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## A BILL FOR AN ACT

RELATING TO COTTAGE FOODS.

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

1           SECTION 1. Many states have cottage food laws that govern  
2 home-based food production businesses. These laws allow a  
3 person to prepare food products, including baked goods, jams,  
4 jellies, preserves, chocolates, and spice rubs from the home  
5 kitchen of a domestic residence and sell them directly to  
6 consumers. Hawaii is among the few states that does not have  
7 some type of cottage food law.

8           The legislature finds that cottage food laws promote  
9 economic recovery and vitality through small business ownership,  
10 as well as food security and sustainability by fostering  
11 connections between businesses, island-based farmers, and local  
12 communities.

13           The purpose of this Act, therefore, is to establish a  
14 cottage food law to allow home-based food production businesses  
15 to sell non-potentially hazardous food items directly to  
16 consumers if certain conditions are met.



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

4 "§328- Cottage food products; exemption. (a) The sale  
5 of cottage food products shall be permitted if the cottage food  
6 operator:

7 (1) Is registered with the department pursuant to  
8 subsection (d);

9 (2) Sells the cottage food products directly to consumers;  
10 provided that no cottage food operator shall offer any  
11 cottage food product for sale to consumers or  
12 otherwise via internet transaction;

13 (3) Takes all reasonable steps to protect the cottage food  
14 products intended for sale from contamination during  
15 preparation, processing, packaging, storage, handling,  
16 and distribution. Reasonable steps include, but are  
17 not limited to:

18 (A) Maintaining direct supervision of any person,  
19 other than the cottage food operator, engaged in  
20 the processing, preparing, packaging, storing,



1                   handling, or distribution of the cottage food  
2                   product intended for sale;

3           (B) Prohibiting all animals from entering the area in  
4           the dwelling where cottage food products are  
5           processed, prepared, packaged, stored, handled,  
6           or distributed, and prohibiting all animals from  
7           having access to, or coming into contact with,  
8           stored ingredients used for cottage food products  
9           intended for sale;

10          (C) Prohibiting all domestic activities in the area  
11          while cottage food products intended for sale are  
12          being processed, prepared, packaged, handled, or  
13          distributed; and

14          (D) Prohibiting any person infected with a  
15          communicable disease, who is a carrier of  
16          organisms that can cause a communicable disease,  
17          who has an infected wound, or who has an acute  
18          respiratory infection, from processing,  
19          preparing, packaging, handling, or distributing  
20          any cottage food product intended for sale;



- 1        (4) Maintains a clean and sanitary facility that has, at  
2        minimum:
- 3        (A) Access to a municipal water source and proper  
4        sewage disposal;
- 5        (B) Adequate hand washing facilities;
- 6        (C) A separate storage place for all ingredients used  
7        in processing or preparing any cottage food  
8        product intended for sale;
- 9        (D) A properly functioning refrigeration unit;
- 10       (E) A properly functioning toilet facility;
- 11       (F) A sink with adequate hot water to clean and  
12       sanitize all utensils and equipment used by the  
13       cottage food business;
- 14       (G) Adequate facilities for the storage of utensils  
15       and equipment used by the cottage food business;  
16       and
- 17       (H) No evidence of insect or rodent activity;
- 18       (5) Labels all cottage food products sold pursuant to this  
19       section with:
- 20       (A) The name and address of the cottage food  
21       operator;



- 1           (B) The name of the cottage food product being sold;
- 2           (C) The date the cottage food product was produced;
- 3           (D) The ingredients used to make the cottage food  
4           product, in descending order of predominance by  
5           weight; and
- 6           (E) The following statements, in clear and  
7           conspicuous print:
  - 8           (i) "This food product is home-produced and  
9           processed."; and
  - 10          (ii) "This food product was not produced or  
11          packaged in a Department of Health-inspected  
12          facility.";
- 13          (6) Ensures that all individuals engaged in processing,  
14          preparing, packaging, handling, or distributing any  
15          cottage food product intended for sale are  
16          knowledgeable of and follow safe food handling  
17          practices; and
- 18          (7) Complies with all rules adopted by the department to  
19          protect the health and safety of the public.
- 20          (b) In the event of a foodborne illness or foodborne  
21          illness outbreak resulting from a cottage food product, the



1 department shall require the cottage food operator who produced  
2 the cottage food product to immediately cease all operations and  
3 sales.

4 (c) A cottage food operator shall complete a department-  
5 sanctioned online course in food safety prior to selling any  
6 cottage food product. The online course shall provide a  
7 certificate or other certification of completion. The  
8 certification shall be renewed at least every five years.

9 (d) Prior to selling a cottage food product, a cottage  
10 food operator shall register with the department. To become  
11 registered, a cottage food operator shall provide the department  
12 with the following information by application on a form and in a  
13 manner to be determined by the department:

14 (1) The business name and home address of the cottage food  
15 operator;

16 (2) A list of all cottage food products the cottage food  
17 operator intends to produce for sale; and

18 (3) Proof that the cottage food operator has completed a  
19 department-sanctioned online course in food safety  
20 pursuant to subsection (c).



1 The department may charge a reasonable application and  
2 registration fee to oversee the requirements of this section;  
3 provided that fees collected shall be used solely to administer  
4 this section.

5 (e) The department shall adopt rules pursuant to Hawaii  
6 Revised Status chapter 91 to effectuate the purpose of this  
7 section. Such rules shall include, but not be limited to  
8 procedures for the application and registration of cottage food  
9 operators, a list of non-potentially hazardous foods that may be  
10 produced and sold under this section, and procedures to address  
11 the outbreak of a foodborne illness resulting from cottage food  
12 products.

13 (f) As used in this section, unless the context clearly  
14 indicates otherwise:

15 "Cottage food operator" means a person who produces cottage  
16 food products in the home kitchen of that person's primary  
17 domestic residence in Hawaii and only for sale directly to the  
18 consumer, and whose net earnings from the sale of the cottage  
19 food product are more than \$5,000 but less than \$50,000 a year.

20 "Cottage food product" means non-potentially hazardous  
21 baked goods, jams, jellies, preserves, chocolates, and other



1 non-potentially hazardous foods as determined by the director,  
2 that are produced in a home kitchen.

3 "Domestic residence" means a single-family home,  
4 condominium unit, or area within a rental unit where a single  
5 person or family actually reside, but does not include any group  
6 or communal residential setting within any type of structure or  
7 an outbuilding, shed, barn, or other similar structure.

8 "Home kitchen" means a kitchen primarily intended for use  
9 by residents of a domestic residence that may contain one or  
10 more stoves or ovens, including a double oven, designed for  
11 residential use. Home kitchens shall not include commercial  
12 types of equipment.

13 "Non-potentially hazardous food" includes foods with a low  
14 water activity and high acid level that inhibits the growth of  
15 pathogenic or toxigenic microorganisms, including *Clostridium*  
16 *botulinum.*"

17 SECTION 3. The department of health shall adopt the rules  
18 required by this Act no later than December 31, 2015.

19 SECTION 4. New statutory material is underscored.

20 SECTION 5. This Act shall take effect on January 1, 2016.

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# H.B. NO. 408

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JAN 23 2015



# H.B. NO. 408

**Report Title:**

Cottage Foods; Home Kitchen Based Businesses; Exemptions

**Description:**

Provides an exemption from Department of Health rules to certain cottage food products sold directly to consumers under certain conditions. Requires the Department of Health to adopt rules no later than December 31, 2015. Effective January 1, 2016.

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

