

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 3618, 1974, and 4351

STATE OF NEW JERSEY
217th LEGISLATURE

ADOPTED DECEMBER 12, 2016

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Assemblyman Eustace

SYNOPSIS

Establishes requirements for sale of home baked goods or cottage foods.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Agriculture and Natural Resources
Committee.

(Sponsorship Updated As Of: 12/20/2016)

1 AN ACT concerning home baked goods and cottage foods and
2 supplementing Title 24 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. As used in this act:

8 “Baked goods” means ready-to-eat baked food that does not
9 require further cooking or refrigeration for food safety, and which is
10 not a potentially hazardous food. Baked goods may contain
11 ingredients which constitute potentially hazardous food, provided
12 that the baked good as presented for sale is not a potentially
13 hazardous food. “Baked goods” include, but are not limited to,
14 bread, rolls, cakes, pies, pastries, candies, and cookies.

15 “Cottage foods” means ready-to-eat food prepared by a home
16 baker, which are not potentially hazardous food, including: candy
17 such as brittle and toffee; chocolate-covered nonperishable foods
18 such as nuts and dried fruit; dried fruits and nuts; dried pasta; dry
19 baking mixes; dry herbs, seasonings, and mixtures; fruit pies, fruit
20 empanadas, and fruit tamales; fudge; granolas, cereals, and trail
21 mixes; honey and sweet sorghum syrup; jams, jellies, preserves, and
22 fruit butters that comply with the federal standards for fruit butter;
23 nut mixes and nut butters; popcorn and caramel corn; roasted coffee
24 and dried tea; vinegar and mustard; and waffle cones and pizzelles.

25 “Home baker” means a person who prepares baked goods,
26 cottage foods, or both in a kitchen in a private home that is not
27 subject to regulation and inspection by the Department of Health.

28 “Potentially hazardous food” means a food that requires time or
29 temperature control for safety to limit pathogenic microorganism
30 growth or toxin formation.

31

32 2. A home baker may sell baked goods, cottage foods, or both
33 prepared by the home baker in a kitchen in a private home, provided
34 the following requirements are met:

35 a. The baked goods or cottage foods shall not be sold or
36 offered for sale except at the home baker’s home, a consumer’s
37 home, a farmer’s market, a farm stand, or a county, municipal, or
38 nonprofit fair, festival, or event. A home baker shall not sell or
39 offer for sale baked goods or cottage foods over the Internet,
40 wholesale, or to a commercial retailer for resale;

41 b. The gross income generated by the home baker from the sale
42 of baked goods and cottage foods shall not exceed \$50,000 per year;

43 c. The home baker, and any person assisting the home baker in
44 the preparation of baked goods or cottage foods, shall possess a
45 current, valid food handler’s certificate issued by a food handler

1 certification agency approved by the Commissioner of Health
2 pursuant to subsection a. of section 3 of this act;

3 d. A clearly visible placard shall be placed at the point of sale,
4 which shall state in clear, legible print that the baked goods or
5 cottage foods were prepared in a kitchen that is not subject to
6 regulation and inspection by the Department of Health;

7 e. Baked goods or cottage foods shall be packaged in a manner
8 that prevents or reduces the risk of contamination, unless the size,
9 shape, or other characteristics of a baked good or cottage food
10 makes such packaging impractical or unnecessary; and

11 f. Baked goods or cottage foods sold or offered for sale shall
12 include a label containing the following information:

13 (1) the name of the home baker and the address where the baked
14 goods or cottage foods were prepared;

15 (2) the name of the baked goods or cottage foods, including a
16 description of the type or nature of the baked goods or cottage foods
17 if not apparent from the name;

18 (3) any major food allergens used as an ingredient in the baked
19 goods or cottage foods, including, but not limited to, eggs, nuts,
20 wheat, soy, dairy, and peanuts; and

21 (4) the following statement: "This food is made in a home
22 kitchen that is not subject to regulation and inspection by the
23 Department of Health."
24

25 3. a. The Commissioner of Health shall promulgate a list of
26 food handler certification agencies that are approved to issue food
27 handler certificates to home bakers and other persons for the
28 purposes of this act. The Department of Health shall have no other
29 authority to regulate or inspect home bakers or the sale or
30 production of baked goods or cottage foods prepared by home
31 bakers.

32 b. The local board of health having jurisdiction in the
33 municipality in which the home baker resides or in which the home
34 baker prepares, offers for sale, or sells baked goods, cottage foods,
35 or both shall have the authority to conduct an inspection of the
36 baked goods or cottage foods, or the place in which they are
37 prepared upon reasonable belief or credible report that the baked
38 goods or cottage foods, or the conditions under which the baked
39 goods or cottage foods are prepared, present an immediate and
40 serious threat to human life or health. If the board finds the baked
41 goods or cottage foods or the conditions under which they are
42 prepared constitute an immediate and serious threat to human life or
43 health, the board may order any appropriate relief, including, but
44 not limited to: confiscation or destruction of the baked goods or
45 cottage foods; remedial action to correct an unsafe or potentially
46 hazardous condition; or issuance of a temporary or permanent
47 injunction prohibiting the home baker from preparing and selling
48 baked goods, cottage foods, or both.

1 c. The preparation and sale of baked goods or cottage foods by
2 home bakers pursuant to this act shall not be subject to regulation or
3 restriction by municipal ordinance or resolution.

4 d. Nothing in this section shall be construed to restrict the
5 ability of a neighbor or other affected person to institute a nuisance
6 action against a home baker.

7

8 4. This act shall take effect on the first day of the seventh
9 month next following the date of enactment.