

SENATE, No. 3292

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED JUNE 12, 2017

Sponsored by:

Senator JEFF VAN DREW

District 1 (Atlantic, Cape May and Cumberland)

SYNOPSIS

Establishes requirements for sale of home baked goods or cottage foods.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning home baked goods and cottage foods and
2 supplementing Title 24 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. As used in this act:

8 “Baked goods” means ready-to-eat baked food that does not
9 require further cooking or refrigeration for food safety, and which is
10 not a potentially hazardous food. Baked goods may contain
11 ingredients which constitute potentially hazardous food, provided
12 that the baked good as presented for sale is not a potentially
13 hazardous food. “Baked goods” include, but are not limited to,
14 bread, rolls, cakes, pies, pastries, candies, and cookies.

15 “Cottage foods” means ready-to-eat food prepared by a home
16 baker, which are not potentially hazardous food, including: candy
17 such as brittle and toffee; chocolate-covered nonperishable foods
18 such as nuts and dried fruit; dried fruits and nuts; dried pasta; dry
19 baking mixes; dry herbs, seasonings, and mixtures; fruit pies, fruit
20 empanadas, and fruit tamales; fudge; granolas, cereals, and trail
21 mixes; honey and sweet sorghum syrup; jams, jellies, preserves, and
22 fruit butters that comply with the federal standards for fruit butter;
23 nut mixes and nut butters; popcorn and caramel corn; roasted coffee
24 and dried tea; vinegar and mustard; and waffle cones and pizzelles.

25 “Home baker” means a person who prepares baked goods,
26 cottage foods, or both in a kitchen in a private home that is not
27 subject to regulation and inspection by the Department of Health.

28 “Potentially hazardous food” means a food that requires time or
29 temperature control for safety to limit pathogenic microorganism
30 growth or toxin formation.

31

32 2. A home baker may sell baked goods, cottage foods, or both
33 prepared by the home baker in a kitchen in a private home, provided
34 the following requirements are met:

35 a. The baked goods or cottage foods shall not be sold or
36 offered for sale except at the home baker’s home, a consumer’s
37 home, a farmer’s market, a farm stand, or a county, municipal, or
38 nonprofit fair, festival, or event. A home baker shall not sell or
39 offer for sale baked goods or cottage foods over the Internet,
40 wholesale, or to a commercial retailer for resale;

41 b. The gross income generated by the home baker from the sale
42 of baked goods and cottage foods shall not exceed \$50,000 per year;

43 c. The home baker, and any person assisting the home baker in
44 the preparation of baked goods or cottage foods, shall possess a
45 current, valid food handler’s certificate issued by a food handler
46 certification agency approved by the Commissioner of Health
47 pursuant to subsection a. of section 3 of this act;

1 d. A clearly visible placard shall be placed at the point of sale,
2 which shall state in clear, legible print that the baked goods or
3 cottage foods were prepared in a kitchen that is not subject to
4 regulation and inspection by the Department of Health;

5 e. Baked goods or cottage foods shall be packaged in a manner
6 that prevents or reduces the risk of contamination, unless the size,
7 shape, or other characteristics of a baked good or cottage food
8 makes such packaging impractical or unnecessary; and

9 f. Baked goods or cottage foods sold or offered for sale shall
10 include a label containing the following information:

11 (1) the name of the home baker and the address where the baked
12 goods or cottage foods were prepared;

13 (2) the name of the baked goods or cottage foods, including a
14 description of the type or nature of the baked goods or cottage foods
15 if not apparent from the name;

16 (3) any major food allergens used as an ingredient in the baked
17 goods or cottage foods, including, but not limited to, eggs, nuts,
18 wheat, soy, dairy, and peanuts; and

19 (4) the following statement: "This food is made in a home
20 kitchen that is not subject to regulation and inspection by the
21 Department of Health."
22

23 3. a. The Commissioner of Health shall promulgate a list of
24 food handler certification agencies that are approved to issue food
25 handler certificates to home bakers and other persons for the
26 purposes of this act. The Department of Health shall have no other
27 authority to regulate or inspect home bakers or the sale or
28 production of baked goods or cottage foods prepared by home
29 bakers.

30 b. The local board of health having jurisdiction in the
31 municipality in which the home baker resides or in which the home
32 baker prepares, offers for sale, or sells baked goods, cottage foods,
33 or both shall have the authority to conduct an inspection of the
34 baked goods or cottage foods, or the place in which they are
35 prepared upon reasonable belief or credible report that the baked
36 goods or cottage foods, or the conditions under which the baked
37 goods or cottage foods are prepared, present an immediate and
38 serious threat to human life or health. If the board finds the baked
39 goods or cottage foods or the conditions under which they are
40 prepared constitute an immediate and serious threat to human life or
41 health, the board may order any appropriate relief, including, but
42 not limited to: confiscation or destruction of the baked goods or
43 cottage foods; remedial action to correct an unsafe or potentially
44 hazardous condition; or issuance of a temporary or permanent
45 injunction prohibiting the home baker from preparing and selling
46 baked goods, cottage foods, or both.

1 c. The preparation and sale of baked goods or cottage foods by
2 home bakers pursuant to this act shall not be subject to regulation or
3 restriction by municipal ordinance or resolution.

4 d. Nothing in this section shall be construed to restrict the
5 ability of a neighbor or other affected person to institute a nuisance
6 action against a home baker.

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8 4. This act shall take effect on the first day of the seventh
9 month next following the date of enactment.

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STATEMENT

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14 This bill establishes requirements for the sale of home baked
15 goods and cottage foods.

16 Under the bill, “baked goods” are defined as ready-to-eat baked
17 food prepared in a private kitchen that does not require further
18 cooking or refrigeration for food safety and is not “potentially
19 hazardous food.” Baked goods include, but are not limited to,
20 bread, rolls, cakes, pies, pastries, candies, and cookies. “Cottage
21 foods” are defined as ready-to-eat food prepared by a home baker,
22 which are not potentially hazardous food, including: candy, such as
23 brittle and toffee; chocolate-covered nonperishable foods, such as
24 nuts and dried fruit; dried fruits and nuts; dried pasta; dry baking
25 mixes; dry herbs, seasonings, and mixtures; fruit pies, fruit
26 empanadas, and fruit tamales; fudge; granolas, cereals, and trail
27 mixes; honey and sweet sorghum syrup; jams, jellies, preserves, and
28 fruit butters that comply with the federal standards for fruit butter;
29 nut mixes and nut butters; popcorn and caramel corn; roasted coffee
30 and dried tea; vinegar and mustard; and waffle cones and pizzelles.

31 Under the bill, “potentially hazardous food” is defined as a food
32 that requires time or temperature control for safety to limit
33 pathogenic microorganism growth or toxin formation. Home baked
34 goods may be made using a potentially hazardous food, provided
35 that the final product as offered for sale is not a potentially
36 hazardous food.

37 The bill provides that baked goods or cottage foods may not be
38 sold or offered for sale except at the home baker’s home, a
39 consumer’s home, a farmer’s market, a farm stand, or a county,
40 municipal, or nonprofit fair, festival, or event. The bill prohibits
41 selling or offering for sale home baked goods or cottage foods over
42 the Internet, wholesale, or to a commercial retailer for resale. The
43 gross income generated by the home baker from the sale of baked
44 goods and cottage foods may not exceed \$50,000 per year. The
45 home baker and any person assisting the home baker must possess a
46 current, valid food handler’s certificate. A clearly visible placard is
47 to be placed at the point of sale, which states in clear, legible print
48 that the baked goods or cottage foods were prepared in a kitchen

1 that is not subject to regulation and inspection by the Department of
2 Health (DOH). Baked goods and cottage foods are to be packaged
3 in a manner that prevents or reduces the risk of contamination,
4 unless the size, shape, or other characteristics of the baked good or
5 cottage food make such packaging impractical or unnecessary.
6 Finally, each baked good or cottage food is to be labeled with the
7 name of the home baker and the address where the baked good or
8 cottage food was prepared; the name of the baked good or cottage
9 food, including a description of the type or nature of the baked good
10 or cottage food if not apparent from the name; any major food
11 allergens used as an ingredient in the baked good or cottage food,
12 such as eggs, nuts, wheat, soy, dairy, or peanuts; and a statement
13 that reads: "This food is made in a home kitchen that is not subject
14 to regulation and inspection by the Department of Health."

15 The Commissioner of Health is to promulgate a list of food
16 handler certification agencies approved to issue certificates for the
17 purposes of the bill. DOH will have no other authority to regulate or
18 inspect home bakers or the sale or production of home baked goods
19 or cottage foods, and the preparation and sale of home baked goods
20 or cottage foods may not be regulated or restricted by municipal
21 ordinance or resolution. Nothing in the bill will prohibit a neighbor
22 or other affected person from bringing a nuisance action against a
23 home baker.

24 Local boards of health will have the authority to inspect baked
25 goods and cottage foods and places where they are prepared upon
26 reasonable belief or credible report that the baked goods and cottage
27 foods, or the conditions under which they are prepared, present an
28 immediate and serious threat to human life or health. If the board
29 finds the baked goods or cottage foods or the conditions under
30 which they are prepared constitute a threat, the board may order any
31 appropriate relief, including, but not limited to: confiscation or
32 destruction of the baked goods or cottage foods; remedial action to
33 correct an unsafe or potentially hazardous condition; or issuance of
34 a temporary or permanent injunction prohibiting the home baker
35 from preparing and selling baked goods, cottage foods, or both.