

By Senator Jones

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1 A bill to be entitled
2 An act relating to home kitchen operations; amending
3 s. 500.03, F.S.; redefining and defining terms;
4 amending s. 500.80, F.S.; exempting home kitchen
5 operations from food permitting requirements under
6 certain circumstances; specifying requirements for the
7 sale of home kitchen food products; providing
8 construction; preempting regulation of home kitchen
9 operations to the state; authorizing the Department of
10 Agriculture and Consumer Services to investigate
11 complaints about a home kitchen operation, conduct
12 inspections, and impose disciplinary actions; amending
13 s. 500.121, F.S.; providing disciplinary procedures
14 for home kitchen operations; providing an effective
15 date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Present paragraphs (s) through (cc) of
20 subsection (1) of section 500.03, Florida Statutes, are
21 redesignated as paragraphs (u) through (ee), respectively, new
22 paragraphs (s) and (t) are added to that subsection, and
23 paragraph (r) of that subsection is amended, to read:

24 500.03 Definitions; construction; applicability.—

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

26 (r) "Food service establishment" means any place where food
27 is prepared and intended for individual portion service, and
28 includes the site at which individual portions are provided. The
29 term includes any such place regardless of whether consumption

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30 is on or off the premises and regardless of whether there is a
31 charge for the food. The term includes delicatessens that offer
32 prepared food in individual service portions. The term does not
33 include schools, institutions, fraternal organizations, private
34 homes where food is prepared or served for individual family
35 consumption, retail food stores, the location of food vending
36 machines, cottage food operations, home kitchen operations, and
37 supply vehicles, nor does the term include a research and
38 development test kitchen limited to the use of employees and
39 which is not open to the general public.

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

41 1. Stored, handled, prepared, and packaged by a home
42 kitchen operation.

43 2. Not raw milk, a product of raw milk, or raw oysters.

44 3. Prepared, cooked, and served within 24 hours.

45 4. Consumed onsite at a home kitchen operation or offsite
46 if the food is picked up by the consumer or delivered within a
47 safe time period based on holding equipment capacity.

48 (t) "Home kitchen operation" means a natural person or an
49 entity that stores, handles, prepares, and packages food
50 products at the residence of the natural person or at the
51 residence of a natural person who has an ownership interest in
52 the entity and sells such products in accordance with s. 500.80.

53 A home kitchen operation is not a public food service
54 establishment as defined in s. 509.013(5).

55 Section 2. Section 500.80, Florida Statutes, is amended to
56 read:

57 500.80 Cottage food and home kitchen operations.—

58 (1) (a) A cottage food operation must comply with the

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59 applicable requirements of this chapter but is exempt from the
60 permitting requirements of s. 500.12 if the cottage food
61 operation complies with this section and has annual gross sales
62 of cottage food products that do not exceed \$250,000.

63 (b) For purposes of this subsection, a cottage food
64 operation's annual gross sales include all sales of cottage food
65 products at any location, regardless of the types of products
66 sold or the number of persons involved in the operation. A
67 cottage food operation must provide the department, upon
68 request, with written documentation to verify the operation's
69 annual gross sales.

70 (c)~~(2)~~ A cottage food operation may sell, offer for sale,
71 and accept payment for cottage food products over the Internet
72 or by mail order. Such products may be delivered in person
73 directly to the consumer, to a specific event venue, or by
74 United States Postal Service or commercial mail delivery
75 service. A cottage food operation may not sell, offer for sale,
76 or deliver cottage food products at wholesale.

77 (d)~~(3)~~ A cottage food operation may only sell cottage food
78 products which are prepackaged with a label affixed to the
79 cottage food product that contains the following information:

80 1.~~(a)~~ The name and address of the cottage food operation.

81 2.~~(b)~~ The name of the cottage food product.

82 3.~~(c)~~ The ingredients of the cottage food product, in
83 descending order of predominance by weight.

84 4.~~(d)~~ The net weight or net volume of the cottage food
85 product.

86 5.~~(e)~~ Allergen information as specified by federal labeling
87 requirements.

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88 ~~6.(f)~~ If any nutritional claim is made, appropriate
89 nutritional information as specified by federal labeling
90 requirements.

91 ~~7.(g)~~ The following statement printed in at least 10-point
92 type in a color that provides a clear contrast to the background
93 of the label: "Made in a cottage food operation that is not
94 subject to Florida's food safety regulations."

95 ~~(e)(4)~~ A cottage food operation may only sell cottage food
96 products that it stores on the premises of the cottage food
97 operation.

98 (2) (a) A home kitchen operation must comply with the
99 applicable requirements of this chapter but is exempt from the
100 permitting requirements of s. 500.12 if the home kitchen
101 operation complies with this section and has annual gross sales
102 of home kitchen food products that do not exceed \$250,000.

103 (b) A home kitchen operation may only sell or provide home
104 kitchen food products directly to consumers and may not sell or
105 provide home kitchen food products to any food reseller.

106 (c) A home kitchen operation may sell home kitchen food
107 products to consumers in person or remotely by telephone, e-
108 mail, or website, including through a third-party website or
109 mobile application. Home kitchen food products may be delivered
110 to consumers by the home kitchen operation, by an employee or
111 agent of the home kitchen operation, or by a third-party
112 delivery service.

113 (d) A home kitchen operation shall provide the following
114 information to the consumer in a clear and conspicuous manner on
115 a label affixed to a kitchen food product that is sold in a
116 package or container; on a sign at the point of sale if the home

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117 kitchen food product is not sold in a package or container; and
118 on any food-ordering website or mobile application on which the
119 home kitchen operation advertises:

120 1. The name and telephone number of the home kitchen
121 operation that prepared the home kitchen food product.

122 2. The common or usual name of the home kitchen food
123 product.

124 3. If a home kitchen food product contains more than one
125 ingredient, a list of the ingredients in descending order of
126 predominance by weight.

127 4. The following statement: "Made in a home kitchen."

128 (3)-(5) This section does not exempt a cottage food or home
129 kitchen operation from any state or federal tax law, rule,
130 regulation, or certificate that applies to all cottage food and
131 home kitchen operations.

132 (4)-(6) The regulation of cottage food and home kitchen
133 operations is preempted to the state. A local law, ordinance, or
134 regulation may not prohibit a cottage food or home kitchen
135 operation or regulate the preparation, processing, storage, or
136 sale of cottage and home kitchen food products by a cottage food
137 operation; however, a cottage food or home kitchen operation
138 must comply with the conditions for the operation of a home-
139 based business under s. 559.955.

140 (5)-(7)(a) The department may investigate any complaint
141 which alleges that a cottage food or home kitchen operation has
142 violated an applicable provision of this chapter or rule adopted
143 under this chapter.

144 (b) Only upon receipt of a complaint, the department's
145 authorized officer or employee may enter and inspect the

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146 premises of a cottage food or home kitchen operation to
147 determine compliance with this chapter and department rules, as
148 applicable. A cottage food or home kitchen operation's refusal
149 to permit the department's authorized officer or employee entry
150 to the premises or to conduct the inspection is grounds for
151 disciplinary action pursuant to s. 500.121.

152 ~~(6)~~~~(8)~~ This section does not apply to a person operating
153 under a food permit issued pursuant to s. 500.12.

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

156 500.121 Disciplinary procedures.—

157 (1) In addition to the suspension procedures provided in s.
158 500.12, if applicable, the department may impose an
159 administrative fine in the Class II category pursuant to s.
160 570.971 against any retail food store, food establishment, or
161 cottage or home kitchen food operation that violates this
162 chapter, which fine, when imposed and paid, shall be deposited
163 by the department into the General Inspection Trust Fund. The
164 department may revoke or suspend the permit of any such retail
165 food store or food establishment if it is satisfied that the
166 retail food store or food establishment has:

167 (a) Violated this chapter.

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

171 (c) Knowingly committed, or been a party to, any material
172 fraud, misrepresentation, conspiracy, collusion, trick, scheme,
173 or device whereby another person, lawfully relying upon the
174 word, representation, or conduct of a retail food store or food

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175 establishment, acts to her or his injury or damage.

176 (d) Committed any act or conduct of the same or different
177 character than that enumerated which constitutes fraudulent or
178 dishonest dealing.

179 Section 4. This act shall take effect upon becoming a law.