



COTTAGE FOOD LAWS IN THE UNITED STATES

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ABOUT THE HARVARD LAW SCHOOL FOOD LAW AND POLICY CLINIC

The Harvard Law School Food Law and Policy Clinic (FLPC) serves partner organizations and communities by providing guidance on cutting-edge food system issues, while engaging law students in the practice of food law and policy. Specifically, FLPC focuses on increasing access to healthy foods, supporting sustainable production and regional food systems, and reducing waste of healthy, wholesome food. For more information, visit www.chlpi.org/FLPC.

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INTRODUCTION



The rising demand for locally-produced food in the United States has fueled a dramatic increase in small-scale food production in recent years. Locally-produced food sales totaled at least \$12 billion in 2014, up from \$5 billion in 2008, and are expected to continue to grow to \$20 billion by 2019.¹ Much of this locally produced food is sold at farmers markets, which have also increased dramatically, by 134% between 2004 and 2016.² A walk around your neighborhood farmers market will likely show that many vendors are no longer selling just raw produce and agricultural products, but also value-added products such as baked goods, jams, granola, popcorn, candy, coffee, tea, and other prepared goods that generate more revenue. These prepared goods, when made at home or outside a certified commercial kitchen, are commonly called “cottage foods.”

Up until recently, food safety laws in most states would have prohibited the sale of cottage foods, since most state laws required that commercial food production take place in a certified commercial kitchen. To become certified, a kitchen must meet certain food safety requirements, such as having surfaces made of stainless steel and separate hand and dish-washing sinks. Although these stringent standards are important to ensure safe production of high-risk products, or products being produced on a large scale for mass distribution, they pose overly burdensome restrictions for producers making low-risk foods on a small scale. Further, state laws generally do not allow a home kitchen to be certified as a commercial kitchen. Building a commercial kitchen is too costly for many small-scale producers, as is paying for space in a shared commercial kitchen. But over time, things have begun to change. Given the increased interest in cottage foods in recent years, almost all states have changed their laws and now allow for at least some cottage food production and sales.

Legalizing cottage food sales has several important benefits. First, it promotes more spending in the local economy, and increases the amount of money circulated within it.³ Second, it supports local farmers, who can generate more revenue by supplementing fresh produce sales with prepared

products that they can sell year-round and at a higher profit margin. Third, it encourages local business development, which in turn creates a stronger sense of community and increases quality of life for residents. Finally, it can serve as a launching pad for successful business creation and economic development. For example, in 2011, a baker named Mark Stambler was shut down by the local health department for illegally selling bread out of his home in Los Angeles.⁴ In response, he successfully advocated for California's cottage food law and became the first legal cottage food producer in LA County.⁵ His artisanal loaves grew so popular that he opened a brick and mortar store called Pagnol Boulanger and was named one of the Top Ten Bread Bakers of 2015 by Dessert Professional magazine.⁶ Because Mark was able to start his business out of his home kitchen, he was able to test the market for his product and take a risk that ultimately led to a very successful business.

As of the publication of this report, the majority of states—all but New Jersey⁷—allow for the in-home production and sale of at least some cottage foods.⁸ However, the scope of these laws varies widely. For instance, some states restrict home-based food production to a narrow category of producers, such as farmers, or to a limited list of food items. Others cap maximum sales. And although some cottage food laws are relatively easy to identify and understand, others must be extrapolated from several different state food safety laws that provide unclear guidance. Also, it might be difficult to find a state's cottage food laws because most states do not use the term "cottage food" in their laws.

This report is intended to help navigate these existing state cottage food laws, understand their commonalities and differences, and determine ways to better support cottage food businesses. This report is an updated version of the Food Law and Policy Clinic's 2013 Summary of Cottage Food Laws in the United States,⁹ which was the first comprehensive analysis of state cottage food laws. This updated report also discusses new legal strategies being used by cottage food producers and draws on recent changes to state law to provide examples of how other states can strengthen their existing cottage food laws. Finally, this report includes a series of charts and a longer appendix summarizing cottage food laws in the 50 states as of June 2018.

This report can serve as a helpful resource for aspiring cottage food producers, cottage food advocates, and policymakers alike. However, the information provided here is necessarily limited. First, it focuses on state laws, even though in some states, local and county governments can have their own restrictions or requirements relevant to cottage foods. Second, this report should not be interpreted as legal advice, and individuals interested in starting a cottage food business should consult an attorney familiar with the relevant state and local laws before establishing such a business. Finally, as this is a rapidly evolving field of law, readers are advised to check for any subsequent updates to state laws and regulations.

FEDERAL AND STATE FOOD SAFETY LAWS AND COTTAGE FOODS

To understand cottage food laws, it is important to first understand the relationship between federal and state food safety laws. States have the primary authority to create laws that affect the public health and safety of their residents and to control commerce within state lines. The 10th amendment of the U.S. Constitution creates a system of federalism, which gives states sovereign power over all matters that are not within the federal government's limited powers granted by the Constitution. The federal government has clear authority over food circulating in interstate commerce, and food produced for sale only intrastate, such as through restaurants and retail stores, has traditionally been regulated by state law.

This means that each state can decide what safety rules to apply to food offered for sale in the state and whether to allow cottage foods to be sold within state lines. Although states develop their own laws, they do generally rely on the federal government for guidance, which is why many state food safety laws look very similar. This section will explain the roles of federal and state governments in developing food safety laws.

The primary federal guidance for states on food safety is the model Food Code published by the U.S. Food and Drug Administration (“FDA Food Code”).¹⁰ The FDA Food Code recommends certain requirements for kitchens in which food is prepared for sale to prevent foodborne illness. The FDA Food Code is updated every four years, most recently in 2017.¹¹ Local, state, and tribal governments use the FDA Food Code as a model to ensure their food safety laws are up-to-date with the best food safety science. The FDA Food Code is not binding unless a state or local government chooses to adopt it by passing a statute or by incorporating it into regulations. However, all fifty states and the District of Columbia have adopted some version of the FDA Food Code in whole or in part¹² because it was written by experts and represents a considerable investment of resources that states may not have the means to duplicate.¹³

The FDA Food Code, and therefore most state food codes, designates all locations where food is produced for sale or sold as “food establishments.” Entities designated as “food establishments” must generally meet the regulatory requirements in the Food Code, such as obtaining relevant licenses, training, and permits; being subject to inspection; and utilizing certain equipment and building materials, for example, multi-compartment sinks, floors and walls made out of non-absorbent materials, and specific ventilation systems.¹⁴ Under the language included in the FDA Food Code and most states, a home kitchen cannot be licensed as a food establishment.¹⁵

However, the FDA Food Code exempts several types of food producers from the “food establishment” definition and the linked requirements.¹⁶ For the purposes of this report, the most relevant of these exemptions is for kitchens in private homes preparing and selling low-risk food for religious or charitable organizations’ bake sales.¹⁷ The FDA Food Code addresses the risk of food-borne illness by designating high- and low-risk foods. High-risk foods, called “time/temperature control for safety foods” (TCS foods) in the most recent FDA Food Code and “potentially hazardous foods” in prior FDA Food Codes, are foods that may develop pathogenic microorganisms if they are kept out of the correct temperature range for too long.¹⁸ Meat, poultry, dairy, and shellfish are all examples of TCS foods. However, less obvious foods such as low-sugar jams, cooked vegetables, and low-acidity pickles and salsa are also in this class because they can support viral or bacterial growth if not properly stored. Though not technically defined in the FDA Food Code, foods that are not TCS are referred to as “non-TCS” or “non-potentially hazardous.” Thus, under the charity bake sale exemption from “food establishment” requirements, the FDA Food Code allows for the home production of non-TCS foods, such as baked goods, certain jams, granola, and popcorn, when these foods are sold only at a religious or charity bake sale.

As discussed in the next section, in order to allow cottage food sales, most states have expanded this exemption in their own state laws. Since the FDA Food Code acknowledges that low-risk foods can be safely prepared at home and sold to the public at charity events, it provides a model for allowing sales of low-risk foods at other locations, such as farmers markets or the producer’s home. Expanding the types of locations where cottage food producers can sell low-risk products is one of the most common features of state cottage food laws. Some state laws stop there, and others also expand upon the types of products that can be sold by cottage food operations and regulate these operations in other ways.

METHODS OF CREATING STATE COTTAGE FOOD LAWS



To legalize cottage foods, states have used a variety of policymaking tools alone and in combination. As described above, some states have amended the definition of “food establishment” in their adoption of the Food Code in order to allow home kitchens in private homes to prepare food for sale in venues beyond charity or religious functions. Some states have enacted more comprehensive legislation that defines the parameters for producing and selling cottage foods in the state. Some states enact administrative regulations addressing cottage foods, which can exist alongside legislation or independently. In at least one state, the state agency in charge of food safety has encouraged cottage food sales by posting guidelines for home-based food businesses on its website, despite absence of legislation or regulations allowing cottage foods. Another tactic for enabling cottage food sales is to enact “food freedom” laws, which broadly allow cottage food producers to prepare and sell almost any food or beverage within the state without being subject to food safety inspection or licensing. And finally, although not technically a policymaking tool, some advocates have successfully challenged restrictive state cottage food laws in court, resulting in the state allowing more cottage food sales if those advocates succeed. Many states mix and match within these strategies, each of which is discussed in more detail below, to create a cottage food law system. The end result is not only a variety of strategies used to create cottage food laws, but also policies that diverge quite widely from state to state. This section addresses the ways in which the laws are created, and the next section describes the common variations in what the laws allow and require.

AMENDING THE DEFINITION OF “FOOD ESTABLISHMENT”

Many states have amended the definition of “food establishment” in their food safety laws to allow

for cottage food operations. Commonly, states do so by creating an exemption that allows for certain foods produced in home kitchens to be sold at venues beyond the charitable bake sales allowed in the FDA Food Code. For example, Nebraska adopted the 2013 FDA Food Code¹⁹ and modified the definition of “food establishment” to exempt non-TCS foods produced in home kitchens and sold directly to the consumer at farmers markets or similar functions.²⁰ Nebraska’s definition of “food establishment” now exempts (change from FDA Food Code indicated in italics):

A private home or other area where food that is not time/temperature control for safety food is prepared: (a) For sale or service at a religious, charitable, or fraternal organization’s bake sale or similar function; or (b) *for sale directly to the consumer at a farmers market if the consumer is informed by a clearly visible placard at the sale location that the food was prepared in a kitchen that is not subject to regulation and inspection by the regulatory authority[.]*²¹

States can customize an exemption to allow the type of cottage food operations they want to foster. For example, one of the categories of cottage food production in Vermont, home bakeries, was created as an exemption to the food establishment requirements. Vermont exempts “an individual manufacturing and selling bakery products from his or her own home kitchen whose average gross retail sales do not exceed \$125.00 per week” from the definition of “food establishment.”²²

As seen in these examples, states can legalize cottage foods in a variety of ways by exempting certain homemade food operations from the stringent requirements for “food establishments.” For many states, this is the most commonsense approach to creating a cottage food law, and state legislatures might prefer amending existing laws rather than creating new standalone laws. That said, amending the existing law might make it more difficult for cottage food producers to understand how the law applies to them. Therefore, some jurisdictions have enacted standalone cottage food laws instead or in conjunction with changes to the food establishment definition, in order to establish clearer parameters for cottage food producers.

ENACTING STANDALONE COTTAGE FOOD LEGISLATION



Instead of amending the definition of “food establishment” in the state food code, a state can enact a standalone law on cottage food operations through legislation, regulations, or a combination of both (regulations are discussed below). Standalone cottage food legislation consolidates all laws pertaining to cottage food operations in one place. For example, Colorado’s Cottage Food Act exempts cottage food operations from the Colorado Food Protection Act when the cottage food producer makes certain non-potentially hazardous foods.²³ Standalone cottage food policies can be particularly convenient for cottage food producers because they tend to be a clear, one-stop-shop to learn what rules apply to cottage food production in the state.

In states that allow cottage food production through standalone legislation, it is common for the legislature to act to allow cottage foods generally, but then direct a state agency to determine the details of the law through regulations. For example, Maryland’s cottage food law, passed by the state legislature in 2012, directs the Department of Health to adopt regulations to carry out the requirements of the legislation.²⁴ Maryland’s legislation generally

releases cottage food businesses from state licensing requirements and sets labeling requirements for cottage foods, but gives the Department of Health authority to issue regulations providing more specific information.²⁵

Because legislators address a broad range of goals including economic development, they can be particularly responsive to constituents' calls for cottage food sales. However, the legislature often lacks the specific expertise to craft a detailed cottage food regime. So, states often turn to regulation, either alongside legislation or own its own, to create a cottage food system.

CREATING REGULATIONS ON COTTAGE FOOD

In some states, state agencies such as the state Department of Health or Department of Agriculture create regulations that govern cottage food production and sale. As discussed above, states like Maryland use legislation to direct a state agency to regulate cottage foods.²⁶ In these states, the legislation and the regulation together control cottage food production.

In some states, state agencies have created cottage food laws entirely through regulations, without the state legislature passing a new statute. For example, Georgia's cottage food law is contained wholly within the state Department of Agriculture regulations.²⁷ Georgia's regulations allow cottage food producers to sell any non-potentially hazardous food directly to consumers once they register and obtain a license from the Department of Agriculture's Food Safety Division.²⁸ To determine whether the state Department of Agriculture or Department of Health should develop regulations in a specific state, one should determine which agency has primary food safety authority, keeping in mind that in some states, that authority is divided between the two agencies.

Regulatory agencies generally have the expertise in food safety and health inspections that is required to create a cottage food regime. However, enacting cottage food laws solely through regulation can be more challenging than enacting laws through legislation. Regulatory agencies tend to focus narrowly on food safety and may be less responsive than legislators to economic development arguments. Given the challenges and drawbacks of addressing cottage food in each branch of government, a joint system where the legislature defines the broad parameters of a cottage food system and delegates the detailed food safety requirements and training or guidance functions to the agency, can create cottage food laws that are both responsive to public demand and based in sound food safety science.

PROVIDING GUIDANCE ON STATE AGENCY WEBSITES

In at least one state, North Carolina, despite the lack of legislation or regulations legalizing cottage food sales in the state, the North Carolina Department of Agriculture & Consumer Services provides detailed guidance on its website for home-based food producers operating in the state.²⁹ The agency requires that producers apply for a permit and it conducts a home inspection before permitting a producer to sell its products. Although an agency website might be a fast way to promote the state's cottage food industry, it is not an ideal structure since without any formal laws or regulations the agency could change its mind at any time and modify or take down the website that cottage food producers are relying on for guidance.

ENACTING FOOD FREEDOM LAWS

Although cottage food laws open up options for home-based food operations, most state laws have still maintained some constraints, such as the types of products permitted, the locations where the products can be sold, and the amount of revenue that can be generated by cottage food operations.

However, a growing number of states are considering or passing “food freedom” laws, which provide broad exemptions from food safety regulations to food producers in the state when they sell directly to willing customers.

Wyoming’s Food Freedom Act, passed in 2015, exempted producers of “any product which may be consumed as food or drink,” with the exception of some animal products, from all licensing, permitting, certification, packaging or labeling regulations when the food was sold directly to an informed end consumer at a farmers market or through sales out of the producer’s ranch, farm, or home.³⁰ In 2017, Wyoming amended its food freedom law by expanding the types of animal products that could be sold under the law to include fish and rabbit.³¹

Wyoming’s law is a model for the food freedom approach. It does not distinguish between low-risk and high-risk food products, instead allowing a broad range of products, including some animal products, to be sold without licensure.³² The law does not put a cap on revenue, and does not require any labeling of the product.³³ Food freedom is still limited, however, as to how it may be sold. Sales must be made directly to an “informed end consumer,” meaning that the producer must disclose to the purchaser that the operation has not undergone food safety inspections or certification.³⁴ Furthermore, the law restricts cottage foods to home consumption only, this means, for example, that it would not allow for the sale of a wedding cake to be served at a reception hall.³⁵



Other states have continued to consider and pass food freedom bills; however, these laws vary in form. North Dakota’s new food freedom law, passed in 2017, was modeled after Wyoming’s law.³⁶ North Dakota’s law mimics many of the elements of the Wyoming law, including the requirement that sales be made to an informed end consumer for home consumption.³⁷ However, although the North Dakota law allows a broader range of food products than many cottage food laws, it is more restrictive than Wyoming’s law in terms of the products allowed. North Dakota’s Department of Agriculture has issued interim guidance on the new law that prohibits most TCS foods.³⁸ Illinois also passed a cottage food law that was billed as a food freedom law in 2017.³⁹ Like Wyoming’s and North Dakota’s laws, the Illinois law broadly allows food production and then lists exceptions that are not allowed; however, the exceptions in the Illinois law are extensive.⁴⁰ Furthermore, Illinois’ law includes

more typical cottage food restrictions on sales venues and adopts typical labeling requirements, rather than following the Wyoming model of allowing any direct sales to informed end consumers for home consumption.⁴¹

Maine's legislation, "An Act To Recognize Local Control Regarding Food Systems," took a slightly different tactic. The law authorizes cities and towns to develop their own food safety ordinances for any food producers engaged in direct-to-consumer sales at the point of production within the city or town.⁴² Because the state law would even allow local ordinances to exempt meat sales, which is not allowed under federal law, the U.S. Department of Agriculture (USDA) reacted to this legislation with a letter threatening to strip the state of its slaughter inspection authority, citing concerns that the legislation would lead to violations of USDA slaughterhouse regulations.⁴³ To appease the federal government, the state amended the legislation to require city and town ordinances related to meat and poultry product inspection and licensing to comply with state and federal food safety laws and regulations.⁴⁴ However, the general law allowing local governments to broadly exempt food producers from food safety regulations has remained in effect.

TAKING COTTAGE FOOD RESTRICTIONS TO COURT

In several states where lawmakers have not legalized cottage food operations, or only legalized a narrow set of operations, cottage food producers have filed lawsuits against the state to challenge these restrictions. For example, in November 2013, two home bakers filed a lawsuit against the state of Minnesota for its restrictive cottage food law, which capped annual gross sales at \$5,000.⁴⁵ The plaintiffs argued that this cap was unconstitutional. In June 2015, after the state court of appeals ordered the district court to review the case again,⁴⁶ the state legislature passed a law amending its cottage food law to allow producers to make up to \$18,000 in annual gross sales, so long as the producers complete an approved food safety course prior to registration.⁴⁷ Given this expansion in the state's law, the plaintiffs dropped their lawsuit.⁴⁸

In May 2017, cottage producers of baked goods in Wisconsin succeeded in a lawsuit challenging the state's omission of non-potentially hazardous baked goods from its cottage food law. In the ruling, the judge found that the state law violated substantive due process and equal protection guarantees, stating, that the provisions are not "rationally related to public health, safety, morals or general welfare..."⁴⁹ In a subsequent decision in October 2017, the judge clarified that all cottage food producers of non-hazardous baked goods could sell their goods directly to consumers irrespective of whether the state legislature enacted a law codifying the judge's order.⁵⁰

In December 2017, the New Jersey Home Bakers Association filed a lawsuit against the New Jersey Department of Health for only allowing home food producers to sell at religious and charity bake sales.⁵¹ New Jersey is the last remaining state that does not allow any cottage food sales outside of religious or charitable events. In January 2018, at the beginning of the subsequent legislative session, legislation was introduced that would allow for cottage foods to be sold directly to consumers and, if the operation undergoes additional inspection, through indirect sales by a third-party retailer.⁵²

In the most recent lawsuit to challenge restrictive cottage food laws, small-scale farmers seeking to produce and sell pickled beets in Texas filed a lawsuit in May 2018 challenging the state's narrow definition of a "pickle."⁵³ Although Texas's statute allows the sale of "pickles" as cottage foods,⁵⁴ regulations implementing the law from the Texas Department of State Health Services specify that "pickle" refers only to "[a] cucumber preserved in vinegar, brine, or similar solution, and excluding all other pickled vegetables."⁵⁵ This case will likely be decided later in 2018. These lawsuits illustrate the power of litigation to motivate state legislatures to create or expand cottage food laws.

COMMON ELEMENTS OF STATE COTTAGE FOOD LAWS



Although state cottage food laws vary widely, there are several common elements found in many of these laws. These include provisions outlining: (1) the types of cottage food products allowed; (2) where cottage food products can be sold; (3) required registration, licenses, and/or permits for cottage food operators; (4) how much revenue a cottage food producer can generate before they must move to a commercial facility; (5) required labeling for products produced in a cottage food operation; and (6) tiers or types of cottage food producers, in states that have different rules for different food items or types of cottage food producers. Even within these elements, states vary widely in terms of their rules. Each of these elements and the common variations will be discussed in this section. For a more detailed description of each state’s law, consult the Appendix.

TYPES OF COTTAGE FOOD PRODUCTS ALLOWED

States generally limit cottage food production to foods with a low risk of causing foodborne illness, also known as non-TCS foods. Some states simply require the food to be “non-potentially hazardous,” (as “potentially hazardous” food was the former name given to TCS food in the FDA Food Code)⁵⁶ whereas others provide a detailed list of permissible foods. Utah’s cottage food law, for example, simply stipulates that cottage foods cannot be potentially hazardous, without limiting producers

to a specific list of allowed cottage food products.⁵⁷ New Mexico, however, explicitly lists the food products permitted, including jams/jellies, baked goods, candy/fudge, and several other products.⁵⁸ California’s cottage food legislation stipulates only that the food must be non-potentially hazardous, but directs the state Department of Health to enumerate a list of specific allowed foods and post the list on its website.⁵⁹

In some states, the list of allowable products includes broad categories of foods. For example, North Carolina permits baked goods, jams and jellies, candies, dried mixes, spices, shelf-stable sauces and liquids, pickles, and acidified foods.⁶⁰ Other states only allow for a few narrow categories of foods. For example, in Oklahoma, a cottage food producer can only sell baked goods that do not contain meat products or fresh fruit.⁶¹ Although providing a specific list of permissible foods can take the guesswork out of the cottage food business, it is also necessarily restrictive, so advocates and policymakers should weigh these considerations when crafting a law.

FIGURE 1. TYPES OF COTTAGE FOOD PRODUCTS ALLOWED¹

<p>Allowed Foods Not Limited to a List</p>	<p>E.g., “non-potentially hazardous foods” or “non-potentially hazardous foods, including, but not limited to . . .” or “non-potentially hazardous foods, excluding . . .”</p>	<p>Alabama (home processed products), Alaska, Colorado, Connecticut (cottage food),² Delaware (cottage food), Florida, Georgia, Hawaii, Idaho, Illinois (cottage food), Indiana, Iowa (cottage food), Maine, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, North Carolina, North Dakota, Oregon (domestic kitchen), Pennsylvania, Rhode Island,³ Tennessee, Utah, Vermont (home caterer, exempt food processor), West Virginia, Wyoming</p>
<p>Allowed Foods Limited to a List</p>	<p>E.g., “foods are limited to the following [categories or items]: . . .”</p>	<p>Alabama (cottage food), Arizona, Arkansas, California, Connecticut (residential farmers),³ Delaware (on-farm home processing),³ District of Columbia, Illinois (home kitchen), Iowa (home bakery), Kansas, Kentucky,³ Louisiana, Maryland, Missouri, Montana, Nevada, New Hampshire, New Mexico, New York, Ohio, Oklahoma, Oregon (cottage food, farm direct³), South Carolina, South Dakota, Texas, Vermont (home bakery), Virginia, Washington, Wisconsin</p>
<p>Does Not Allow Cottage Foods</p>		<p>New Jersey</p>

1. Several states allow different types of operations to produce different varieties of products. For such states, the operations that fall within each category are indicated in parentheses.
2. Connecticut’s cottage food law goes into effect Oct. 1, 2018.
3. In Kentucky and Rhode Island, only farmers may sell cottage food products. Connecticut, Delaware, and Oregon have a tier of cottage food production that is available only to farmers.

LIMITS ON WHERE COTTAGE FOOD PRODUCTS CAN BE SOLD



In addition to limiting the types of allowed cottage foods, most states also define the venues where cottage food products can be sold. Most states require cottage foods to be sold directly to consumers and do not permit sales to restaurants, grocery stores, or other retail food establishments. Some state laws list specific venues where cottage food can be sold, such as farmers markets, county fairs, roadside stands, and on the producer's premises. Minnesota, for example, permits cottage food to be sold only directly to the ultimate consumer at the producer's home, farmers markets, community events, or through donation to a community event with the purpose of fund-raising for an individual, or an educational, charitable, or religious organization.⁶² Other states, like Virginia, further limit cottage food sales to just the producer's home or at a farmers market.⁶³

Twelve states allow cottage foods to be sold indirectly, such as at retail stores or restaurants, at least in certain circumstances. These states generally include additional requirements to protect the consumer. For example, Ohio allows cottage food products to be sold to both grocery stores and restaurants without requiring any additional licensure, but stipulates that food products are subject to food sampling conducted by the state.⁶⁴

In New Hampshire, "homestead food operations" (their term for cottage food operators) can sell to "restaurants or other retail food establishments, over the Internet, by mail order, or to wholesalers, brokers, or other food distributors who will resell the product", so long as they obtain a license from the New Hampshire Department of Health and Human Services.⁶⁵

Some state laws create tiers of cottage foods, allowing some tiers to be sold in a broader array of venues. For example, in California, the law distinguishes between Class A Cottage Food Operations, which can only sell directly to consumers, and Class B Cottage Food Operations, which can sell indirectly in counties that permit indirect sales. Class B Operations must get a permit from the county in which they are operating in order to make indirect sales and must be open to a discretionary inspection by the local health agency.⁶⁶

Finally, a few state laws address Internet sales. In some states, like Florida, the cottage food producer can sell the product online, but still must deliver it to the customer in person.⁶⁷ In other states, like Georgia, the cottage food producer can sell the product online as long as the customer is within the state.⁶⁸ In 2017, Arkansas amended its cottage food law to allow for sales at online farmers markets in addition to physical farmers markets.⁶⁹ Some states, such as Maryland, explicitly prohibit online sales.⁷⁰ If a state law does not mention online sales, it does not mean that these types of sales are illegal. Cottage food producers should consult the relevant state agency to determine whether online sales are permissible under the state law.

FIGURE 2. WHERE COTTAGE FOOD PRODUCTS CAN BE SOLD¹

<p>Allows Both Indirect and Direct Sales (including restaurants, retail, wholesale, etc.)</p>	<p>Arizona, California (Class B), Iowa (home bakery), Louisiana (excluding baked goods), Maine, New Hampshire (licensed), New York, North Carolina, Ohio, Oregon (domestic kitchen), Pennsylvania, Vermont (home caterer, exempt food processor)</p>
<p>Allows for All Direct-to-Consumer Sales</p>	<p>Alabama (cottage food), Alaska, Colorado, Georgia, Hawaii, Idaho, Illinois (home kitchen), Kansas, Kentucky, Louisiana (baked goods), Massachusetts, Michigan, Mississippi, Missouri, Montana, New Mexico, North Dakota,² Oregon (cottage food, farm direct), Tennessee, Utah, Vermont (home bakery), Washington, Wyoming (food freedom)²</p>
<p>Allows for Direct-to-Consumer Sales Only at Limited Venues</p>	<p>Alabama (home processed products), Arkansas, California (Class A), Connecticut, Delaware, District of Columbia, Florida, Illinois (cottage food), Indiana, Iowa (cottage food), Maryland, Minnesota, Nebraska, Nevada, New Hampshire (exempt), Oklahoma, Rhode Island, South Carolina, South Dakota, Texas, Virginia, West Virginia, Wisconsin, Wyoming (cottage food)</p>

1. Several states allow different types of operations to sell products in different settings. For such states, the operations that fall within each category are indicated in parentheses.
2. Food freedom laws in North Dakota and Wyoming require that the product be for home consumption only.

REQUIRED REGISTRATION, LICENSES, INSPECTIONS, AND/OR PERMITS

States vary widely as to whether they require a cottage food producer to have a permit or the operation itself to be licensed, as well as the requirements for such authorization. Twenty-eight states do not require any licensing or permits for at least some types of cottage food producers or products. For example, Florida, Maryland, and Michigan explicitly do not require licenses for cottage food operations.⁷¹ Some states require that the producer obtain food safety training or a similar training to get a permit. For example, Colorado requires a certificate in safe food handling and processing;⁷² Washington requires a food and beverage service worker’s permit;⁷³ and Utah requires a valid food handler’s permit.⁷⁴

In other states, the operation itself must be registered, licensed, or permitted. For example, the District of Columbia requires that cottage food operations register with the Department of Health, which will inspect the operation before providing a permit to sell its products,⁷⁵ and Georgia requires that the operation register and receive a license from the state Department of Agriculture, which has the discretion to inspect the operation before issuing a license.⁷⁶ Nine states and the District of Columbia require both the operator to complete food safety training and the operation to be registered, at least for some types of cottage food production. For example, New Mexico’s cottage food law requires that the operator obtain a permit from the New Mexico Environment Department and attend an approved food safety course within five years of applying for the permit.⁷⁷

States often impose fees associated with licensing and permitting. Some states have low fees (\$20 fee in Maine),⁷⁸ whereas others have several different fees associated with the varying permits required. In Washington, for example, there is a \$125 inspection fee, a \$75 public health review fee, and a \$30 processing fee.⁷⁹

FIGURE 3. REQUIRED REGISTRATION, LICENSES, AND/OR PERMITS¹

<p>Requires Both (1) Food Safety or Food Handler Course for Operator And (2) Registration, Permit, or License for Premises</p>	<p>California, Connecticut (cottage food),² Delaware, District of Columbia, Georgia, Illinois (cottage food), Kentucky (home-based microprocessors), Minnesota, New Mexico, Utah</p>
<p>Requires Food Safety or Food Handler Course for Operator</p>	<p>Alabama (cottage food), Colorado, Connecticut (residential farmer), Hawaii, Oregon (cottage food), Texas</p>
<p>Requires Registration, Permit, or License for Premises</p>	<p>Arizona, Iowa (home bakery), Kentucky (home-based processors), Maine, Massachusetts, Montana, Nevada, New Hampshire (licensed), New York, North Carolina, Ohio (home bakery), Oregon (domestic kitchen), Pennsylvania, Rhode Island, Vermont (home bakery),³ home caterer, Washington, West Virginia (canned acidified foods only)</p>
<p>No Registration, Permit, License, or Food Safety Course Required</p>	<p>Alabama (home processed products), Alaska, Arkansas, Florida, Idaho, Illinois (home kitchen), Indiana, Iowa (cottage food), Kansas, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nebraska, New Hampshire (exempt), North Dakota, Ohio (cottage food), Oklahoma, Oregon (farm direct), South Carolina, South Dakota, Tennessee, Vermont (exempt food processor), Virginia, West Virginia (excluding canned acidified foods), Wisconsin, Wyoming</p>

1. Several states require different operations to obtain different types of registration, licensing, and permits. For such states, the operations that fall within each category are indicated in parentheses.
2. Connecticut's cottage food law goes into effect Oct. 1, 2018.
3. Home bakers in Vermont who make less than \$125 per week are exempted from licensing and inspection requirements.

LIMITS ON TOTAL SALES

About half of the states place a limitation on the amount of income a cottage food operation can earn in a year. In those states, once a cottage food operation exceeds the cap, typical food establishment requirements and permitting rules kick in. Sales limits vary significantly by state. In South Carolina, a cottage food producer cannot make more than \$15,000 in annual gross sales.⁸⁰ In contrast, other states like Texas limit the sale of cottage foods to \$50,000 per year.⁸¹ Colorado sets a \$10,000/year sales limit for each eligible food item, but a cottage food producer may have multiple eligible food items (i.e. different flavors of jam), which allows producers to earn more total revenue.⁸² And more than half of states, including Georgia, Massachusetts, New York, North Carolina, and Tennessee, do not place a sales limit on cottage food operations or have no limit on at least some types of cottage food operations.

A few state laws provide a gradual increase in the annual limit over several years. For example, in Michigan, until 2017, cottage food operations were capped at \$20,000 in sales; after 2017, Michigan cottage food operators can make up to \$25,000.⁸³ This higher limit is still more than \$26,000 below

the median household income for the state, making it difficult for cottage food producers to make a living off of their food products.⁸⁴

In other states, the annual sales cap varies depending on the sales venue, product, or other factors. For example, South Dakota has no annual sales cap on baked or canned goods sold at farmers markets or roadside stands but has a \$5,000 annual sales cap for baked goods sold out of the producer’s primary residence.⁸⁵ In contrast, Virginia has no annual limit for most types of cottage food products but has a \$3,000 annual sales cap for acidified products.⁸⁶

In other states, the operator must obtain more training or a license if they exceed a certain amount of revenue. For example, in Minnesota, cottage food operators that make between \$5,000-\$18,000/year must complete an in-person food safety training, but those that make under \$5,000 only have to complete an online training.⁸⁷ In New Hampshire, cottage food producers that make over \$20,000 annually must obtain a license from the New Hampshire Department of Health and Human Services.⁸⁸

Sales limits are likely appealing to state policymakers because they limit the scale of operations that are allowed to sell without full food safety precautions in place. If there is a foodborne illness outbreak from one of the cottage food operations, a sales cap also limits the potential harm from the outbreak by limiting the total sales. That said, sales limits also prevent cottage food operators from scaling up and generating a livable income from their business, particularly if the sales limit is very low. Advocates and policymakers should consider the unique landscape of their cottage food industry when deciding whether to impose a sales limit.

FIGURE 4. LIMITS ON SALES¹

\$10,000 or less	Colorado (each product or flavor), South Dakota (baked goods sold out of producer’s home only), Vermont (exempt food processors), Virginia (acidified products and pickles only), Wisconsin (pickles)
\$10,001-\$30,000	Alabama (cottage food), Alaska, Connecticut (cottage food), ² Delaware (cottage food), District of Columbia, Illinois (home kitchen), Louisiana, Maryland, Michigan, Minnesota, Mississippi, New Hampshire (exempt), Oklahoma, Oregon (cottage food, farm direct), South Carolina, Washington
\$30,001-\$50,000	California, Delaware (on-farm home processing), Florida, Iowa (home bakery), Kentucky (home-based microprocessors), Missouri, Nevada, Texas
No Sales Limit	Alabama (home processed products), Arizona, Arkansas, Connecticut (residential farmers), Georgia, Hawaii, Idaho, Illinois (cottage food), Indiana, Iowa (cottage food), Kansas, Kentucky (home-based processors), Maine, Massachusetts, Montana, Nebraska, New Hampshire (licensed), New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon (domestic kitchen), Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Vermont (home bakery; home caterer), Virginia, West Virginia, Wisconsin (baked goods; by court decision), ³ Wyoming

1. Several states have different sales limits for different types of operations. For such states, the operations that fall within each category are indicated in parentheses.
2. Connecticut’s cottage food law goes into effect Oct. 1, 2018.
3. Although Wisconsin’s cottage food legislation does not address baked goods, a court ruling on October 2, 2017 clarified that home bakers may sell low-risk baked goods and that there can be no sales limit for baked goods.

REQUIRED LABELING

Almost all states with cottage food laws have some sort of labeling requirement. Generally, cottage food products must be labeled with some combination of the following “typical” label information:

- Name and address of producer
- Common or usual name of product
- Ingredients of product
- Food allergens
- Net weight or net volume of food product
- Date on which the food was processed
- A statement similar to the following: “Made in a home kitchen that has not been inspected by the [state] department of health (or department of agriculture).”

Although the above labeling elements are typical, state laws still vary widely. Maryland, for example, requires all of the above information plus, if any nutritional claim is made, nutritional information as specified by federal labeling requirements.⁸⁹ Virginia, as well as several other states, require the cottage food label to include the name, address, and telephone number of the person preparing the food product, the date the food product was processed, and the following disclaimer on the principal display panel: “NOT FOR RESALE -- PROCESSED AND PREPARED WITHOUT STATE INSPECTION.”⁹⁰ Wyoming, at the far end of the spectrum, has no labeling requirements at all under its food freedom law; however, the end consumer must be informed that the product is not licensed, regulated or inspected.⁹¹

FIGURE 5. REQUIRED LABELING¹

Typical Labeling Requirements	Arizona, Arkansas, California, Colorado, Connecticut (cottage food), ² Delaware, District of Columbia, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa (home bakery), Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, Wyoming (cottage food)
Limited Labeling Requirements - Contact Information and/or Disclaimer Only	Alabama, Alaska, Connecticut (residential farmers), Idaho, Iowa (cottage food), Louisiana, Nebraska, North Dakota, Oklahoma, Virginia
No Labeling Requirements	Wyoming (food freedom)

1. Several states have different labeling requirements for different types of operations. For such states, the operations that fall within each category are indicated in parentheses.
2. Connecticut’s cottage food law goes into effect Oct. 1, 2018.

STATES WITH DIFFERENT TIERS OF ALLOWED COTTAGE FOOD PRODUCTION

Thirteen states have established several categories, or tiers, of cottage foods operators that are treated differently under the law. Some states, such as California,⁹² have created a tiered system using comprehensive legislation, whereas others, such as Delaware,⁹³ have developed a tiered system by enacting separate laws over time that each address different types of cottage food production and put in place different requirements and limitations on those different types of food. In either case, the result is that different restrictions or opportunities may apply depending on who the food producer is, what type of foods are produced, where the foods are sold, or other factors.

As described above, California distinguishes between Class A Cottage Food Operations, which can only sell directly to consumers, and Class B Cottage Food Operations, which can sell indirectly in counties that permit indirect sales. Class B Operations must get a permit from the county in which they are operating in order to make indirect sales and must be open to a discretionary inspection by the local health agency.⁹⁴ A bill being considered in the California legislature in 2018 would create a third tier for “Microenterprise Home Kitchen Operations,” which would allow home cooks to sell almost any type of prepared food from their home kitchens without being subject to the same requirements as commercial kitchens.⁹⁵ The bill would limit microenterprise home kitchen operations to no more than one full-time equivalent food employee and \$50,000 in annual sales.⁹⁶

In Illinois, “cottage food operations” and “home kitchen operations” are treated differently under state law.⁹⁷ These two laws were enacted and amended at different times to regulate different types of home food production.⁹⁸ Cottage food operators can sell any food or drink not containing hazardous ingredients, whereas home kitchen operators can only sell baked goods.⁹⁹ Cottage food operators have no sales limit; home kitchen operators are limited to gross monthly sales of \$1,000 or less.¹⁰⁰ Cottage food operators must register with the local department of health and get a food safety certificate, whereas home kitchen operators are not required to get any registration or permit.¹⁰¹

Developing a tiered system for cottage foods has the advantage of creating separate tracks that accommodate a variety of cottage food operators. Although some operators might be happy to keep their business small if it means they can avoid regulatory barriers, others might be willing to jump over some additional hurdles, such as completing a food safety course and registering with the state if it means they can sell more products at more venues and generate more revenue. The downside of a tiered system is that it is harder for operators to navigate and might lead to some operators inadvertently not following the law, especially if the tiers were enacted under different laws or are unclear. It could also create disincentives for operators to grow their businesses. Policymakers and advocates should consider the types of cottage food businesses they want to support in their states to determine whether a tiered system makes sense.



FIGURE 6. STATES WITH TIERED COTTAGE FOOD SYSTEMS

State	Tiers
Alabama	Cottage Food: limited items; all direct to consumer sales Home Processed Products: broader items; certified farmers market sales only
California	Class A Cottage Food: direct to consumer sales only Class B Cottage Food: indirect sales in certain counties
Connecticut	Cottage Food: anyone producing low-risk items ¹ Residential Farms: farmers producing jams and acidified canned food on-farm
Delaware	Cottage Food: anyone producing low-risk items On-Farm Home Processing: farmers producing listed items on-farm
Illinois	Cottage Food: variety of allowable foods Home Kitchen: baked goods only
Iowa	Cottage Food: low-risk food items Home Bakery: bakery items including higher-risk items
Kentucky	Home-Based Processors: farmers producing low-risk products Home-Based Microprocessors: farmers producing higher-risk products
New Hampshire	Exempt Homestead Food Operation: sales cap; limited sales venues Licensed Homestead Food Operation: no sales cap; indirect and internet sales allowed
Ohio	Cottage Food: listed low-risk foods Home Bakery: baked items including higher-risk items
Oregon	Cottage Food: low risk baked goods and confectionary Domestic Kitchen: broad range of allowed foods Farm Direct: farmers processing acidified foods with ingredients from own production
Vermont	Home Bakery: baked goods Home Caterer: prepackaged and on-demand food items Exempt Food Processor: jarred and packaged products
Wisconsin	Baked Goods: baked goods allowed, according to court decision Pickles and Canned Goods: canned goods allowed, according to state legislation
Wyoming	Food Freedom: all foods except some meat, poultry, and fish; foods must be sold to an informed end consumer for home consumption only Cottage Food: non-potentially hazardous foods; no limit on where food is consumed

1. Connecticut's cottage food law goes into effect Oct. 1, 2018.

RECOMMENDATIONS TO STRENGTHEN STATE COTTAGE FOOD LAWS

States continue to introduce new cottage food laws or amend their existing laws, which means there are numerous opportunities for advocates to get involved. In fact, a wide variety of new laws are being introduced, debated, and passed in several states. For instance, New Jersey, the only state to still not allow cottage food sales, had legislation moving through its state legislature as of 2018 that would legalize cottage foods.¹⁰² Both Connecticut¹⁰³ and Delaware¹⁰⁴ recently eliminated long-standing restrictions on non-farmer cottage food sales, allowing any state resident to sell cottage foods for the first time. In the 2018 legislative session, Nebraska also considered but ultimately failed to pass a bill that would allow cottage food producers to sell products from their premises in addition to selling at farmers markets and bake sales, the only venues allowed under the current law.¹⁰⁵ Litigation underway in Texas and New Jersey has the potential to force change in those states' approaches to cottage food.¹⁰⁶

States with restrictive cottage food laws should consider expanding these laws based on the examples of other states. For example, Kentucky and Rhode Island still limit cottage food production to only farmers processing on-farm; these states could follow the examples of Connecticut and Delaware and expand access to cottage food business opportunities to all. Furthermore, it seems that many early cottage food laws were passed with the intention of only allowing home-based food businesses to be a side business or hobby. With the increased focus in many state legislatures on supporting local economies, locally produced food products, and the sharing economy, many states are expanding cottage food laws and raising their income caps to allow producers to make their operations viable businesses. This section discusses the number of ways states can improve upon their cottage food laws.

STATE AGENCIES SHOULD CREATE EASY-TO-FOLLOW GUIDANCE FOR POTENTIAL COTTAGE FOOD OPERATORS AND REGULATORS.

When potential in-home producers are looking to start cottage food operations, they should be able to find the laws and regulations governing their businesses relatively easily, and they should be able to understand what is required of them. By having difficult-to-find cottage food laws or hidden exemptions from the requirements for food establishments, states may discourage cottage food operators from starting their business or may cause them to inadvertently break the law. This is especially true in states with different tiers of cottage foods controlled by different laws or regulations; in such states, it can be challenging for potential cottage food producers to determine which law applies to them. Cottage food laws were created as a way to allow entrepreneurship without high barriers to entry, so states should ensure operators can find the information they need without having to pay for legal counsel or other costly services to help them understand the state rules.

To help potential cottage food operators understand and comply with laws and regulations, states should ensure that relevant guidelines are easy to find on an official state website, such as the website for the state department of agriculture and/or state department of health. Several states already provide guidance documents for potential cottage food operators and health officials that offer models for other states. For example, Montana's Department of Public Health & Human Services provides a guidance document for cottage food operators that includes the requirements and registration forms to operate a cottage food business in the state.¹⁰⁷ Florida's Department of

Agriculture and Consumer Services provides a cottage food guide that provides information on the food items that may be sold and guidelines for selling cottage foods in the state.¹⁰⁸ Even if a state has a strong cottage food statute or regulations, it might be written in legal language not accessible to the average cottage food producers. Therefore, it is still advisable to create easily understandable and accessible guidance for cottage food producers and consider hosting regularly scheduled information sessions to explain this guidance and answer questions.

STATES SHOULD BROADEN THE TYPES OF FOODS THAT CAN BE SOLD.

Several states unnecessarily limit allowed products to only a few types of items, such as jams, jellies, baked goods and/or pickled items. Allowing for a broader list of foods would increase access to local products and provide producers with more options to make their operations viable businesses. States that are worried about food safety concerns associated with broadening the list of approved food could require food producers to complete state-approved food safety training for all or for some subset of allowed foods. For example, Texas allows a broad list of non-potentially hazardous foods to be produced and sold from a home kitchen but first requires cottage food producers to complete basic food safety training.¹⁰⁹

Several state laws are good models for expansive lists of approved food items. For example, Alaska broadly allows all types of non-potentially hazardous foods to be produced and sold from a home kitchen.¹¹⁰ California's Department of Health provides a detailed list of more than thirty non-potentially hazardous foods that are approved for cottage food operations on its website and allows producers to request that the Department of Health add additional foods to the approved list.¹¹¹ Wyoming's food freedom law allows all foods except certain meat and poultry products to be sold directly to the consumer.¹¹² Legislators and agencies should work with cottage food producers in their state to figure out what model works best.



STATES SHOULD ALLOW COTTAGE FOOD PRODUCERS TO SELL INDIRECTLY TO CONSUMERS AT RESTAURANTS AND RETAIL ESTABLISHMENTS.

Allowing indirect sales to restaurants and retail establishments allows cottage food producers to expand their businesses by boosting sales volume, amplifying brand exposure, and creating distribution partnerships. This can help cottage food operators more successfully transition to full food businesses over time. Concerns about food safety can be addressed by requiring clear disclosures on labels and signs and/or by creating a second tier of food safety requirements to be met in order for products to be sold indirectly. For example, California strikes a good balance between allowing indirect sales and maintaining oversight. In California, “Class A” food operations can only sell food directly to consumers, whereas “Class B” food operations can sell their products to third-party retailers such as restaurants and markets within the jurisdiction of their local health agency if appropriate permits are obtained from such counties and certain food safety and health requirements are followed.¹¹³

STATES SHOULD ELIMINATE SALES LIMITS OR SET HIGHER THRESHOLDS.

About half of the states set a sales limit on cottage food production ranging from \$5,000 a year to \$50,000 a year. If a business is strictly limited in how much revenue it can generate, that limits the producer’s ability to make a living off the business or meet the potential demand for products. If states want to encourage local economic development, increasing or eliminating the sales threshold for cottage food operations is a necessary step toward accomplishing that goal. Some states, like Missouri and Florida, set high sales limits of \$50,000 a year. Even more expansive, Georgia, Massachusetts, Montana, Nebraska, Pennsylvania, and more than half of other states do not have any annual sales limit.

IF STATES REQUIRE REGISTRATION, LICENSING, OR PERMITTING, FULFILLING THESE REQUIREMENTS SHOULD BE LOW-COST OR FREE FOR COTTAGE FOOD OPERATIONS.

Some states require complex or burdensome registration requirements that hinder the development of cottage food businesses. States with existing registration and permitting requirements for cottage food production should review these requirements to ensure they are not overly burdensome. State that have no registration or permitting requirements should consider implementing a simple free or low-cost registration system that captures basic contact and business information about cottage food producers but does not impose costs on producers. A state registry of cottage food operations can meet the goals of allowing for better program assessment and tracking of foodborne illness and help determine the size of the cottage food industry in the state. Arizona’s cottage food business registry provides a good model. In Arizona, all cottage food producers are required to register free of charge for the Home Baked and Confectionery Goods Program by filling out an online form with the following information: name, phone number, email address, physical address, whether they have a food handler card/training certificate, and the types of products they plan on selling.¹¹⁴ The name, county and type of product for each of the registrants are publicly available on the Arizona Department of Health Services website.¹¹⁵ This type of simple registration system can be implemented at a low cost in any state, and can help track valuable data on cottage food producers while keeping the costs and barriers to entry for operators to a minimum.

CONCLUSION

Across the United States, farmers and food entrepreneurs are developing tasty, high-quality food products to sell in their communities. States can support these cottage food producers by crafting state laws with only the necessary restrictions on cottage food operations and providing cottage food producers with clear guidance on how to follow these laws. States that allow for cottage food operations are supporting local business development, creating jobs, and strengthening the local economy. Forty-nine states and the District of Columbia now allow for some cottage food production and sales, compared to forty-two states in 2013.¹¹⁶ This increase demonstrates that more cottage food producers and consumers are demanding that sales of these safe, wholesome foods be allowed in their states. However, many of these state laws still restrict cottage food operations in ways that are unnecessary for protecting public health and safety. Using this guide as a resource, states should continue updating and strengthening their cottage food laws to encourage the growth of cottage food businesses in their states.



ENDNOTES

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- ⁶ *Id.*
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- ¹⁶ *Id.* at § 1-201.10 (defining "Food Establishment").
- ¹⁷ *Id.* at § 1-201.10 (defining "Food Establishment").
- ¹⁸ *Id.* at § 1-201.10 (defining "Time/Temperature Control for Safety Food").
- ¹⁹ NEB. REV. STAT. § 81-2,244.01 (2017).
- ²⁰ *Id.*
- ²¹ *Id.* (emphasis added).
- ²² VT. STAT. ANN. tit. 18, § 4358 (2018).
- ²³ COLO. REV. STAT. § 25-4-1614 (2017).
- ²⁴ MD. CODE ANN., HEALTH-GEN. § 21-330.1(f) (West 2018).
- ²⁵ MD. CODE REGS. 15.03.02, 10.15.03.27 (2018).
- ²⁶ *Id.*
- ²⁷ GA COMP. R. & REGS. 40-7-19.01-.10 (2018).
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- ³⁴ *Id.* at § 11-49-103(c).
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70 MD. CODE REGS. 10.15.03.02(B)(17-2) (2018).

71 FLA. STAT. § 500.80(1)(a) (2018); MD. CODE ANN., HEALTH–GEN. § 21-330.1(b) (West 2018); MICH. COMP. LAWS § 289.4102(1) (2017).

72 COLO. REV. STAT. § 25-4-1614(2)(c) (2017).

73 WASH. REV. CODE § 69.22.030(2) (2017).

74 UTAH CODE ANN. § 4-5-501(4)(b) (West 2018).

75 D.C. Mun. Regs. tit. 25, § K102 (2018).

76 GA. COMP. R. & REGS. 40-7-19.03 (2018).

77 N.M. CODE R. § 7.6.2.15 (LexisNexis 2018).

78 01-001-345 ME. CODE R. § 8(A) (LexisNexis 2018); 01-001-330 ME. CODE R. § 2 (LexisNexis 2018).

79 WASH. REV. CODE § 69.22.030(1) (2017).

80 S.C. CODE ANN. § 44-1-143 (2018).

81 TEX. HEALTH & SAFETY CODE ANN. § 437.001(2-b)(B) (West 2018).

82 COLO. REV. STAT. § 25-4-1614(2)(e) (2017); *Cottage Foods- Starting a Business*, COLO. DEP'T OF PUB. HEALTH & ENV'T, <https://www.colorado.gov/pacific/cdphe/cottage-foods-starting-business> (last visited July 13, 2018).

83 MICH. COMP. LAWS § 289.4102(5) (2017).

84 *Michigan Household Income*, DEP'T OF NUMBERS., <http://www.deptofnumbers.com/income/michigan/> (last visited July 13, 2018).

85 S.D. CODIFIED LAWS §§ 34-18-34 to -38 (2018).

86 VA. CODE ANN. § 3.2-5130(A)(4) (2018).

87 MINN. STAT. § 28A.152 (2018).

88 N.H. CODE ADMIN. R. ANN. HE-P 2310.01 (2018).

89 MD. CODE ANN., HEALTH-GEN. § 21-330.1(c)(2) (West 2018).

90 VA. CODE ANN. § 3.2-5130(A)(3) (2018).

91 WYO. STAT. ANN. §§11-49-101 to -103 (2018).

92 CAL. HEALTH & SAFETY CODE §§ 113758, 114365 (West 2018).

93 3-100-101 DEL. ADMIN. CODE §§ 1.0-16.0 (2018); 16-4400-4458A DEL. ADMIN. CODE §§ 1.0-9.0 (2018).

94 CAL. HEALTH & SAFETY CODE §§ 113758, 114365 (West 2018).

95 A.B. 626, 2017-2018 Leg., Reg. Sess. (Cal. 2017).

96 *Id.*

97 410 ILL. COMP. STAT. 625/3.6, /4 (2018).

98 *Illinois Cottage Food Law*, ILLINOIS STEWARDSHIP ALLIANCE, <https://www.ilstewards.org/policy-work/illinois-cottage-food-law/> (last visited July 24, 2018); Brett Luster, *Gov. Quinn signs 'Cupcake' bill into law*, THE TELEGRAPH (June 10, 2014), <https://www.thetelegraph.com/news/article/Gov-Quinn-signs-Cupcake-bill-into-law-12639989.php>.

99 410 ILL. COMP. STAT. 625/3.6, /4I (2018).

100 *Id.*

101 *Id.*

102 A.B. 801, 218th Leg., Reg. Sess. (N.J. 2018).

103 Act effective Oct. 1, 2018, Pub. Act No. 18-141, § 13-19 (2018).

104 16-4400-4458A DEL. ADMIN. CODE § 2.0 (2018).

105 L.B. 764, 105th Leg., 2d Sess. (Neb. 2018).

106 Erica Chayes Wida, *supra* note 53; INSTITUTE FOR JUSTICE, *supra* note 51.

107 MONT. DEP'T OF PUB. HEALTH & HUMAN SERVS., MONTANA DPHHS COTTAGE FOOD OPERATION GUIDANCE AND REGISTRATION (Sept. 2016), <http://dphhs.mt.gov/Portals/85/publichealth/documents/FCS/Montana%20DPHHS%20Cottage%20Food%20Operation%20Guidance%20and%20Registration.pdf?ver=2016-09-13-143415-510>.

108 FLORIDA DEP'T OF AGRIC. & CONSUMER SERVS. DIV. OF FOOD SAFETY, COTTAGE FOOD OPERATIONS (June 2017), http://www.freshfromflorida.com/content/download/70108/1634054/Cottage_Food_Guidance.pdf.

109 TEX. HEALTH & SAFETY CODE ANN. § 437.001(2-b)(B) (West 2018).

110 ALASKA ADMIN. CODE tit. 18, § 31.012 (2018).

111 See CAL. DEP'T OF PUB. HEALTH, REQUEST TO ADD A FOOD PRODUCT TO THE COTTAGE FOODS APPROVED FOOD LIST (July 1, 2016), <https://www.cdph.ca.gov/Programs/CEH/DFDCS/CDPH%20Document%20Library/FDB/FoodSafetyProgram/CottageFood/CFRaddfoodrequest.pdf>.

112 WYO. STAT. ANN. §11-49-101 to -103 (2018).

113 CAL. HEALTH & SAFETY CODE §§ 113758, 114365 (West 2018).

114 *Home Baked and Confectionary Goods: Program Registration*, ARIZ. DEP'T OF HEALTH SERVS., <https://www.azdhs.gov/preparedness/epidemiology-disease-control/food-safety-environmental-services/home-baked-confectionery-goods/index.php#registration> (last visited July 13, 2018).

115 *Home Baked and Confectionary Goods: Home*, ARIZ. DEP'T OF HEALTH SERVS., <https://www.azdhs.gov/preparedness/epidemiology-disease-control/food-safety-environmental-services/home-baked-confectionery-goods/index.php> (last visited July 13, 2018).

116 HARVARD FOOD LAW & POLICY CLINIC, *supra* note 9.

APPENDIX: STATE COTTAGE FOOD LAWS

For each state, citations for the statute, regulations, and/or agency guidance for cottage food production are provided. Additional resources are linked where useful in understanding the law.

The information provided in this Appendix is necessarily limited and does not include all relevant state law for operating a cottage food business in each of the states. It also does not include local requirements where those exist. Further, state laws regarding cottage foods are changing quickly, so this chart will likely not capture all current laws and regulations in subsequent years after publication.

For these reasons, individuals interested in starting a cottage food business should consult an attorney familiar with the relevant state law to help navigate the process at the state and local levels or contact their state or local department of health or agriculture for the specific requirements of operating a cottage food business in that state.



ALABAMA

Tiers and Types of Cottage Food Producers	Alabama has two tiers of cottage food production: Cottage Foods and Home Processed Products . Anyone can become either type of producer.
Types of Cottage Food Products Allowed	Cottage Foods: Cottage foods are limited to baked goods, canned jam or jelly, dried herbs or herb mix, or candy. Home Processed Products: Home processed products are those that do not have to be time or temperature controlled for safety (excluding low acid foods). Examples include: baked goods; fudge; double-crust fruit pies; traditional fruit jams; jellies; marmalades; pickles; relishes; candy; spices; herbs; and snack items such as popcorn, caramel corn and peanut brittle.
Limits on Where Cottage Food Products Can Be Sold	Cottage Foods: Food may be sold directly to consumers only and cannot be sold over the internet. Home Processed Products: Food can be sold only at state sanctioned farmers markets.
Registration, Inspection, Licensure & Permit Required	Cottage Foods: Cottage food operators must attend and pass a food safety course approved by the Alabama Department of Public Health. Home Processed Products: None
Sales Limit	Cottage Foods: Annual gross income must not exceed \$20,000. Home Processed Products: None
Required Labeling	Cottage Foods: Labels must include the following information: (1) Name and address of the cottage food production operation; and (2) a statement that the food product is not inspected by the Alabama Department of Public Health. Home Processed Products: Labels must include the following information: (1) the name and place of business of the manufacturer, packer, or distributor and (2) the statement “This item(s) was prepared in a kitchen that is NOT inspected by a regulatory agency.” In addition, the consumer must be informed by a clearly visible label, tag, or placard at the sales or service location that the food is prepared in a kitchen that is not inspected by a regulatory agency, i.e. County or State Health Department.
ALA. CODE § 22-20-5.1 (Cottage Foods); ALA. ADMIN. CODE r. 420-3-22-.01 (Home Processed Products; Cottage Foods); ALABAMA DEPARTMENT OF AGRICULTURE AND INDUSTRIES, HOME PROCESSED PRODUCTS AND COTTAGE FOOD LAW, http://fma.alabama.gov/pdfs/Brochure_HomeProcessed-CottageFoodLaw.pdf	

ALASKA

Tiers and Types of Cottage Food Producers	Alaska has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Cottage food products are non-potentially hazardous foods. Examples include jams, jellies, pickled vegetables, bread, kettle popcorn, confections, trail mix, granola, tortillas, fry bread, fermented fruit and vegetable products, pastries, and waffle cones. For each food product, cottage food operators must provide to the Alaska Department of Environmental Conservation the formulation or recipe, pH value, and water activity value.
Limits on Where Cottage Food Products Can Be Sold	Producers may sell directly to consumers only.
Registration, Inspection, Licensure & Permit Required	None
Sales Limit	Annual gross sales must not exceed \$25,000.
Required Labeling	All food must be labeled with the statement “THESE PRODUCTS ARE NOT SUBJECT TO STATE INSPECTION.” This label can be either (A) set out on a card, placard, or sign that is conspicuously posted at the point of sale; or (B) conspicuously displayed on the label of each food product that is packaged. In addition, the label must include either (1) name, (2) physical address, and (3) telephone number of the cottage food production operation; or (1) The operation’s Alaska business license number.
ALASKA ADMIN. CODE tit. 18, §§ 31.012, 31.985; <i>Home Based Food Business</i> , ALASKA DIV. OF ENVTL. HEALTH FOOD SAFETY & SANITATION PROGRAM, https://dec.alaska.gov/eh/fss/Food/Cottage_Food.html	

ARIZONA

Tiers and Types of Cottage Food Producers	Arizona has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Baked and confectionary goods that are not potentially hazardous may be sold.
Limits on Where Cottage Food Products Can Be Sold	None
Registration, Inspection, Licensure & Permit Required	All operators must register with the online registry established by the Arizona Department of Health Services and must obtain a food handler's card if required by the county in which the individual resides.
Sales Limit	None
Required Labeling	Labels must include the following information: (1) the name, physical address, and telephone number of the registered cottage food producer; (2) a list of ingredients in the product; (3) a statement that the product was prepared in a private home; and, (4) if applicable, a statement that the product was made in a facility for individuals with developmental disabilities.
ARIZ. REV. STAT. § 36-138; ARIZ. ADMIN. CODE § R9-8-102; <i>Home Baked and Confectionery Goods</i> , ARIZ. DEP'T OF HEALTH SERVS., https://www.azdhs.gov/preparedness/epidemiology-disease-control/food-safety-environmental-services/home-baked-confectionery-goods/index.php	

ARKANSAS

Tiers and Types of Cottage Food Producers	Arkansas has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Allowed cottage foods are non-potentially hazardous foods, limited to bakery products, candy, fruit butter, jams, jellies, chocolate-covered fruit and berries that are not cut, and any other products identified by Department of Health regulations. As of 2018, no other products are identified.
Limits on Where Cottage Food Products Can Be Sold	Cottage foods may be sold direct to consumers only and may be sold only from the site where the products are produced, a physical or online farmers market, a county fair, or a special event.
Registration, Inspection, Licensure & Permit Required	Registration and permits are not required, but upon request, each cottage food offered for sale must be made available to the Department of Health for sampling.
Sales Limit	None
Required Labeling	Labels must include the following information: (1) name, (2) physical address of the cottage food operation, (3) the name of the food product, (4) the ingredients in the food product; and (5) the following statement in 10-point type, "This Product is Home-Produced." The label shall not make any nutritional claims.
ARK. CODE ANN. § 20-57-201; ARK. DEP'T OF HEALTH, COTTAGE FOOD GUIDE (Mar. 2017), https://www.healthy.arkansas.gov/images/uploads/pdf/CottageFoodGuidelines.docx_03-15-2017.pdf	

CALIFORNIA

<p>Tiers and Types of Cottage Food Producers</p>	<p>California has a two-tiered cottage food system: Class A Food Operations and Class B Food Operations. The different requirements for each tier are broken out in the table below. Anyone can become either class of cottage food producer.</p>
<p>Types of Cottage Food Products Allowed</p>	<p>Non-potentially hazardous foods, defined as not requiring time/temperature control to limit pathogenic microorganism growth or toxin formation, are allowed. The California Department of Public Health maintains the list of approved foods on its website and has the authority to add or delete from the list of approved foods; only foods on the approved list may be sold.</p> <p>As of July 1, 2018, the list of approved cottage foods is: (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 fruits; (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; (12) nut mixes and nut butters; (13) popcorn; (14) vinegar and mustard; (15) roasted coffee and dried tea; (16) waffle cones and pizelles; (17) cotton candy; (18) candied apples; (19) confections such as salted caramel, fudge, marshmallow bars, chocolate covered marshmallow, nuts, and hard candy, or any combination thereof; (20) buttercream frosting, buttercream icing, buttercream fondant, and gum paste that do not contain eggs, cream, or cream cheese; (21) dried or dehydrated vegetables; (22) dried vegetarian-based soup mixes; (23) vegetable and potato chips; (24) ground chocolate; (25) seasoning salt; (26) flat icing; (27) marshmallows that do not contain eggs; (28) popcorn balls; (29) dried grain mixes; (30) fried or baked donuts and waffles; (31) dried hot chocolate (dried powdered mixes or molded hardened cocoa pieces); (32) fruit infused vinegar (containing only high-acid fruits such as apple, crabapple, nectarine, peach, plum, quince, blackberry, blueberry, cherry, cranberry, grape, huckleberry, gooseberry, loganberry, pomegranate, pineapple, raspberry, strawberry, tomatillo, youngberry, grapefruit, kumquat, lemon, lime, orange); (33) dried fruit powders; and (34) dried spiced sugars.</p>
<p>Limits on Where Cottage Food Products Can Be Sold</p>	<p>Class A Cottage Food Operations: Foods may be sold directly to consumers only. Cottage foods can be sold only from the producer’s home, at a holiday bazaar or temporary event, at a bake sale or food swap, at a farm stand or farmers market, or through a community-supported agriculture subscription. Internet sales are allowed, but the products must be delivered in person. Additionally, operations can only sell cottage foods outside their county of residence only when the local environmental health agency of the outside county allows it.</p> <p>Class B Cottage Food Operations: Direct or indirect sales are allowed. Direct sales to consumers allowed in the same venues as are allowed for a Class A Cottage Food Operation. Indirect sales to consumers are allowed within the county in which the operation is permitted for offsite events and from any third-party retailer that holds a valid business permit, including retail shops and retail food facilities where food is consumed on the premises. In counties where the operation is not permitted, the operation must seek approval from that county before engaging in indirect sales.</p>
<p>Registration, Inspection, Licensure & Permit Required</p>	<p>All cottage food operators must (1) register with the local health agency and submit a self-certification checklist ensuring compliance with various health requirements and (2) complete a food processor training course within three months of registering and have sanitary operations. In addition, all cottage food operators may be subject to inspection if, on the basis of a consumer complaint, the local environmental health agency has reason to suspect that unsafe food is being produced by the operation. A copy of the registration must be retained by the operator onsite at the time of sale.</p> <p>In addition to these requirements, Class B cottage food operators may be subject to inspection by the local environmental health agency prior to receiving their Class B permit (even if there are no reports of unsafe operations).</p>
<p>Sales Limit</p>	<p>Annual gross sales may not exceed \$50,000.</p>

CALIFORNIA (CONTINUED)

Required Labeling

Both Class A and Class B Cottage Food Operations: Label must include: (1) name of the cottage food product located on the primary display panel; (2) name, city, and zip code of the cottage food operation which produced the product. If the operation is not listed in a current telephone directory, then a street address must also be included on the label; (3) The words “Made in a Home Kitchen” or “Repackaged in a Home Kitchen”, in 12-point type on the principal display panel; (4) registration or permit number of the cottage food operation and the name of the county of the local enforcement agency that issued the permit number; (5) ingredients of the cottage food product, in descending order of predominance by weight, if the product contains two or more ingredients; (6) net quantity of the food product; (7) a declaration on the food if it contains any major allergens; and (8) if the food label makes any nutrient content or health claims then a Nutrition Facts Panel is required to be incorporated into the label.

Class B Cottage Food Operations Only: If the product is served by a food facility without labeling or packaging, the product shall be identified to the consumer as homemade on the menu, menu board, or other location that would reasonably inform a consumer of its homemade status.

CAL. HEALTH & SAFETY CODE §§ 113758, 114365; *Cottage Food Operations*, CAL. DEP’T OF PUB. HEALTH FOOD & DRUG BRANCH, <https://www.cdph.ca.gov/Programs/CEH/DFDCS/Pages/FDBPrograms/FoodSafetyProgram/CottageFoodOperations.aspx>

COLORADO

Tiers and Types of Cottage Food Producers

Colorado has one category of cottage food production. Anyone can become a cottage food producer.

Types of Cottage Food Products Allowed

Non-potentially hazardous foods may be sold. Allowed foods include but are not limited to pickled fruits and vegetables, spices, teas, dehydrated produce, nuts, seeds, honey, jams, jellies, preserves, fruit butter, flour, and baked goods, including candies, fruit empanadas, and tortillas.

Limits on Where Cottage Food Products Can Be Sold

Food may be sold directly to consumers only. Products may be sold only in the state. Internet sales are allowed.

Registration, Inspection, Licensure & Permit Required

Producer must take a food safety course that includes basic food handling training and is comparable to, or is a course given by, the Colorado state university extension service or a state, county, or district public health agency, and must maintain a status of good standing in accordance with the course requirements, including attending any additional classes as necessary. In the case of consumer complaint or misbranded food, food products are subject to food sampling and inspection.

Sales Limit

Annual net revenue is limited to \$10,000 or less from the sale of each eligible food product. For example, different types of muffins are different food products, and the sales limit would be \$10,000 for each type.

Required Labeling

Labels must include the following information: (1) identification of the product; (2) the producer’s name, the address at which the food was prepared, and the producer’s current telephone number or electronic mail address; (3) the date on which the food was produced; (4) a complete list of ingredients; and (5) The following disclaimer: “This product was produced in a home kitchen that is not subject to state licensure or inspection and that may also process common food allergens such as tree nuts, peanuts, eggs, soy, wheat, milk, fish, and crustacean shellfish. This product is not intended for resale.”

COLO. REV. STAT. § 25-4-1614; *Cottage Foods- Starting a Business*, COLO. DEP’T OF PUB. HEALTH & ENV’T, <https://www.colorado.gov/pacific/cdphe/cottage-foods-starting-business>

CONNECTICUT

<p>Tiers and Types of Cottage Food Producers</p>	<p>Connecticut has two tiers of cottage food production. The Cottage Foods tier (<i>goes into effect October 1, 2018</i>) applies to anyone producing foods in a home kitchen. The Residential Farmers tier applies to farmers who live and produce the processed food items on the farm, and the items must be made with ingredients grown on the farm. Anyone can become a Cottage Food producer, but only farmers living on-farm can become a Residential Farmer producer.</p>
<p>Types of Cottage Food Products Allowed</p>	<p>Cottage Foods (<i>goes into effect October 1, 2018</i>): Non-potentially hazardous baked goods, jams, jellies, and other non-potentially hazardous foods are allowed. Acidified foods are not allowed.</p> <p>Residential Farmers: Residential farmers may produce jams, jellies, preserves, and acidified food products (meaning a food item with a pH value of 4.6 or less, including pickles, salsa, and hot sauce), so long as the products are prepared with fruit and vegetables grown on the residential farm. For all acidified foods, a laboratory must perform a pH test for the food product after the product recipe is completed.</p>
<p>Limits on Where Cottage Food Products Can Be Sold</p>	<p>Cottage Foods (<i>goes into effect October 1, 2018</i>): Sales may be direct to consumer only, and may occur only at the point of production, farmers markets, local fairs and festivals, and charitable functions. Advertising and sales by internet, mail, and phone is allowed so long as the product is delivered in person to the buyer within the state of Connecticut.</p> <p>Residential Farmers: Sales may be direct to consumer at the point of production only.</p>
<p>Registration, Inspection, Licensure & Permit Required</p>	<p>Cottage Foods (<i>goes into effect October 1, 2018</i>): All cottage food producers must be licensed annually by the Commissioner of Consumer Protection and may sell only the foods indicated on the license. They must also have completed a food safety training program that includes training in food processing and packaging. The Commissioner may also inspect the cottage food operations prior to licensing. Any cottage food producer with a private water supply must have the supply tested prior to operations to make sure it is potable.</p> <p>Residential Farmers: The food processor must successfully complete a safe food handling course administered by an organization approved by the Department of Public Health or the Department of Consumer Protection and make that documentation available to the local health department or the Department of Consumer Protection upon request. In addition, if the residential farm is making acidified foods, the residential farm's water supply must come from a public water supply system or a private well and must be tested and tests negative for coliform bacteria annually.</p>
<p>Sales Limit</p>	<p>Cottage Foods (<i>goes into effect October 1, 2018</i>): Gross annual sales must not exceed \$25,000.</p> <p>Residential Farmers: None</p>
<p>Required Labeling</p>	<p>Residential Farmers: Each container must include in 10-point font on its label the following phrase "Not prepared in a government inspected kitchen".</p> <p>Cottage Foods (<i>goes into effect October 1, 2018</i>): Each container must include: (1) the name and address of the cottage food operation; (2) the common or usual name of the cottage food product; (3) the ingredients of the cottage food product, in descending order of predominance by weight or volume; (4) allergen information, as specified by federal labeling requirements, such as milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat and soybeans; and (5) the following statement printed in at least ten-point type in a clear and conspicuous manner that provides contrast to the background label: "Made in a Cottage Food Operation that is not Subject to Routine Government Food Safety Inspection."</p>

CONN. GEN. STAT. § 21a-24a (Residential Farmers); Act effective Oct. 1, 2018, Pub. Act No. 18-141, § 13-19 (Cottage Foods)

DELAWARE

Tiers and Types of Cottage Food Producers	Delaware has two tiers of cottage food production. The Cottage Foods tier applies to anyone using a residential-style kitchen. The On-Farm Home Processing tier applies to farmers who produce the processed food items on their own farm.
Types of Cottage Food Products Allowed	<p>Cottage Foods: A producer in a residential-style kitchen may produce foods that are not subject to time or temperature control for safety. Approved cottage foods include, but are not limited to: baked goods such as cakes, breads, cookies, rolls, muffins, brownies, fruit pies and pastries; jams, jellies, and other fruit preserves; and candy products such as fudge, lollipops, chocolates, tortes, hard candy, and rock candy. Bakery items that contain components that require time and/or temperature control (such as cream filling, meat, etc.) are not allowed. Acidified foods are not allowed.</p> <p>On-Farm Home Processing: A person on the person's own farm may produce food items that are not potentially hazardous foods, which are limited to: (1) baked breads, cakes, muffins, or cookies with a water activity of .85 or less; (2) candy (non-chocolate); (3) containerized fruit preparations consisting of jellies, jams, preserves, marmalades, and fruit butters with an equilibrated pH of 4.6 or less or a water activity of 0.85 or less; (4) fruit pies with an equilibrated pH of 4.6 or less; (5) herbs in vinegar with an equilibrated pH of 4.6 or less; (6) honey and herb mixtures; (7) dried fruit and vegetables; (8) spices or herbs; (9) maple syrup and sorghum; (10) snack items such as popcorn, caramel corn, and peanut brittle; and (11) roasted nuts.</p>
Limits on Where Cottage Food Products Can Be Sold	<p>Cottage Foods: Sales may be made directly to consumers only. Sales may occur at a farmers market, craft fair, charitable organization function, and any other venue approved by the Division of Public Health in the cottage food establishment's registration. No online sales are allowed.</p> <p>On-Farm Home Processing: Sales may be made only at farmers' markets, roadside produce stands, or the processor's farm.</p>
Registration, Inspection, Licensure & Permit Required	<p>Cottage Foods: Cottage food establishments must apply and register with the Department of Health and Social Services' (DHSS) Division of Public Health annually. The Division of Public Health may conduct inspections at its discretion, either before the operation opens or in response to food safety complaints, but it will not always do so. At least one employee working during hours of operation must be able to show they passed a food safety test administered by DHSS' Office of Food Protection.</p> <p>On-Farm Home Processing: On-farm home processors must register the premises where the foods are produced with the Department of Agriculture (DA) and obtain a license, and the premises may be inspected. The processor must also complete a safe food handling course approved by the DA.</p>
Sales Limit	<p>Cottage Foods: Gross annual sales must not exceed \$25,000.</p> <p>On-Farm Home Processing: Gross annual sales must not exceed \$50,000.</p>
Required Labeling	<p>Cottage Foods: Label must include the following information: (1) name, address, phone number and email of the Cottage Food Establishment; (2) name of the product; (3) net weight or unit count; (4) date of production / lot number; (5) list of ingredients in decreasing order by weight (if the product label is too small to allow for printing of ingredients, the list shall be available at the request of the consumer); and (6) the label shall include the following statement in at least 10-point type in a color that provides a clear contrast to the background label: "This food is made in a Cottage Food Establishment and is NOT subject to routine Government Food Safety Inspections."</p> <p>On-Farm Home Processing: Label must include the following information: (1) name of product; (2) name and address of manufacturer; (3) ingredients listed in decreasing order by weight; (4) net weight or unit count; (5) the following statement in ten-point type: "This product is home-produced and processed;" and (6) the date the product was processed.</p>
3-100-101 DEL. ADMIN. CODE §§ 1.0-16.0 (On-Farm Home Processing); 16-4400-4458A DEL. ADMIN. CODE §§ 1.0-9.0 (Cottage Foods)	

DISTRICT OF COLUMBIA

Tiers and Types of Cottage Food Producers	The District of Columbia has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	As of June 2018, allowed products are limited to the following foods: (1) baked goods, without cream, custard, cheese, or meat fillings, such as breads, biscuits, churros, muffins, rolls, scones, and sweet breads; (2) unfilled, baked donuts; (3) waffle cones; (4) pizzelles; (5) roasted coffee, whole beans or ground; (6) cakes, including celebration cakes (birthday, anniversary, and wedding); (7) cereals, trail mixes, and granola; (8) candies, such as brittles, toffee, chocolates, cotton candy, fudge, truffles, and confections; (9) pastries, pies, brownies, cookies, and tortillas; (10) snacks such as caramel corn, chocolate-covered nonperishable foods, nuts and dried fruits, crackers, pretzels, seeds, popcorn, or popcorn balls; (11) fruit pies, fruit empanadas, and fruit tamales; (12) jams, jellies, syrups, marmalades and other preserves; (13) honey and honeycomb that comply with the “Sustainable Urban Agriculture Apiculture Act of 2012” and provide proof they are registered with the District’s Department of Energy and Environment; (14) dried pasta; (15) dry herbs, herb blends, and seasonings blends; (16) dry tea blends; (17) dry baking mixes; and (18) vinegar and flavored vinegars. The Department of Health updates this list each quarter, as necessary, through rulemaking.
Limits on Where Cottage Food Products Can Be Sold	Foods may be offered for sale only at a farmers market or a public event.
Registration, Inspection, Licensure & Permit Required	Cottage food businesses must obtain a home occupancy permit from the Department of Consumer and Regulatory Affairs (DCRA) and register with the Cottage Food Business Registry within the Department of Health (DOH) before beginning operations. The registry application must include the original DCRA permit; for food sold by weight, proof of calibrated scales; proof of passing a Certified Food Protection Manager Course; a District-issued Certified Food Protection Manager Certificate; a list of all food products the cottage food business intends to sell; packaging labels that comply with DOH requirements; and a registration fee. The Department will perform an inspection, and if the business passes, DOH shall issue a cottage food business identification number and certificate that is valid for 2 years.
Sales Limit	Annual revenue is limited to \$25,000 or less.
Required Labeling	Labels must include the following information: (1) the cottage food business identification number; (2) the name of the cottage food product; (3) the ingredients of the cottage food product in descending order of the amount of each ingredient by weight; (4) the net weight or net volume of the cottage food product; (5) allergen information as specified by federal labeling requirements; (6) the following statement in 10-point or larger type in a color that provides a clear contrast to the background of the label, “Made by a cottage food business that is not subject to the District of Columbia’s food safety regulations”; and (7) if any nutritional claim is made, nutritional information as specified by federal labeling requirements must also be included. The cottage food business must conspicuously display its registration certificate issued by DOH at each event.
D.C. CODE § 7-742.01-.02; D.C. Mun. Regs. tit. 25, § K100-109	

FLORIDA

Tiers and Types of Cottage Food Producers	Florida has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Non-potentially hazardous foods, defined as not requiring time/temperature controls for safety, are allowed. Allowed foods include: breads, rolls, and biscuits; cakes, pastries, and cookies; candies and confections; honey; jams, jellies, and preserves; fruit pies and dried fruits; dry herbs, seasonings, and mixtures; homemade pasta; cereals, trail mixes, and granola; coated or uncoated nuts; vinegar and flavored vinegars; and, popcorn and popcorn balls. Canned acidified foods are not allowed.
Limits on Where Cottage Food Products Can Be Sold	Cottage food must be sold directly to the consumer and may be sold at the operation's premises, farmers markets, roadside stands, or online. Internet sales are allowed, but the product must be delivered in person directly to the consumer or to a specific event venue. Mail order and wholesale sales are prohibited.
Registration, Inspection, Licensure & Permit Required	Cottage food operations require no license or permit from the Florida Department of Agriculture and Consumer Services. However, the Department may investigate any complaint that alleges that a cottage food operation has violated an applicable law, which may involve entering and inspecting the premises of the cottage food operation.
Sales Limit	Annual gross sales must not exceed \$50,000.
Required Labeling	Labels must include the following information: (1) the name and address of the cottage food operation; (2) the name of the cottage food product; (3) the ingredients of the cottage food product, in descending order of predominance by weight; (4) the net weight or net volume of the cottage food product; (5) allergen information as specified by federal labeling requirements; (6) the following statement in at least 10-point type in a color that clearly contrasts to the background of the label, "Made in a cottage food operation that is not subject to Florida's food safety regulations;" and (7) if any nutritional claim is made, appropriate nutritional information as specified by federal labeling requirements must be included.
FLA. STAT. §§ 500.03, 500.80; FLA. DIV. OF FOOD SAFETY, COTTAGE FOOD OPERATIONS (June 2017), http://www.freshfromflorida.com/content/download/70108/1634054/Cottage_Food_Guidance.pdf	

GEORGIA

Tiers and Types of Cottage Food Producers	Georgia has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Non-potentially hazardous foods are allowed. Allowed foods include but are not limited to: (1) loaf breads, rolls, and biscuits; (2) cakes (except those that require refrigeration due to cream cheese icing, fillings, or high moisture content such as tres leche); (3) pastries and cookies; (4) candies and confections; (5) fruit pies; jams, jellies, and preserves (not to include fruit butters whose commercial sterility may be affected by reduced sugar/pectin levels); (6) dried fruits; (7) dry herbs, seasonings, and mixtures; (8) cereals, trail mixes, and granola; (9) coated or uncoated nuts; (10) vinegar and flavored vinegars; and (11) popcorn, popcorn balls, and cotton candy. Canned acidified foods are not allowed, and home canned produce cannot be used as an ingredient in cottage food products, with the exception of jams and jellies.
Limits on Where Cottage Food Products Can Be Sold	Sales may be made direct to consumers only. Internet sales allowed if the sale is direct from the producer to an end consumer in Georgia. Distribution and wholesale are prohibited.
Registration, Inspection, Licensure & Permit Required	<p>Prior to manufacturing cottage food products, the cottage food operation must register and obtain a license from Georgia Department of Agriculture's Food Safety Division. For operators using a private water supply, water analysis for coliform bacteria and nitrates shall be required annually, and a copy of the results shall be attached to the registration form. Upon registering, the operator must obtain a license from the Department of Agriculture. Cottage food operators must also attend and pass a food safety training class accredited by the American National Standards Institute prior to registering.</p> <p>The Georgia Department of Agriculture's Food Safety Division may inspect the cottage food operator's home kitchen prior to insuring a license and may conduct inspections in response to consumer complaints or foodborne disease outbreaks. These inspections may be unannounced or commence within 1 hour of receiving notice of intent to conduct an inspection.</p>

GEORGIA (CONTINUED)

Sales Limit	None
Required Labeling	<p>Direct sale labels (for custom products sold to an individual consumer) must include: (1) the operator’s business name and address; and (2) the following statement in Times New Roman or Arial font, in at least 10-point type, and in a color that contrasts to the background color of the label, “MADE IN A COTTAGE FOOD OPERATION THAT IS NOT SUBJECT TO STATE FOOD SAFETY INSPECTIONS.”</p> <p>Pre-packaged food labels must include: (1) the operator’s business name and address; (2) the common name of the cottage food product; (3) the ingredients in descending order of predominance by weight; (4) the net weight or volume of the product; (5) allergen labeling as specified by FDA labeling requirements; (6) if a nutritional claim is made, appropriate nutritional information as specified by FDA labeling requirements; and (7) the following statement in Times New Roman or Arial font, in at least 10-point type, and in a color that contrasts to the background color of the label, “MADE IN A COTTAGE FOOD OPERATION THAT IS NOT SUBJECT TO STATE FOOD SAFETY INSPECTIONS.”</p> <p>Bulk sale labels (for products offered for sale from bulk food containers) to be made available to the consumer by way of a card, sign, loose leaf booklet, or other method of notification at the point of sale must include: (1) the operator’s business name and address; (2) the common name for each cottage food product offered for sale in the bulk food containers; (3) the ingredients in descending order of predominance by weight for each cottage food product offered for sale in the bulk food containers; (4) allergen labeling as specified by FDA labeling requirements; (5) if a nutritional claim is made, appropriate nutritional information as specified by FDA labeling requirements; and (6) the following statement in Times New Roman or Arial font, in at least 10-point type, in a color that contrasts to the background color of the label, and to be affixed to the bulk food container so that it is conspicuously displayed, “MADE IN A COTTAGE FOOD OPERATION THAT IS NOT SUBJECT TO STATE FOOD SAFETY INSPECTIONS.”</p>

GA. COMP. R. & REGS. 40-7-19.02—10; *Cottage Food Program*, GA. DEP’T OF AGRIC., <http://agr.georgia.gov/cottage-foods.aspx>

HAWAII

Tiers and Types of Cottage Food Producers	Hawaii has one category of cottage food production, called Homemade Foods in the state. Anyone can become a Homemade Food producer.
Types of Cottage Food Products Allowed	Producers may sell foods that are not potentially hazardous, including: breads, rolls, mochi; cakes, cookies, and pastries; candies and confections; jams, jellies, and preserves; cereals, trail mixes, and granola; popcorn. Canned acidified foods are not allowed.
Limits on Where Cottage Food Products Can Be Sold	Food may be sold directly to consumers only. Food may be sold at any venue.
Registration, Inspection, Licensure & Permit Required	Homemade Food operators are required to obtain food safety training from the Department of Health or from a program approved by the Department of Health. No license is required, although some sales venues such as farmers markets may require a Special Event permit.
Sales Limit	None
Required Labeling	Products must be labeled with the following information: (1) a statement that reads “Made in a home kitchen not routinely inspected by the Department of Health;” (2) common name of the product or descriptive name; (3) ingredient list if made from 2+ ingredients, listed in descending order of predominance by weight; and (4) name and contact information of the homemade food product operator.

HAW. CODE R. § 11-50-3; HAW. STATE DEP’T OF HEALTH, STARTING A HOMEMADE FOOD OPERATION (Sept. 2017), <https://health.hawaii.gov/san/files/2017/09/HMF-handout.pdf>

IDAHO

Tiers and Types of Cottage Food Producers	Idaho has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Foods that do not require time/temperature control for safety are allowed. Examples of cottage foods may include but are not limited to: baked goods, fruit jams and jellies, fruit pies, breads, cakes, pastries and cookies, candies and confections, dried fruits, dry herbs, seasonings and mixtures, cereals, trail mixes and granola, nuts, vinegar, popcorn and popcorn balls, and cotton candy.
Limits on Where Cottage Food Products Can Be Sold	Food may be sold directly to consumers only. Food may be sold at any venue. Possible venues include internet and mail order.
Registration, Inspection, Licensure & Permit Required	None
Sales Limit	None
Required Labeling	The product must include a clearly legible label on the packaging or a clearly visible placard at the sales or service location that states (1) the cottage food operation's contact information; (2) that the food was prepared in a home kitchen that is not subject to regulation and inspection by the Idaho Department of Health and Welfare; and (3) that the food may contain allergens.

IDAHO ADMIN. CODE r. 16.02.19.110; *Food Protection*, IDAHO DEP'T OF HEALTH & WELFARE, <http://healthandwelfare.idaho.gov/Health/FoodProtection/tabid/96/Default.aspx>

ILLINOIS

Tiers and Types of Cottage Food Producers	Illinois has a two-tiered cottage food system: Cottage Food and Home Kitchen . The different requirements for each tier are broken out in the table below. Anyone can become either type of producer; however, the Home Kitchen tier is not available in every county. A county must opt in to authorize Home Kitchen operations.
Types of Cottage Food Products Allowed	<p>Cottage Food: Any food or drink made in a residential or commercial kitchen is allowed, except for products made of the following ingredients: (A) meat, poultry, fish, seafood, or shellfish; (B) dairy, except as an ingredient in a non-potentially hazardous baked good or candy, such as caramel; (C) eggs, except as an ingredient in a non-potentially hazardous baked good or in dry noodles; (D) pumpkin pies, sweet potato pies, cheesecakes, custard pies, creme pies, and pastries with potentially hazardous fillings or toppings; (E) garlic in oil; (F) canned foods, except for fruit jams, fruit jellies, fruit preserves, fruit butters, and acidified vegetables; (G) sprouts; (H) cut leafy greens, except for leafy greens that are dehydrated or blanched and frozen; (I) cut fresh tomato or melon; (J) dehydrated tomato or melon; (K) frozen cut melon; (L) wild-harvested, non-cultivated mushrooms; or (M) alcoholic beverages.</p> <p>Home Kitchen: In counties that have opted in, only baked goods made in the producer's primary residence are permitted. Allowed baked goods include but are not limited to breads, cookies, cakes, pies, and pastries. Only high-acid fruit pies that use the following fruits are allowed: apple, apricot, grape, peach, plum, quince, orange, nectarine, tangerine, blackberry, raspberry, blueberry, boysenberry, cherry, cranberry, strawberry, red currants or a combination of these fruits. Pumpkin pie, sweet potato pie, cheesecake, custard pies, creme pies, and pastries with potentially hazardous fillings or toppings are not allowed.</p>
Limits on Where Cottage Food Products Can Be Sold	<p>Cottage Food: Most cottage food products may be sold only at a farmers market. Cottage food products that have a locally grown agricultural product as the main ingredient may also be sold on the farm where the agricultural product is grown or delivered directly to the consumer.</p> <p>Home Kitchen: Direct sales to consumers.</p>

ILLINOIS (CONTINUED)

Registration, Inspection, Licensure & Permit Required	<p>Cottage Food: The name and residence of the person preparing and selling cottage food products must be registered each year with the health department of a unit of local government where the cottage food operation resides. The person preparing or packaging cottage food products must obtain a Department of Public Health-approved Food Service Sanitation Management Certificate, which requires a course.</p> <p>Home Kitchen: Registration or permits are not required under state law. However, counties may have additional requirements. The Department of Public Health reserves the right to inspect home kitchens in the case of complaint or illness.</p>
Sales Limit	<p>Cottage Food: No limit.</p> <p>Home Kitchen: Monthly gross sales must not exceed \$1,000.</p>
Required Labeling	<p>Cottage Food: The food packaging conforms to the labeling requirements of the Illinois Food, Drug and Cosmetic Act and includes the following information on the label of each of its products: (1) the name and address of the cottage food operation; (2) the common or usual name of the food product; (3) all ingredients of the food product, including any colors, artificial flavors, and preservatives, listed in descending order by predominance of weight shown with common or usual names; (4) the following phrase: "This product was produced in a home kitchen not subject to public health inspection that may also process common food allergens;"(5) the date the product was processed; and (6) allergen labeling as specified in federal labeling requirements. At the point of sale, a placard must be displayed in a prominent location that states the following: "This product was produced in a home kitchen not subject to public health inspection that may also process common food allergens."</p> <p>Home Kitchen: The food package must have a label listing the common name of the food product and allergen labeling in accordance with FDA labeling requirements. Consumers must also be provided with notice that the product was made in a home kitchen.</p>
<p>410 ILL. COMP. STAT. 625/3.6 (Home Kitchens); 410 ILL. COMP. STAT. 625/4 (Cottage Food); ILLINOIS STEWARDSHIP ALLIANCE, COTTAGE FOOD OPERATION – Q & A (2018), https://www.ilstewards.org/wp-content/uploads/2013/06/Cottage-Food-Guide-2018.pdf</p>	

INDIANA

Tiers and Types of Cottage Food Producers	<p>Indiana has one category of cottage food production. Anyone can become a cottage food producer, called a Home Based Vendor in Indiana.</p>
Types of Cottage Food Products Allowed	<p>Non-potentially hazardous foods and some meats may be sold. Examples of non-potentially hazardous foods include: baked goods; candy and confections; whole, uncut produce; tree nuts and legumes; honey, molasses, sorghum, and maple syrup; jams, jellies, and preserves (high acid fruit in sugar); and traditional fermented pickles not in an oxygen sealed container. Canned acidified foods are not allowed. The law also allows for some rabbit and poultry.</p>
Limits on Where Cottage Food Products Can Be Sold	<p>Sales are restricted to farmers market, farms, or roadside stands. Cottage food products must be sold directly to the end consumer and cannot be resold.</p>
Registration, Inspection, Licensure & Permit Required	<p>Registration and permits are not required. However, an individual vendor is subject to food sampling and inspection if the state department determines that the individual vendor's food product is misbranded or adulterated or if the state department has received a consumer complaint.</p>
Sales Limit	<p>None.</p>
Required Labeling	<p>Labels <u>for most products</u> must include the following information: (1) the name and address of the producer of the food product; (2) the common or usual name of the food product; (3) the ingredients of the food product, in descending order by predominance by weight; (4) the net weight and volume of the food product by standard measure or numerical count; (5) the date on which the food product was processed; and (6) the following statement in at least 10 point type: "This product is home produced and processed and the production area has not been inspected by the state department of health."</p>
<p>IND. CODE § 16-42-5-29; IND. STATE DEP'T OF HEALTH, GUIDANCE FOR UNIFORM USE OF HOUSE ENROLLED ACT 1309 (July 11, 2009), https://www.in.gov/isdh/files/HEA_1309_guidance_final_6_11_09.pdf; IND. STATE DEP'T OF HEALTH FOOD PROTECTION PROGRAM, HOME BASED VENDOR BASICS (Mar. 8, 2017), https://www.in.gov/isdh/files/hbv-presentation-3-8-2017.pdf; IND. STATE BOARD OF ANIMAL HEALTH, SALE OF MEAT AND POULTRY AT FARMERS MARKETS (Jan. 2017), https://www.in.gov/boah/files/FarmerMkt%20Sale%20of%20Meat-Poultry-Rabbit%202017.pdf</p>	

IOWA

Tiers and Types of Cottage Food Producers	Iowa has a two-tiered cottage food system: Cottage Food and Home Bakery . The different requirements for each tier are broken out in the table below. Anyone can become either type of producer.
Types of Cottage Food Products Allowed	<p>Cottage Food: Non-potentially hazardous food products are allowed. This does not include canned acidified foods.</p> <p>Home Bakery: Home bakeries may make higher-risk prepared foods, defined as “soft pies, bakery products with a custard or cream filling, or baked goods that are a time/temperature control for safety food.”</p>
Limits on Where Cottage Food Products Can Be Sold	<p>Cottage Food: Sales may be made only at the producer’s home or at farmers markets.</p> <p>Home Bakery: Baked goods can be sold directly to the consumer or sold for resale to other businesses including restaurants, grocery stores, and other retailers. Online sales are also acceptable.</p>
Registration, Inspection, Licensure & Permit Required	<p>Cottage Food: None</p> <p>Home Bakery: A license from the department of inspections and appeals is required. The license is valid for one year. The department may periodically inspect the home bakery and the inspector may enter the home bakery at any reasonable hour to make the inspection.</p>
Sales Limit	<p>Cottage Food: None</p> <p>Home Bakery: Annual gross sales must not exceed \$35,000.</p>
Required Labeling	<p>Cottage Food: Labels for non-potentially hazardous foods must include (1) the name and address of the person(s) preparing the food; and (2) the common name of the food.</p> <p>Home Bakery: Labels for prepared foods must contain the following information: (1) name and address of the person(s) preparing the food; (2) common name of the food; (3) the names of all ingredients in the food, beginning with the one present in the largest proportion and continuing in descending order of predominance; and (4) the quantity of the contents in terms of weight, measure or numerical count.</p>
IOWA CODE § 137F (Cottage Food); IOWA CODE § 137D (Home Bakery); IOWA DEP’T. OF INSPECTION & APPEALS, HOME BAKERY LICENSES (July 2016), https://dia.iowa.gov/sites/default/files/documents/2016/07/home_bakery_qa_2.pdf	

KANSAS

Tiers and Types of Cottage Food Producers	Kansas has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Food that does not require time and temperature control for safety or specialized processing is allowed. Allowed foods include: (1) baked goods made in a home kitchen; (2) dry baking mixes; (3) fresh or dried uncut fruits, vegetables, or herbs; (4) intact salad greens; (5) certain cut produce and cut herbs (other than cut tomatoes, melons, or leafy greens; (6) nuts; (7) honey; (8) eggs from producers with less than 250 hens; (9) poultry from producers that slaughters fewer than 20,000 birds/year; (10) home-canned jams and jellies made with fruit, pepper-flavored vinegar, or small amounts of pepper powder; (11) canned, shelf-stable naturally high acid foods; (12) juice and cider; (13) candies made in a home kitchen; (14) cultivated mushrooms (culinary and medicinal); (15) fish and seafood, sold whole on ice; (16) foods and beverages prepared off site, sold ready for consumption (6 or fewer times a year); (17) foods and beverages sold ready for immediate consumption by community groups for fundraising purposes; (18) homemade dried pasta; (19) vanilla extract; (20) spices; (21) lard; (22) pepper vinegars; (23) herb-flavored vinegars; (24) grain products i.e. cornmeal, popcorn home-ground flour; and (25) fruit leathers. Canned acidified products are not allowed.
Limits on Where Cottage Food Products Can Be Sold	Foods may be sold directly to the end consumer only. Internet sales are permitted if the foods are shipped to the customer’s home or delivered by the producer directly to the end consumer.
Registration, Inspection, Licensure & Permit Required	None
Sales Limit	None

KANSAS (CONTINUED)

Required Labeling

Packaged products must include the following labeling information: (1) the common name of the product; (2) the name and physical address of the producer; (3) the product ingredients in descending order of predominance; and (4) the quantity. Meat and eggs are subject to additional labeling requirements.

KAN. STAT. ANN. § 65-689; KAN. DEP'T OF AGRIC., FOOD SAFETY FOR KANSAS FARMERS MARKET VENDORS: REGULATIONS AND BEST PRACTICES (Jan. 2018), <https://www.bookstore.ksre.ksu.edu/pubs/MF3138.pdf>

KENTUCKY

Tiers and Types of Cottage Food Producers

Kentucky has a two-tiered cottage food system: **Home-Based Processor** and **Home-Based Microprocessor**. The different requirements for each tier are broken out in the table below. For both tiers, only farmers may produce cottage foods, and the final product must contain a primary or predominant ingredient which is a fruit, vegetable, nut, or herb that is grown by the farmer in Kentucky.

Types of Cottage Food Products Allowed

Home based Processor: A farmer may produce/process for sale in the farmer's home low-risk products made with a primary or predominant ingredient grown by the farmer. Allowed foods are limited to whole fruit and vegetables, mixed-greens, jams, jellies, sweet sorghum syrup, preserves, fruit butter, bread, fruit pies, cakes, or cookies. A home-based processor is prohibited from producing or processing for sale acid foods, acidified food products, formulated acid food products, or low-acid canned foods.

Home-based Microprocessor: In the farmer's certified or permitted home kitchen, a farmer may produce acid foods, formulated acid food products, acidified food products, or low-acid canned foods. All foods must contain a primary or predominant ingredient grown by the farmer. Microprocessors must submit recipes for all products to the University of Kentucky.

Limits on Where Cottage Food Products Can Be Sold

Sales may only be made directly to the consumer within the state. Online direct sales are allowed.

Registration, Inspection, Licensure & Permit Required

Home-based processors: Home-based processors must register annually with the Kentucky Cabinet for Health and Family Services/Food Safety Branch and submit verification of an approved water source. A home-based processor may also be subject to food sampling and inspection if it is determined that its food product is misbranded, adulterated, or if a consumer complaint has been received.

Home-based microprocessors: Farmers must apply and receive certification from the Cabinet for Health and Family Services/Food Safety Branch. Prior to applying for certification, a farmer must attend a Home-based Microprocessor Workshop hosted by the University of Kentucky.

Sales Limit

Home-based Processor: None

Home-based Microprocessors: Annual sales must not exceed \$35,000.

Required Labeling

Labels must include: (1) the name and address of the home-based processing operation; (2) the common or usual name of the food product; (3) the ingredients of the food product, in descending order of predominance by weight; (4) the net weight and volume of the food product by standard measure, or numerical count; (5) the following statement in ten point type: "This product is home-produced and processed"; and (6) the date the product was processed.

KY. REV. STAT. ANN. §§ 217.015, 217.136-138; *Home-based Processing and Microprocessing*, UNIV. OF KENTUCKY AGRIC., FOOD, & ENV'T., http://fcs-hes.ca.uky.edu/homebased_processing_microprocessing/

LOUISIANA

Tiers and Types of Cottage Food Producers	Louisiana has one category of cottage food production. Anyone can become a cottage food producer; however, a producer of baked goods may not employ anyone to assist in the operation.
Types of Cottage Food Products Allowed	Allowed foods are: (1) baked goods, including breads, cakes, cookies, and pies (custard or cream-filled bakery products are allowed, but only if made from pasteurized milk and custards and cream-filled mixtures are cooked to a temperature of one hundred forty-five degrees Fahrenheit for a period of not less than thirty minutes); (2) candies; (3) cane syrup; (4) dried mixes; (5) honey and honeycomb products; (6) jams, jellies, and preserves; (7) pickles and acidified foods; (8) sauces and syrups; (9) and spices.
Limits on Where Cottage Food Products Can Be Sold	Baked goods cannot be sold to retail businesses and cannot be resold by individuals. There are no limits on where other products may be sold.
Registration, Inspection, Licensure & Permit Required	None
Sales Limit	Gross annual sales must not exceed \$20,000.
Required Labeling	The label must clearly indicate that the food was not produced in a licensed or regulated facility.
LA. STAT. ANN. § 40:4.9	

MAINE

Tiers and Types of Cottage Food Producers	<p>Maine state law has one category of cottage food production (called Home Food Manufacturing). Anyone can become a home food manufacturer, and home food manufacturers who comply with Maine's requirements can sell food throughout in the state at a variety of venues.</p> <p><i>In addition, under Maine's Food Sovereignty legislation passed in 2017, cities and towns within the state can "declare food sovereignty" and develop their own ordinances for local food producers engaged in direct-to-consumer sales at the point of production within the city or town. As of March 2018, 21 towns in Maine had declared food sovereignty.</i></p>
Types of Cottage Food Products Allowed	<p>Home Food Manufacturing: Only shelf-stable foods are allowed. Examples include: (1) bakery items; (2) fruit jams and jellies; (3) acidified foods (pickles, relish, etc.); (4) herbs; (5); chocolates and confections; and (6) honey. Testing is required for some cottage food products.</p> <p>Food Sovereignty: Municipalities may develop their own food ordinances that can eliminate state-level restrictions.</p>
Limits on Where Cottage Food Products Can Be Sold	<p>Home Food Manufacturing: None</p> <p>Food Sovereignty: Municipalities' food sovereignty ordinances are limited to addressing foods sold (1) within the municipality, (2) direct to consumers, and (3) at the point of production.</p>
Registration, Inspection, Licensure & Permit Required	<p>Home Food Manufacturing: A food producer must apply for a Home Food Processor license from the Department of Agriculture, Conservation and Forestry annually and the producer's premises will be inspected by the Department before a license is issued or renewed. A Mobile Vendor license is also required to sell products at a farmers market.</p> <p>Food Sovereignty: Municipal ordinances related to meat and poultry licensing and inspection must comply with state and federal food safety laws and regulations. Otherwise, municipalities may pass food sovereignty ordinances that allow for sales of any other food products without registration, inspection, licensure, or permits.</p>
Sales Limit	None

MAINE (CONTINUED)

Required Labeling	<p>Home Food Manufacturing: All packaged food must be labeled with the following information: (1) the common or usual name of the product; (2) ingredients in order of predominance; (3) net weight or numerical count; and; (4) the name and address of the producer, manufacturer or distributor and zip code. Unpackaged products sold directly from the producer's home to a consumer do not require a label.</p> <p>Food Sovereignty: <i>Local food sovereignty ordinances may eliminate labeling requirements.</i></p>
<p>01-001-330 ME. CODE R. § 1-2; 01-001-345 ME. CODE R. § 1-8 (Home Food Manufacturing); ME. REV. STAT. ANN. tit. 7, §§ 281-286 (Food Sovereignty); <i>Farmers' Market License Requirements</i>, ME DEP'T OF AGRIC., CONSERVATION AND FORESTRY, QUALITY ASSURANCE AND REGS., http://www.maine farmers markets.org/market-managers/keeping-your-market-legal/farmers-market-reference-guide/; <i>Food Sovereignty in Maine</i>, MAINE FEDERATION OF FARMERS MARKETS, http://www.maine farmers markets.org/food-sovereignty/</p>	

MARYLAND

Tiers and Types of Cottage Food Producers	Maryland has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	The following products are allowed: (1) non-potentially hazardous hot-filled canned acid fruit jellies, jams, preserves, and butters that are unadulterated and packaged to maintain food safety and integrity; (2) fruit butters made only from apples, apricots, grapes, peaches, plums, prunes, quince, or another fruit or fruit mixture that will produce an acid canned food; (3) jam, preserve, or jelly made only from apples, apricots, grapes, peaches, plums, prunes, quince, oranges, nectarines, tangerines, blackberries, raspberries, blueberries, boysenberries, cherries, cranberries, strawberries, red currants, or another fruit or fruit mixture that will produce an acid canned food; (4) non-potentially hazardous baked goods; (5) foods manufactured on a farm by a licensed food processor in accordance with Md. CODE REGS. § 10.15.04.19; (6) non-potentially hazardous candy; and (7) all other non-potentially hazardous foods produced by a licensed entity.
Limits on Where Cottage Food Products Can Be Sold	Sales may be made only at a farmers market, bake sale, or public event. Internet sales are prohibited.
Registration, Inspection, Licensure & Permit Required	No license or registration is required. However, upon receipt of a complaint or outbreak of illness, the Department of Health and Mental Hygiene may send a representative to enter and inspect the premises of a cottage food business and collect samples of a cottage food product or its ingredients to determine if the cottage food product is misbranded or adulterated.
Sales Limit	Gross annual revenue is limited to \$25,000.
Required Labeling	Labels must contain the following information: (1) the name and address of the cottage food business; (2) the name of the cottage food product; (3) the ingredients of the cottage food product in descending order of the amount of each ingredient by weight; (4) the net weight or net volume of the cottage food product; (5) allergen information as specified by federal labeling requirements; (6) nutritional information as specified by federal labeling requirements, if any nutritional information claim is made; and (7) printed in 10 point or larger type in a color that provides a clear contrast to the background of the label: "Made by a cottage food business that is not subject to Maryland's food safety regulations."
<p>Md. CODE ANN., HEALTH-GEN. § 21-330.1; Md. CODE REGS. 10.15.03.02, 10.15.03.27</p>	

MASSACHUSETTS

Tiers and Types of Cottage Food Producers	Massachusetts has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Non-potentially hazardous foods are allowed. Ingredients that are potentially hazardous foods, such as milk, cream, and eggs, may be used in food preparation for the public provided that the final product is a non-potentially hazardous food. Canned acidified foods are not allowed.
Limits on Where Cottage Food Products Can Be Sold	Sales may be made direct to consumers only. Mail order and wholesale sales are prohibited.
Registration, Inspection, Licensure & Permit Required	All residential kitchens must be inspected and licensed by the local board of health.
Sales Limit	None
Required Labeling	Labels must include: (1) the product name; (2) ingredients listed in descending order of predominance by weight and a complete listing of sub-ingredients in a composite food ingredient; (3) total net weight (in ounces, pounds, pints, etc.); (4) dual declaration of net weight if product weighs one pound or more; (5) keep refrigerated or keep frozen if applicable; (6) recommended storage conditions; (7) open date and recommended storage conditions; and (8) name/address of manufacturer, packer, or distributor (and name if company is not in the local phone book).
105 MASS. CODE REGS. 590.002, 590.009; MASS. DEP'T OF PUB. HEALTH BUREAU OF ENVTL. HEALTH, RESIDENTIAL KITCHENS: QUESTIONS AND ANSWERS (Oct. 2016), http://www.mass.gov/eohhs/docs/dph/environmental/foodsafety/residential-kitchens-faq-sheet.pdf ; MASS. DEP'T OF PUB. HEALTH BUREAU OF ENVTL. HEALTH, MASSACHUSETTS MINIMUM REQUIREMENTS FOR PACKAGED-FOOD LABELING (Mar. 2015), https://www.mass.gov/files/documents/2016/07/vt/food-label-brochure.pdf	

MICHIGAN

Tiers and Types of Cottage Food Producers	Michigan has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Non-potentially hazardous foods that do not require time and/or temperature control for safety are allowed. Examples include: breads; baked goods; cookies; cakes; quick breads and muffins; cooked fruit pies; fruit jams and jellies; confections and candies (made without alcohol); granola; dry herbs and dry herb mixtures; dry baking mixes; dry dip mixes; dry soup mixes; dehydrated vegetables or fruits; popcorn; cotton candy; non-potentially hazardous dry bulk mixes sold wholesale and repackaged into a Cottage Food product; chocolate covered pretzels, marshmallows, graham crackers, Rice Krispies treats, strawberries, pineapple, bananas, or other non-TCS foods; coated or uncoated nuts; dried pasta made with or without eggs; roasted coffee beans or ground roasted coffee; and vinegar and flavored vinegars. Canned acidified foods are not allowed.
Limits on Where Cottage Food Products Can Be Sold	Products may be sold by direct to customers only. The products cannot be sold to retail stores, restaurants, over the Internet, by mail order, by consignment, or to wholesalers, brokers or other food distributors who resell foods.
Registration, Inspection, Licensure & Permit Required	None
Sales Limit	Gross annual sales must not exceed \$25,000.
Required Labeling	Labels must include the following information: (1) name and physical address of the cottage food operation; (2) name of the cottage food product; (3) the ingredients of the cottage food product, in descending order of predominance by weight (if you use a prepared item in your recipe, you must list the sub ingredients as well); (4) the net weight or net volume of the cottage food product; (5) allergen labeling as specified in federal labeling requirements; (6) federal labeling requirements that apply to any nutritional claims; and (7) the following statement in at least 11 point font and in a color that provides a clear contrast to the background: "Made in a home kitchen that has not been inspected by the Michigan Department of Agriculture & Rural Development".
MICH. COMP. LAWS §§ 289.1105, 289.4102; <i>Michigan Cottage Foods Information</i> , DEP'T OF AGRIC. & RURAL DEV., http://www.michigan.gov/mdard/0,4610,7-125-50772_45851-240577--,00.html	

MINNESOTA

Tiers and Types of Cottage Food Producers	Minnesota has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Non-potentially hazardous foods are allowed. Non-potentially hazardous foods are defined as: (1) an air-cooled hard-boiled egg with shell intact; (2) a food with an a_w value of 0.85 or less; (3) a food with a pH level of 4.6 or below when measured at 24 degrees C (75 degrees F); (4) a food, in an unopened hermetically sealed container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; (5) a food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious and toxigenic microorganisms or the growth of <i>Salmonella enteritidis</i> in eggs or <i>Clostridium botulinum</i> cannot occur, including a food that has an a_w and a pH that are above the levels specified in subitem (2) or (3) and that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms; or (6) a food that may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness, but that does not support the growth of microorganisms.
Limits on Where Cottage Food Products Can Be Sold	Cottage food products may be sold only directly to the ultimate consumer at the producer's home, farmers markets, community events, or through donation to a community event with the purpose of fund-raising for an individual, or an educational, charitable, or religious organization. Cottage food products may be sold over the Internet as long as the producer directly delivers the products to the ultimate consumer.
Registration, Inspection, Licensure & Permit Required	All cottage food producers must register with the Minnesota Department of Agriculture annually and must complete food safety education before selling exempt food. Producers making between \$5,000 and \$18,000 must pay a registration fee and take an in-person approved food safety course prior to registration. Producers making less than \$5,000 in receipts do not need to pay a registration fee and may complete food safety education via an online course and exam provided by the Minnesota Department of Agriculture.
Sales Limit	Annual gross sales must not exceed \$18,000.
Required Labeling	Labels must include the following information: (1) producer's name and address; (2) the date produced; (3) and the ingredients, including potential allergens. Producer must also display a sign that says, "these products are homemade and not subject to state inspection" (for canned goods, "these canned goods are homemade and not subject to state inspection"); if selling on the Internet, producer must post the same disclaimer on the webpage.
MINN. STAT. § 28A.152; MINN. R. 4626.0020 Subp. 62	

MISSISSIPPI

Tiers and Types of Cottage Food Producers	Mississippi has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Non-potentially hazardous foods that do not require time and/or temperature controls for safety are allowed. Allowed foods include: (1) baked goods without cream, custard, or meat fillings, such as breads, biscuits, cookies, pastries, and tortillas; (2) candy; (3) chocolate-covered nonperishable foods, such as pretzels, nuts, and fruit (except for melons); (4) dried fruit (except for melons); (5) dried pasta; (6) dried spices; (7) dry baking mixes; (8) granola, cereal, and trail mixes; (9) dry rubs; (10) fruit pies; (11) jams, jellies, and preserves that comply with the standard described in part 150 of Title 21 of the code of Federal Regulations; (12) nut mixes; (13) popcorn; (14) vinegar and mustard; (15) waffle cones; (16) acidified products which meet the definition as stated in part 114 of Title 21 of the Code of Federal Regulations.
Limits on Where Cottage Food Products Can Be Sold	Sales may be made direct to consumer only. Internet sales, sales by mail order, and sales at wholesale or to a retail establishment are not permitted.
Registration, Inspection, Licensure & Permit Required	None
Sales Limit	Annual gross sales must not exceed \$20,000.

MISSISSIPPI (CONTINUED)

Required Labeling	All cottage food products must be prepackaged with a label including the following information: (1) the name and address of the cottage food operation; (2) the name of the cottage food product; (3) the ingredients of the cottage food product, in descending order of predominance of weight; (3) the net weight or volume of the cottage food product; (4) allergen information as specified by federal labeling requirements; (5) if any nutritional claim is made, appropriate nutritional information as specified by federal labeling requirements; and (6) the following statement printed in at least ten-point type in a color that provides a clear contrast to the background of the label: "Made in a cottage food operation that is not subject to Mississippi's food safety regulations."
MISS. CODE ANN. §75-29-951; MISS. STATE DEP'T OF HEALTH, COTTAGE FOOD OPERATIONS: FREQUENTLY ASKED QUESTIONS (Sept. 19, 2016), http://msdh.ms.gov/msdhsite/_static/resources/5375.pdf	

MISSOURI

Tiers and Types of Cottage Food Producers	Missouri has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Cottage foods are limited to: non-potentially hazardous baked goods (includes cookies, cakes, breads, danish, donuts, pastries, pies and other items prepared by baking the item in an oven); canned jams and jellies; and dried herbs or herb mixes.
Limits on Where Cottage Food Products Can Be Sold	Sales may be made direct to consumers only. Internet sales are prohibited.
Registration, Inspection, Licensure & Permit Required	None
Sales Limit	Annual gross income must not exceed \$50,000.
Required Labeling	Labels must include: (1) name and address of the cottage food operation; (2) common name of the food; (3) all the ingredients in the food in order of predominance; (4) the net weight of the food in English or metric units; and (5) a statement that the food is not inspected by the local or state health department.
MO. REV. STAT. § 196.298; AGRIMISSOURI, FARMERS MARKET HANDBOOK (Feb. 14, 2015), https://agrimissouri.com/pdf/fmhandbook.pdf	

MONTANA

Tiers and Types of Cottage Food Producers	Montana has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	A cottage food operator is allowed to produce only the following food items as long as they are non-potentially hazardous foods: (1) products that may be cooked in an oven (including: loaf breads, rolls, biscuits, quick breads, and muffins; cakes including celebration cakes such as birthday, anniversary, and wedding cakes; pastries and scones; cookies and bars; crackers; cereals, trail mixes, and granola; pies, except that custard style pies, pies with fresh fruit that is unbaked, or pies that require refrigeration after baking are not approved; nuts and nut mixes; and snack mixes; (2) standardized jams, jellies, preserves, and fruit butters as identified under 21 CFR, Part 150, subject to certain requirements; (3) dried fruit made from fresh fruits that have a natural pH below 4.6 (see regulations for list) and follow certain methods; (4) dry herb combining and packaging, and seasoning and mixture combining; examples of which are dry bean soup mixes, dry teas and coffees, and spice seasonings; (5) popcorn, popcorn balls, cotton candy; (6) fudge, candies, and confections that require a cook step; (7) molded chocolate using commercial chocolate melts; and (8) honey. Other products may be approved on a case-by-case basis by the department in consultation with the local health department of the county in which the cottage food operator is registered.
Limits on Where Cottage Food Products Can Be Sold	Sales may be made directly to consumers only. The direct sale must be a face-to-face purchase or exchange between the cottage food producer and a consumer. The direct sale may not be by consignment or involve shipping or internet sales.
Registration, Inspection, Licensure & Permit Required	Cottage food producers must register with the local health authority in the county in which the person's domestic residence is located and pay a registration fee.
Sales Limit	None
Required Labeling	Cottage foods must be packaged and include a label with the following information: (1) the name, address, city, state, and zip code of the cottage food operation; (2) the name of the cottage food product; (3) the ingredients of the cottage food product, in descending order of predominance by weight; (4) the net quantity, weight, count, or volume of the cottage food product; (5) allergen labeling as specified by federal and state labeling requirements; (6) if a nutritional claim is made, an appropriate label if required by federal law; and (7) the following statement, printed in at least the equivalent of 11-point font size in a color that provides a clear contrast to the background and is conspicuously placed on the principal label: "Made in a home kitchen that is not subject to retail food establishment regulations or inspections."
MONT. CODE ANN. §§ 50-50-102, -116 to -117; MONT. ADMIN. R. 37.110.503, 37.110.511	

NEBRASKA

Tiers and Types of Cottage Food Producers	Nebraska has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Products that are not time/temperature controlled for food safety are allowed. Canned acidified foods are not allowed.
Limits on Where Cottage Food Products Can Be Sold	Food may be sold only directly to the consumer and only at a farmers market.
Registration, Inspection, Licensure & Permit Required	None
Sales Limit	None
Required Labeling	No label is required; however, the consumer must be informed by a clearly visible placard at the sale location that the food was prepared in a kitchen that is not subject to regulation and inspection by the regulatory authority.
NEB. REV. STAT. § 81-2,245.01	

NEVADA

Tiers and Types of Cottage Food Producers	Nevada has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Allowed products are limited to: (1) nuts and nut mixes; (2) candies; (3) jams, jellies and preserves; (4) vinegar and flavored vinegar; (5) dry herbs and seasoning mixes; (6) dried fruits; (7) cereals, trail mixes, and granola; (8) popcorn and popcorn balls; and (9) baked goods that are not potentially hazardous foods, do not contain cream, uncooked egg, custard, meringue or cream cheese frosting or garnishes, and do not require time temperature control for food safety.
Limits on Where Cottage Food Products Can Be Sold	Sales may be made only directly to the consumer at the producer's home, farmers market, garage sale, flea market, swap meet, church bazaar, or craft fair. Telephone and internet sales are prohibited.
Registration, Inspection, Licensure & Permit Required	Cottage food operators must register with the local health authority. The state does not accept permits from local health authorities in certain counties; producers from those counties have to register with the Division of Public and Behavioral Health. The local health authority may inspect a cottage food operation to investigate a food item that may be adulterated.
Sales Limit	Annual gross sales must not exceed \$35,000.
Required Labeling	Products must be affixed with a label that includes the following statement: "Made In A Cottage Food Operation That Is Not Subject To Government Food Safety Inspection." Label must also include the following information: (1) name of the product; (2) net quantity; (3) list of ingredients; (4) name and physical address where the product was manufactured, packaged or distributed; and (5) declaration of allergens.
NEV. REV. STAT. § 446.866; <i>Cottage Foods Program Operation</i> , NEVADA DIVISION OF PUBLIC AND BEHAVIORAL HEALTH, http://dphh.nv.gov/Reg/Cottage/Cottage_Food_Registration_-_Home/	

NEW HAMPSHIRE

Tiers and Types of Cottage Food Producers	New Hampshire has a two-tiered cottage food system. Producers will be either Exempt or Licensed , depending on their scale and sales venues. The different requirements for each tier are broken out in the table below. Anyone can become either type of producer.
Types of Cottage Food Products Allowed	Allowed "homestead food products" means foods which are not potentially hazardous food, limited to the following: (1) baked items, including, but not limited to, breads, rolls, muffins, cookies, brownies, and cakes; (2) double-crust fruit pies; (3) candy and fudge; (4) packaged dry products, which include, but are not limited to, spices and herbs; (5) acid foods, including, but not limited to, vinegars and mustards; and (6) jams and jellies.
Limits on Where Cottage Food Products Can Be Sold	Exempt: Homestead food operations with annual sales under \$20,000 can sell cottage food products only at the producer's residence, producer's farm stand, farmers markets or retail food stores. Licensed: Licensed homestead food operations can sell cottage food products to restaurants or other retail food establishments, over the Internet, by mail order, and to wholesalers, brokers, or other food distributors.
Registration, Inspection, Licensure & Permit Required	Exempt: None Licensed: Producers must apply for and obtain a license from the New Hampshire Department of Health and Human Services.
Sales Limit	Exempt: Annual gross sales must not exceed \$20,000 for non-licensed homestead food operations. Licensed: None

NEW HAMPSHIRE (CONTINUED)

Required Labeling

Exempt and Licensed: All products must be sold in packages with individual labels on each package containing the following information: (1) name of the homestead food operation; (2) address of the homestead food operation; (3) phone number of the homestead food operation; (4) name of the homestead food product; (5) all ingredients of the homestead food product in descending order of predominance by weight; (6) the name of each major food allergen contained in the homestead food product unless it is already part of the common or usual name of the respective ingredient already disclosed in the ingredient statement in (5) above; and (7) additional requirements below based on type of operation.

Exempt only: Products made by non-licensed homestead food operations shall be labeled with the following statement: "This product is exempt from New Hampshire licensing and inspection" in at least the equivalent of 10 point font and a color that provides a clear contrast to the background and a product code that identifies the product with a batch number, or a date of manufacture to aid in a recall of the product in case of an imminent health hazard.

Licensed only: Products made by licensed homestead food operations shall also be clearly labeled with the following statement: "This product is made in a residential kitchen licensed by the New Hampshire Department of Health and Human Services."

N.H. REV. STAT. ANN § 143-A:12; N.H. CODE ADMIN. R. ANN. HE-P 2310.01; N.H. DEP'T OF HEALTH AND HUMAN SERVS. DIV. OF PUB. HEALTH SERVS, FOOD PROT. SECTION, HOMESTEAD FOOD PRODUCTS: FREQUENTLY ASKED QUESTIONS (Oct. 27, 2015), <https://www.dhhs.nh.gov/dphs/fp/documents/homesteadfaq.pdf>

NEW JERSEY

As of publication of this report, New Jersey does not allow for the production of cottage food products.

NEW MEXICO

Tiers and Types of Cottage Food Producers	New Mexico has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	The following non-potentially hazardous food products are allowed: high sugar-containing jam/jellies; non-cream filled baked goods (yeast and quick breads, cookies, cakes, fruit pies, etc.); tortillas; candy/fudge; and dry mixes (made with commercially processed ingredients).
Limits on Where Cottage Food Products Can Be Sold	Sales may be made directly to the consumer only. Products cannot be sold in retail food establishments, such as restaurants, grocery stores and convenience stores, by internet sales, or sold in interstate commerce.
Registration, Inspection, Licensure & Permit Required	Individuals must obtain a permit from the New Mexico Environment Department and attend an approved food safety course within the last five years of applying for the permit. In addition, home-based food processing operations must keep a sample of each processed food batch for fourteen days. The samples shall be labeled with the production date and time.
Sales Limit	None
Required Labeling	All packaged food shall be labeled in accordance with the applicable state and federal laws and must include the following information: (1) the name, street address, city, state and zip code of either the manufacturer, packer, or distributor; (2) an accurate statement of the net amount of food in the package, in terms of weight measure, volume measure (listed in both "English" and metric units) or numerical count; (3) the common or usual name of the food contained in the package; (4) ingredients of the food, listed by their common names, in order of their predominance by weight; (5) the following statement in in bold conspicuous 12-point type on the principal display panel: "home produced."
N.M. CODE R. § 7.6.2.15; <i>Home Based Food Processing</i> , N.M. ENV'T DEP'T FOOD PROGRAM, https://www.env.nm.gov/fod/Food_Program/HomeBasedProcessing.htm	

NEW YORK

Tiers and Types of Cottage Food Producers	New York has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	As of 2018, only the following non-potentially hazardous foods are allowed: breads (excluding those containing fruits and/or vegetables); rolls (including cinnamon rolls); biscuits; bagels; muffins; doughnuts; cookies; baklava; biscotti (no chocolate or candy melts allowed for topping); cakes; cake pops (no chocolate or candy melts allowed for topping); cupcakes; brownies; double-crust fruit pies; scones; fruit jams, jellies, and marmalades made with high acid/low pH fruits; repacked/blended commercially dried spices or herbs; repackaged dried or dehydrated vegetables, dried soup mixes, dried fruit, dried pasta, or dry baking mixes; seasoning salt; fudge; popcorn/caramel corn; peanut brittle; Rice Krispies Treats; granola and trail mix (using commercially roasted nuts); granola bars (using commercially roasted nuts); candy (excluding chocolate; melting of chocolate or chocolate-like candies is not allowed); waffle cones and pizelles; toffee/caramel apples (no candy melts); confections (toffees, caramels, hard candies); vegetable chips; crackers; pretzels. Custom bakery items such as wedding cakes are prohibited. This list is reviewed and updated annually.
Limits on Where Cottage Food Products Can Be Sold	None. Products may be sold wholesale and/or retail, including agricultural venues such as farms, farm stands, farmers markets, green markets, craft fairs and flea markets and community supported agriculture subscriptions in person, via home delivery or via the internet. Shipping is allowed within New York State.
Registration, Inspection, Licensure & Permit Required	Cottage food businesses must complete a Home Processor Registration Request and become registered before beginning operation.
Sales Limit	None
Required Labeling	All finished product containers must be labeled with the following information: (1) common/usual name of the product; (2) ingredient list in predominance by weight; (3) net quantity of contents; and (4) processor name and full address. All allergens (eggs, milk, fish, shellfish, soybeans, peanuts, tree nuts) must be clearly identified in the product ingredient statement.
N.Y. COMP. CODES R. & REGS. tit. 1, §§ 276.3-4; N.Y. STATE AGRIC. AND MKTS., NEW YORK STATE HOME PROCESSOR REGISTRATION (June 2018), https://www.agriculture.ny.gov/FS/consumer/FSI-898D_Home_Processor.pdf	

NORTH CAROLINA

Tiers and Types of Cottage Food Producers	North Carolina has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Low-risk packaged food products are allowed. Allowed foods can include: baked goods; jams and jellies; candies; dried mixes; spices; some shelf-stable sauces and liquids (laboratory testing required); and pickles and acidified foods (laboratory testing required).
Limits on Where Cottage Food Products Can Be Sold	None
Registration, Inspection, Licensure & Permit Required	Producers must complete an application for a Home Processing Inspection and be inspected by a Food Regulatory Specialist from the NC Department of Agriculture and Consumer Services.
Sales Limit	None
Required Labeling	The following information must be including on the label: (1) product name; (2) manufacturer's name and address; (3) net weight of the product in ounces/pounds and the gram weight equivalent; (4) complete list of ingredients in order of predominance by weight.
<i>Food Program: Starting a home-based food business, N.C. DEP'T OF AGRIC. & CONSUMER SERVS. FOOD & DRUG PROT. DIV., http://www.ncagr.gov/fooddrug/food/homebiz.htm</i>	

NORTH DAKOTA

Tiers and Types of Cottage Food Producers	North Dakota has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Per interim guidance, low-risk food and drink products that are highly acidic in nature (pH < 4.6) and do not require time and temperature control for food safety are allowed. Examples include: baked goods (including baked goods requiring time and temperature controls for safety, which must be maintained frozen and specially labeled); candy (including brittle, caramels, chocolate, chocolate-dipped pretzels, chocolate-dipped Oreos, cotton candy, sugar art fudge; excluding candy or chocolates with cream-based fillings); coated and uncoated nuts; home-canned jams, jellies, and preserves including apples, cherries, grapes, plums, peaches, strawberries and other berries; chutney containing fruit as the main ingredient; fruit butter; fruit pies (including pecan pie) and fruit empanadas; dehydrated fruits and vegetables, including dry, edible beans; popcorn and popcorn balls; cereal, including granola; flour; honey; dry herbs, seasonings and herb mixes; vinegar, cider vinegar, and flavored vinegar; roasted coffee or dry tea; farm flock eggs (subject to additional requirements); pickled vegetables, dill or sweet pickles, salsa, tomato products, and other acidified foods, such as barbeque sauces, taco sauce, ketchups and/or mustards, where the equilibrium pH level has been reduced to 4.6 or less and verified using a calibrated pH meter; and naturally fermented foods such as sauerkraut and kimchi where the equilibrium pH level has been reduced to 4.6 or less and verified using a calibrated pH meter.
Limits on Where Cottage Food Products Can Be Sold	Sales must be directly between the cottage food operator and an informed end consumer (meaning an individual who is the last person to purchase the product and has been informed that the product is not licensed, regulated, or inspected). Direct sales may occur at a farm, ranch, farmers market, farm stand, home-based kitchen, or any other venue not otherwise prohibited by law or through delivery. Sales may not involve interstate commerce or be conducted over the internet or phone, through the mail, or by consignment. Additionally, cottage foods cannot be sold or used in any food establishment, food-processing plant, or food store, with the exception of whole, unprocessed fruits and vegetables. Cottage foods may be sold for home consumption only.
Registration, Inspection, Licensure & Permit Required	None
Sales Limit	None
Required Labeling	A cottage food operator must label a cottage food product with the following statement or display a consumer advisory sign at the point of sale: "This product is made in a home kitchen that is not inspected by the state or local health department." Furthermore, the cottage food operator shall inform the end consumer that any cottage food product or food sold under this section is not certified, labeled, licensed, packaged, regulated, or inspected. In addition, baked goods that require refrigeration shall be labeled with safe handling instructions and include a product disclosure statement indicating the product was maintained frozen since its production date.

N.D. CENT. CODE § 23-09.5; *Cottage Food*, NORTH DAKOTA DEPARTMENT OF HEALTH, <http://www.ndhealth.gov/FoodLodging/CottageFood.asp>; *Note: Interim guidance on the law was issued Aug. 1, 2017. New final guidance is expected later in 2018.*

OHIO

Tiers and Types of Cottage Food Producers	Ohio has a two-tiered cottage food system: Cottage Food and Home Bakery . The different requirements for each tier are broken out in the table below. Anyone can become either type of producer.
Types of Cottage Food Products Allowed	<p>Cottage Food: The following non-potentially hazardous foods are allowed: (1) non-potentially hazardous bakery products (2) jams; (3) jellies; (4) candy, not including fresh fruit dipped, covered, or otherwise incorporated with candy; (5) flavored honey which has been produced by a beekeeper exempt under division (A) of section 3715.021 of the Revised Code; (6) fruit chutneys; (7) fruit butters; (8) granola, granola bars, granola bars dipped in candy, if fruit is used in any of these products it must be commercially dried; (9) maple sugar produced by a maple syrup producer exempt under division (A) of section 3715.021 of the Revised Code; (10) popcorn, flavored popcorn, kettle corn, popcorn balls, caramel corn, not including popping corn; (11) unfilled baked donuts; (12) waffle cones and waffle cones dipped in candy; (13) pizzelles; (14) dry cereal and nut snack mixes with seasonings; (15) roasted coffee, whole beans or ground; (16) dry baking mixes in a jar, including cookie mix in a jar; (17) dry herbs and herb blends; (18) dry soup mixes containing commercially dried vegetables, beans, grains, and seasonings; (19) dry seasoning blends; and (20) dry tea blends.</p> <p>Home Bakery: Home producers may sell potentially hazardous baked goods that require refrigeration, such as cheese cakes, cream pies, custard pies, and pumpkin pies, and non-hazardous baked goods, such as cookies, breads, brownies, cakes, fruit pies, etc.</p>
Limits on Where Cottage Food Products Can Be Sold	<p>Cottage Food: Cottage food products may be sold directly to the consumer from the home where the products are produced. They may also be sold through grocery stores, farm markets, farmers markets, and sold and/or used in preparing food in a restaurant. The products may only be sold within Ohio.</p> <p>Home Bakery: Products may be sold from the home baker’s residence, grocery stores, convenience stores, farm markets, farmers markets, and other retail outlets.</p>
Registration, Inspection, Licensure & Permit Required	<p>Cottage Food: License and registration are not required. However, all cottage food products are subject to sampling by the Department of Agriculture.</p> <p>Home Bakery: Home bakeries must be licensed and inspected by the Food Safety Division at the Ohio Department of Agriculture.</p>
Sales Limit	None
Required Labeling	<p>Cottage Food: All cottage food products must contain a label indicating: (1) name and address of the cottage food business; (2) name of the food product; (3) ingredients of the food product in descending order of predominance by weight; (4) net weight and volume of the food product; and (5) the following statement in 10-point type: “This product is home produced.”</p> <p>Home Bakery: All home bakery products must include the following information on a label: (1) the name of the food product; (2) net weight and volume of contents; (3) ingredients of the food product, listed in descending order of predominance by weight; (4) the name and address of the business; (5) the following statement or a similar statement if the bakery item required refrigeration: “Keep Refrigerated;” and (6) if nutrient content claims or health claims are made, the product must bear all required nutritional information in the form of the Nutrition Facts panel.</p>
OHIO REV. CODE ANN. §§ 3715.01, 3715.023, 3715.025; OHIO ADMIN. CODE 901:3-20-01 to -05 (Cottage Food); OHIO REV. CODE ANN. § 911.02 (Home Bakery); <i>Cottage Foods</i> , OHIO DEP’T OF AGRIC., https://www.agri.ohio.gov/wps/portal/gov/oda/divisions/food-safety/resources/cottage-food ; <i>Home Bakeries</i> , OHIO DEP’T OF AGRIC., https://www.agri.ohio.gov/wps/portal/gov/oda/divisions/food-safety/resources/home-bakery	

OKLAHOMA

Tiers and Types of Cottage Food Producers	Oklahoma has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Only baked goods are allowed. Any baked goods are allowed except for products that contain meat products or fresh fruit.
Limits on Where Cottage Food Products Can Be Sold	Sales may be made at the producer's home, at farmers markets, cooperatives, membership-based buying clubs, and by phone or internet with delivery occurring within Oklahoma.
Registration, Inspection, Licensure & Permit Required	None
Sales Limit	Gross annual sales must not exceed \$20,000.
Required Labeling	All food must be labeled with the following information: (1) name and address of the home food establishment; (2) name of the prepared food; and (3) the following statement in 10-point font: "Made in a home food establishment that is not licensed by the State Department of Health."
OKLA. STAT. tit. 2, §§ 5-4.1 to 4.6	

OREGON

Tiers and Types of Cottage Food Producers	Oregon has a three-tiered cottage food system. Home producers may prepare foods as a Cottage Food producer or Domestic Kitchen . Agricultural producers may sell producer-processed products as Farm Direct producers. The different requirements for each tier are broken out in the table below. Anyone can become a Cottage Food or Domestic Kitchen producer; only farmers can become Farm Direct Producers.
Types of Cottage Food Products Allowed	<p>Cottage Food: Non-potentially hazardous baked goods and confectionary items are allowed.</p> <p>Domestic Kitchen: Any food is allowed except food produced by low acid food canning, dairy processing (such as homemade ice cream or yogurt), and some meat processing.</p> <p>Farm Direct: An agricultural producer may process and sell products made from principal ingredients grown by the producer. Producer-processed products are limited to (1) fruit-based syrups and fruit in syrup, preserves, (2) jams, jellies and preserves, (3) acidified fruits and vegetables, including pickles, chutneys and sauces, and (4) lacto-fermented fruits and vegetables, all having a pH of 4.6 or lower.</p>
Limits on Where Cottage Food Products Can Be Sold	<p>Cottage Food: Sales must be direct to the end consumer. Sales over the internet, commercial entity, or an institution including but not limited to a restaurant, grocery store, caterer, school, day care center, hospital, nursing home or correctional facility are prohibited.</p> <p>Domestic Kitchen: None</p> <p>Farm Direct: Sales must be direct to the end consumer.</p>
Registration, Inspection, Licensure & Permit Required	<p>Cottage Food: Producers must complete a state-approved food handler training program.</p> <p>Domestic Kitchen: Producers must obtain a domestic kitchen license from the Oregon Department of Agriculture and may be subject to inspection prior to licensing.</p> <p>Farm Direct: None</p>
Sales Limit	<p>Cottage Food: Annual gross sales from home bakery must not exceed \$20,000.</p> <p>Domestic Kitchen: None</p> <p>Farm Direct: Annual gross sales of producer-processed foods must not exceed \$20,000.</p>

OREGON (CONTINUED)

Required Labeling	<p>Cottage Food: All products must be affixed with a label that includes: (1) the following statement: “This product is homemade and is not prepared in an inspected food establishment”; (2) name, phone number and address for the food establishment; (3) name of the product; (4) ingredients of the product in descending order by weight; (5) net weight or net volume of the product; (6) any applicable allergen warnings as specified under federal labeling requirements; and (7) if the label provides any nutrient content claim, health claim or other nutritional information, product nutritional information as described in federal labeling requirements.</p> <p>Domestic Kitchen: All products must have a label with the following information: (1) business name; (2) business address; (3) ingredients of the product in descending order by weight; (4) net weight; and (5) product name.</p> <p>Farm Direct: All producer-processed products must have a label with the following information: (1) product identity; (2) net weight; (3) an ingredients statement (including any major allergens); (4) the address of the agricultural producer; (5) “THIS PRODUCT IS HOMEMADE AND IS NOT PREPARED IN AN INSPECTED FOOD ESTABLISHMENT;” and (6) “NOT FOR RESALE.”</p>
<p>OR. REV. STAT. § 616.723; OR. ADMIN. R. 603-025-0315 to -0330 (Cottage Food); OR. ADMIN. R. 333-150-0000, 603-021-005 to -0612 (Domestic Kitchen); OR. ADMIN. R. 603-025-0215 to -0275 (Farm Direct); OR. STATE UNIV. EXTENSION SERV., OREGON’S HOME BAKING BILL (Apr. 2018), https://catalog.extension.oregonstate.edu/sites/catalog/files/project/pdf/em9192.pdf; <i>Home (Domestic) Kitchen Licensing</i>, OREGON DEP’T OF AGRIC., http://www.oregon.gov/ODA/programs/FoodSafety/FSLicensing/Pages/DomesticKitchen.aspx; OR. DEP’T OF AGRIC., FARM DIRECT MARKETING, PRODUCER-PROCESSED PRODUCTS (Jan. 2015), https://www.oregon.gov/ODA/shared/Documents/Publications/FoodSafety/FarmDirectMarketingProcessedProducers.pdf</p>	

PENNSYLVANIA

Tiers and Types of Cottage Food Producers	Pennsylvania has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Foods that are not time/temperature controlled for safety are allowed. Allowed foods include but are not limited to: baked goods; jams and jellies; beverages; acidified/fermented foods; dried mixes; and candy. Canned foods that are not acid or acidified foods are not permitted.
Limits on Where Cottage Food Products Can Be Sold	None
Registration, Inspection, Licensure & Permit Required	Producers must fill out a required Application for Limited Food Establishment Registration and pass an on-site inspection. Annual registration with the Department of Agriculture is required.
Sales Limit	None
Required Labeling	All food items (except some baked goods; see below) must be affixed with a label indicating: (1) common name of the food product; (2) name and address of the manufacturer/processor; (3) ingredients listed in decreasing order by weight; (4) allergen declaration if needed; (5) net weight or unit count; and (6) nutritional information if a health claim is made. Bakery items sold directly to a consumer in Pennsylvania do not require any labeling information on the products or any formal display of ingredients; however, ingredient information must be available upon request.
<p>PA DEP’T OF AGRIC. BUREAU OF FOOD SAFETY & LAB. SERVS., APPLICATION PACKET FOR LIMITED FOOD ESTABLISHMENTS (Dec. 2017), https://www.agriculture.pa.gov/consumer_protection/FoodSafety/manufacturing-packing-holding-distribution/Documents/Application%20Packet%20-%20Limited%20Food%20Establishment.pdf</p>	

RHODE ISLAND

Tiers and Types of Cottage Food Producers	Rhode Island has one category of cottage food production. Only farm owners who generate a minimum of \$2,500 in annual gross sales of agricultural products may become cottage food producers, and they must make products in an on-farm home kitchen that meets certain equipment requirements. For some products, ingredients must be locally grown.
Types of Cottage Food Products Allowed	Allowed products are non-potentially hazardous products that do not require refrigeration and are made in a home kitchen located on a farm. Allowed products include: (1) jams, jellies, preserves and acid foods, such as vinegars, that are prepared using fruits, vegetables and/or herbs that have been grown locally; (2) double crust pies that are made with fruit grown locally; (3) yeast breads; (4) maple syrup from the sap of trees on the farm or of trees within a twenty-mile radius of the farm; (5) candies and fudges; and (6) dried herbs and spices.
Limits on Where Cottage Food Products Can Be Sold	Products can be sold only at farmers markets, farmstands, and other markets and stores operated by farmers for the purpose of the retail sale of products of Rhode Island farms.
Registration, Inspection, Licensure & Permit Required	All farm home kitchens must be registered with the Department of Health.
Sales Limit	None
Required Labeling	All products must be labeled with a list of ingredients and the name, address and telephone number of the farm.

21 R.I. GEN. LAWS § 21-27-6.1; R.I. DEP'T OF HEALTH, REGISTRATION AND INSTRUCTIONS FOR FOOD BUSINESS: FARM HOME FOOD MANUFACTURE, <http://health.ri.gov/applications/FoodFarmHomeManufacturer.pdf>

SOUTH CAROLINA

Tiers and Types of Cottage Food Producers	South Carolina has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Only non-potentially hazardous baked goods and candy are allowed.
Limits on Where Cottage Food Products Can Be Sold	Products may be sold only from the producer's home directly to the consumer; however, producers may apply for an exemption from inspection and label review by the South Carolina Department of Agriculture in order to sell products at locations other than where the products were made. A home-based food operation may not sell or offer to sell food items at wholesale or resale.
Registration, Inspection, Licensure & Permit Required	None
Sales Limit	Annual gross sales may not exceed \$15,000.
Required Labeling	Labels must include: (1) name and address of the home-based food operation; (2) name of the product being sold; (3) complete ingredient list (including all allergens); (4) the net weight in customary and metric measurements; (5) 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."

S.C. CODE ANN. § 44-1-143; S.C. DEP'T OF AGRIC., COTTAGE FOODS - SC DEPARTMENT OF AGRICULTURE EXEMPTION: FREQUENTLY ASKED QUESTIONS (Sept. 2014), <https://agriculture.sc.gov/wp-content/uploads/2014/09/Cottage-Food-FAQ-Angie2.pdf>.

SOUTH DAKOTA

Tiers and Types of Cottage Food Producers	South Dakota has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Non-temperature-controlled baked goods and home-pressed canned goods with a pH level of 4.6 or less or a water activity of .85 or less are allowed. The pH level of home-pressed canned goods must be officially verified in writing by a third-party processing authority.
Limits on Where Cottage Food Products Can Be Sold	Products may only be sold directly to consumers. Sales for most items may occur only at a farmers market, roadside stand, or similar venue. For baked goods only, items may be sold out of the producer's primary residence.
Registration, Inspection, Licensure & Permit Required	No registration is required.
Sales Limit	Producers of baked goods selling out of their primary residence cannot exceed \$5,000 in gross annual sales. There is no sales limit for other types of producers.
Required Labeling	Labels must include: (1) name of the product; (2) producer and contact information; (3) date the product was made or processed; (4) ingredients; and (5) a disclaimer saying "This product was not produced in a commercial kitchen. It has been home-processed in a kitchen that may also process common food allergens such as tree nuts, peanuts, eggs, soy, wheat, milk, fish, and crustacean shellfish."
S.D. CODIFIED LAWS §§ 34-18-34 to-38; iGROW: A SERV. OF SDSU EXTENSION, SOUTH DAKOTA REQUIREMENTS FOR THE SALE OF BAKED GOODS MADE WITHIN YOUR HOME (Nov. 2012), http://igrow.org/up/resources/04-1004-2012.pdf ; iGROW: A SERV. OF SDSU EXTENSION, SOUTH DAKOTA REQUIREMENTS FOR THE SALE OF HOME-CANNED PROCESSED FOODS AT FARMERS MARKETS, (Mar. 2013), http://igrow.org/up/resources/04-2004-2013.pdf	

TENNESSEE

Tiers and Types of Cottage Food Producers	Tennessee has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Non-potentially hazardous foods are allowed. Allowed foods include but are not limited to: baked goods that do not require refrigeration; jams, jellies and preserves; candy; and dried baking or spice blends. Canned acidified foods are not allowed.
Limits on Where Cottage Food Products Can Be Sold	Products may only be sold directly to end consumers in the state.
Registration, Inspection, Licensure & Permit Required	None
Sales Limit	None
Required Labeling	All food items packaged at the facility must be properly labeled prior to sale. The following, at a minimum, must be present on all food items: (1) the name, street address, city, state and zip code of the manufacturer, packer or distributor; (2) an accurate statement of the net amount of food in the package; (3) the common or usual name of the food; (4) the ingredients in the food; (5) lot dates or numbers shall be evident on each package or container of food.
TENN. CODE ANN. § 53-1-208; UNIV. OF TENN. EXTENSION INST. OF AGRIC., CHANGES TO THE DOMESTIC KITCHEN LAWS REGULATING TENNESSEE'S COTTAGE FOOD INDUSTRY (Sept. 2017), https://extension.tennessee.edu/publications/Documents/SP799.pdf	

TEXAS

Tiers and Types of Cottage Food Producers	Texas has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Allowed products are limited to: (1) non-potentially hazardous baked goods; (2) candy; (3) coated and uncoated nuts; (4) unroasted nut butters; (5) fruit butters; (6) canned jams or jellies; (7) fruit pies; (8) dehydrated fruits; (9) vegetables and beans; (10) popcorn and popcorn snacks; (11) cereal and granola; (11) dry mix; (12) vinegar; (13) pickled cucumbers; (14) mustard; (15) roasted coffee; and (16) dry tea, dried herbs and herb mixes.
Limits on Where Cottage Food Products Can Be Sold	Products may only be sold directly to consumers at the producer's home, a farm stand, or a municipal, county, or nonprofit fair, festival or event. Sales may not be made over the internet, by mail order, or at wholesale.
Registration, Inspection, Licensure & Permit Required	Producers must successfully complete a basic food safety education training approved by the state.
Sales Limit	Annual gross sales must not exceed \$50,000.
Required Labeling	Labels must include: (1) the name and address of the cottage food production operation; (2) the common or usual name of the product; (3) if a food is made with a major food allergen, such as eggs, nuts, soy, peanuts, milk or wheat that ingredient must be listed on the label; and (4) the statement, "This food is made in a home kitchen and is not inspected by the Department of State Health Services or a local health department."
TEX. HEALTH & SAFETY CODE ANN. §§ 437.001, 437.0191- 437.0196; 25 TEX. ADMIN. CODE § 229.661; <i>Cottage Food Production Operations</i> , TEX. DEP'T. OF STATE HEALTH SERVS., https://www.dshs.texas.gov/foodestablishments/cottagefood/default.aspx	

UTAH

Tiers and Types of Cottage Food Producers	Utah has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Non-potentially hazardous baked goods, jam, jelly, or other non-potentially hazardous food produced in a home kitchen are allowed; however, foods for sale must be approved by the Utah Department of Agriculture and Food and the operator must provide the Department with recipes for all foods intended to be sold.
Limits on Where Cottage Food Products Can Be Sold	Products may be sold at farmers markets, roadside stands, and other places at which the operator sells food from a fixed structure that is permanent or temporary and which is owned, rented or leased by the operator of the cottage food production operation.
Registration, Inspection, Licensure & Permit Required	Cottage food operations must be inspected and register with the Utah Department of Agriculture and Food before operating a cottage food business. The operator must also hold a valid food handler's permit, which requires state-approved training. In addition, food producers must keep a sample of each food for 14 days. The samples shall be labeled with the production date and time.
Sales Limit	None
Required Labeling	Labels must include: (1) the name specified by regulation or, in the absence thereof, the name commonly used for that food or an adequately descriptive name; (2) a list of ingredients in descending order of predominance by weight, when the food is made from two or more ingredients; (3) the name of the food source for each major food allergen contained in the food unless the food source is already part of the common or usual name of the respective ingredient; (4) An accurate declaration of the net quantity of contents; (5) the name and place of business of the cottage food production operation; (6) the telephone number of the cottage food production operation; (7) nutritional labeling unless the product qualifies for an exemption; and (8) the words "Home Produced" in bold and conspicuous 12-point type on the principal display panel.
UTAH CODE ANN. §§ 4-5-501, 4-5a-102 to 104; UTAH ADMIN. CODE r. § 70-560	

VERMONT

Tiers and Types of Cottage Food Producers	Vermont has three categories in its cottage food system: Home Bakery , Home Caterer , and Exempt Food Processor . The different requirements for each type of production are broken out in the table below. Anyone can become any type of producer.
Types of Cottage Food Products Allowed	<p>Home Bakery: Bakery products, such as bread, cakes, pies, and other baked goods containing flour are allowed.</p> <p>Home Caterer: Prepackaged or on-demand food items are allowed. However, meat or poultry products cannot be prepared in a home kitchen unless they are part of a meal sold directly to individual consumers.</p> <p>Exempt Food Processor: Food processors may produce jarred and packaged products such as jams, jellies, candies, chocolates, salsa, sauces, salad dressings, etc.</p>
Limits on Where Cottage Food Products Can Be Sold	<p>Home Bakery: Sales may be made directly to consumers only.</p> <p>Home Caterer: Sales may be made directly to consumers or to commercial establishments for resale.</p> <p>Exempt Food Processor: None</p>
Registration, Inspection, Licensure & Permit Required	<p>Home Bakery: Home bakers that process less than \$125 a week in gross sales are exempt from obtaining a license to operate a food establishment from the Vermont Department of Health. Home bakers with gross sales of more than \$125 a week must apply and obtain a license from the Vermont Department of Health. An inspection is part of the licensing process.</p> <p>Home Caterer: Home caterers must apply and obtain a license to operate a food establishment from the Vermont Department of Health. An inspection is part of the licensing process.</p> <p>Exempt Food Processor: None</p>
Sales Limit	<p>Home Bakery: For home bakers operating without a license, weekly gross sales may not exceed \$125. There is not a sales limit on home bakers with a license.</p> <p>Home Caterer: None</p> <p>Exempt Food Processor: Annual gross sales must not exceed \$10,000</p>
Required Labeling	Labels must include: (1) name of the product; (2) name, address, and zip code of the manufacturer; (3) quantity of contents; (4) ingredients (including allergens); and (5) nutrition labeling if the product makes a health claim.
Vt. STAT. ANN. tit. 18, § 4358; 13-140-018 Vt. CODE R. § 5-202; VERMONT DEP'T OF HEALTH, APPLICATION FOR LICENSE TO OPERATE A FOOD AND LODGING ESTABLISHMENT, http://www.healthvermont.gov/sites/default/files/documents/pdf/ENV_FL_LicenseApplication2016.pdf	

VIRGINIA

Tiers and Types of Cottage Food Producers	Virginia has one category of cottage food production. Anyone can become a cottage food producer.
Types of Cottage Food Products Allowed	Allowed products are: candies; jams and jellies not considered to be low-acid or acidified low-acid food products; dried fruits; dry herbs; dry seasonings; dry mixtures; coated and uncoated nuts; vinegars and flavored vinegars; popcorn; popcorn balls; cotton candy; dried pasta; dry baking mixes; roasted coffee; dried tea; cereals; trail mixes; granola; and baked goods that do not require time or temperature control after preparation. Pickles and other acidified vegetables that have an equilibrium pH value of 4.6 or lower are also permitted.
Limits on Where Cottage Food Products Can Be Sold	Products may only be sold directly to consumers from the producer's home or a farmers market. Cottage food products cannot be resold. Products cannot be sold over the internet, in interstate commerce, or in retail food establishments.
Registration, Inspection, Licensure & Permit Required	None
Sales Limit	Annual gross sales of pickles and other acidified vegetables may not exceed \$3,000. There are no sales limits for other products.

VIRGINIA (CONTINUED)

Required Labeling

All products must be affixed with a label displaying the name, physical address, and telephone number of the person preparing the food product, the date the food product was processed, and the statement "NOT FOR RESALE--PROCESSED AND PREPARED WITHOUT STATE INSPECTION" shall be placed on the principal display panel.

VA. CODE ANN. § 3.2-5130

WASHINGTON

Tiers and Types of Cottage Food Producers

Washington has one category of cottage food production. Anyone can become a cottage food producer.

Types of Cottage Food Products Allowed

Allowed products are: (1) non-potentially hazardous baked goods and fried products cooked in an oven, on a stove top, or in or on an electric device designed for cooking food (including: loaf breads, rolls, biscuits, quick breads, and muffins; cakes including celebration cakes such as birthday, anniversary, and wedding cakes; pastries and scones; cookies and bars; crackers; cereals, trail mixes and granola; pies, except that custard style pies, pies with fresh fruit that is unbaked or pies that require refrigeration after baking are not approved; nuts and nut mixes; snack mixes; and donuts, tortillas, pizzelles, krunkake, and similar products); (2) non-potentially hazardous candies cooked on a stove top or in a microwave, provided the operator maintains proper temperature control through the use of a candy thermometer (including: molded candies and chocolates; products dipped or coated with candy or chocolate coatings; fudge or fudge-like candies; caramels; nut brittles; and taffy and marshmallow-like candies); and (3) standardized jams, jellies, preserves and fruit butters as identified under 21 C.F.R. 150.

Limits on Where Cottage Food Products Can Be Sold

Products may be sold direct to consumer only.

Registration, Inspection, Licensure & Permit Required

Cottage food operators must apply for and obtain a permit from the Washington State Department of Agriculture annually. By obtaining a permit, the business owner consents to in-home inspections during business hours or at other reasonable times.

Sales Limit

Annual gross sales may not exceed \$25,000.

Required Labeling

All products must be affixed with a label including: (1) the name and address of the business of the cottage food operation; (2) the name of the cottage food product; (3) the ingredients of the cottage food product, in descending order of predominance by weight; (4) the net weight or net volume of the cottage food product; (5) Allergen labeling as specified by the director in rule; (6) if any nutritional claim is made, appropriate labeling as specified by the director in rule; and (7) the following statement printed in at least the equivalent of eleven-point font size in a color that provides a clear contrast to the background: "Made in a home kitchen that has not been subject to standard inspection criteria."

WASH. REV. CODE §§ 69.22.010-.110; WASH. ADMIN. CODE §§ 16-149-060 to -140; *Cottage Food Operation*, WASH. STATE DEP'T OF AGRIC., <https://agr.wa.gov/foodanimal/cottagefoodoperation/>

WEST VIRGINIA

Tiers and Types of Cottage Food Producers	West Virginia has one category of cottage food production, with slightly varying requirements based on the type of food produced. Anyone can become a cottage food producer for most products; however, to make canned acidified foods, the producer must use products from the producer's own West Virginia farm or garden.
Types of Cottage Food Products Allowed	(1) Allowed canned acidified foods include but are not limited to: pickled products; sauces; and salsas. Acidified foods are low-acid foods to which acid or acid foods are added with a water activity of greater than .085 and a finished equilibrium of pH 4.6 or below. The majority of the produce in canned acidified foods shall be sourced from the vendor's West Virginia farm or garden, and records of the source of the produce shall be maintained. (2) Allowed non-potentially hazardous foods include, but are not limited to: Breads, cakes, and candies; honey, tree syrup, apple butter, and molasses; standardized, nondietary (i.e. made with real sugar) jams and jellies; and dehydrated fruits and vegetables. (3) Other allowed foods include, but are not limited to: certain fermented products; certain exempted condiments; commercially harvested mushrooms; and canned, whole, or chopped tomatoes, tomato sauce, and tomato juice having a finished equilibrium of pH 4.6 or below.
Limits on Where Cottage Food Products Can Be Sold	Cottage foods may be sold only at farmers markets, including traditional farmers markets, on-farm farmstands, consignment farmers markets, and online farmers markets. Online farmers market sales must be delivered in person and may not be shipped.
Registration, Inspection, Licensure & Permit Required	Farmers market vendor permits are required for canned acidified foods. No permit is required for non-potentially hazardous foods or other allowed foods.
Sales Limit	None
Required Labeling	Labels for canned goods must include the words "MADE IN A WV _____ KITCHEN" in capital, bold, 10-point type or larger words, with the blank space to state whether the product was made in a home, farm, community, or commercial kitchen. In addition, per prior guidance, all products must be affixed with a label including the following information: (1) common name of product; (2) the name and address of processor; (3) an ingredient list with items in order from most to least; (4) net weight in US and Metric equivalency; (5) major allergens.

W. VA. CODE §§ 19-35-2 to -5; *Note: As of this guide's publication, the West Virginia Department of Agriculture is in the process of making final rules regulating cottage foods; information here is as up to date as possible at the time of publication.*

WISCONSIN

Tiers and Types of Cottage Food Producers	Wisconsin has a two-tiered cottage food system. Pickles and other canned vegetables and fruits are governed by state cottage food legislation. Baked Goods are governed by court rulings (see note). The different requirements for each tier are broken out in the table below. Anyone can become either type of producer.
Types of Cottage Food Products Allowed	Pickles and other canned vegetables and fruits: Food products that are pickles or other processed canned vegetables or fruits with an equilibrium pH value of 4.6 or lower are allowed. Baked Goods: Allowed foods are non-potentially hazardous baked goods.
Limits on Where Cottage Food Products Can Be Sold	Products may be sold only at community events, social events, or farmers markets within the state.
Registration, Inspection, Licensure & Permit Required	Cottage food operators are not required to obtain a license.
Sales Limit	Pickles and other canned vegetables and fruits: Annual gross sales must not exceed \$5,000. Baked Goods: None
Required Labeling	Pickles and other canned vegetables and fruits: The products must be affixed with a label including: (1) the name and address of the person who prepared and canned the food product; (2) the date on which the food product was canned; (3) the statement "This product was made in a private home not subject to state licensing or inspection;" (4) a list of ingredients in descending order of prominence; and (5) if any ingredient originates from milk, eggs, fish, crustacean shellfish, tree nuts, wheat, peanuts, or soybeans, the list of ingredients shall include the common name of the ingredient. At the place of sale, the operator must display a sign stating, "These canned goods are homemade and not subject to state inspection." Baked Goods: Unclear based on court decision

Wis. STAT. § 97.29; Lisa Kivirist et al vs. Wis. Dep't. of Agric. (Wis. Cir. Ct. May 31, 2017), *oral transcript of decision available at* <http://ij.org/wp-content/uploads/2016/01/Oral-Opinion-on-Motions-for-Summary-Judgment-Transcript-5-31-17.pdf>; Lisa Kivirist et al vs. Wis. Dep't. of Agric. Supplemental Decision (Wis. Cir. Ct. Oct. 2, 2017), *available at* https://docs.wixstatic.com/ugd/629d75_f93a300c784744bca30fd65570e1b513.pdf.

Note: Statutes in Wisconsin allow for the sale of pickles and other canned goods only. A court ruled on May 30, 2017 and clarified on October 2, 2017 that any home producers can also sell non-potentially hazardous baked goods. This has created a tiered system with legislation on canned cottage foods and judge-made law on baked goods; however, the application of Wisconsin's cottage food laws to baked goods remains somewhat unclear until new legislation passes.

WYOMING

Tiers and Types of Cottage Food Producers	Wyoming has two categories of cottage food production: Food Freedom and Cottage Foods . Anyone can become either type of producer under Wyoming's Food Freedom and cottage food laws. Although the Food Freedom law makes the older cottage food law nearly irrelevant, the cottage food law would still apply to food consumed outside a home.
Types of Cottage Food Products Allowed	Food Freedom: Any food is allowed to be sold directly to consumers under the Food Freedom law except for some meat, poultry, and fish. Cottage Food: Food that is not potentially hazardous is allowed.
Limits on Where Cottage Food Products Can Be Sold	Food Freedom: Sales must be made directly to an informed end consumer (meaning "a person who is the last person to purchase any product, who does not resell the product and who has been informed that the product is not licensed, regulated or inspected") at farmers markets, farms, ranches, the producer's home or office, or any location in Wyoming the producer and the informed end consumer agree to. Internet sales are allowed so long as the food is delivered within Wyoming. All foods sold under the Food Freedom law must be for home consumption only. Cottage Food: Sales must be made direct to the consumer and are allowed only at farmers markets, roadside stands, private homes, or functions.
Registration, Inspection, Licensure & Permit Required	None

WYOMING (CONTINUED)

Sales Limit	None
Required Labeling	<p>Food Freedom: No labeling is required; however, end consumer must be informed that the product is not licensed, regulated, or inspected.</p> <p>Cottage Food: The food must be labeled with: name of the food; list of ingredients in descending order by weight; names of major allergens; net quantity; name and place of business of the cottage food business; nutritional labeling if a health claim is made; the words "Home Produced Without Inspection" in bold conspicuous 12-point type; and the date the food was produced.</p>
<p>WYO. STAT. ANN. § 11-49-101 to -103 (Food Freedom); WYO. STAT. ANN. § 35-7-124; 010-0003-1 WYO. CODE R. § 8 (Cottage Food); WYO. DEP'T. OF AGRIC, WYOMING FOOD FREEDOM ACT (Mar. 20, 2017), http://wyagric.state.wy.us/images/stories/pdf/chs/wffa2017.pdf</p>	





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