

# FINAL BILL REPORT

## ESSB 5748

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Synopsis as Enacted

**Brief Description:** Regarding cottage food operations.

**Sponsors:** Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Rockefeller, Honeyford and Chase).

**Senate Committee on Agriculture & Rural Economic Development**  
**House Committee on Agriculture & Natural Resources**  
**House Committee on Health & Human Services Appropriations & Oversight**

**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:** Cottage food is defined to include baked goods, jams, jellies, preserves, fruit butters, and other non-potentially hazardous food identified by rule, that may be produced for sale in a person's home kitchen. Cottage foods may be sold only directly to the consumer and may not be sold through the Internet, mail order, or for retail sale outside the state. A permitted cottage food operation may have sales of up to \$15,000 per year. This maximum annual sales limit may be increased by rule each biennium to reflect inflation.

To produce cottage foods, a person is required to obtain a permit from the Department of Agriculture (Department) and to allow inspection of the kitchen and areas of the home in which the cottage food is prepared or stored. Fees include a \$30 permit fee, a \$75 public health review fee, and a \$125 basic hygiene inspection fee. An additional fee may be charged for additional compliance inspections.

The areas of the home used to prepare or store cottage food products are subject to inspection. The operator must sign a document that expressly grants authority to the

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Department the right to enter this portion of the residence during normal business hours or other reasonable times. If access is denied to this area, the Department is authorized to obtain a search warrant for the permitted area from court. Denial of access to the Department may be grounds for denial or suspension of a permit.

Labeling requirements are listed and must include the statement: "Made in a home kitchen that has not been subject to standard inspection criteria." Any person who works at a cottage food operation must have secured a food and beverage service worker's permit.

The Department may contract with local health jurisdictions to conduct the required inspections. Except as otherwise provided, cottage food operations with the required permits are not required to be licensed under the state Food Processors Act nor to be permitted or inspected by a local health jurisdiction. This act does not affect application of any other state or federal law, or any applicable local ordinance.

The Department may adopt by rule, requirements for cottage food operations pertaining to:

- the permit application and renewal process;
- sanitary procedures;
- facility, equipment, and utensils;
- food product labeling in addition to those specifically listed in the legislation;
- clean water sources and waste and wastewater disposal; and
- washing and hygiene practices.

When conducting an annual inspection, the Department must inspect for the following:

- no unauthorized persons may be engaged in preparation of any cottage food product or be in the home kitchen during the preparation of any cottage food product;
- no cottage food preparation may occur with any other domestic activity such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment;
- no infants, small children, or pets may be in the home kitchen during the preparation of any cottage food products;
- all food contact surfaces, equipment, and utensils used for the preparation of cottage food products must be washed, rinsed, and sanitized before each use;
- all food preparation and food and equipment storage areas are to be maintained free of rodents and insects;
- all persons involved in preparation of cottage food products must (1) have a food and beverage service worker permit; (2) not go to work in a home kitchen when sick; (3) wash their hands before preparing any food; and (4) avoid contact of bare hands with ready-to-eat food products by using disposable gloves, bakery papers, tongs, or other utensils.

Authority to enforce the provisions of this act is provided to the Department. Grounds for denial or suspension of a permit are listed. The Department may issue a civil fine of up to \$1,000 per violation, and violations are punishable as a misdemeanor.

#### **Votes on Final Passage:**

Senate 47 2

House	92	0	(House amended)
Senate	46	1	(Senate concurred)

**Effective:** July 22, 2011.