

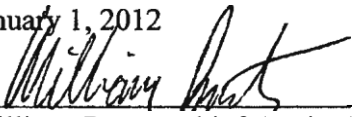
ILLINOIS DEPARTMENT OF PUBLIC
HEALTH OFFICE OF HEALTH
PROTECTION
DIVISION OF FOOD, DRUGS AND
DAIRIES

TECHNICAL INFORMATION BULLETIN

DESCRIPTION: Technical Information Bulletin / Food# 44

SUBJECT: Frequently Asked Questions-Cottage Food Operations

EFFECTIVE: January 1, 2012

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On August 16, 2011, Governor Quinn signed three pieces of legislation that support Illinois' agriculture industry and increase access to farmers' markets for the growing cottage food industry. Public Act 097-0393 (Senate Bill 840) will allow certain homemade foods to be sold at Illinois farmers' markets.

P. A. 097-0393, effective January 1, 2012, amends the Food Handling Regulation Enforcement Act, 410 ILCS 625 and the Sanitary Food Preparation Act, 410 ILCS 650, to exempt a "cottage food operation" from regulation by the Illinois Department of Public Health (IDPH) and the Illinois Department of Agriculture (IDOA) provided the cottage food operation meets all the conditions and requirements of exemption in 410 ILCS 625/4(b).

The intent of the P.A. 097-0393 is that all local health departments will register cottage food operations operating in their jurisdiction provided that all the conditions of P.A. 097-0393 law are met as outlined in Section 4 (b) of the Public Act. Section 4(d) allows a local health department to charge a fee for that registration so that the new registration would not be a new unfunded mandate. The additional information in Section 4(d) was added to give local health departments the tools needed in the case of a foodborne illness or food safety issue.

Under the Public Act, food that is not potentially hazardous may be produced in the kitchen of the person's primary domestic residence for direct sale to customers at farmers' markets. The Public Act only provides for direct sale by the owner or the family member to customers at farmers' markets. Thus, cottage food operation products cannot be sold to retail stores, restaurants, over the Internet, by mail order, or to wholesalers, brokers or other food distributors who resell food. A cottage food operation shall comply with the labeling requirements of the Illinois Food, Drug and Cosmetic Act.

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1577&ChapterID=35>

The following is a list of questions and answers regarding the cottage food operation provisions of the Food Handling Regulation Enforcement Act [410 ILCS 625/4] and the Sanitary Food Preparation Act [410 ILCS 650/11] which allow for the sale of certain food that is not potentially hazardous and produced in a home kitchen.

TYPES OF FOOD PRODUCTS ALLOWED FOR SALE

What products that are made in a home kitchen can be sold under the “cottage food operation” provisions?

Food that 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 shall be sold by the owner or a family member using safe food handling practices that reduce the risk of contamination.

Jams, Jellies and Preserves:

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 currant or a combination of these fruits.

The presence of low sugar or sugar substitute in jams, jellies and preserves, can make a difference in the shelf stability of the product. With lower sugar and pectin levels, spoilage organisms are more likely to survive the cooking process. Low sugar jams and jellies need to be processed only in a boiling water canner and not by any other methods unless water activity is determined by a commercial lab to be less than 0.85.

Other jams, jellies, or preserves not listed may be produced if the cottage food operator's 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. (See prohibited items).

Fruit Butters:

The following fruit butters are allowed: apple, apricot, grape, peach, plum, quince, and prune. Fruit butters not listed may be produced if the cottage food operator's 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. (See prohibited items).

Baked Goods:

The following baked goods, including, but not limited to, are allowed: breads, cookies, cakes, pies and pastries. 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 if the cottage food operator's 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. (See prohibited items).

Dried Foods:

The following dried foods are allowed: dried herbs, dried herb blends, or dry tea blends.

Prohibited Items:

The following items are prohibited from production and sale by a cottage food operation: pumpkin pie, sweet potato pie, cheesecake, custard pies, and cream pies, as well as pastries with potentially hazardous fillings or toppings. Pumpkin, banana, and pear butters are not allowed. Also, rhubarb, tomato and pepper jellies or jams are not allowed.

Can cottage food operators sell a “take-n-bake” product?

No. These products would require temperature control to prevent bacterial growth and are not allowed for sale by a cottage food operation.

MARKETING COTTAGE FOOD OPERATION PRODUCTS

Where can “cottage foods” be sold?

Products can be sold at farmers’ markets, which are defined by the Act as 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”.

Can products be sold at a year-round or indoor farmers’ market?

Yes, as long as the products meet the “cottage food” requirements of the Act.

Can products be sold at retail outlets (i.e., local grocery stores or retail markets)?

No, the Food Handling Regulation Enforcement Act “cottage food operations” provisions clearly identify farmers’ markets as the only venue where “cottage food” products may be sold. Cottage Foods cannot be sold to a retailer for resale or to a restaurant for use or sale in the restaurant. Cottage foods cannot be sold over the Internet, by mail order, or to wholesalers, brokers or other food distributors who will resell the cottage foods.

TESTING AND DOCUMENTING BY A COMMERCIAL LABORATORY

What is a commercial laboratory?

A commercial laboratory is a laboratory which performs fee for service analysis. It accepts samples from the public. Such a laboratory may be certified in one or more categories of accreditation. The Illinois Department of Public Health laboratories will not perform these services.

Which commercial laboratories do food testing?

A list of laboratories that conduct food testing is included in Attachment A. This list is not all inclusive and the operator may do an Internet search for commercial labs that perform food testing.

What testing is involved with the testing and documenting of a recipe?

Any product that is not listed as allowed in the jam, jell, preserve, fruit butter or baked goods shall be 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.

Does each product need to be tested and documented?

Yes, each product that is not listed as allowed shall be tested and documented.

If a cottage food operation has already had their product tested and documented as being not potentially hazardous, and they want to give their recipe to another cottage food operation, does the recipe have to be approved again?

Yes, if documentation is not available or any change to the recipe has been made.

LABELING REQUIREMENTS

What information must be included on the label of a cottage food product?

The basic information that must be on the label is as follows:

- Name and address of the cottage food operation.
- The common or usual name of the food product (All capital letters or upper/lower case are both acceptable).
- The ingredients of the cottage food product, including any colors, artificial flavors, and preservatives, listed in descending order of predominance by weight. If you use a prepared item in your recipe, you must list the sub ingredients as well. For example: “soy sauce” is not acceptable, soy sauce (wheat, soybeans, salt) would be acceptable, please see the label below for further examples.
- The net weight or net volume of the cottage food product
- Allergen labeling as specified in federal labeling requirements.
- The following statement: "This product was produced in a home kitchen not subject to public health inspection that may also process common food allergens."
- The date the product was processed.

Here is an example of a label:

**THIS PRODUCT WAS PRODUCED IN A HOME KITCHEN
NOT SUBJECT TO PUBLIC HEALTH INSPECTION THAT MAY ALSO PROCESS
COMMON FOOD ALLERGENS**

Chocolate Chip Cookie

Net Wt. 3 oz (85.05 g)

Ingredients: Enriched flour (Wheat flour, niacin, reduced iron, thiamine, mononitrate, riboflavin and folic acid), butter (milk, salt), chocolate chips (sugar, chocolate liquor, cocoa butter, butterfat (milk), Soy lecithin as an emulsifier), walnuts, sugar, eggs, salt, artificial vanilla extract, baking soda

Contains: wheat, eggs, milk, soy, walnuts

Artie Pinkster

123 Foodstuff Lane

Casserole City, IL 60000

Production Date: 10/19/2011

Hand-printed labels are acceptable if they are clearly legible, written with durable, permanent ink, and printed large enough to be easily read.

What does allergen labeling, as specified in federal labeling requirements, mean?

It means the operator must identify if any of the ingredients are made from one of the following food groups: milk, eggs, fish, crustacean shellfish, tree nuts (such as almonds, pecans or walnuts), wheat, peanuts, and soybeans. So, if there is an ingredient made with a wheat based product, the operator has the following two options:

1. Include the allergen in the ingredient list. For example, a white bread with the following ingredient listing: whole wheat flour, water, salt and yeast. In this example, the statement 'whole wheat flour', meets the requirements of federal law.
2. Include an allergen statement ("Contains:") after the ingredient list. For example a white bread, with the following ingredients: whole wheat flour, water, sodium caseinate, salt and yeast. Contains wheat and milk.

The "Contains" statement must reflect all the allergens found in the product. In this example, the sodium caseinate comes from milk.

Are there any special requirements for tree nuts labeling for allergens?

Yes, if the cottage food has tree nuts as an ingredient you must identify which tree nut you are using. For example, if you made Nut Bread, an acceptable ingredient list would be:

Ingredients: wheat flour, water, almonds, salt, yeast.

The following would not be acceptable:
Ingredients: flour, water, nuts, salt, yeast.

Does the cottage food operator have to include home address on product labeling or is a post office box sufficient?

The physical address of the home kitchen must be on the product label, not a post office box. The purpose of including an address on product labels is to be able to locate the business in case of a recall or trace back associated with a foodborne illness complaint or outbreak. The cottage food Act specifies that the name and address of the business of the cottage food operation must be included on the label.

How can the operator meet the labeling requirements, when they can't stick a label on the product?

For wedding cakes, birthday cakes and other specialty cakes that are not easily packaged, you must include all labeling requirements on the invoice and deliver the invoice with the cake. Smaller cakes must be boxed and the label shall be included on the box.

COTTAGE FOOD OPERATION REGISTRATION

Does the cottage food operation have to be registered with the local health authority?

Yes, the cottage food operation must register with the local health department (LHD) where the cottage food resides. Failure to register with the LDH will subject the cottage food operation to regulation by IDPH and/or DOA. Section 4(d) of the Act states that an LHD **MAY**, in their discretion, regulate the cottage food operation. The Act is also quite clear that the State cannot regulate the operation unless the operator cannot meet all the requirements for the exemption. Thus, should the local decide NOT to regulate beyond the registration requirement, then the operation will be unregulated. However, in order to fall within the cottage food operation exemption to State regulation, the operation must register with the LHD.

A registration form is included in attachment B.

Does the cottage food operator need to be certified as a Food Service Sanitation Manager?

Yes, the person preparing and selling products as a cottage food operation must have an Illinois Food Service Sanitation Manager Certification. 410 ILCS 4(b)(6). Courses can be found on the IDPH website at the following link: <http://dph.illinois.gov/fssmccourses>

Can a cottage food operation be required to pay a registration fee?

Yes. The Public Act permits the LHD to charge a reasonable fee for registration. However, neither IDPH nor DOA may charge a fee provided the cottage food operation can meet all the conditions for exemption.

What information do Local Health Departments need to provide to IDPH?

Annually, the LHD shall provide a written statement to IPHD, Division of Food, Drugs and Dairies stating that the LDH is regulating the cottage food operations location and selling within their jurisdiction. The Department will accept the statements via email.

OTHER RESOURCES

FDA – A Food Labeling Guide www.fda.gov

National Center for Home Food Preservation www.uga.edu/nchfp/

Attachment A
Commercial Laboratories – Food Testing
This list is not all inclusive and IDPH does not endorse any of the following laboratories.

2012

Food Testing

Covance Laboratories
3301 Kinsman Boulevard
Madison, WI 53704
Phone (608) 241-4471
www.covance.com/food

Toxin Technology ##
7165 Curtiss Ave.
Sarasota, FL 34231-8012
Phone (941) 925-2032
www.toxintechnology.com

Q Laboratories Inc.
1400 Harrison Ave.
Cincinnati, OH 45214
Phone (513) 471-1300
www qlaboratories.com

Food Safety Net Services, LTD
199 W. Rhapsody
San Antonio, TX 78216 ##
Phone (210) 308-0675
Grand Prairie Lab
Phone (972) 602-2078
Phoenix Lab
Phone (602) 385-4030
Green Bay Lab ##
Phone (920) 465-4165
www.foodsafetynet.com

Exova (FPL)
12003 N.E. Ainsworth Circle
Suite 105
Portland, Oregon 97220
Phone (800) 375-9555
www.exova.com

ABC Research Corp
3437 SW 24th Ave.
Gainesville, FL 32607-4502
Phone (352) 372-0436
www.abcr.com

Deibel Labs
103 S. 2nd Street
Madison, WI 53704
Phone (608)241-1177
www.deibellabs.com

Deibel Labs (Main Lab)
7120 N. Ridgeway Ave.
Lincolnwood, IL 60712
Phone (847) 329-9900
www.deibellabs.com

Attachment B
Cottage Food Registration Form

Kane County Health Department



1240 N. Highland Ave., Aurora, IL 60506
 750 Grandstand Place, Suite 2 Elgin, IL 60123
 Phone (630) 444-3040
 Fax (630) 897-8123
www.kanehealth.com/pages/fees.aspx

APPLICATION FOR COTTAGE INDUSTRY REGISTRATION

	<u>Name</u>	<u>Address</u>	<u>Phone Number</u>
<u>Business</u>			
<u>Owner(s)</u>			

Food Service Sanitation Manager Certification

<u>NAME</u>	<u>ID NUMBER (issued by IDPH)</u>	<u>EXP. DATE</u>

PRODUCTS (please circle the items you will be making and selling)

Dry herb, dry herb blend or dry tea blend intended for ready to use only:

Jam/ Jelly/ Preserves/ Fruit Pie:

apple apricot grape peach plum quince orange nectarine tangerine blackberry
 raspberry blueberry boysenberry cherry cranberry strawberry red currants
 combination of the above: _____

Fruit Butter:

apple apricot grape peach plum quince prune

Breads/ Cookies/ Cakes/ Pastries:

The following product(s) have been tested by a commercial laboratory and deemed “Not Potentially Hazardous” with a pH below 4.6. Attach a copy of laboratory results.

Item: _____

PRODUCT LABELING

- The name and address of the cottage food operation
- The common or usual name of the food product
- All ingredients including colors, artificial flavors, preservatives, listed in decreasing order of prominence by weight
- The net weight or net volume of the cottage food product
- Statement “**This product was produced in a home kitchen not subject to public health inspection that may also process common food allergens.**”
- The date the product was processed
- Allergen labeling as specified in federal labeling requirements

Owner’s Statements

I, _____, agree to grant thorough access to the local health department to conduct an inspection of my cottage food operation’s primary domestic residence and comply fully in the event of a consumer complaint or foodborne illness outbreak.

Signature(s) of

Owners: _____

Date: _____

*****ALL SAMPLES MUST BE PRE-PACKAGED***
NON PRE-PACKAGED FOOD SAMPLING WILL
REQUIRE A TEMPORARY FOOD PERMIT**