



DEPARTMENT OF PUBLIC HEALTH

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CALIFORNIA HOMEMADE FOOD ACT FAQs

AB 1616 (GATTO)

1. When does the new law go into effect?

The new law becomes effective January 1, 2013.

While this date is rapidly approaching, a number of tasks related to the law's implementation are assigned in the law to the California Department of Public Health (CDPH). Among the tasks assigned to this state agency are providing food processor training, posting approved cottage foods on their webpage, and establishing a process for adding and removing foods from the approved cottage food list.

It is unclear at this point whether other jurisdictions will implement the new program prior to completion of the tasks assigned in the law to CDPH. However, it is our intent to implement the new law to as full an extent as possible on January 1, 2013.

2. What is a Cottage Food Operation (CFO)?

A CFO is an enterprise at a private home where low-risk food products are prepared or packaged for public consumption.

3. What is meant by "private home?"

"Private home" means a dwelling, including an apartment or other leased space, where individuals reside.

4. Can a CFO have employees?

A CFO can have one full time equivalent employee (not counting family members).

5. Are there limitations on the size of CFO's sales?

\$35,000 or less in gross sales in 2013

\$45,000 or less in gross sales in 2014

\$50,000 or less in gross sales in 2015 and beyond

6. What types of cottage food can a CFO prepare?

Only foods that are defined as "non-potentially hazardous" are approved for preparation by CFOs. These are foods that do not require refrigeration to keep them safe from bacterial growth that could make people sick. The California Department of Public Health will establish and maintain a list of these approved foods on their website and will establish a

process by which new foods can be added to the list and other foods can be challenged and removed. The initial list included in the new law includes:

- 1) Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas
- 2) Candy, such as brittle and toffee
- 3) Chocolate-covered nonperishable foods, such as nuts and dried fruit
- 4) Dried fruit
- 5) Dried pasta
- 6) Dry baking mixes
- 7) Fruit pies, fruit empanadas, and fruit tamales
- 8) Granola, cereals, and trail mixes
- 9) Herb blends and dried mole paste
- 10) Honey and sweet sorghum syrup
- 11) Jams, jellies, preserves, and fruit butter that comply with the standard described in Part 150 of Title 21 of the Code of Federal Regulations (These should be fruit products to assure that they are not potentially hazardous.)
- 12) Nut mixes and nut butters
- 13) Popcorn
- 14) Vinegar and mustard
- 15) Roasted coffee and dried tea
- 16) Waffle cones and pizzelles

7. What is meant by “direct sale” of cottage food?

“Direct sale” means a transaction between a CFO operator and a consumer, where the consumer purchases the cottage food product directly from the CFO. Direct sales include, but are not limited to, transactions at holiday bazaars or other temporary events, such as bake sales or food swaps, transactions at farm stands, certified farmers’ markets, or through community supported agriculture subscriptions, and transactions occurring in person in the cottage food operation. **NOTE:** Providing food at a community food event will also require a Temporary Food Facility permit to operate.

8. What is meant by “indirect sale” of cottage food?

“Indirect sale” means an interaction between a CFO, a third-party retailer, and a consumer, where the consumer purchases cottage food products made by the CFO from a third-party retailer that holds a valid permit issued by the local health department in their jurisdiction. Indirect sales include, but are not limited to, sales made to retail shops or to retail food facilities where food may be immediately consumed on the premises.

9. What are the two categories of CFOs?

Class A CFOs only are allowed to engage in “direct sale” of cottage food.

Class B CFOs may engage in both “direct sale” and “indirect sale” of cottage food.

10. Does a CFO need a permit to operate?

All CFOs need to obtain approval from their local city or county planning department. The Homemade Food Act gives planning departments several options to consider and so planning department requirements will likely vary from county to county and city to city.

All CFOs need to obtain a business license from their local city or county (if applicable).

For **Class A** CFOs (direct sale only), **registration** with the local health department is all that is required.

For **Class B** CFOs (direct and indirect), an **annual permit** from the local health department is required.

Registrations and permits are not transferable between:

- Persons
- Locations
- Type of food sold
- Type of distribution

11. What are the CFO's operational requirements?

All CFOs:

- ❖ The CFO needs to submit self-certification checklist to verify:
 - ✓ No domestic activity in kitchen during cottage food preparation
 - ✓ No infants, small children, or pets in kitchen during cottage food preparation
 - ✓ Kitchen equipment and utensils kept clean and in good repair
 - ✓ All food contact surfaces /utensils washed, rinsed, and sanitized before each use
 - ✓ All food preparation and storage areas free of rodents and insects
 - ✓ No smoking in kitchen area during preparation or processing of cottage food
 - ✓ Person with contagious disease must refrain from work
 - ✓ Hands and exposed portions of arms of food workers must be kept clean and washed before any food preparation or packaging
- ❖ Water used in preparation activities must be potable. Food preparation activities are defined as:
 - ✓ Wash, rinsing, and sanitizing equipment used in food preparation
 - ✓ Washing and sanitizing hands and arms
 - ✓ Water used in ingredients of food
- ❖ CFO operators are required to take a food processor course offered by the California Department of Public Health within 3 months of being registered or permitted.

12. How often will a CFO be inspected?

Class A: CFO kitchens and food storage areas (referenced in the law as the "registered or permitted area") are only inspected by the local health department when a consumer

complaint concern is being investigated.

Class B: CFO kitchens and food storage areas are inspected initially prior to permit issuance, and then annually after that, unless additional inspections are required in response to consumer complaints or concerns.

13. Can a CFO sell cottage food outside the county of residence?

CFOs can only sell cottage food outside the county of residence when the local health department of the outside county allows it.

14. What would be my food labeling requirements?

In a permitted food facility, cottage food needs to be identified to the customer as homemade on the menu, menu board or other easily accessible location.

All cottage food-labeling needs to be in accordance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343 et seq.), and in addition, the label shall include:

- 1) "Made in a Home Kitchen" in 12-point type
- 2) Name commonly used for the food product
- 3) Name of CFO which produced the food
- 4) Registration or permit number and, for Class B (direct and indirect sale) the name of the local enforcement agency that issued the permit
- 5) Product ingredients in descending order by weight

15. How much will the registration or permit cost the CFO?

Each local jurisdiction will establish fees that are not to exceed the cost of providing the service. Additional fees may be charged for enforcement activities. In addition, there may be a future State surcharge collected with registration and permit fees that would be provided to the California Department of Public Health to fund their activities associated with CFOs.

The Merced County Department of Public Health, Division of Environmental Health has proposed CFO related fees to be considered and approved by the Merced County Board of Supervisors. If the proposal is approved, the fees will take effect in early January 2013.

If you have any questions, please contact our office at 209-381-1100.