

“Cottage Foods Bill”

This has been modified from the official version with easier to read formatting. Effective June 7th, 2012.

(A) For the purposes of this section:

- (1) "Home-based food production operation" means an individual, operating out of the individual's dwelling, who prepares, processes, packages, stores, and distributes nonpotentially hazardous foods for sale directly to a person.
- (2) "Nonpotentially hazardous foods" are candy and baked goods that are not potentially hazardous foods.
- (3) "Person" means an individual consumer.
- (4) "Potentially hazardous foods" includes:
 - (a) an animal food that is raw or heat-treated; a plant food that is heat-treated or consists of raw seed sprouts; cut melons; cut leafy greens; cut tomatoes or mixtures of cut tomatoes not modified to prevent microorganism growth or toxin formation; garlic-in-oil mixtures not modified to prevent microorganism growth or toxin formation;
 - (b) certain foods that are designated as Product Assessment Required (PA) because of the interaction of the pH and Aw values in these foods. Below is a table indicating the interaction of pH and Aw for control of spores in food heat-treated to destroy vegetative cells and subsequently packaged:

		pH Values		
		≤4.6	4.6-5.6	>5.6
(1)	≤0.92	non-PHF	non-PHF	non-PHF
(2)	0.92-.95	non-PHF	non-PHF	PHF
(3)	>0.95	non-PHF	PHF	PHF

Foods in item (2) with a pH value greater than 5.6 and foods in item (3) with a pH value greater than 4.6 are considered potentially hazardous unless a product assessment is conducted pursuant to the 2009 Federal Drug Administration Food Code.

(B) The operator of the home-based food production operation must take all reasonable steps to protect food items intended for sale from contamination while preparing, processing, packaging, storing, and distributing the items, including, but not limited to:

- (1) maintaining direct supervision of any person, other than the operator, engaged in the processing, preparing, packaging, or handling of food intended for sale;
- (2) prohibiting all animals, including pets, from entering the area in the dwelling in which the home-based food production operation is located while food items are being prepared, processed, or packaged and prohibiting these animals from having access to or coming in contact with stored food items and food items being assembled for distribution;
- (3) prohibiting all domestic activities in the kitchen while the home-based food production operation is processing, preparing, packaging, or handling food intended for sale;

- (4) prohibiting any person who is infected with a communicable disease that can be transmitted by food, who is a carrier of organisms that can cause a communicable disease that can be transmitted by food, who has an infected wound, or who has an acute respiratory infection from processing, preparing, packaging, or handling food intended for sale by the home-based food production operation; and
 - (5) ensuring that all people engaged in processing, preparing, packaging, or handling food intended for sale by the home-based food production operation are knowledgeable of and follow safe food handling practices.
- (C) Each home-based food production operation shall maintain a clean and sanitary facility to produce nonpotentially hazardous foods including, but not limited to:
- (1) department-approved water supply;
 - (2) a separate storage place for ingredients used in foods intended for sale;
 - (3) a properly functioning refrigeration unit;
 - (4) adequate facilities, including a sink with an adequate hot water supply to meet the demand for the cleaning and sanitization of all utensils and equipment;
 - (5) adequate facilities for the storage of utensils and equipment;
 - (6) adequate hand washing facilities separate from the utensil and equipment cleaning facilities;
 - (7) a properly functioning toilet facility;
 - (8) no evidence of insect or rodent activity; and
 - (9) department-approved sewage disposal, either onsite treatment or publicly provided.
- (D) All food items packaged at the operation for sale must be properly labeled. The label must comply with federal laws and regulations and must include:
- (1) the name and address of the home-based food production operation;
 - (2) the name of the product being sold;
 - (3) the ingredients used to make the product in descending order of predominance by weight; and
 - (4) a conspicuous statement printed in all capital letters and in a color that provides a clear contrast to the background that reads: "NOT FOR RESALE - PROCESSED AND PREPARED BY A HOME-BASED FOOD PRODUCTION OPERATION THAT IS NOT SUBJECT TO SOUTH CAROLINA'S FOOD SAFETY REGULATIONS."
- (E) Home-based food operations only may sell, or offer to sell, food items directly to a person for his own use and not for resale. A home-based food operation may not sell, or offer to sell, food items at wholesale. Food produced from a home-based food production operation must not be considered to be from an approved source, as required of a retail food establishment pursuant to Regulation 61.25.
- (F) A home-based food production operation is not a retail food establishment and is not subject to regulation by the department pursuant to Regulation 61.25.
- (G) The provisions of this section do not apply to an operation with net earnings of less than five hundred dollars annually but that would otherwise meet the definition of a home-based food operation provided in subsection (A)(1).
- (H) A home-based food production operation may apply for an exemption from inspection and label review by the South Carolina Department of Agriculture under Section 39-25-10, et seq., if its annual sales are less than fifteen thousand dollars. Exemption forms must be provided by the South Carolina Department of Agriculture.