



**ARIZONA STATE SENATE**  
*Fifty-Sixth Legislature, Second Regular Session*

FACT SHEET FOR H.B. 2042

food preparation; sale; cottage food

Purpose

Adds, to the cottage food products exemption, food products that are potentially hazardous or require time or temperature control for safety, to the extent allowed by state and federal law. Prescribes sale and delivery requirements for cottage food products and outlines enforcement requirements.

Background

The Department of Health Services (DHS), by administrative rule, must prescribe reasonably necessary measures to ensure that all food or drink provided for human consumption is free from unwholesome, poisonous or other foreign substance and filth, insects or disease-causing organisms. The rules must include minimum standards for sanitary facilities and the production, processing, labeling, storing, handling, serving and transportation of these products. A *cottage food product*, including fruit jams and jellies, dry mixes made with ingredients from approved sources, honey, dry pasta and toasted nuts, that is prepared in a private home kitchen for commercial purposes is excluded from the DHS rules if it is not potentially hazardous or does not require time or temperature control for food safety. The definition of *cottage food product* excludes foods that require refrigeration, perishable baked goods, salsas, sauces, fermented and pickled products, meat, fish and shellfish products, beverages, acidified food products, nut butters and other reduced-oxygen packaged products.

Cottage food products must be packaged at home with an attached label that: 1) clearly states the food preparer's name and registration number; 2) lists all ingredients in the product; 3) the product's production date; and 4) includes a prescribed disclaimer. If the product was made in a facility for individuals with developmental disabilities, the label must also disclose that fact. The person preparing the food or supervising the food preparation must complete a food handler training course from an accredited program and maintain active certification. The food preparer must register with an online registry established by DHS. The food preparer must display the preparer's certificate of registration when operating as a temporary food establishment ([A.R.S. § 36-136](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

***Cottage Food Products***

1. Adds, to the cottage food products exemption, food products that are potentially hazardous or require time or temperature control for safety.

2. Stipulates that *cottage food products* do not include beverages, unpasteurized milk or foods that are or contain alcoholic beverages, fish and shellfish products, meat, meat by-products, poultry or poultry by-products unless the sale of those items is allowed by federal law, including:
  - a) poultry, poultry by-products or poultry food products if the registered food preparer raised the poultry in accordance with the 1,000-bird federal exemption;
  - b) poultry, poultry by-products or poultry food products if the poultry is from an inspected source in accordance with federal regulations; and
  - c) meat, meat by-products or meat food products if the meat is from an inspected source in accordance with federal regulations.

### *Sale and Delivery Requirements*

3. Requires, if a cottage food product is offered for sale online, the food preparer to provide a prominent notification that includes all of the following:
  - a) the name and registration number of the food preparer;
  - b) a list of all ingredients in the cottage food product and the cottage food product's production date;
  - c) a statement that the product was produced in a home kitchen that may come in contact with common food allergens and pet allergens and is not subject to public health inspection; and
  - d) a website address provided by DHS that includes:
    - i. contact information for consumers to report foodborne illnesses;
    - ii. information on how to verify a food preparer's active registration status; and
    - iii. contact information for reporting issues regarding a food preparer's registration status.
4. Allows a food preparer to sell cottage food products to the maximum extent allowed by federal law, except as otherwise provided by state law.
5. Prohibits a food preparer from storing cottage food products or food preparation equipment outside of the food preparer's home.
6. Requires cottage food products that do not contain dairy, meat or poultry to be sold by the food preparer or the agent of the food preparer, including a third-party vendor or carrier.
7. Requires cottage food products that are dairy products or that contain meat or poultry to be:
  - a) sold by the food preparer in person or remotely, including over the internet but excluding third-party food delivery platforms; and
  - b) delivered to the consumer in person.
8. Requires cottage food products that are potentially hazardous or require time or temperature control for safety and 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 longer than two hours.
9. Requires cottage food products, if sold by a third-party vendor, to be sold:
  - 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 that the cottage food products are homemade and exempt from state licensing and inspection.

10. Prohibits a cottage food product from:
  - a) being used as an ingredient in food products sold at a permitted retail food establishment;  
or
  - b) including marijuana or marijuana by-products.
11. Requires a cottage food product to contain only ingredients that are from sources that are approved by law.
12. Prohibits a home kitchen that is used to prepare cottage food products from operating as a commissary for the purposes of serving as a mobile food vendor.

### *Enforcement*

13. Requires DHS to adopt rules relating to cottage food products that are consistent with statute and that include:
  - a) a provision requiring recertification as a food handler or suspension or revocation of an individual's registration for failing to comply with the cottage food products requirements or impeding in the investigation of a reported foodborne illness; and
  - b) guidance relating to approved ingredient source.
14. Allows DHS to enforce cottage food product requirements.
15. Stipulates that the cottage food products requirements:
  - a) are not more restrictive than applicable federal law;
  - b) do not impede DHS from investigating any reported foodborne illness;
  - c) do not change the requirements for brand inspections, animal health inspections or any food inspection required by state or federal law, or change the requirements for the sale of milk, milk products, raw milk or raw milk products in accordance with statute; and
  - d) do not affect any county or municipal building code, zoning code or ordinance or other land use regulation.
16. Prohibits a county from being required to enforce the cottage food products statutes.
17. Stipulates that the cottage food products statutes do not prevent DHS and a local health agency, environmental agency or public health services agency from entering into a delegation agreement to enforce the cottage food products statutes.

### *Miscellaneous*

18. Requires a cottage food product label to be in a clear and legible printed or handwritten font and to include:
  - a) a statement that the product may come in contact with common food and pet allergens; and
  - b) a website address provided by DHS that includes:
    - i. contact information for consumers to report foodborne illnesses;
    - ii. information on how to verify a food preparer's active registration status; and
    - iii. contact information for reporting issues regarding a food preparer's registration status.

19. Defines *home kitchen* as a kitchen in either:

- a) the residential home or dwelling of the individual who is registered with DHS to prepare cottage food products, of a type that is normally found in a residential home and that does not exceed 1,000 square feet; or
- b) a facility for individuals with developmental disabilities and of a type normally found in a facility for individuals with developmental disabilities.

20. Defines terms.

21. Makes technical changes.

22. Becomes effective on the general effective date.

House Action

RA	1/17/24	DPA	6-0-0-0
3 <sup>rd</sup> Read	2/15/24		58-0-1-0-1

Prepared by Senate Research

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