Cottage Food Operation Law Amendment of 2014

(410 ILCS 625/4)

Sec. 4. Cottage food operation.

(a) For the purpose of this Section:
"Cottage food operation" means an operation conducted by a person who produces or packages non-potentially hazardous food in a kitchen located in that person's primary domestic residence or another appropriately designed and equipped residential or commercial-style kitchen on that property for direct sale by the owner or a family member, stored in the residence or appropriately designed and equipped residential or commercial-style kitchen on that property where the food is made.

"Department" means the Department of Public Health.

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

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

(b) Notwithstanding any other provision of law and except as provided in subsections (c) and (d) of this Section, neither the Department nor the Department of Agriculture nor the health department of a unit of local government may regulate the service of food by a cottage food operation providing that all of the following conditions are met:

(1) The food is not a potentially hazardous baked good, jam, jelly, preserve, fruit butter, dry herb, dry herb blend, or dry tea blend and is intended for end-use only. The following provisions shall apply:

(A) The following jams, jellies and preserves are allowed: apple, apricot, grape, peach, plum, quince, orange, nectarine, tangerine, blackberry, raspberry, blueberry, boysenberry, cherry, cranberry, strawberry, red currants, or a combination of these fruits. Rhubarb, tomato, and pepper jellies or jams are not allowed. Any other jams, jellies, or preserves not listed may be produced by a cottage food operation provided their
recipe has been tested and documented by a commercial laboratory, at the expense of the cottage food operation, as being not potentially hazardous, containing a pH equilibrium of less than 4.6.

(B) The following fruit butters are allowed:
apple, apricot, grape, peach, plum, quince, and prune. Pumpkin butter, banana butter, and pear butter are not allowed. Fruit butters not listed may be produced by a cottage food operation provided their recipe has been tested and documented by a commercial laboratory, at the expense of the cottage food operation, as being not potentially hazardous, containing a pH equilibrium of less than 4.6.

(C) Baked goods, such as, but not limited to, breads, cookies, cakes, pies, and pastries are allowed. Only high-acid fruit pies that use the following fruits are allowed: apple, apricot, grape, peach, plum, quince, orange, nectarine, tangerine, blackberry, raspberry, blueberry, boysenberry, cherry, cranberry, strawberry, red currants or a combination of these fruits. Fruit pies not listed may be produced by a cottage food operation provided their recipe has been tested and documented by a commercial laboratory, at the expense of the cottage food operation, as being not potentially hazardous, containing a pH equilibrium of less than 4.6. The following are potentially hazardous and prohibited from production and sale by a cottage food operation: pumpkin pie, sweet potato pie, cheesecake, custard pies, creme pies, and pastries with potentially hazardous fillings or toppings.

(2) The food is to be sold at a farmers' market.

(3) Gross receipts from the sale of food exempted under this Section do not exceed $25,000 in a calendar year.

(4) The food packaging conforms to the labeling requirements of the Illinois Food, Drug and Cosmetic Act and includes the following information on the label of each of its products:
(A) the name and address of the cottage food
(B) the common or usual name of the food product;

(C) all ingredients of the food product,
including any colors, artificial flavors, and preservatives, listed in descending order by predominance of weight shown with common or usual names;

(D) the following phrase: "This product was produced in a home kitchen not subject to public health inspection that may also process common food allergens."

(E) the date the product was processed; and

(F) allergen labeling as specified in federal labeling requirements.

(5) The name and residence of the person preparing and selling products as a cottage food operation is registered with the health department of a unit of local government where the cottage food operation resides. No fees shall be charged for registration. Registration shall be for a minimum period of one year.

(6) The person preparing and selling products as a cottage food operation has a Department approved Food Service Sanitation Management Certificate.

(7) At the point of sale a placard is displayed in a prominent location that states the following: "This product was produced in a home kitchen not subject to public health inspection that may also process common food allergens."

(c) Notwithstanding the provisions of subsection (b) of this Section, if the Department or the health department of a unit of local government has received a consumer complaint or has reason to believe that an imminent health hazard exists or that a cottage food operation's product has been found to be misbranded, adulterated, or not in compliance with the exception for cottage food operations pursuant to this Section, then it may invoke cessation of sales until it deems that the situation has been addressed to the satisfaction of the Department.

(d) Notwithstanding the provisions of subsection (b) of this Section, a State-certified local public health department may, upon providing a written statement to the Department, regulate the service of food by a cottage food operation. The regulation by a State-certified
local public health department may include all of the following requirements:

(1) That the cottage food operation (A) register with
the State-certified local public health
department, which shall be for a minimum of
one year and include a **reasonable fee set by**
the State-certified local public health
department that is no greater than $25
**notwithstanding paragraph (5) of subsection
(b) of this Section and (B) agree in writing
at the time of registration to grant access
to the State-certified local public health
department to conduct an inspection of the
cottage food operation's primary domestic
residence in the event of a consumer
complaint or foodborne illness outbreak.

(2) That in the event of a consumer
complaint or
foodborne illness outbreak the State-
certified local public health department is
allowed to (A) inspect the premises of the
cottage food operation in question and (B)
set a reasonable fee for that inspection.

(Source: P.A. 97-393, eff. 1-1-12; 98-660, eff.
6-23-14.)