

ASSEMBLY, No. 2354

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 1, 2018

Sponsored by:

Assemblywoman BETTYLOU DECROCE

District 26 (Essex, Morris and Passaic)

Assemblyman JAY WEBBER

District 26 (Essex, Morris and Passaic)

SYNOPSIS

Establishes requirements for sale of home baked goods.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/13/2018)

1 AN ACT concerning home baked goods and supplementing Title 24
2 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 “Home baker” means a person who prepares baked goods in a
16 kitchen in a private home that is not subject to regulation and
17 inspection by the Department of Health.

18 “Potentially hazardous food” means a food that requires time or
19 temperature control for safety to limit pathogenic microorganism
20 growth or toxin formation.

21

22 2. A home baker may sell baked goods prepared by the home
23 baker in a kitchen in a private home, provided the following
24 requirements are met:

25 a. The baked goods shall not be sold or offered for sale except
26 at the home baker’s home, a consumer’s home, a farmer’s market, a
27 farm stand, or a county, municipal, or nonprofit fair, festival, or
28 event. A home baker shall not sell or offer for sale baked goods
29 over the Internet, wholesale, or to a commercial retailer for resale;

30 b. The gross income generated by the home baker from the sale
31 of baked goods shall not exceed \$50,000 per year;

32 c. The home baker, and any person assisting the home baker in
33 the preparation of baked goods, shall possess a current, valid food
34 handler’s certificate issued by a food handler certification agency
35 approved by the Commissioner of Health pursuant to subsection a.
36 of section 3 of this act;

37 d. A clearly-visible placard shall be placed at the point of sale,
38 which shall state in clear, legible print that the baked goods were
39 prepared in a kitchen that is not subject to regulation and inspection
40 by the Department of Health;

41 e. Baked goods shall be packaged in a manner that prevents or
42 reduces the risk of contamination, unless the size, shape, or other
43 characteristics of a baked good makes such packaging impractical
44 or unnecessary; and

45 f. Each baked good sold or offered for sale shall include a label
46 containing the following information:

47 (1) the name of the home baker and the address where the baked
48 good was prepared;

1 (2) the name of the baked good, including a description of the
2 type or nature of the baked good if not apparent from the name;

3 (3) any major food allergens used as an ingredient in the baked
4 good, including, but not limited to, eggs, nuts, wheat, soy, dairy,
5 and peanuts; and

6 (4) the following statement: "This food is made in a home
7 kitchen that is not subject to regulation and inspection by the
8 Department of Health."
9

10 3. a. The Commissioner of Health shall promulgate a list of
11 food handler certification agencies that are approved to issue food
12 handler certificates to home bakers and other persons for the
13 purposes of this act. The Department of Health shall have no other
14 authority to regulate or inspect home bakers or the sale or
15 production of baked goods prepared by home bakers.

16 b. The local board of health having jurisdiction in the
17 municipality in which the home baker resides or in which the home
18 baker prepares, offers for sale, or sells baked goods shall have the
19 authority to conduct an inspection of the baked goods or the place
20 in which the baked goods are prepared upon reasonable belief or
21 credible report that the baked goods, or the conditions under which
22 the baked goods are prepared, present an immediate and serious
23 threat to human life or health. If the board finds the baked goods or
24 the conditions under which they are prepared constitute an
25 immediate and serious threat to human life or health, the board may
26 order any appropriate relief, including, but not limited to:
27 confiscation or destruction of the baked goods; remedial action to
28 correct an unsafe or potentially hazardous condition; or issuance of
29 a temporary or permanent injunction prohibiting the home baker
30 from preparing and selling baked goods.

31 c. The preparation and sale of baked goods by home bakers
32 pursuant to this act shall not be subject to regulation or restriction
33 by municipal ordinance.

34 d. Nothing in this section shall be construed to restrict the
35 ability of a neighbor or other affected person to institute a nuisance
36 action against a home baker.
37

38 4. This act shall take effect the first day of the seventh month
39 next following the date of enactment.
40
41

42 STATEMENT
43

44 This bill establishes requirements for the sale of home baked
45 goods, such as bread, rolls, cakes, pies, pastries, candies, and
46 cookies. The bill defines "baked goods" as ready-to-eat baked food
47 prepared in a private kitchen that does not require further cooking
48 or refrigeration for food safety and is not a "potentially hazardous
49 food," which is defined to mean a food that requires time or

1 temperature control for safety to limit pathogenic microorganism
2 growth or toxin formation. Home baked goods may be made using
3 a potentially hazardous food, provided that the final product as
4 offered for sale is not a potentially hazardous food.

5 Under the bill, baked goods may not be sold or offered for sale
6 except at the home baker's home, a consumer's home, a farmer's
7 market, a farm stand, or a county, municipal, or nonprofit fair,
8 festival, or event; the bill prohibits selling or offering for sale home
9 baked goods over the Internet, wholesale, or to a commercial
10 retailer for resale. The gross income generated by the home baker
11 from the sale of baked goods may not exceed \$50,000 per year.
12 The home baker and any person assisting the home baker must
13 possess a current, valid food handler's certificate. A clearly-visible
14 placard is to be placed at the point of sale, which states in clear,
15 legible print that the baked goods were prepared in a kitchen that is
16 not subject to regulation and inspection by the Department of
17 Health (DOH). Baked goods are to be packaged in a manner that
18 prevents or reduces the risk of contamination, unless the size,
19 shape, or other characteristics of the baked good makes such
20 packaging impractical or unnecessary. Finally, each baked good is
21 to be labeled with the name of the home baker and the address
22 where the baked good was prepared; the name of the baked good,
23 including a description of the type or nature of the baked good if
24 not apparent from the name; any major food allergens used as an
25 ingredient in the baked good, such as eggs, nuts, wheat, soy, dairy,
26 or peanuts; and a statement that reads: "This food is made in a home
27 kitchen that is not subject to regulation and inspection by the
28 Department of Health."

29 The Commissioner of Health is to promulgate a list of food
30 handler certification agencies approved to issue certificates for the
31 purposes of the bill. DOH will have no other authority to regulate
32 or inspect home bakers or the sale or production of home baked
33 goods, and the preparation and sale of home baked goods may not
34 be regulated or restricted by municipal ordinance. Nothing in the
35 bill will prohibit a neighbor or other affected person from bringing
36 a nuisance action against a home baker.

37 Local boards of health will have the authority to inspect baked
38 goods and places where baked goods are prepared upon reasonable
39 belief or credible report that the baked goods, or the conditions
40 under which they are prepared, present an immediate and serious
41 threat to human life or health. If the board finds the baked goods or
42 the conditions under which they are prepared constitute a threat, the
43 board may order any appropriate relief, including, but not limited
44 to: confiscation or destruction of the baked goods; remedial action
45 to correct an unsafe or potentially hazardous condition; or issuance
46 of a temporary or permanent injunction prohibiting the home baker
47 from preparing and selling baked goods.