

# Illinois Cottage Food Operation Law of 2011 – Fact Sheet

## A Cottage Food Operation

The Illinois Law definition: a “Cottage Food Operation” is a business operated by a person at the farmers market 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 family member. The food is stored in the residence where the food is made. No prior inspection or use of a certified kitchen is required.

## Cottage Food Operator Requirements

1. The name and residence of the person preparing and selling products as a cottage food operation is registered with the county health department of a unit of local government where the cottage food operation resides. A fee may be charged for registration.
2. The person preparing and selling products as a cottage food operation has a current Department of Public Health approved Food Service Sanitation Management Certificate.

## Farmers Market

In Illinois, a Cottage Food Operation may only sell products at a farmers market. “Farmers’ Market” means a common facility or area where farmers gather to sell a variety of fresh fruits and vegetables and other locally produced farm and food products directly to consumers.

Items sold by a cottage food operation are intended for end-use only. Gross receipts from the sale of food exempted under the cottage food law may not exceed \$25,000 in a calendar year. Products can’t be re-sold to retail stores, restaurants, on the internet, by mail order, to wholesalers, brokers, or other food distributors who resell food. .

## Potentially Hazardous Foods (PHF)

"Potentially hazardous food" means a food that is potentially hazardous according to the Federal Food and Drug Administration 2009 Food Code.

PHF in general means a food that requires time and proper temperature control to keep it safe and reduce the risk of spoilage (pathogenic microorganism growth or toxin formation). In accordance with the FDA 2009 Food Code, potentially hazardous food does not include a food item that because of its high acid (pH) and/or lack of water (Aw) is designated as a non-PHF or non-temperature controlled food.

## Non-Potentially Hazardous Foods (non-PHF)

Foods prepared for sale by a Cottage Food Operation: only non-potentially hazardous baked goods, jams, jellies, fruit preserves, fruit butters, dry herbs, dry herb blends, and dry tea blends intended for end-use consumption are permitted.

- **Jams, Jellies, and Preserves:** Fruits are naturally high in food acid. Only high acid jams, jellies, and preserves made from the following fruits are permitted: apple, apricot, grape, peach, plum, quince, orange, nectarine, tangerine, blackberry, raspberry, blueberry, boysenberry, cherry, cranberry, strawberry, red

### Potentially Hazardous Foods: 2009 FDA Food Code

- Meat (beef, pork, lamb)
- Poultry (chicken, turkey, duck, etc.)
- Fish (tuna, salmon, etc.)
- Shellfish and crustaceans (shrimp, crab, clam, etc.)
- Shell Eggs
- Milk and milk products
- Heat-treated plant food (cooked rice, beans, or vegetables)
- Baked or boiled potatoes
- Cut leafy greens
- Cut tomatoes
- Raw sprouts and seeds
- Tofu and soy-protein foods
- Untreated garlic and oil mixtures
- Cut melons: like watermelon, cantaloupe, honeydew

currants, or a combination of those fruits.

- **Low sugar Jams and Jellies:** The best practice for low sugar jams and jellies or those using sugar substitute is that they be processed only in a boiling water canner for a minimum of ten (10) minutes and not by any other methods unless water activity is determined by a commercial lab to be less than 0.85.
- **What about other flavors?** Any other jams, jellies, or preserves not listed may be produced by a cottage food operation provided their recipe has been tested and documented by a commercial laboratory as containing a pH level equilibrium of less than 4.6.
- **Fruit Butters:** Only high acid fruit butters are permitted. Fruit butters made from: apple, apricot, grape, peach, plum, quince, and prune. Any other fruit butter not listed may be produced by a cottage food operation provided their recipe has been tested and documented by a commercial laboratory as containing pH of less than 4.6. and water activity of less than 0.85.
- **Baked Goods Permitted:** Baked goods, such as, but not limited to, breads, cookies, cakes, fruit pies, and pastries
- **Fruit Pies Permitted:** high-acid fruit pies made of: apple, apricot, grape, peach, plum, quince, orange, nectarine, tangerine, blackberry, raspberry, blueberry, boysenberry, cherry, cranberry, strawberry, red currants, or a combination of these fruits.
- **Fruit pies not listed** may be produced by a cottage food operation provided their recipe has been tested by a Commercial Laboratory and documented by the laboratory as containing a pH equilibrium of less than 4.6

### What Foods are NOT Permitted

Foods not permitted to be manufactured for Sale by a Cottage Food Operation: Any potentially hazardous food (as defined by the 2009 FDA Food Code or subsequent amendments) is prohibited from being produced and sold under the cottage food law. That includes, but is not limited to:

- Meat products, dairy products, canned vegetables, pickled products, raw seed sprouts, and generally any food item that requires time and temperature control for food safety are **NOT permitted**.
- Jams, Jellies, and Preserves: Rhubarb, tomato, watermelon, and pepper jellies or jams **are NOT permitted**
- Fruit Butters: Pumpkin, rhubarb, tomato, banana, and pear butters are **NOT permitted**.
- Baked Goods: Pumpkin pie, sweet potato pie, cheese cake, custard pies, crème pies, and pastries with potentially hazardous fillings or toppings are **NOT permitted**.

### Labeling Requirements

#### 1) Food Label

The food packaging must conform to the labeling requirements of the Illinois Food, Drug and Cosmetic Act and includes the following information on each of its products:

- a. The name and address of the cottage food operation (not a Post Office Box) no out of state operations.
- b. The common or usual name of the food product and weight (net weight and metric weight)
- c. All ingredients of the food product, including any colors, artificial flavors, and preservatives. Ingredients must be listed in descending order by weight using common or usual names. Sub ingredients as well: example: (soy sauce: wheat, soybeans, salt)
- d. Allergen labeling as specified in federal labeling requirements (see below)
- e. The date the product was processed (prepared)

- f. The label may be hand written or printed large enough to be easily read
- g. At the point of sale a placard is displayed in a prominent location that states the following:  
*"This product was produced in a home kitchen not subject to public health inspection that may also process common food allergens."*

## **2) Allergen Labeling as Specified in Federal Labeling Requirements**

A cottage food operation label must identify if any of the ingredients are made from one of the following food groups: milk, eggs, wheat, peanuts, soybeans, fish, Crustacean/shellfish, and tree nuts (identify which nut: i.e., almonds) and any ingredient made from these food groups. Example: If the cottage food operation is making wheat bread they have the following two options:

- a. Include the allergen in the ingredient list. For example, a white bread with the following ingredient listings: whole wheat flour, water, salt and yeast. In this example, the statement "Whole wheat flour" is the allergen and this statement meets the requirements of federal law.
- b. Include an allergen statement ("Contains.") after the ingredient list. For example a white bread with the following ingredients: Whole wheat flour, water, sodium caseinate, salt and yeast. Contains: wheat and milk. The "contains" statement must include all the allergens found in the product.

### **Additional Cottage Food Safety Information**

If the Illinois Department of Public Health or a unit of local government has received a consumer complaint or has reason to believe that an imminent health hazard exists or that a cottage food operation's product has been found to be misbranded, adulterated or not in compliance with the cottage food law then it may invoke cessation of sales until it deems that the situation has been addressed.

A state-certified local public health department may, upon providing a written statement to the Illinois Department of Public Health take the additional regulatory measures:

- a. Include a reasonable fee for registration set by the local public health department
- b. Require that as part of the registration a cottage food operation must agree to grant access to the local public health department to conduct an inspection of the cottage food operation in the event of a consumer complaint or foodborne illness outbreak.
- c. In the event of a consumer complaint or foodborne illness a local health department is allowed to inspect the premises of the cottage food operation in question and set a reasonable fee for that inspection.

### **Other States with Cottage Food Laws**

In July 2011, Michigan passed a cottage food law. According to the Chicago Tribune: At the moment, 26 of the 50 states have enacted cottage food laws, which allow the production of non-hazardous foods such as cakes, cookies, pies, preserves and baking mixes in home kitchens. The states include: Alabama, Georgia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, New Mexico, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, Utah, Vermont, Virginia, Washington and Wyoming.

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Source: 2009 FDA Model Food Code: Illinois Department of Public Health TIB #44: Senate Bill 840 and Table A/B of the FDA 2009 Food Code's potentially hazardous food definition