



Maryland Cottage Food Law

In 2012, Maryland passed a Cottage Food Law, allowing residents to operate a home-based bakery or home food processing company. The intent was to encourage the development of small food businesses, and create market opportunities through farmers markets and community events. Prior to the law, these small businesses were not allowed to sell at these venues. A “cottage food product” was defined as a non-hazardous food, to be sold only at a farmer’s market or public event, with a \$25,000 limit on sales.

A cottage food business, in compliance with these requirements, was not required to be licensed by the Department of Health and Mental Hygiene (DHMH). DHMH was also tasked with developing specific regulations to carry out the bill. County health departments were also able to determine whether they would accept and enforce the DHMH regulations, or develop their own laws and ordinances to regulate the preparation, processing, storage and sale of cottage food products.

Products eligible for production under the Cottage Food Law include:

- High acid fruit jams and jellies
- Non-potentially hazardous baked goods
- Hard candy
- Honey (unflavored)

While many farmers and vendors can sample their product at markets and events, those who produce cottage food products can only sample their product if each sample is individually packaged and labeled, prior to attending the market and/or event.

Limited quantitative data on the impact of Cottage Food Laws exists. However, a 2013 Harvard Law School Food Law and Policy Clinic study provided a solid analysis of the national Cottage Food Law landscape, its shortcomings, and opportunities.

The study stated that cottage food laws provide a number of important benefits, including both direct and indirect economic benefits and community benefits:

- Increasing the number of locally made products available for purchase at farmers markets and similar locations has the direct economic benefit of increasing the amount of money that stays in the local economy.
- Home food production or cottage food production can also serve as a business incubator by reducing some of the start-up barriers for fledgling entrepreneurs and providing the indirect economic benefit of growing more local businesses.
- Communities benefit from cottage food production because it provides residents greater access to locally produced foods.



- Cottage food laws encourage more people to grow food because the growers know they have an outlet to create value-added products from any excess fresh fruits and vegetables they produce. (Harvard Law School Food Law and Policy Clinic, May 2013)

Recommendations for Better Utilizing the Maryland Cottage Food Law

Based upon the Maryland experience, and recommendations from the Harvard Law School Food Law and Policy Clinic, there are several ways the state could take greater advantage of its cottage food law:

- Create greater visibility of the cottage food law itself on state websites. Clear, understandable guidance documents that cottage food producers can find and use to start their cottage food operations are important for the law to be effective.
- Broaden the types of foods that can be sold, and provide clearer guidance on the existing foods that can currently be produced.
- Eliminate sales limits or set higher thresholds. A business with annual sales of \$25,000 would qualify as a hobby or, at best, a very small business. If states want to encourage local economic development, increasing the sales threshold for cottage food operations is a step toward accomplishing that goal.
- Allow cottage food businesses to sample their products at markets and events using the same guidelines that farmers and other food businesses currently use. These businesses are at a disadvantage at markets and events when other farmers and vendors can easily sample products, but cottage food businesses cannot. Sampling is an important way for customers to determine whether or not they will purchase a food item.

The Cottage Food Law was an important step in the right direction for both farmers markets and small food businesses that needed market access. The presence of Cottage Food businesses at markets provides a greater range of products for market shoppers, creates the opportunity for cottage food business-farmer buying relationships, and raises the visibility of markets overall.

As the demand for local food, and farmers markets, increases, cottage food businesses play an important role in the local economy. The potential exists for these small businesses to grow into larger, more established ones, with online or brick and mortar storefronts. They would then create jobs for local residents, support local suppliers and ancillary businesses, and contribute to a vibrant state economy.

Please see the enclosed Appendices for more information and specific resources on Maryland's Cottage Food Law (Appendix A), including a list of Approved / Non-approved Foods (Appendix B).



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Appendix A:

Resources on Maryland's Cottage Food Law

Text of the Legislation that was passed:

http://mlis.state.md.us/2012rs/chapters_noln/Ch_255_sb0550T.pdf

University of Maryland Extension Synopsis & Resources on the Cottage Food Law:

<https://extension.umd.edu/mredc/specialty-modules/cottage-food-business-law-md>

Maryland Department of Agriculture Resources on Value-Added Products:

<http://mda.maryland.gov/foodfeedquality/Documents/Processingandsellingvalueaddedproduct3.18.13.pdf>

Maryland Rural Enterprise Development Center Resources on Specific Foods:

<https://extension.umd.edu/mredc/specialty-modules/rules-specific-foods>



Appendix B:

Maryland's Cottage Food Law – Foods List

APPROVED FOODS: (according to COMAR 10.15.03.02 and 10.15.03.27):

- Non-potentially hazardous hot-filled canned acid fruit jellies, jams, preserves, and butters that are unadulterated, packaged to maintain food safety/integrity, and labeled in accordance with COMAR 10.15.03.12
- Fruit butters made only from apples, apricots, grapes, peaches, plums, quince, or another fruit or fruit mixture that will produce an acid canned food
- Jam, preserve, or jelly made only from a fruit listed from the fruit butter list, oranges, nectarines, tangerines, blackberries, raspberries, blueberries, boysenberries, cherries, cranberries, strawberries, red currants, or another fruit or fruit mixtures that will produce an acid canned food
- Non-potentially hazardous baked goods
- Non-potentially hazardous hard candy
- Food with a water activity of 0.85 or less
- Food with a pH level 4.6 or below (when measured at 75⁰F)
- Food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious and toxigenic microorganisms or the growth of *Salmonella enteritidis* in eggs or *Clostridium botulinum* cannot occur, such as a food that has a water activity or pH that is above the levels specified above or that may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms

UNAPPROVED FOODS:

- **Any** natural or synthetic food that requires temperature control because the food is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms, the growth and toxin production of *Clostridium botulinum*, or, in raw shell eggs, the growth of *Salmonella enteritidis*.
- A food of animal origin that is raw or heat-treated
- A food of plant origin that is heat-treated
- Raw seed sprouts
- Cut melons
- Cut raw tomatoes
- Garlic and oil mixtures that support the rapid and progressive growth of infectious or toxigenic microorganisms or the growth and toxin production of *Clostridium botulinum*
- Cut leafy greens
- Chocolates, caramel, fudge, and other soft candy