

1 SB160
2 208265-2
3 By Senators Orr and McClendon
4 RFD: Healthcare
5 First Read: 02-FEB-21

SYNOPSIS: Existing law provides that in-home cottage food production of baked goods, jams, jellies, candies, and dried herb and herb mixes are excluded from regulation by the State Department of Health and county health departments, as well as the requirement to have a food service permit.

Existing law also prohibits online, in-person, and phone sales by cottage food production operations.

This bill would allow online, in-person, and phone sales by cottage food production operations, as well as delivery directly to consumers in person, by mail, or through an agent of the producer.

Existing law also places a \$20,000 cap on gross receipts by cottage food production operations.

This bill would remove the \$20,000 cap on gross receipts by cottage food production operations.

1 This bill would also require cottage food
2 production operations to label each product sold
3 with a list of the ingredients contained in the
4 product, as well as a disclaimer if the product
5 contains or may contain allergens.

6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to cottage food production operations; to
12 amend Section 22-20-5.1, Code of Alabama 1975; to allow
13 various methods of sales by cottage food production
14 operations; to remove the existing cap on gross receipts by
15 cottage food production operations; and to require cottage
16 food production operations to include certain nutrition
17 information on the label of each product offered for sale.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Section 22-20-5.1, Code of Alabama 1975,
20 is amended to read as follows:

21 "§22-20-5.1.

22 "(a) For purposes of this section, the following
23 words have the following meanings:

24 "(1) ~~BAKED GOOD. Includes~~ COTTAGE FOOD.
25 Non-potentially hazardous food that is prepared in a person's
26 home, including cakes, breads, Danish, donuts, pastries, pies,
27 canned jam or jelly, a dried herb mix, candy, and other items

1 that are prepared by baking, cooking, drying, mixing, cutting,
2 fermenting, preserving, dehydrating, growing, raising, or
3 other process ~~the item in an oven~~. A ~~baked good~~ cottage food
4 does not include a potentially hazardous food item as defined
5 by rule of the department.

6 "(2) COTTAGE FOOD PRODUCTION OPERATION. A person
7 operating out of his or her home who meets ~~all of~~ the
8 following requirements:

9 "a. Produces ~~a baked good, a canned jam or jelly, a~~
10 ~~dried herb or herb mix, or a candy~~ cottage food for sale ~~at~~
11 ~~the person's home~~.

12 "~~b. Has an annual gross income of twenty thousand~~
13 ~~dollars (\$20,000) or less from the sale of food described in~~
14 ~~paragraph a.~~

15 "~~(c)~~ b. Sells the foods produced under paragraph a.
16 only directly to consumers, whether in-person, by phone, or
17 online in the state.

18 "c. Delivers the foods produced under paragraph a.
19 directly to consumers in the state, whether in person, through
20 an agent of the producer, or by mail.

21 "(3) DEPARTMENT. The State Department of Public
22 Health.

23 "(4) HOME. A primary residence that contains a
24 kitchen and appliances designed for common residential use.

25 "(5) NON-POTENTIALLY HAZARDOUS. A food that does not
26 require time or temperature control for safety to limit
27 pathogenic microorganism growth or toxin formation.

1 "(b) A cottage food production operation is not a
2 food service establishment and is not required to have a food
3 service permit issued by the county health department.

4 "(c) Neither the State Department of Public Health
5 nor a county health department may regulate the production of
6 food at a cottage food production operation except as provided
7 by this section.

8 "(d) The department may issue a stop sale, seize, or
9 hold order for any food suspected of being the cause of a food
10 borne illness.

11 ~~"(e) The department shall promulgate rules requiring~~
12 ~~a~~ A cottage food production operation to shall label all baked
13 ~~goods, canned jams or jellies, candies, and dried herb or herb~~
14 ~~mix~~ cottage foods that the operation sells to consumers, and
15 ~~requiring completion of~~ shall complete a food safety course
16 approved by the department. The label shall include in at
17 least size 10-point font the common or usual name of the food,
18 the name, ~~and~~ home or P.O. Box address of the cottage food
19 production operation, and a statement that the food is not
20 inspected by the department or local health department. The
21 label shall also contain a list of the ingredients in the food
22 in descending order of predominance and shall include a
23 disclaimer that the food may contain allergens. The operator
24 of a cottage food production operation, shall maintain
25 certification of having attended and passed a food safety
26 course approved by the department.

1 ~~"(f) A cottage food production operation may not~~
2 ~~sell baked goods, jams and jellies, candies, or dried herbs~~
3 ~~and herb mixes over the Internet."~~

4 Section 2. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.