

Legislative Analysis



EXEMPTION FROM FOOD LAW FOR "COTTAGE FOOD OPERATIONS"

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House Bill 5280

Sponsor: Rep. John Proos

House Bill 5837

Sponsor: Rep. Pam Byrnes

Committee: Agriculture

Complete to 5-5-10

A REVISED SUMMARY OF HOUSE BILL 5280 AS INTRODUCED 8-26-09 AND HOUSE BILL 5837 AS INTRODUCED 2-17-10

These bills, identical as introduced, would exempt a "cottage food operation" from the licensing and inspection provisions of the Food Law of 2000. A "cottage food operation" is defined as a person who produces or packages a "non-potentially hazardous" food (such as baked goods, jams, jellies, candy, snack foods, cereal, granola, dry mixes, vinegar, or dried herbs) in a home kitchen (the kitchen of the person's primary domestic residence). A cottage food operation would still have to comply with the labeling, adulteration, disclosure, and other provisions found in the Food Law, as well as other applicable state or federal laws, or local ordinances.

Non-potentially hazardous food. The bill defines "non-potentially hazardous food" as that term is defined in the Food Code. "Food Code" refers to the 2005 recommendations of the U.S. Food and Drug Administration Public Health Service regulating the design, construction, management and operation of certain food establishments. The term "non-potentially hazardous food" includes, but is not limited to, ***"baked goods, jams, jellies, candy, snack food, cereal, granola, dry mixes, vinegar, and dried herbs."*** The following foods are not "non-potentially hazardous" (and thus could not be sold by an unlicensed cottage food operation): home canned low-acid or acidified vegetables, home-canned salsa, or home-canned food; food service items; ready-to-eat meals, meat, sandwiches, cheese, or custard pies; garlic in oil; food that requires temperature control for safety; and bottled water, home-produced ice products, and other beverages and products."

Additional labeling requirement. A cottage food operation would have to place the following statement (or a substantially similar one) on the label of any food it produced or packaged: ***"Made in a home kitchen that has not been inspected by the Michigan Department of Agriculture."***

Sales locations. A "non-potentially hazardous" food from a cottage food operation could only be sold in the following places: "homes, farm markets, or roadside stands; municipal farmers markets; county fairs; and town celebrations, festivals, and events." This type of food could not be sold by a non-licensed cottage food operation (1) at craft shows, flea

markets, or other for-profit events; (2) by means of the Internet or other media inside or outside of Michigan; (3) at permanent sales venues other than farmers markets, homes, or roadside stands; or (4) by means of consignment or in other licensed retail establishments.

Gross sales. To qualify for the exemption, the cottage food operation could not have gross sales of non-potentially hazardous foods of more than \$15,000 annually. The Department of Agriculture could make a written request for documentation to verify the operation's gross sales.

MCL 289.1105, 289.1109, & 289.4102

[Note: The bills are similar to House Bill 4568, introduced by Rep. Terry Brown, in the 2007-2008 Legislative Session.]

FISCAL IMPACT:

A fiscal analysis is in process.

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