



The Evolution of Cottage Food Regulation in Illinois

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Cottage food laws are state-by-state regulations intended to facilitate the development of local food and economies by reducing the obstacles small food producers face in market entry.¹ The laws are designed to exempt the sale of certain non-hazardous foods by small scale-producers from food safety regulations so that these individuals are able to market food directly to consumers.² For example, many of the food safety laws that regulate food production were designed for large processors, whereby food is prepared in a certified commercial kitchen that has met certain requirements to ensure food safety.³ However, these requirements also serve as significant economic hurdles for small food producers seeking to make low risk (non-potentially hazardous) foods—products which do not present the same safety risks as other processed items.⁴

Cottage food laws are a relatively new regulatory development. States first explored regulatory relief through legislation in the early 2010's. Several variables to consider when constructing this legislation included: who will be exempt, what specific foods qualify for the exemption, where and how food may be sold, and what labeling is required to inform the consumer that the food was not produced in an inspected commercial kitchen.⁵ Because cottage food laws and the food industries that utilize them are so new, law makers in Illinois have had to amend the statute more than once to adapt the requirements to best serve the communities they were enacted to help and maintain the growth in this sector of the food economy.

Illinois originally passed the Local Food Entrepreneur and Cottage Food Operation Act in August of 2011, with the Cottage Food Exemption effective January, 1 2012.⁶ The exemption first defines a cottage food

¹Allison Condra, *Food Sovereignty in the United States: Supporting Local and Regional Food Systems*, 8 J. FOOD L. & POL'Y 281, 314 (2012).

² Nina W. Tarr, *Food Entrepreneurs and Food Safety Regulations*, 7 J. FOOD L. & POL'Y 35, 58 (2011).

³ Allison Condra, *Cottage Food Laws in the United States*, available online at http://www.chlpi.org/wp-content/uploads/2013/12/FINAL_Cottage-Food-Laws-Report_2013.pdf

⁴ *Id.*

⁵ Nina W. Tarr, *Food Entrepreneurs and Food Safety Regulations*, 7 J. FOOD L. & POL'Y 35, 58-59 (2011).

⁶ 400 Ill. Comp. Stat 625/4; Megan Galey & A. Bryan Endres, *Locating the Boundaries of Sustainable Agriculture*, 17 NEXUS: CHAP. J. L. & POL'Y 3, 158 (2012).

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operation as “...a person who produces or packages non-potentially hazardous food in a kitchen of that person’s primary domestic residence for direct sale by the owner or a family member....”⁷ The statute also dictates that cottage foods may only be sold at a farmers’ market, and defines potentially hazardous foods using the 2009 Food Code definition: “potentially hazardous food in general means a food that requires time and temperature control for safety to limit pathogenic microorganism growth or toxin formation.”⁸ The exemption only applies to cottage food operators who sell non-potentially hazardous baked goods, jams or jellies, fruit butters, dried herbs, or dried tea blend and whose gross receipts from sales do not exceed \$25,000 per year.⁹ Additionally, cottage food operators must display a certain label and a placard that informs consumers that the product was produced in a home kitchen.¹⁰ To ensure background knowledge of food safety, the cottage food operator must have an Illinois Food Service Sanitation Manager Certificate and register with the proper local health department.¹¹

The Illinois legislature decided to update the law in 2014 to clarify the original statute, expand the definition of a cottage food operation, and ensure that local public health departments were not charging high fees for registration. The expanded definition of a cottage food operation broadened the processing locations to incorporate not just a kitchen in a primary residence, but also “another appropriately designed and equipped residential or commercial-style kitchen on that [person’s] property.”¹²

Further amendments, effective January 1, 2016, included efforts to expand the rights of cottage food operators, including allowing employees, instead of solely the operator and his or her family, to market food products to consumers.¹³ Additionally, the Department of Public health was given more flexibility to amend the law and adopt other rules as needed to implement the statute’s intent.¹⁴ While most cottage food must still be sold at farmers’ markets, a new addition to the statute allows foods that have a locally grown agricultural product as the main ingredient to be sold on the farm where the agricultural product was grown.¹⁵ This provides additional marketing outlets for farm stands and other on-farm entrepreneurial activity. Finally, the amount of allowable gross receipts for the sale of cottage food per year was increased from \$25,000 to \$36,000 per year.¹⁶

The evolution of cottage food law regulations in Illinois has happened quickly over the course of the last five years, but there is still room to broaden cottage food operators’ opportunities. Many states have less restrictive laws that allow a longer list of non-hazardous foods to be sold at locations beyond farmers’ markets or on farm sales.¹⁷ Regardless of whether Illinois further liberalizes the cottage food regulatory exemption, it is clear that consumer demand for these artisan/home made products illustrates further shortening supply chains and is part of a broader movement of bringing consumers closer to their source of food and may have other important impacts on agricultural production in the future.

⁷ 400 Ill. Comp. Stat. 625/4(a) (2012).

⁸ 400 Ill. Comp. Stat. 625/4(a) (2012).

⁹ 400 Ill. Comp. Stat. 625/4(b)(1),(3) (2012).

¹⁰ 400 Ill. Comp. Stat. 625/4(b)(4),(7) (2012).

¹¹ 400 Ill. Comp. Stat. 625/4(b)(5),(6) (2012).

¹² 400 Ill. Comp. Stat. 625/4(a) (2014).

¹³ 400 Ill. Comp. Stat. 625/4(a) (2016).

¹⁴ 400 Ill. Comp. Stat. 625/4(e) (2016).

¹⁵ 400 Ill. Comp. Stat. 625/4(b)(2) (2016).

¹⁶ 400 Ill. Comp. Stat. 625/4(b)(3) (2016).

¹⁷ Allison Condra, Cottage Food Laws in the United States, available online at http://www.chlpi.org/wp-content/uploads/2013/12/FINAL_Cottage-Food-Laws-Report_2013.pdf