11 foods. The department of health's administrative rules prohibits
12 the operation of food establishments without a permit. To obtain
13 a permit the applicant must comply with the rules. These rules
14 exclude home based food business from its definition of "food
15 establishment". The Administrative Rules require that food for
16 sale be produced in a commercial kitchen. This definition of
17 food establishment makes it impossible to operate legal cottage



1 food in Hawaii. Thus, it substantial impacts individuals from
2 making additional income by selling homemade food products
3 whilst simultaneously missing an opportunity to boost business
4 growth and the local economy.

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

10 The purpose of this Act, therefore, is to establish a
11 cottage food law to allow home-based food production businesses
12 to sell non-potentially hazardous food items directly to
13 consumers if certain conditions are met.

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

17 "§328- Cottage food products; exemption. (a) The sale
18 of cottage food products shall be permitted if the cottage food
19 operator:

20 (1) Is registered with the department pursuant to
21 subsection (d);



1 (2) Sells the cottage food products directly to consumers;
2 provided that no cottage food operator shall offer any
3 cottage food product for sale to consumers or
4 otherwise via internet transaction;

5 (3) Takes all reasonable steps to protect the cottage food
6 products intended for sale from contamination during
7 preparation, processing, packaging, storage, handling,
8 and distribution. Reasonable steps include, but are
9 not limited to:

10 (A) Maintaining direct supervision of any person,
11 other than the cottage food operator, engaged in
12 the processing, preparing, packaging, storing,
13 handling, or distribution of the cottage food
14 product intended for sale;

15 (B) Prohibiting all animals from entering the area in
16 the dwelling where cottage food products are
17 processed, prepared, packaged, stored, handled,
18 or distributed, and prohibiting all animals from
19 having access to, or coming into contact with,
20 stored ingredients used for cottage food products
21 intended for sale;



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- 1 (C) Prohibiting all domestic activities in the area
2 while cottage food products intended for sale are
3 being processed, prepared, packaged, handled, or
4 distributed; and
- 5 (D) Prohibiting any person infected with a
6 communicable disease, who is a carrier of
7 organisms that can cause a communicable disease,
8 who has an infected wound, or who has an acute
9 respiratory infection, from processing,
10 preparing, packaging, handling, or distributing
11 any cottage food product intended for sale;
- 12 (4) Maintains a clean and sanitary facility that has, at
13 minimum:
- 14 (A) Access to a municipal water source and proper
15 sewage disposal;
- 16 (B) Adequate hand washing facilities;
- 17 (C) A separate storage place for all ingredients used
18 in processing or preparing any cottage food
19 product intended for sale;
- 20 (D) A properly functioning refrigeration unit;
- 21 (E) A properly functioning toilet facility;



- 1 (F) A sink with adequate hot water to clean and
- 2 sanitize all utensils and equipment used by the
- 3 cottage food business;
- 4 (G) Adequate facilities for the storage of utensils
- 5 and equipment used by the cottage food business;
- 6 and
- 7 (H) No evidence of insect or rodent activity;
- 8 (5) Labels all cottage food products sold pursuant to this
- 9 section with:
- 10 (A) The name and address of the cottage food
- 11 operator;
- 12 (B) The name of the cottage food product being sold;
- 13 (C) The date the cottage food product was produced;
- 14 (D) The ingredients used to make the cottage food
- 15 product, in descending order of predominance by
- 16 weight; and
- 17 (E) The following statements, in clear and
- 18 conspicuous print:
- 19 (i) "This food product is home-produced and
- 20 processed."; and



1 (ii) "This food product was not produced or
2 packaged in a Department of Health-inspected
3 facility.";

4 (6) Ensures that all individuals engaged in processing,
5 preparing, packaging, handling, or distributing any
6 cottage food product intended for sale are
7 knowledgeable of and follow safe food handling
8 practices; and

9 (7) Complies with all rules adopted by the department to
10 protect the health and safety of the public.

11 (b) In the event of a foodborne illness or foodborne
12 illness outbreak resulting from a cottage food product, the
13 department shall require the cottage food operator who produced
14 the cottage food product to immediately cease all operations and
15 sales.

16 (c) A cottage food operator shall complete a department-
17 sanctioned online course in food safety prior to selling any
18 cottage food product. The online course shall provide a
19 certificate or other certification of completion. The
20 certification shall be renewed at least every five years.



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

6 (1) The business name and home address of the cottage food
7 operator;

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

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

13 The department may charge a reasonable application and
14 registration fee to oversee the requirements of this section;
15 provided that fees collected shall be used solely to administer
16 this section.

17 (e) The department shall adopt rules pursuant to Hawaii
18 Revised Statutes chapter 91 to effectuate the purpose of this
19 section. Such rules shall include, but not be limited to
20 procedures for the application and registration of cottage food
21 operators, a list of non-potentially hazardous foods that may be



1 produced and sold under this section, and procedures to address
2 the outbreak of a foodborne illness resulting from cottage food
3 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 \$5,000 but less than \$50,000 a year.

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



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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 "Non-potentially 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*."

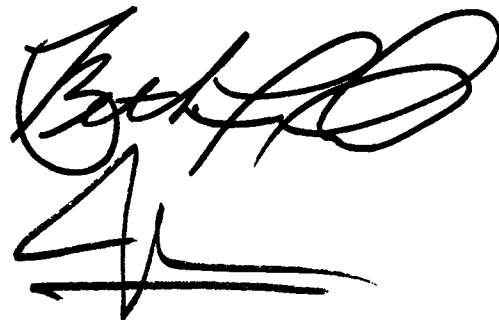
8 SECTION 3. The department of health shall adopt the rules
 9 required by this Act no later than December 31, 2017.

10 SECTION 4. New statutory material is underscored.

11 SECTION 5. This Act shall take effect on January 1, 2018.

12

INTRODUCED BY: 



JAN 24 2017



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Report Title:

Cottage Foods; Home Kitchen Based Businesses; Exemptions

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, 2017. Effective January 1, 2018.

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

