



ARIZONA HOUSE OF REPRESENTATIVES

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HB 2509: food preparation; sale; cottage food

Sponsor: Representative Grantham, LD 14

Senate Engrossed

Overview

Expands the foods that meet the cottage food exemption if they meet certain requirements. Maintains current cottage food program guidelines and adds sale requirements.

History

Statute requires the Director of the Department of Health Services (DHS) to adopt rules to provide for the oversight of food and drinks sold at the retail level, including minimum standards for related facilities and necessary measures for producing, processing, labeling, storing, handling, serving and transporting food products. However, cottage food products that are prepared in a home kitchen are exempt from these requirements and may be offered for commercial sale if the products are not potentially hazardous and do not require time or temperature controls for food safety. Statute and rule provide related requirements, both for the food products, including packaging and labels, and the food preparer, including food handler training courses, active food handler certification and registration with the online registry established by DHS ([A.R.S. § 36-136](#)).

Cottage food program-approved foods include cakes, cookies, breads and jams and jellies made from allowable fruits. However, foods that require refrigeration are not approved. Currently, potentially hazardous food products fall under retail food regulatory oversight, which requires the products to be prepared in a licensed and inspected commercial kitchen. Federal law and regulations provide for inspections of poultry, poultry products and meat and meat products, but exempt certain products, including from producers that slaughter not more than 1,000 poultry in a calendar year and operation types that are traditionally and usually conducted at retail stores and restaurants if other specified requirements are met ([9 CFR § 381.10](#)).

Provisions

Expansion

1. Expands the food products that meet the cottage food product exemption to those that are potentially hazardous or require time or temperature control for safety if they are exempt under federal regulations. (Sec. 2)
2. Allows the sale of the following as cottage food products if they meet the requirements under federal regulations:
 - a) poultry, poultry byproducts or poultry food products if the producer raised the poultry pursuant to the 1,000 bird exemption; and
 - b) poultry, poultry byproducts, poultry food products and meat, meat byproducts and meat food products if they are from an inspected source. (Sec. 2)
3. Specifies that alcoholic beverages, foods that contain alcoholic beverages, unpasteurized milk, fish and shellfish products, meat, meat byproducts, poultry and poultry byproducts do

not meet the definition of cottage food product unless their sale is allowed by federal law, as specified above. (Sec. 2)

4. Allows food producers to sell cottage food products to the maximum extent allowed by federal law. (Sec. 2)

Sale Requirements

5. Requires cottage food products that do not contain dairy, meat or poultry to be sold by the food preparer or agent, including a third-party vendor, and delivered to the consumer by the food preparer, agent, third-party vendor or third-party carrier. (Sec. 2)
6. Requires cottage food products that are dairy or that contain meat or poultry to be:
 - a) sold by the preparer in person or remotely, including over the internet; and
 - b) delivered to the consumer in person. (Sec. 2)
7. Requires cottage food products that are potentially hazardous or require time or temperature control for safety and that are transported before final delivery to consumers to be:
 - a) maintained at an appropriate temperature during transport;
 - b) not transported more than once; and
 - c) not transported for longer than two hours. (Sec. 2)
8. Requires third-party vendors to sell cottage food products:
 - a) in a separate section of the store or on a separate display case from non-homemade food items; and
 - b) with a sign that indicates they are homemade and exempt from state licensing and inspection. (Sec. 2)

Miscellaneous

8. Maintains current requirements for cottage food products and product preparers. (Sec. 2)
9. Specifies requirements are not more restrictive than the applicable federal laws. (Sec. 2)
10. Specifies that these requirements do not:
 - a) impede DHS or a county from investigating foodborne illness;
 - b) change the requirements for brand inspections, animal health inspections or food inspections required by state or federal law; or
 - c) change the requirements for the sale of milk, milk products, raw milk or raw milk products. (Sec. 2)
11. Requires DHS to adopt rules relating to cottage food products and exempts DHS from rulemaking requirements for 18 months after the general effective date. (Sec. 2, 3)
12. Makes technical and conforming changes. (Sec. 1)

Senate Amendments

1. Strikes the 18-month exemption for rulemaking by DHS.
2. Requires the person offering a cottage food product online to include pertinent information about the food preparer and the list of ingredients.
3. Provides direction regarding ingredients in the cottage food product, permissible uses and prohibited acts.
4. Gives further direction to DHS for rulemaking, including permissible enforcement.
5. States that a county is not required to enforce the provisions.

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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