



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature
Second Regular Session

HB 2042: food preparation; sale; cottage food

Sponsor: Representative Grantham, LD 14

Committee on Regulatory Affairs

Overview

Expands the foods that meet the exemption for *cottage food products* if requirements are met. Establishes program guidelines and requirements.

History

Statute requires the Director of the Department of Health Services (DHS) to adopt rules for the oversight of food and drinks sold at retail, including standards for producing, labeling, serving and transporting food products. State laws and rules also prescribe requirements for food preparers, including training courses, certification and registration with an online DHS registry. Rules prescribe sanitary conditions for warehouses, restaurants and other premises, including trucks or vehicles where food or drink is produced, stored, served or transported. Exempts food and drink served at noncommercial social events such as potlucks, home cooking schools and cottage food products. *Cottage food products* prepared in a home kitchen may be offered for commercial sale only if the products are not potentially hazardous and do not require time and temperature control for food safety among others ([A.R.S. § 36-136](#)).

Approved foods in the *cottage food products* category include cakes, cookies, breads, jams and jellies made from allowable fruits. Potentially hazardous foods fall under retail food regulatory oversight, which requires the products to be prepared in a licensed commercial kitchen. Federal law and regulations require inspection of poultry, poultry products, meat and meat products, but exempt products from producers that slaughter fewer than 1,000 poultry in a calendar year and operations conducted at retail stores and restaurants if requirements are met ([9 CFR § 381.10](#)).

A similar bill was introduced in the 56th Legislature, 1st Regular Session *and* was [vetoed](#) by the Governor (HB 2509 *food preparation; sale; cottage food*).

Provisions

Expansion & Definitions

1. Expands the foods that meet the *cottage food product* exemption to those that are potentially hazardous or require time or temperature control for safety if exempt under federal regulations. (Sec. 2)
2. Authorizes the sale of *cottage food products* that meet federal regulations as follows:
 - a) poultry, poultry byproducts or food products if the producer raised poultry pursuant to the 1,000-bird exemption; and
 - b) poultry, poultry byproducts or food products and meat, meat byproducts and food products from an inspected source pursuant to federal law. (Sec. 2)

<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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3. Specifies that alcoholic beverages or foods that contain the product, unpasteurized milk, fish, meat and poultry and their byproducts do not meet the definition of *cottage food product* unless the sale is allowed by federal law as specified above. (Sec. 2)
4. Defines *home kitchen* to mean either:
 - a) a residential home kitchen; or
 - b) a kitchen located in a facility for individuals with developmental disabilities. (Sec. 2)
5. Stipulates that *potentially hazardous* means a *cottage food product* does not meet the Federal Food and Drug Administration (FDA) requirements. (Sec. 2)

Sale and Delivery Requirements

6. Places current law requiring labels, list of ingredients, registration number of food preparer, pertinent statement regarding allergens and other disclosure information in a separate article of law titled *Cottage Food Products*. (Sec. 2)
7. Outlines notification requirements for online sales of *cottage food products*. (Sec. 2)
8. Prohibits the food preparer from storing food or the associated preparation equipment outside the home. (Sec. 2)
9. Requires *cottage food products* that do not contain dairy, meat or poultry to be sold and delivered to the consumer by the food preparer or agent, including a third-party vendor or carrier. (Sec. 2)
10. Requires *cottage food products* that are dairy or that contain meat or poultry to be sold by the preparer in person or remotely, including over the internet and delivered to the consumer in person. (Sec. 2)
11. Requires *cottage food products* that are potentially hazardous or require time or temperature control for safety to be maintained at the appropriate temperature when transported, but not more than once or longer than a two- hour period. (Sec. 2)
12. Requires third-party vendors to sell *cottage food products* in a separate section of the store or display case with a sign that indicates the product is homemade and exempt from state licensing and inspection. (Sec. 2)
13. States that a *cottage food product* may not be used as an ingredient in food sold at retail or include marijuana or its by-products. (Sec. 2)
14. Stipulates that a *home kitchen* cannot be used as a commissary for purposes of a mobile food vendor. (Sec. 2)

Miscellaneous

15. Declares the provisions are no more restrictive than pertinent federal laws. (Sec. 2)
16. Specifies that the requirements do not:
 - a) impede DHS from investigating foodborne illness;
 - b) change the requirements for brand inspections, animal health inspections or food inspections required by state or federal law;
 - c) change the requirements for the sale of milk, milk products, raw milk or raw milk products; or
 - d) affect any county or municipal building or zoning code or ordinance. (Sec. 2)
17. Provides direction to DHS for rulemaking, including recertification requirements and enforcement guidelines. (Sec. 2)

18. States that a county is not required to enforce the provisions. (Sec. 2)
19. Declares the provisions do not prevent DHS and a local health, public health services agency or environmental agency from entering into a delegation agreement for enforcement purposes.
20. Makes technical and conforming changes. (Sec. 1)