

# SENATE, No. 73

## STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Senator CHRISTOPHER "KIP" BATEMAN**

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

**Senator PAUL A. SARLO**

**District 36 (Bergen and Passaic)**

**Co-Sponsored by:**

**Senators Doherty, Oroho, Turner, Cardinale and T.Kean**

**SYNOPSIS**

Establishes requirements for sale of home baked goods.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



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

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

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

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

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