

SENATE BILL REPORT

SB 5748

As Reported by Senate Committee On:
Agriculture & Rural Economic Development, February 14, 2011

Title: An act relating to cottage food operations.

Brief Description: Regarding cottage food operations.

Sponsors: Senators Rockefeller, Honeyford and Chase.

Brief History:

Committee Activity: Agriculture & Rural Economic Development: 2/14/11 [DPS].

SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5748 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hatfield, Chair; Delvin, Ranking Minority Member; Becker, Haugen, Honeyford and Schoesler.

Staff: Bob Lee (786-7404)

Background: In 2010 Michigan enacted a law allowing residents to make certain food products at home and to sell them. Previously, residents were required to make their foods in a commercial kitchen certified by the Michigan Department of Agriculture and to pay license fees. The Michigan law covers businesses that gross less than \$15,000 annually. The foods that can be sold must be classified as non-potentially hazardous foods and the legislation contains a list of items that qualify and that do not qualify.

Washington State has similar requirements to those that existed in Michigan prior to the passage of the 2010 Michigan legislation. There is interest in Washington State to allow a similar program to allow cottage food operations to sell breads, baked goods, and other food directly to the ultimate consumer.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Recommended Substitute): A cottage food product is a food that is not a potentially hazardous food as defined in the food code. Examples include jams, jellies, dried

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fruit, candy, cereal, granola, dry mixes, vinegar, dried herbs, and baked goods that do not require temperature control for safety.

Cottage food products do not include all potentially hazardous food regulated under federal law such as meat and poultry products, salsa, milk products, bottled water and other beverages, and home-produced ice products. Also, cottage food products does not include canned low-acid fruits or acidified vegetables and other canned foods except for jams, jellies, and preserves as defined in the federal law.

A cottage food operation is a person who produces or packages cottage food products only in a kitchen of that person's primary domestic residence in Washington. To qualify, sales must not exceed \$5,000 per year. Operations are exempt from license fees but are required to pay a \$10 annual registration fee. The registration application must show the operators name, address, and types of cottage food products produced or packaged.

Cottage food products must be prepackaged and labeled. The label must show:

- name and address of cottage food operation;
- name of cottage food product;
- ingredients in descending order by weight;
- net weight or net volume;
- allergen labeling as specified by federal labeling requirements;
- nutritional claims, if any; and
- statement in at least 11 point font that "Made in home kitchen that has not been inspected by the Washington Department of Agriculture."

Cottage food may be sold only directly to the consumer and may not be sold through the Internet or by mail order. Cottage food is not exempt from adulteration standards or enforcement. Sales of cottage food products by consignment or at wholesale is prohibited.

Authority to inspect cottage food operations is provided. Cottage food operations are exempt from obtaining a food processors license and the minimum \$55 license fee.

EFFECT OF CHANGES MADE BY AGRICULTURE & RURAL ECONOMIC DEVELOPMENT COMMITTEE (Recommended Substitute as Passed Committee): The substitute bill corrects the definition of cottage food product. The limit to qualify for the exemption was increased from \$5,000 to \$15,000 per year.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: None.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony as Heard in Committee: PRO: When doorbelling, people often offer food and I always accept it and haven't gotten sick. In terms of what is

regulated, there needs to be a rule of reason as to how far the regulations go. Food is sold at fairs, and farmers markets, and made in home kitchens. Right now, it is illegal to bake or decorate cakes at home and sell them. Seventeen states allow certain foods made in a home kitchen to be sold. Most of those states do not have a dollar limit on annual sales. What I have to do now is go to a certified community kitchen at the local grange and find a babysitter for my children to operate my cake decorating business. It is ok if they want to inspect my home.

CON: The bill allows foods that takes a lot of hand contact to be sold, that may spread disease. Many home kitchens have children and pets and there is concern about selling food prepared in home kitchens. The agencies are happy to assist small businesses with complying – as commercial kitchens are available in most communities. The current bill is opposed as written. When people get sick from a food borne illness, it can be devastating to both the consumer and to the producer who sold the food.

OTHER: There are technical issues in the bill. Local public health districts may inspect home kitchens under their authority.

Persons Testifying: PRO: Senator Rockefeller, prime sponsor; Felicia Hill, citizen.

CON: Kirk Robinson, Department of Agriculture; Craig McLaughlin, State Board of Health.

OTHER: Dave Gifford, Washington State Department of Health; Ron Shultz, State Conservation Commission.