

[First Reprint]  
**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, 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.



**(Sponsorship Updated As Of: 6/29/2020)**

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 <sup>1</sup>listed in  
9 subsection a. of section 4 of this act<sup>1</sup> 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” <sup>1</sup>shall not<sup>1</sup> include <sup>1</sup>**[**, but are not limited to, bread,  
15 rolls, cakes, pies, pastries, candies, and cookies **]** any food listed in  
16 subsection b. of section 4 of this act.

17 “Commissioner” means the Commissioner of Health.

18 “Department” means the Department of Health<sup>1</sup> .

19 “Home baker” means a person who prepares baked goods in a  
20 kitchen in a private home that is not subject to regulation and  
21 inspection by the Department of Health.

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

25

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

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

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

36 c. The home baker, and any person assisting the home baker in  
37 the preparation of baked goods, shall possess a current, valid food  
38 handler’s certificate issued by <sup>1</sup>**[**a food handler certification agency  
39 approved by the Commissioner of Health **]** the department<sup>1</sup> pursuant  
40 to subsection a. of section 3 of this act;

41 d. <sup>1</sup>**[**A clearly-visible placard shall be placed at the point of  
42 sale, which shall state in clear, legible print that the baked goods  
43 were prepared in a kitchen that is not subject to regulation and  
44 inspection by the Department of Health **]**  
45 The home baker shall display the baker’s current, valid food handler  
46 certification issued pursuant to subsection a. of section 3 of this act  
47 at the point of sale<sup>1</sup> ;

EXPLANATION – Matter enclosed in bold-faced brackets **[ thus ]** 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:

<sup>1</sup>Senate SHH committee amendments adopted June 11, 2020.

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

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

7 (1) the name of the home baker <sup>1</sup>, the home baker's food handler  
8 certification number,<sup>1</sup> and the address where the baked good was  
9 prepared;

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

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

15 (4) the following statement: "This food <sup>1</sup>**[is made]** was  
16 prepared<sup>1</sup> in a <sup>1</sup>**[home]**<sup>1</sup> kitchen that is not subject to regulation  
17 and inspection by the Department of Health."  
18

19 3. a. <sup>1</sup>**[The Commissioner of Health shall promulgate a list of**  
20 **food handler certification agencies that are approved to issue food**  
21 **handler certificates to home bakers and other persons for the**  
22 **purposes of this act. The Department of Health shall have no other**  
23 **authority to regulate or inspect home bakers or the sale or**  
24 **production of baked goods prepared by home bakers]** (1) An  
25 application for a food handler certification authorizing the  
26 individual to sell baked goods prepared in a kitchen in a private  
27 home pursuant to this act shall be submitted to the department for  
28 approval. The application shall include:

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

31 (b) an acknowledgement that the home baker will only be  
32 authorized to prepare and sell those home baked goods expressly  
33 included in an approved food handler certification, and that the  
34 home baker's food handler certification may be revoked upon a  
35 third or subsequent finding that the home baker has sold baked  
36 goods not included in the baker's food handler certification;

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

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

41 (2) There shall be no limit on the number or types of baked  
42 goods that may be authorized under a single food handler  
43 certification, provided that the baked goods are limited to those  
44 expressly authorized pursuant to subsection a. of section 4 of this  
45 act. A home baker seeking to prepare and sell a baked good not  
46 authorized under the home baker's current food handler  
47 certification may submit an application for an amended food

1 handler certification or include the additional baked goods in an  
2 application to renew a food handler certification. The fee to apply  
3 for an amended food handler certification shall be \$50 or the actual  
4 administrative costs of processing the application, whichever is less.  
5 A home baker may apply to amend a food handler certification no  
6 more than once per certification period.

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

10 (4) A food handler certification issued pursuant to this section  
11 shall be valid for one year and shall be renewable upon application  
12 to the department. The department shall provide the home baker  
13 with at least one written notification of the renewal deadline no less  
14 than 30 days prior to expiration of the home baker's current food  
15 handler certification. The failure to submit a renewal application  
16 prior to the expiration date shall result in immediate termination of  
17 the food handler certification upon the expiration date, and the  
18 home baker shall be prohibited from selling baked goods prepared  
19 in a kitchen in a private home unless the home baker applies, and is  
20 approved, for a new food handler certification<sup>1</sup>.

21 b. The local board of health having jurisdiction in the  
22 municipality in which the home baker resides or in which the home  
23 baker prepares, offers for sale, or sells baked goods shall <sup>1</sup>conduct  
24 an inspection of the kitchen that will be used by each applicant for a  
25 food handler certification prior to issuance of the certification, and  
26 shall<sup>1</sup> have the authority to conduct an inspection of <sup>1</sup>【the】<sup>1</sup>  
27 goods or the place in which the baked goods are prepared <sup>1</sup>【upon  
28 reasonable belief or credible report that the baked goods, or the  
29 conditions under which the baked goods are prepared, present an  
30 immediate and serious threat to human life or health】 as often as the  
31 local board of health deems necessary<sup>1</sup>. If the board finds <sup>1</sup>【the】<sup>1</sup>  
32 baked goods or the conditions under which they are prepared  
33 constitute an immediate and serious threat to human life or health,  
34 the board may order any appropriate relief, including, but not  
35 limited to: confiscation or destruction of the baked goods; remedial  
36 action to correct an unsafe or potentially hazardous condition; or  
37 <sup>1</sup>【issuance of a temporary or permanent injunction prohibiting the  
38 home baker from preparing and selling baked goods】 temporarily  
39 suspending or permanently revoking a food handler certification  
40 issued to the home baker. The department shall develop a  
41 procedure for providing notice to local boards of health when a  
42 person located within the jurisdiction of the local board of health  
43 applies for an initial food handler certification, and for receiving a  
44 report concerning the results of the initial inspection of the kitchen  
45 or other areas that will be used by the applicant to prepare baked  
46 goods. Home bakers applying for or issued a food handler  
47 certification under this act shall provide the local board of health

1 with access to any kitchen or other area or location used by the  
2 home baker to prepare baked goods for the purposes of conducting  
3 inspections pursuant to this subsection<sup>1</sup>.

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

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

10

11 <sup>1</sup>4. a. Subject to any actions taken by the commissioner  
12 pursuant to subsection c. of this section, baked goods that may be  
13 prepared and sold pursuant to this act shall be limited to: breads,  
14 other than fruit breads or vegetable breads; rolls; cinnamon rolls;  
15 biscuits; bagels; muffins; doughnuts; cookies; baklava; biscotti that  
16 are not topped with chocolate or candy melts; cakes; cake pops that  
17 are not topped with chocolate or candy melts; cupcakes; brownies;  
18 double-crust fruit pies; scones; fruit jams, jellies, and marmalades  
19 made with high acid or low pH fruits; commercially-dried spices or  
20 herbs that are repackaged or blended; repackaged dried or  
21 dehydrated vegetables; repackaged dried soup mixes; repackaged  
22 dried fruit; repackaged dried pasta; repackaged dry baking mixes;  
23 seasoning salt; fudge; popcorn; caramel corn; peanut brittle; rice  
24 cereal marshmallow bars; granola made using commercially roasted  
25 nuts; trail mix made using commercially roasted nuts; granola bars  
26 made using commercially roasted nuts; repackaged candy, other  
27 than chocolate; waffle cones; pizzelles; toffee or caramel apples  
28 that are not prepared using candy melts; confections, including  
29 toffees, caramels, and hard candies; vegetable chips, including  
30 potato chips; crackers; and pretzels.

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

43 c. The commissioner shall periodically review the foods listed  
44 in subsections a. and b. of this section, along with the current  
45 scientific literature, and shall be authorized to take administrative  
46 action to add or remove foods from either list or to otherwise revise  
47 the requirements concerning baked goods authorized for sale  
48 pursuant to this act.<sup>1</sup>

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2       <sup>1</sup>**[4.]** 5.<sup>1</sup> This act shall take effect the first day of the seventh  
3 month next following the date of enactment.