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# A BILL FOR AN ACT

RELATING TO VALUE-ADDED PRODUCTION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that local food  
2 production is integral to the State's economic development and  
3 food security. The legislature recognizes that what the  
4 department of health calls "homemade food" is what most states  
5 define as "cottage food". Cottage food, or homemade food that  
6 is sold directly to consumers, is a small but growing industry,  
7 and is preferred among many consumers who are mindful of  
8 responsible sourcing and healthy eating options and those who  
9 want to support the local communities and individuals producing  
10 the foods they consume.

11           The legislature further finds that there is great interest  
12 in small-scale homemade food operations in the State, but the  
13 existing regulatory framework creates several challenges for  
14 entrepreneurs, including those in rural areas who do not have  
15 access to commercial or certified kitchens or those who no  
16 longer have access to commercial or certified kitchens. In  
17 fact, Hawaii is one of only a few remaining states that does not



1 provide certain exemptions from its department of health  
2 regulations for homemade food products. The legislature further  
3 recognizes that expanding access to local homemade food products  
4 should require the same food safety training and certification  
5 as those required of other food establishments in the State.

6 The legislature further believes that allowing homemade  
7 food operations to sell homemade food products in the State  
8 under certain conditions would grow small businesses; foster  
9 innovation and economic growth; offer locally made alternatives  
10 to imported brands; create local employment opportunities; keep  
11 more money within the local economy; and increase tax revenues  
12 to support the growing needs of the State, including ongoing  
13 wildfire relief efforts. Notably, the legislature also believes  
14 that implementing exemptions for small-scale homemade food  
15 operations will provide a valuable opportunity for local  
16 entrepreneurs to bring their homemade food products to market  
17 and can serve as an essential lifeline for producers impacted by  
18 the recent August 2023 Maui wildfire.

19 Accordingly, the purpose of this Act is to establish the  
20 Access to Local Value-Added Products Act and allow homemade food



1 operations to sell homemade food products, under certain  
2 conditions.

3 SECTION 2. Chapter 328, Hawaii Revised Statutes, is  
4 amended by adding a new part to be appropriately designated and  
5 to read as follows:

6 "PART . ACCESS TO LOCAL VALUE-ADDED PRODUCTS ACT: HOMEMADE

7 FOOD OPERATIONS

8 §328-A Definitions. For purposes of this part, the  
9 following definitions shall apply:

10 "Delivered" means to be transferred from a homemade food  
11 operator to a consumer, either immediately upon sale or at a  
12 time thereafter.

13 "Department" means the department of health.

14 "Farm kitchen" means a kitchen that is designed for private  
15 use, is located in a building on a farm and not in a private  
16 home, and complies with all applicable building and zoning laws.

17 "Home kitchen" means a kitchen designed and intended for  
18 use by the residents of a private home. A home kitchen may  
19 contain one or more stoves, ovens, and other pieces of equipment  
20 designed for residential use as allowed by county building  
21 ordinances. A home kitchen may also contain one or more pieces



1 of equipment designed for commercial use if allowed by county  
2 building ordinances.

3 "Homemade food operation" means an enterprise that is  
4 operated by a homemade food operator and produces homemade food  
5 products only in the home kitchen of the homemade food  
6 operator's private home or in a farm kitchen pursuant to this  
7 part.

8 "Homemade food operator" means a person who operates a  
9 homemade food operation in the person's private home kitchen or  
10 farm kitchen and who is the owner of the homemade food  
11 operation.

12 "Homemade food product" means a food product prepared for  
13 sale in the private home kitchen or farm kitchen of a homemade  
14 food operation.

15 "Potentially hazardous homemade food product" means a food  
16 product that requires time or temperature control for safety to  
17 limit pathogenic microorganism growth or toxin formation.

18 "Prepared" means a homemade food product that has been  
19 acidified, baked, cooked, cut, dehydrated, dried, fermented,  
20 grown, mixed, pickled, preserved, raised, or otherwise  
21 processed.



1 "Private home" means a dwelling, including an apartment or  
2 other leased space where individuals reside, that complies with  
3 all applicable county ordinances if used in the production of  
4 homemade food products.

5 "Seller" means a person or entity, other than a homemade  
6 food operator, who sells a non-potentially hazardous homemade  
7 food product to a consumer.

8 **§328-B Requirements for homemade food operations; rules.**

9 (a) A homemade food operation shall register with the  
10 department pursuant to section 328-C.

11 (b) A homemade food operation shall submit for each  
12 homemade food operator proof of a valid:

13 (1) Food handlers education certificate issued by the  
14 department or other food handler training certificate  
15 program accredited by the American National Standards  
16 Institute; and

17 (2) Food safety manager certificate issued by a program  
18 accredited by the American National Standards  
19 Institute.

20 (c) A homemade food operation that sells products that are  
21 prepared by using the preservation methods of:



1           (1) Freeze drying;

2           (2) Jelly, jam, preserve, and conserve making;

3           (3) Acidifying and pasteurizing low-acid products;

4           (4) Pasteurized pickling;

5           (5) Pasteurized fermenting; or

6           (6) Dehydrating;

7 shall submit proof of a valid certificate from Hawaii Master

8 Food Preservers, Inc. or a comparable department-approved

9 certificate for each homemade food operator in addition to the

10 requirements of subsection (b).

11           (d) In lieu of a valid certificate from Hawaii Master Food

12 Preservers, Inc. or a comparable department-approved

13 certificate, a homemade food operation that sells products using

14 the preservation methods under subsection (c) shall submit a

15 food sample of the product to be sold to consumers to a

16 department-approved laboratory or food testing facility to have

17 the food tested and the recipe approved for appropriate pH

18 (degree of acidity or alkalinity) and water values for food

19 safety. A homemade food operation that sells a product made

20 through the use of preservation methods that does not have proof



1 of a valid certificate from Hawaii Master Food Preservers, Inc.  
2 or a comparable department-approved certificate shall:

3 (1) Only sell products made from recipes that have been  
4 approved by:

5 (A) The department pursuant to this subsection;

6 (B) Organizations and institutions such as the  
7 National Center for Home Food Preservation;  
8 Hawaii Master Food Preservers, Inc.; or  
9 universities with participating master food  
10 preservers; or

11 (C) Additional organizations and institutions  
12 approved by the department that approve recipes  
13 for appropriate pH and water values for food  
14 safety; and

15 (2) Maintain proof that the recipe for the product being  
16 sold comes from an approved source.

17 (e) A homemade food product that is prepared by using the  
18 preservation methods in subsection (c) shall be classified as a  
19 non-potentially hazardous homemade food product by the  
20 department; provided that the requirements of subsections (c) or  
21 (d) are met.



1 (f) The department shall post the requirements for  
2 homemade food operations pursuant to this part on its website.

3 (g) The department may adopt rules on food safety  
4 training, food testing, and registration requirements pursuant  
5 to chapter 91 to carry out the purposes of this part.

6 **§328-C Homemade food operations; requirements;**

7 **registration; fee.** (a) A homemade food operation shall not  
8 engage in business unless the homemade food operation has  
9 registered with the department and has been issued a certificate  
10 of registration pursuant to this section.

11 (b) Each homemade food operation shall:

12 (1) Specify in its registration application:

13 (A) The names of each of its homemade food operators;

14 (B) Its hours of operations; and

15 (C) Information about the home or farm kitchen used  
16 by the homemade food operation and its food  
17 production as prescribed by rules adopted by the  
18 department pursuant to section 328-B on a form  
19 furnished by the department;

20 (2) Submit proof of applicable certificates pursuant to  
21 section 328-B; and





1 (3) Agree to allow the department to enter and inspect at  
2 the hours specified under paragraph (1)(B) its home or  
3 farm kitchen to conduct an inspection pursuant to  
4 section 328-E.

5 (c) An application fee in the amount of \$25 shall be  
6 collected by the department with each registration application  
7 under this section.

8 (d) The department shall issue a certificate of  
9 registration to a homemade food operation that meets the  
10 requirements of this section.

11 (e) The homemade food operation's certificate of  
12 registration shall authorize the homemade food operation to  
13 engage in direct and remote sale of its homemade food products  
14 at multiple locations, including by telephone or the Internet.

15 (f) Any food permit issued to a homemade food operation  
16 before July 1, 2024, shall remain in full force and effect until  
17 the department issues the homemade food operation a certificate  
18 of registration pursuant to this section.

19 **§328-D Homemade food products; labeling requirements.** (a)  
20 Any homemade food product produced by a homemade food operation  
21 shall be labeled as a homemade food product. The label shall be



1 displayed in a conspicuous place pursuant to subsection (b), and  
2 shall contain, in clearly displayed and legible type, the  
3 following:

- 4 (1) The words "Made in a Home or Farm Kitchen not  
5 routinely inspected by the Department of Health";
- 6 (2) Common name of the product or other descriptive name;
- 7 (3) Allergen identification information as specified under  
8 section 403 of the Federal Food, Drug, and Cosmetic  
9 Act, title 21 United States Code section 343;
- 10 (4) Ingredients listed in descending order of  
11 predominance; and
- 12 (5) Name and contact information of the homemade food  
13 operator.

14 The seller of any homemade food product shall have the  
15 information required by this section readily available upon  
16 request by a consumer.

17 (b) The information required by subsection (a) shall be  
18 provided:

- 19 (1) On a label affixed to the package if the homemade food  
20 product is packaged;



1 (2) On a label affixed to the container if the homemade  
2 food product is offered for sale from a bulk  
3 container;

4 (3) On a placard displayed at the point of sale if the  
5 homemade food product is neither packaged nor offered  
6 for sale from a bulk container; or

7 (4) On a webpage on which the homemade food product is  
8 offered for sale if the homemade food product is  
9 offered for sale on the Internet.

10 **§328-E Homemade food operations; investigation.** Nothing  
11 in this part shall be construed to limit the department in any  
12 investigation of a reported foodborne illness.

13 **§328-F Homemade food operations; consultation.** Nothing in  
14 this part shall preclude an agency from providing assistance,  
15 consultation, or inspection at the request of a homemade food  
16 operator or homemade food operation.

17 **§328-G Homemade food operations; construction.** This part  
18 shall not be construed to:

19 (1) Preclude the production or sale of food products  
20 otherwise permitted by law;



1 (2) Preclude the sale of live animals or portions of live  
2 animals before slaughter for future delivery;

3 (3) Change the regulation of other goods and services  
4 where homemade food products are also prepared,  
5 produced, or sold;

6 (4) Exempt producers or sellers of homemade food products  
7 from any applicable tax laws;

8 (5) Exempt producers or sellers of homemade food products  
9 from any applicable fishing or hunting laws;

10 (6) Exempt homemade food operations, homemade food  
11 operators, sellers, or homemade food products from any  
12 applicable federal law, including any federal law  
13 prohibiting the sale of certain food products in  
14 interstate commerce; or

15 (7) Exempt homemade food operators or sellers of homemade  
16 food products or homemade food products from any  
17 applicable law of another state.

18 **§328-H Limitation of liability.** The State and counties  
19 shall not be liable for claims associated with homemade food  
20 products distributed, delivered, or sold by homemade food  
21 operations, homemade food operators, or sellers, except for



1 instances of gross negligence and intentional misconduct by the  
2 State or counties.

3       **§328-I Preemption.** This part shall preempt county and  
4 other political jurisdictions or administrative rules  
5 prohibiting and regulating the production and sale of homemade  
6 food products unless authorized by this part."

7       SECTION 3. This Act does not affect rights and duties that  
8 matured, penalties that were incurred, and proceedings that were  
9 begun before its effective date.

10       SECTION 4. In codifying the new sections added by  
11 section 2 of this Act, the revisor of statutes shall substitute  
12 appropriate section numbers for the letters used in designating  
13 the new sections in this Act.

14       SECTION 5. This Act shall take effect on July 1, 2040.



**Report Title:**

DOH; Economic Development; Access to Local Value-Added Products Act; Homemade Food Operations; Registration; Rules

**Description:**

Establishes the Access to Local Value-Added Products Act to allow homemade food operations to sell homemade food products, under certain conditions, upon registering with the Department of Health. Takes effect 7/1/2040. (SD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

