

# ASSEMBLY CONSUMER AFFAIRS COMMITTEE

## STATEMENT TO

[Second Reprint]

**SENATE, No. 73**

# **STATE OF NEW JERSEY**

DATED: OCTOBER 19, 2020

The Assembly Consumer Affairs Committee reports favorably Senate Bill No. 73 (2R).

As reported 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.”

The bill defines “potentially hazard food” 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 bill, baked goods may not be sold or offered for sale except at a 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 a home baker from the sale of baked goods may not exceed \$50,000 per year. A 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: (1) the name of the home baker who prepared it and the address where it was prepared; (2) the home baker’s food handler certification number; (3) the name of the baked good, including a description of the type or nature of the baked good if not apparent from the name; (4) any major food allergens used as an ingredient in the baked good, such as eggs, nuts, wheat, soy, dairy, or peanuts; and (5) a statement that reads: “This food was prepared in a kitchen that may not be subject to regular inspection by health authorities.”

Under the bill, applications for a food handler certification are to be submitted to the DOH for approval. A home baker’s application is required to include: (1) a description of the nature and type of

each baked good that a home baker intends to prepare and sell; (2) an acknowledgement the home baker will be limited to preparing those listed goods; and (3) 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, and the DOH is to provide a 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.

Prior to issuance of a food handler certification, the local board of health having jurisdiction over the kitchen to be used by the applicant will be required to conduct an inspection of the kitchen. Additionally, the local board of health 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 board 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: (1) confiscation or destruction of the baked goods; (2) remedial action to correct an unsafe or potentially hazardous condition; or (3) 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 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 purposes of inspection.

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 review and revise these lists periodically and in consultation with current scientific literature.

As reported by the committee, Senate Bill No. 73 (2R) is identical to Assembly Bill No. 4580, which also was reported by the committee on this same date.