

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

14  
 15   Be It Enacted by the Legislature of the State of Florida:

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

22           500.03 Definitions; construction; applicability.—  
 23           (1) For the purpose of this chapter, the term:  
 24           (r) "Food service establishment" means any place where  
 25           food is prepared and intended for individual portion service,

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

- 38 |     (s) "Home kitchen food product" means food that is:  
 39 |         1. Stored, handled, prepared, and packaged by a home  
 40 | kitchen operation.  
 41 |         2. Not raw milk, a product of raw milk, or raw oysters.  
 42 |         3. Prepared, cooked, and served within 24 hours.  
 43 |         4. Consumed onsite at a home kitchen operation or offsite  
 44 | if the food is picked up by the consumer or delivered within a  
 45 | safe time period based on holding equipment capacity.

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

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

53 Section 2. Section 500.80, Florida Statutes, is amended to  
54 read:

55 500.80 Cottage food and home kitchen operations.—

56 (1)(a) A cottage food operation must comply with the  
57 applicable requirements of this chapter but is exempt from the  
58 permitting requirements of s. 500.12 if the cottage food  
59 operation complies with this section and has annual gross sales  
60 of cottage food products that do not exceed \$250,000.

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

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

75 (d)-(3) A cottage food operation may only sell cottage food

76 products which are prepackaged with a label affixed to the  
 77 cottage food product that contains the following information:

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

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

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

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

84 ~~5.(e)~~ Allergen information as specified by federal  
 85 labeling requirements.

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

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

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

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

HB 707

2022

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

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

111 (d) A home kitchen operation shall provide the following  
112 information to the consumer in a clear and conspicuous manner on  
113 a label affixed to a kitchen food product that is sold in a  
114 package or container; on a sign at the point of sale if the home  
115 kitchen food product is not sold in a package or container; and  
116 on any food-ordering website or mobile application on which the  
117 home kitchen operation advertises:

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

120 2. The common or usual name of the home kitchen food  
121 product.

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

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

HB 707

2022

126        ~~(3)-(5)~~ This section does not exempt a cottage food or home  
127 kitchen operation from any state or federal tax law, rule,  
128 regulation, or certificate that applies to all cottage food and  
129 home kitchen operations.

130        ~~(4)-(6)~~ The regulation of cottage food and home kitchen  
131 operations is preempted to the state. A local law, ordinance, or  
132 regulation may not prohibit a cottage food or home kitchen  
133 operation or regulate the preparation, processing, storage, or  
134 sale of cottage and home kitchen food products ~~by a cottage food~~  
135 ~~operation~~; however, a cottage food or home kitchen operation  
136 must comply with the conditions for the operation of a home-  
137 based business under s. 559.955.

138        ~~(5)-(7)~~(a) The department may investigate any complaint  
139 which alleges that a cottage food or home kitchen operation has  
140 violated an applicable provision of this chapter or rule adopted  
141 under this chapter.

142        (b) Only upon receipt of a complaint, the department's  
143 authorized officer or employee may enter and inspect the  
144 premises of a cottage food or home kitchen operation to  
145 determine compliance with this chapter and department rules, as  
146 applicable. A cottage food or home kitchen operation's refusal  
147 to permit the department's authorized officer or employee entry  
148 to the premises or to conduct the inspection is grounds for  
149 disciplinary action pursuant to s. 500.121.

150        ~~(6)-(8)~~ This section does not apply to a person operating

151 | under a food permit issued pursuant to s. 500.12.

152 |       Section 3. Subsection (1) of section 500.121, Florida  
153 | Statutes, is amended to read:

154 |       500.121 Disciplinary procedures.—

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

165 |       (a) Violated this chapter.

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

169 |       (c) Knowingly committed, or been a party to, any material  
170 | fraud, misrepresentation, conspiracy, collusion, trick, scheme,  
171 | or device whereby another person, lawfully relying upon the  
172 | word, representation, or conduct of a retail food store or food  
173 | establishment, acts to her or his injury or damage.

174 |       (d) Committed any act or conduct of the same or different  
175 | character than that enumerated which constitutes fraudulent or

HB 707

2022

176 | dishonest dealing.

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