

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 73

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 12, 2020

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 73.

As amended by the committee, this bill establishes requirements for the sale of home baked goods that do not require further cooking or refrigeration for food safety and are not a “potentially hazardous food,” which is defined to mean a food that requires time or temperature control for safety to limit pathogenic microorganism growth or toxin formation. Home baked goods may be made using a potentially hazardous food, provided that the final product as offered for sale is not a potentially hazardous food.

Under the amended bill, baked goods may 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; the bill prohibits selling or offering for sale home baked goods over the Internet, wholesale, or to a commercial retailer for resale. The gross income generated by the home baker from the sale of baked goods may not exceed \$50,000 per year. The home baker and any person assisting the home baker must possess a current, valid food handler’s certificate issued by the Department of Health (DOH), which is to be on display at the point of sale. Baked goods are to be packaged in a manner that prevents or reduces the risk of contamination, unless the size, shape, or other characteristics of the baked good makes such packaging impractical or unnecessary. Finally, each baked good is to be labeled with the name of the home baker and the address where the baked good was prepared; the home baker’s food handler certification number; the name of the baked good, including a description of the type or nature of the baked good if not apparent from the name; any major food allergens used as an ingredient in the baked good, such as eggs, nuts, wheat, soy, dairy, or peanuts; and a statement that reads: “This food was prepared in a kitchen that is not subject to regulation and inspection by the Department of Health.”

Applications for a food handler certification are to be submitted to the DOH for approval, and will include a description of the nature and type of each baked good that the home baker intends to prepare and sell; an acknowledgement the home baker will be limited to preparing those listed goods; and attestations the home baker will report income and comply with all applicable State and federal laws. There will be no limit on the number or types of baked goods that may be authorized under a single food handler certification. A food certification may be amended to add new baked goods by application to the DOH; the fee to apply for an amended food handler certification will 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. The food handler certification fee will be \$300. Food handler certifications will be valid for one year; the DOH is to provide the home baker with one written notification of the renewal deadline at least 30 days in advance.

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

Local boards of health having will be required to conduct an inspection of the kitchen that will be used by applicant for a food handler certification prior to issuance of the certification, and will have the authority to conduct an inspection of baked goods or the place in which the baked goods are prepared as often as the local board of health deems necessary. If the board finds 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 temporarily suspending or permanently revoking a food handler certification issued to the home baker.

The DOH will be required to 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 will be required to provide the local board of health with access to any kitchen or food preparation area used by the home baker for inspection purposes.

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

This bill was pre-filed for introduction in the 2020-2021 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amendments remove a requirement that the Department of Health (DOH) identify a list of approved food handler certification agencies, and instead provide that the DOH will directly issue food handler certifications under the bill. The amendments add specific provisions concerning applications, renewals, fees, amendments, and other aspects of a food handler certification issued by the DOH.

The committee amendments replace a requirement for a placard stating certain information to be placed at the point of sale, to instead provide that the home baker's food handler certification be on display at the point of sale. The amendments additionally add a requirement that the home baker's food handler certification number be included on the label of each baked good sold by the home baker.

The committee amendments revise the provisions of the bill concerning inspections by local boards of health to provide that, in lieu of only performing inspections in response to a belief or report that baked goods or the place they are prepared present a significant risk to the public health, local boards of health will be required to conduct an inspection of the home baker's kitchen before a food handler certification will be issued to a home baker, and that local boards of health may conduct additional inspections at their discretion. The DOH will be required to develop a system to notify local boards of health of food handler certification applications within their jurisdictions and to receive reports of initial inspections conducted by the local boards of health.

The committee amendments revise the actions and penalties that may be assessed if a home baker's kitchen is found to present an immediate and serious threat to human life to replace injunctive relief with specific action against the home baker's food handler certification.

The committee amendments add a section to the bill enumerating the types of home baked goods that are allowed to be prepared and sold under the bill, along with a list of goods that may not be prepared and sold under the bill.