

**ASSEMBLY, No. 4580**

---

**STATE OF NEW JERSEY**

**219th LEGISLATURE**

---

INTRODUCED AUGUST 25, 2020

**Sponsored by:**

**Assemblyman ANDREW ZWICKER**

**District 16 (Hunterdon, Mercer, Middlesex and Somerset)**

**Assemblyman EDWARD H. THOMSON**

**District 30 (Monmouth and Ocean)**

**Assemblywoman ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Co-Sponsored by:**

**Assemblyman Webber, Assemblywoman DiMaso, Assemblyman Freiman  
and Assemblywoman Downey**

**SYNOPSIS**

Establishes requirements for sale of home baked goods.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 10/29/2020)**

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 listed in  
9 subsection a. of section 4 of this act that does not require further  
10 cooking or refrigeration for food safety, and which is not a  
11 potentially hazardous food. Baked goods may contain ingredients  
12 which constitute potentially hazardous food, provided that the  
13 baked good as presented for sale is not a potentially hazardous food.  
14 “Baked goods” shall not include any food listed in subsection b. of  
15 section 4 of this act.

16 “Commissioner” means the Commissioner of Health.

17 “Department” means the Department of Health.

18 “Home baker” means a person who prepares baked goods in  
19 accordance with the provisions of this act.

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

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

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

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

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

38 d. The home baker shall display the baker’s current, valid food  
39 handler certification issued pursuant to subsection a. of section 3 of  
40 this act at the point of sale;

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:

1 (1) the name of the home baker, the home baker's food handler  
2 certification number, and the address where the baked good was  
3 prepared;

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

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

9 (4) the following statement: "This food was prepared in a  
10 kitchen that may not be subject to regular inspection by health  
11 authorities."

12

13 3. a. (1) An application for a food handler certification  
14 authorizing the individual to sell baked goods prepared in a kitchen  
15 in a private home pursuant to this act shall be submitted to the  
16 department for approval. The application shall include:

17 (a) the nature and type of each baked good that the home baker  
18 intends to prepare and sell;

19 (b) an acknowledgement that the home baker will only be  
20 authorized to prepare and sell those home baked goods expressly  
21 included in an approved food handler certification, and that the  
22 home baker's food handler certification may be revoked upon a  
23 third or subsequent finding that the home baker has sold baked  
24 goods not included in the baker's food handler certification;

25 (c) an attestation that the home baker will report income as  
26 required under State and federal law; and

27 (d) an attestation that the home baker will comply with all  
28 applicable State and federal labor laws.

29 (2) There shall be no limit on the number or types of baked  
30 goods that may be authorized under a single food handler  
31 certification, provided that the baked goods are limited to those  
32 expressly authorized pursuant to subsection a. of section 4 of this  
33 act. A home baker seeking to prepare and sell a baked good not  
34 authorized under the home baker's current food handler  
35 certification may submit an application for an amended food  
36 handler certification or include the additional baked goods in an  
37 application to renew a food handler certification. The fee to apply  
38 for an amended food handler certification shall be \$50 or the actual  
39 administrative costs of processing the application, whichever is less.  
40 A home baker may apply to amend a food handler certification no  
41 more than once per certification period.

42 (3) Upon approval of an application for initial or renewed  
43 certification as a food handler, the home baker shall pay a  
44 certification fee of \$300 to the department.

45 (4) A food handler certification issued pursuant to this section  
46 shall be valid for one year and shall be renewable upon application  
47 to the department. The department shall provide the home baker  
48 with at least one written notification of the renewal deadline no less

1 than 30 days prior to expiration of the home baker's current food  
2 handler certification. The failure to submit a renewal application  
3 prior to the expiration date shall result in immediate termination of  
4 the food handler certification upon the expiration date, and the  
5 home baker shall be prohibited from selling baked goods prepared  
6 in a kitchen in a private home unless the home baker applies, and is  
7 approved, for a new food handler certification.

8 b. The local board of health having jurisdiction in the  
9 municipality in which the home baker resides or in which the home  
10 baker prepares, offers for sale, or sells baked goods shall conduct an  
11 inspection of the kitchen that will be used by each applicant for a  
12 food handler certification prior to issuance of the certification, and  
13 shall have the authority to conduct an inspection of baked goods or  
14 the place in which the baked goods are prepared as often as the  
15 local board of health deems necessary. If the board finds baked  
16 goods or the conditions under which they are prepared constitute an  
17 immediate and serious threat to human life or health, the board may  
18 order any appropriate relief, including, but not limited to:  
19 confiscation or destruction of the baked goods; remedial action to  
20 correct an unsafe or potentially hazardous condition; or temporarily  
21 suspending or permanently revoking a food handler certification  
22 issued to the home baker. The department shall develop a  
23 procedure for providing notice to local boards of health when a  
24 person located within the jurisdiction of the local board of health  
25 applies for an initial food handler certification, and for receiving a  
26 report concerning the results of the initial inspection of the kitchen  
27 or other areas that will be used by the applicant to prepare baked  
28 goods. Home bakers applying for or issued a food handler  
29 certification under this act shall provide the local board of health  
30 with access to any kitchen or other area or location used by the  
31 home baker to prepare baked goods for the purposes of conducting  
32 inspections pursuant to this subsection.

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

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

39

40 4. a. Subject to any actions taken by the commissioner  
41 pursuant to subsection c. of this section, baked goods that may be  
42 prepared and sold pursuant to this act shall be limited to: breads,  
43 other than fruit breads or vegetable breads; rolls; cinnamon rolls;  
44 biscuits; bagels; muffins; doughnuts; cookies; baklava; biscotti that  
45 are not topped with chocolate or candy melts; cakes; cake pops that  
46 are not topped with chocolate or candy melts; cupcakes; brownies;  
47 double-crust fruit pies; scones; fruit jams, jellies, and marmalades  
48 made with high acid or low pH fruits; commercially-dried spices or

1 herbs that are repackaged or blended; repackaged dried or  
2 dehydrated vegetables; repackaged dried soup mixes; repackaged  
3 dried fruit; repackaged dried pasta; repackaged dry baking mixes;  
4 seasoning salt; fudge; popcorn; caramel corn; peanut brittle; rice  
5 cereal marshmallow bars; granola made using commercially roasted  
6 nuts; trail mix made using commercially roasted nuts; granola bars  
7 made using commercially roasted nuts; repackaged candy, other  
8 than chocolate; waffle cones; pizzelles; toffee or caramel apples  
9 that are not prepared using candy melts; confections, including  
10 toffees, caramels, and hard candies; vegetable chips, including  
11 potato chips; crackers; and pretzels.

12 b. Subject to any actions taken by the commissioner pursuant  
13 to subsection c. of this section, in no case may the following foods  
14 be sold pursuant to this act: any food requiring refrigeration for  
15 preservation; homemade buttercream or cream cheese frosting; fruit  
16 breads; vegetable breads; products containing alcohol; “no-bake”  
17 products; pickles; relishes; sauerkraut; sauces; salsas; marinades;  
18 mustards; ketchups; pepper jellies; wine jellies; vegetable jellies;  
19 flower jellies; chutneys; vegetable oils; blended oils; salad  
20 dressings; cheesecakes; cream-filled pastries; cream pies; merengue  
21 pies; chocolate candies; products dipped in chocolate or a candy  
22 melt; products containing raw nuts; cheeses; yogurts; fluid dairy  
23 products; butters; meat; fish; or poultry products.

24 c. The commissioner shall periodically review the foods listed  
25 in subsections a. and b. of this section, along with the current  
26 scientific literature, and shall be authorized to take administrative  
27 action to add or remove foods from either list or to otherwise revise  
28 the requirements concerning baked goods authorized for sale  
29 pursuant to this act.

30

31 5. This act shall take effect the first day of the seventh month  
32 next following the date of enactment.

33

34

35

## STATEMENT

36

37 This bill establishes requirements for the sale of home baked  
38 goods that do not require further cooking or refrigeration for food  
39 safety and are not a “potentially hazardous food,” which is defined  
40 to mean a food that requires time or temperature control for safety  
41 to limit pathogenic microorganism growth or toxin formation.  
42 Home baked goods may be made using a potentially hazardous  
43 food, provided that the final product as offered for sale is not a  
44 potentially hazardous food.

45 Under the bill, baked goods may not be sold or offered for sale  
46 except at the home baker’s home, a consumer’s home, a farmer’s  
47 market, a farm stand, or a county, municipal, or nonprofit fair,  
48 festival, or event; the bill prohibits selling or offering for sale home

1 baked goods over the Internet, wholesale, or to a commercial  
2 retailer for resale. The gross income generated by the home baker  
3 from the sale of baked goods may not exceed \$50,000 per year.  
4 The home baker and any person assisting the home baker must  
5 possess a current, valid food handler's certificate issued by the  
6 Department of Health (DOH), which is to be on display at the point  
7 of sale. Baked goods are to be packaged in a manner that prevents  
8 or reduces the risk of contamination, unless the size, shape, or other  
9 characteristics of the baked good makes such packaging impractical  
10 or unnecessary. Finally, each baked good is to be labeled with the  
11 name of the home baker and the address where the baked good was  
12 prepared; the home baker's food handler certification number; the  
13 name of the baked good, including a description of the type or  
14 nature of the baked good if not apparent from the name; any major  
15 food allergens used as an ingredient in the baked good, such as  
16 eggs, nuts, wheat, soy, dairy, or peanuts; and a statement that reads:  
17 "This food was prepared in a kitchen that may not be subject to  
18 regular inspection by health authorities."

19 Applications for a food handler certification are to be submitted  
20 to the DOH for approval, and will include a description of the  
21 nature and type of each baked good that the home baker intends to  
22 prepare and sell; an acknowledgement the home baker will be  
23 limited to preparing those listed goods; and attestations the home  
24 baker will report income and comply with all applicable State and  
25 federal laws. There will be no limit on the number or types of  
26 baked goods that may be authorized under a single food handler  
27 certification. A food certification may be amended to add new  
28 baked goods by application to the DOH; the fee to apply for an  
29 amended food handler certification will be \$50 or the actual  
30 administrative costs of processing the application, whichever is less.  
31 A home baker may apply to amend a food handler certification no  
32 more than once per certification period. The food handler  
33 certification fee will be \$300. Food handler certifications will be  
34 valid for one year; the DOH is to provide the home baker with one  
35 written notification of the renewal deadline at least 30 days in  
36 advance.

37 The preparation and sale of home baked goods may not be  
38 regulated or restricted by municipal ordinance. Nothing in the bill  
39 will prohibit a neighbor or other affected person from bringing a  
40 nuisance action against a home baker.

41 Local boards of health having will be required to conduct an  
42 inspection of the kitchen that will be used by applicant for a food  
43 handler certification prior to issuance of the certification, and will  
44 have the authority to conduct an inspection of baked goods or the  
45 place in which the baked goods are prepared as often as the local  
46 board of health deems necessary. If the board finds baked goods or  
47 the conditions under which they are prepared constitute an  
48 immediate and serious threat to human life or health, the board may

1 order any appropriate relief, including, but not limited to:  
2 confiscation or destruction of the baked goods; remedial action to  
3 correct an unsafe or potentially hazardous condition; or temporarily  
4 suspending or permanently revoking a food handler certification  
5 issued to the home baker.

6 The DOH will be required to develop a procedure for providing  
7 notice to local boards of health when a person located within the  
8 jurisdiction of the local board of health applies for an initial food  
9 handler certification, and for receiving a report concerning the  
10 results of the initial inspection of the kitchen or other areas that will  
11 be used by the applicant to prepare baked goods. Home bakers  
12 applying for or issued a food handler certification will be required  
13 to provide the local board of health with access to any kitchen or  
14 food preparation area used by the home baker, which access is to be  
15 provided for inspection purposes.

16 The bill sets forth specific lists of home baked goods that may be  
17 prepared and sold under the bill as well as a list of foods and food  
18 products that cannot be prepared and sold under the bill. The DOH  
19 is to periodically review and revise these lists as appropriate, and in  
20 consultation with current scientific literature.