

[Second 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 amended by the Senate on June 29, 2020.



(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 ¹listed in
9 subsection a. of section 4 of this act¹ 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” ¹shall not¹ include ¹**[**, 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 Health¹ .

19 “Home baker” means a person who prepares baked goods ²**[**in a
20 kitchen in a private home that is not subject to regulation and
21 inspection by the Department of Health **]** in accordance with the
22 provisions of this act² .

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

26

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

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

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

37 c. The home baker, and any person assisting the home baker in
38 the preparation of baked goods, shall possess a current, valid food
39 handler’s certificate issued by ¹**[**a food handler certification agency
40 approved by the Commissioner of Health **]** the department¹ pursuant
41 to subsection a. of section 3 of this act;

42 d. ¹**[**A clearly-visible placard shall be placed at the point of
43 sale, which shall state in clear, legible print that the baked goods
44 were prepared in a kitchen that is not subject to regulation and

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:

¹Senate SHH committee amendments adopted June 11, 2020.

²Senate floor amendments adopted June 29, 2020.

1 inspection by the Department of Health] The home baker shall
2 display the baker's current, valid food handler certification issued
3 pursuant to subsection a. of section 3 of this act at the point
4 of sale¹ ;

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

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

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

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

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

19 (4) the following statement: "This food ¹[is made] was
20 prepared¹ in a ¹[home]¹ kitchen that ²[is] may² not ²be² subject to
21 ²[regulation and] regular² inspection by ²[the Department of
22 Health] health authorities² ."

23

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

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

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

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

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

46 (2) There shall be no limit on the number or types of baked
47 goods that may be authorized under a single food handler

1 certification, provided that the baked goods are limited to those
2 expressly authorized pursuant to subsection a. of section 4 of this
3 act. A home baker seeking to prepare and sell a baked good not
4 authorized under the home baker's current food handler
5 certification may submit an application for an amended food
6 handler certification or include the additional baked goods in an
7 application to renew a food handler certification. The fee to apply
8 for an amended food handler certification shall be \$50 or the actual
9 administrative costs of processing the application, whichever is less.
10 A home baker may apply to amend a food handler certification no
11 more than once per certification period.

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

15 (4) A food handler certification issued pursuant to this section
16 shall be valid for one year and shall be renewable upon application
17 to the department. The department shall provide the home baker
18 with at least one written notification of the renewal deadline no less
19 than 30 days prior to expiration of the home baker's current food
20 handler certification. The failure to submit a renewal application
21 prior to the expiration date shall result in immediate termination of
22 the food handler certification upon the expiration date, and the
23 home baker shall be prohibited from selling baked goods prepared
24 in a kitchen in a private home unless the home baker applies, and is
25 approved, for a new food handler certification¹.

26 b. The local board of health having jurisdiction in the
27 municipality in which the home baker resides or in which the home
28 baker prepares, offers for sale, or sells baked goods shall ¹conduct
29 an inspection of the kitchen that will be used by each applicant for a
30 food handler certification prior to issuance of the certification, and
31 shall¹ have the authority to conduct an inspection of ¹**["the"]¹** baked
32 goods or the place in which the baked goods are prepared ¹**["upon**
33 reasonable belief or credible report that the baked goods, or the
34 conditions under which the baked goods are prepared, present an
35 immediate and serious threat to human life or health] as often as the
36 local board of health deems necessary¹. If the board finds ¹**["the"]¹**
37 baked goods or the conditions under which they are prepared
38 constitute an immediate and serious threat to human life or health,
39 the board may order any appropriate relief, including, but not
40 limited to: confiscation or destruction of the baked goods; remedial
41 action to correct an unsafe or potentially hazardous condition; or
42 ¹**["issuance of a temporary or permanent injunction prohibiting the**
43 home baker from preparing and selling baked goods] temporarily
44 suspending or permanently revoking a food handler certification
45 issued to the home baker. The department shall develop a
46 procedure for providing notice to local boards of health when a
47 person located within the jurisdiction of the local board of health

1 applies for an initial food handler certification, and for receiving a
2 report concerning the results of the initial inspection of the kitchen
3 or other areas that will be used by the applicant to prepare baked
4 goods. Home bakers applying for or issued a food handler
5 certification under this act shall provide the local board of health
6 with access to any kitchen or other area or location used by the
7 home baker to prepare baked goods for the purposes of conducting
8 inspections pursuant to this subsection¹.

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

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

15

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

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

1 c. The commissioner shall periodically review the foods listed
2 in subsections a. and b. of this section, along with the current
3 scientific literature, and shall be authorized to take administrative
4 action to add or remove foods from either list or to otherwise revise
5 the requirements concerning baked goods authorized for sale
6 pursuant to this act.¹

7

8 ¹**[4.]** 5.¹ This act shall take effect the first day of the seventh
9 month next following the date of enactment.