

ASSEMBLY AGRICULTURE AND NATURAL RESOURCES  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 801**

**STATE OF NEW JERSEY**

DATED: FEBRUARY 1, 2018

The Assembly Agriculture and Natural Resources Committee favorably reports Assembly Bill No. 801.

This bill would permit, and establish requirements for, the sale of cottage food products.

A cottage food product is a non-potentially hazardous food that is prepared for sale by an individual in the individual's residential kitchen. Under the bill, an individual would be permitted to sell cottage food products, provided the person obtains a cottage food operator's license from the Department of Health (DOH), and complies with the requirements established in the bill and by the DOH. The bill would not apply to individuals who: (1) prepare non-potentially hazardous food in a residential kitchen for sale or service at a religious or charitable function, provided the consumer is informed that the food is not subject to regulation or inspection; (2) prepare food in a residential kitchen in a family child-care home; or (3) prepare food in a residential kitchen in a bed and breakfast homestay or guesthouse, and offers that food to guests, provided the home is owner-occupied and breakfast is the only meal offered. Such preparation and sale are already permitted under existing DOH regulations.

The bill would establish two classes of cottage food operator's licenses. A "Class A" cottage food operator's license would entitle the holder to engage in direct sales of cottage food products from the cottage food operation (CFO) or other direct sales venue. A "direct sale" is a transaction where a consumer purchases a cottage food product directly from a CFO. This includes sales made in-person at the CFO, farm stands, farmers' markets, and festivals. A "Class B" cottage food operator's license would entitle the holder to engage in direct sales and indirect sales of cottage food products. It would also entitle the holder to engage in Internet sales, provided the end-consumer is located in New Jersey. An "indirect sale" is a transaction in which a consumer purchases a cottage food product made by a cottage food operation from a third-party retailer, such as a restaurant or other retail food facility.

The DOH would issue a "Class A" cottage food operator's license to any applicant who: (1) demonstrates that the cottage food products prepared and sold by the CFO are non-potentially hazardous foods; (2)

possesses a valid food handler's certificate from a food handler certification agency approved by the DOH; and (3) submits a self-certification check list certifying that the CFO meets the health and safety requirements established in the bill and by the DOH. A person would be issued a "Class B" cottage food operator's license if the person meets the requirements of (1) and (2) above, and passes an initial inspection by the DOH or the local health authority. A license issued pursuant to this bill would be valid for a term of two years, unless suspended or revoked for cause, and could be renewed. Additionally, if there is any question as to whether a cottage food product is a non-potentially hazardous food, the DOH could require laboratory testing of the food, to be arranged and paid for by the applicant.

The bill establishes minimum health and safety requirements for CFOs, and authorizes the DOH to adopt further requirements. It also establishes packaging and labeling requirements for cottage food products. The DOH or a local health authority would be authorized to inspect a CFO if, on the basis of a consumer complaint, the DOH or local health authority reasonably believes that the CFO is preparing or selling misbranded, adulterated, or otherwise unsafe food, or is violating the provisions of the bill or the DOH's regulations. If the DOH or a local health authority determines that the CFO is selling misbranded, adulterated, or otherwise unsafe foods, or is violating the provisions of the bill or the DOH's regulations, the DOH or local health authority would be required to take appropriate measures to ensure the public health, as may be available to them under existing law.

The bill would direct the DOH to publish on its Internet website a list of cottage food products that are approved for sale by licensed cottage food operators. The list of cottage food products would include certain baked goods such as breads, brownies, and cookies; candies such as brittle and toffee; dried fruits and nuts; dried pasta; dry baking mixes; dry herbs, seasonings, and mixtures; fruit pies, fruit empanadas, and fruit tamales; fudge; granolas, cereals, and trail mixes; honey and sweet sorghum syrup; jams, jellies, preserves, and fruit butters; nut mixes and nut butters; popcorn and caramel corn; roasted coffee and dried tea; vinegar and mustard; and waffle cones and pizzelles. Additionally, the DOH could adopt a list of cottage food products which are permitted for sale, but which require laboratory testing first to determine whether they are non-potentially hazardous foods. Such products might include barbecue sauce, beverages, hot sauce, pickled beets, pickled vegetables, and salsa.

This bill was pre-filed for introduction in the 2018-2019 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.