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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/09/2022	.	
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	.	

The Committee on Regulated Industries (Jones) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present paragraphs (s) through (cc) of
subsection (1) of section 500.03, Florida Statutes, are
redesignated as paragraphs (u) through (ee), respectively, new
paragraphs (s) and (t) are added to that subsection, and
paragraph (r) of that subsection is amended, to read:

500.03 Definitions; construction; applicability.-



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11 (1) For the purpose of this chapter, the term:

12 (r) "Food service establishment" means any place where food
13 is prepared and intended for individual portion service, and
14 includes the site at which individual portions are provided. The
15 term includes any such place regardless of whether consumption
16 is on or off the premises and regardless of whether there is a
17 charge for the food. The term includes delicatessens that offer
18 prepared food in individual service portions. The term does not
19 include schools, institutions, fraternal organizations, private
20 homes where food is prepared or served for individual family
21 consumption, retail food stores, the location of food vending
22 machines, cottage food operations, home kitchen operations, and
23 supply vehicles, nor does the term include a research and
24 development test kitchen limited to the use of employees and
25 which is not open to the general public.

26 (s) "Home kitchen food product" means food that is:

27 1. Stored, handled, prepared, and packaged by a home
28 kitchen operation.

29 2. Not raw milk, raw milk products, raw oysters, or raw
30 shellfish.

31 (t) "Home kitchen operation" means a natural person or an
32 entity that stores, handles, and prepares home kitchen food
33 products at the residence of the natural person or at the
34 residence of a natural person who has an ownership interest in
35 the entity and sells such products in accordance with s. 500.82.

36 A home kitchen operation is not:

37 1. A public food service establishment as defined in s.
38 509.013(5).

39 2. A catering services operation licensed under chapter



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40 509.

41 3. A cottage food operation.

42 Section 2. Section 500.82, Florida Statutes, is created to
43 read:

44 500.82 Home kitchen operations.-

45 (1) (a) A home kitchen operation must comply with the
46 applicable requirements of this chapter but is exempt from the
47 permitting requirements of s. 500.12 if the home kitchen
48 operation complies with this section and:

49 1. Has annual gross sales of home kitchen food products
50 that do not exceed \$250,000.

51 2. Limits preparation and service of home kitchen food
52 products to no more than 10 individual meals per day or the
53 approximate equivalent of meal components when sold separately.

54 3. Prepares, cooks, and serves home kitchen food products
55 on the same calendar day.

56 4. Processes home kitchen food products in compliance with
57 state and federal regulations and this section.

58 (b) For purposes of this subsection, a home kitchen
59 operation's annual gross sales include all sales of home kitchen
60 food products at any location, regardless of the types of
61 products sold or the number of persons involved in the
62 operation. A home kitchen operation must provide the department,
63 upon request, with written documentation to verify the
64 operation's annual gross sales, and the department shall be
65 granted access to such records within 24 hours after the
66 request.

67 (2) A home kitchen operation may sell, offer for sale, and
68 accept payment for home kitchen food products over the Internet



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69 or in person. Such products may be delivered in person directly
70 to the consumer, to a specific event venue, or to the consumer
71 by the home kitchen operation or a third party delivery service.
72 A home kitchen operation may not sell, offer for sale, or
73 deliver home kitchen food products to any wholesaler or
74 retailer.

75 (3) All home kitchen operation owners and employees must
76 successfully complete a food safety certificate training program
77 that complies with the United States Food and Drug
78 Administration's Food Safety Modernization Act. The course, at a
79 minimum, must include information and training on cross-
80 contamination, temperature control, and personal hygiene.

81 (4) A home kitchen operation must:

82 (a) Take steps to avoid any potential contamination to:

83 1. Food.

84 2. Equipment.

85 3. Utensils.

86 4. Unwrapped single-service and single-use articles.

87 (b) Prevent an individual from entering the food

88 preparation area while food is being prepared if the individual
89 is known to be suffering from:

90 1. Symptoms associated with acute gastrointestinal illness;

91 or

92 2. A communicable disease that is transmissible through

93 food.

94 (c) Ensure a handwashing station supplied with warm water,
95 soap, and disposable hand towels is conveniently located in food
96 preparation, food dispensing, and warewashing areas.

97 (d) Ensure that the kitchen sink is fully operational and



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98 has hot and cold water and a sanitizing agent, and that dishes
99 are sanitized between each use.

100 (e) Ensure that ready-to-eat home kitchen food products are
101 protected from contamination during storage, preparation,
102 handling, transport, and display.

103 (f) Ensure that home kitchen food products are maintained
104 at proper holding temperatures.

105 (g) Ensure that utensils and equipment used in the home
106 kitchen operation:

107 1. Retain their characteristic qualities under normal use
108 conditions.

109 2. Are properly sanitized after each use.

110 3. Are maintained in a sanitary manner between uses.

111 (h) Ensure that kitchen equipment is cleaned and sanitized
112 between uses.

113 (i) Ensure that gases, odors, steam, heat, grease, vapors,
114 and smoke are able to escape the kitchen.

115 (j) Ensure that temperature measuring devices or holding
116 equipment for the time or temperature control of food is
117 properly used for hot and cold holding of home kitchen food
118 products during storage, serving, and cooling.

119 (k) Ensure that home kitchen food product preparation and
120 service is discontinued if there is a disruption of potable
121 water service.

122 (5) A home kitchen operation may sell home kitchen food
123 products which are affixed with a label that contains the
124 following information:

125 (a) The name and address of the home kitchen operation.

126 (b) The name of the home kitchen food product.



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127 (c) The ingredients of the home kitchen food product, in
128 descending order of predominance by weight.

129 (d) The net weight or net volume of the home kitchen food
130 product.

131 (e) Allergen information as specified by federal labeling
132 requirements.

133 (f) If any nutritional claim is made, appropriate
134 nutritional information as specified by federal labeling
135 requirements.

136 (g) The following statement printed in at least 10-point
137 type in a color that provides a clear contrast to the background
138 of the label: "Made in a home kitchen operation that is not
139 subject to Florida's food safety regulations."

140 (6) This section does not:

141 (a) Exempt a home kitchen operation from any state or
142 federal tax law, rule, regulation, or certificate that applies
143 to all home kitchen operations.

144 (b) Prevent the department or a local health department
145 from enforcing an order to cease and desist operation of a home
146 kitchen if the department or the local health department has a
147 valid reason to suspect that the home kitchen operation is the
148 source of an adulterated food or of an outbreak of illness
149 caused by contaminated food.

150 (c) Apply to a person operating under a food permit issued
151 pursuant to s. 500.12.

152 (7) The regulation of home kitchen operations is preempted
153 to the state. A local law, ordinance, or regulation may not
154 prohibit a home kitchen operation or regulate the preparation,
155 processing, storage, or sale of home kitchen food products by a



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156 home kitchen operation; however, a home kitchen operation must
157 comply with the conditions for the operation of a home-based
158 business under s. 559.955.

159 (8)(a) The department must investigate any complaint which
160 alleges that a home kitchen operation has violated an applicable
161 provision of this chapter or a rule adopted under this chapter.

162 (b) Upon receipt of a complaint, the department's
163 authorized officer or employee must enter and inspect the
164 premises of a home kitchen operation to determine compliance
165 with this chapter and department rules, as applicable. A home
166 kitchen operation's refusal to allow the department's authorized
167 officer or employee entry to the premises or to conduct the
168 inspection is grounds for disciplinary action pursuant to s.
169 500.121.

170 (9) A home kitchen operation is subject to the disciplinary
171 procedures under s. 500.121(7).

172 Section 3. Subsection (1) of section 500.121, Florida
173 Statutes, is amended to read:

174 500.121 Disciplinary procedures.—

175 (1) In addition to the suspension procedures provided in s.
176 500.12, if applicable, the department may impose an
177 administrative fine in the Class II category pursuant to s.
178 570.971 against any retail food store, food establishment, home
179 kitchen operation, or cottage food operation that violates this
180 chapter, which fine, when imposed and paid, shall be deposited
181 by the department into the General Inspection Trust Fund. The
182 department may revoke or suspend the permit of any such retail
183 food store or food establishment if it is satisfied that the
184 retail food store or food establishment has:



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185 (a) Violated this chapter.

186 (b) Violated or aided or abetted in the violation of any
187 law of this state governing or applicable to retail food stores
188 or food establishments or any lawful rules of the department.

189 (c) Knowingly committed, or been a party to, any material
190 fraud, misrepresentation, conspiracy, collusion, trick, scheme,
191 or device whereby another person, lawfully relying upon the
192 word, representation, or conduct of a retail food store or food
193 establishment, acts to her or his injury or damage.

194 (d) Committed any act or conduct of the same or different
195 character than that enumerated which constitutes fraudulent or
196 dishonest dealing.

197 Section 4. This act shall take effect July 1, 2022.

198
199 ===== T I T L E A M E N D M E N T =====

200 And the title is amended as follows:

201 Delete everything before the enacting clause
202 and insert:

203 A bill to be entitled
204 An act relating to home kitchen operations; amending
205 s. 500.03, F.S.; defining terms; creating s. 500.82;
206 exempting home kitchen operations from food permitting
207 requirements; providing requirements for home kitchen
208 operations; providing requirements for the sale of
209 home kitchen food products; prohibiting home kitchen
210 operations from selling, offering for sale, or
211 delivering home kitchen food products to wholesalers
212 or retailers; providing construction and
213 applicability; preempting the regulation of home



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214 kitchen operations to the state; requiring the
215 Department of Agriculture and Consumer Services to
216 investigate complaints and conduct inspections as
217 necessary; providing that home kitchen operations are
218 subject to certain disciplinary procedures; amending
219 s. 500.121, F.S.; providing that home kitchen
220 operations are subject to specified administrative
221 fines; providing an effective date.