Sponsored by:
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District 16 (Hunterdon, Mercer, Middlesex and Somerset)
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Co-Sponsored by:
Senators Doherty, Oroho, Turner, Cardinale, T.Kean and A.M.Bucco

SYNOPSIS
Establishes requirements for sale of home baked goods.

CURRENT VERSION OF TEXT
As reported by the Senate Health, Human Services and Senior Citizens Committee on June 11, 2020, with amendments.
AN ACT concerning home baked goods and supplementing Title 24 of the Revised Statutes.

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

1. As used in this act:
   “Baked goods” means ready-to-eat baked food listed in subsection a. of section 4 of this act that does not require further cooking or refrigeration for food safety, and which is not a potentially hazardous food. Baked goods may contain ingredients which constitute potentially hazardous food, provided that the baked good as presented for sale is not a potentially hazardous food.
   “Baked goods” shall not include bread, rolls, cakes, pies, pastries, candies, and cookies any food listed in subsection b. of section 4 of this act.
   “Commissioner” means the Commissioner of Health.
   “Department” means the Department of Health.
   “Home baker” means a person who prepares baked goods in a kitchen in a private home that is not subject to regulation and inspection by the Department of Health.
   “Potentially hazardous food” means a food that requires time or temperature control for safety to limit pathogenic microorganism growth or toxin formation.

2. A home baker may sell baked goods prepared by the home baker in a kitchen in a private home, provided the following requirements are met:
   a. The baked goods shall not be sold or offered for sale except at the home baker’s home, a consumer’s home, a farmer’s market, a farm stand, or a county, municipal, or nonprofit fair, festival, or event. A home baker shall not sell or offer for sale baked goods over the Internet, wholesale, or to a commercial retailer for resale;
   b. The gross income generated by the home baker from the sale of baked goods shall not exceed $50,000 per year;
   c. The home baker, and any person assisting the home baker in the preparation of baked goods, shall possess a current, valid food handler’s certificate issued by a food handler certification agency approved by the Commissioner of Health pursuant to subsection a. of section 3 of this act;
   d. A clearly-visible placard shall be placed at the point of sale, which shall state in clear, legible print that the baked goods were prepared in a kitchen that is not subject to regulation and inspection by the Department of Health.

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

EXPLANATION – Matter enclosed in bold-faced brackets in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
Senate SHH committee amendments adopted June 11, 2020.
e. Baked goods shall be packaged in a manner that prevents or reduces the risk of contamination, unless the size, shape, or other characteristics of a baked good makes such packaging impractical or unnecessary; and

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

1. the name of the home baker's food handler certification number, and the address where the baked good was prepared;
2. the name of the baked good, including a description of the type or nature of the baked good if not apparent from the name;
3. any major food allergens used as an ingredient in the baked good, including, but not limited to, eggs, nuts, wheat, soy, dairy, and peanuts; and
4. the following statement: “This food [is made] was prepared in a [home] kitchen that is not subject to regulation and inspection by the Department of Health.”

3. a. The Commissioner of Health shall promulgate a list of food handler certification agencies that are approved to issue food handler certificates to home bakers and other persons for the purposes of this act. The Department of Health shall have no other authority to regulate or inspect home bakers or the sale or production of baked goods prepared by home bakers. An application for a food handler certification authorizing the individual to sell baked goods prepared in a kitchen in a private home pursuant to this act shall be submitted to the department for approval. The application shall include:

(a) the nature and type of each baked good that the home baker intends to prepare and sell;
(b) an acknowledgement that the home baker will only be authorized to prepare and sell those home baked goods expressly included in an approved food handler certification, and that the home baker’s food handler certification may be revoked upon a third or subsequent finding that the home baker has sold baked goods not included in the baker’s food handler certification;
(c) an attestation that the home baker will report income as required under State and federal law; and
(d) an attestation that the home baker will comply with all applicable State and federal labor laws.

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

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

(4) A food handler certification issued pursuant to this section shall be valid for one year and shall be renewable upon application to the department. The department shall provide the home baker with at least one written notification of the renewal deadline no less than 30 days prior to expiration of the home baker’s current food handler certification. The failure to submit a renewal application prior to the expiration date shall result in immediate termination of the food handler certification upon the expiration date, and the home baker shall be prohibited from selling baked goods prepared in a kitchen in a private home unless the home baker applies, and is approved, for a new food handler certification.

b. The local board of health having jurisdiction in the municipality in which the home baker resides or in which the home baker prepares, offers for sale, or sells baked goods shall conduct an inspection of the kitchen that will be used by each applicant for a food handler certification prior to issuance of the certification, and shall have the authority to conduct an inspection of the baked goods or the place in which the baked goods are prepared upon reasonable belief or credible report that the baked goods, or the conditions under which they are prepared, present an immediate and serious threat to human life or health as often as the local board of health deems necessary. If the board finds the baked goods or the conditions under which they are prepared constitute an immediate and serious threat to human life or health, the board may order any appropriate relief, including, but not limited to: confiscation or destruction of the baked goods; remedial action to correct an unsafe or potentially hazardous condition; or issuance of a temporary or permanent injunction prohibiting the home baker from preparing and selling baked goods temporarily suspending or permanently revoking a food handler certification issued to the home baker. The department shall develop a procedure for providing notice to local boards of health when a person located within the jurisdiction of the local board of health applies for an initial food handler certification, and for receiving a report concerning the results of the initial inspection of the kitchen or other areas that will be used by the applicant to prepare baked goods. Home bakers applying for or issued a food handler certification under this act shall provide the local board of health
with access to any kitchen or other area or location used by the home baker to prepare baked goods for the purposes of conducting inspections pursuant to this subsection.  

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

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

4. a. Subject to any actions taken by the commissioner pursuant to subsection c. of this section, baked goods that may be prepared and sold pursuant to this act shall be limited to: breads, other than fruit breads or vegetable breads; rolls; cinnamon rolls; biscuits; bagels; muffins; doughnuts; cookies; baklava; biscotti that are not topped with chocolate or candy melts; cakes; cake pops that are not topped with chocolate or candy melts; cupcakes; brownies; double-crust fruit pies; scones; fruit jams, jellies, and marmalades made with high acid or low pH fruits; commercially-dried spices or herbs that are repackaged or blended; repackaged dried or dehydrated vegetables; repackaged dried soup mixes; repackaged dried fruit; repackaged dried pasta; repackaged dry baking mixes; seasoning salt; fudge; popcorn; caramel corn; peanut brittle; rice cereal marshmallow bars; granola made using commercially roasted nuts; trail mix made using commercially roasted nuts; granola bars made using commercially roasted nuts; repackaged candy, other than chocolate; waffle cones; pizzelles; toffee or caramel apples that are not prepared using candy melts; confections, including toffees, caramels, and hard candies; vegetable chips, including potato chips; crackers; and pretzels.  

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

c. The commissioner shall periodically review the foods listed in subsections a. and b. of this section, along with the current scientific literature, and shall be authorized to take administrative action to add or remove foods from either list or to otherwise revise the requirements concerning baked goods authorized for sale pursuant to this act.
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2  § 4. This act shall take effect the first day of the seventh
3  month next following the date of enactment.