
SENATE BILL NO. 441—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

MARCH 23, 2015

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions relating to cottage food industries. (BDR 40-988)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to cottage food operations; adding certain pickled foods to the list of foods which may be prepared and sold by a cottage food operation; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, a cottage food operation is not a food establishment for the
2 purposes of certain provisions of existing law, and as such is not subject to certain
3 inspections and the enforcement of certain rules and regulations by certain state and
4 local health authorities. (NRS 446.866) **Section 2** of this bill adds acidified foods to
5 the list of food items that a cottage food operation may prepare. “Acidified foods”
6 are defined in **section 1** of this bill as “an item containing either fruits, vegetables
7 or both fruits and vegetables which, when prepared for sale, has a finished
8 equilibrium pH of not more than 4.6.” **Section 1** also provides various requirements
9 for a person who prepares such acidified foods, including certain required training,
10 successful completion of an examination, pH testing of the foods, the
11 documentation of certain information about the foods produced and registration
12 with the State Department of Agriculture. The Department is authorized to charge a
13 reasonable fee for such training, examinations and registration.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 446 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 **1. For the purposes of a cottage food operation, as that term**
4 **is defined in NRS 446.866, an acidified food must be produced by**
5 **a person who:**

6 **(a) Meets the requirements of NRS 446.866.**

7 **(b) Has, within 5 years before producing such food, attended a**
8 **course of training in basic food safety and the preparation and**
9 **canning of acidified foods which has been approved by the State**
10 **Department of Agriculture.**

11 **(c) Has passed an examination on the preparation of acidified**
12 **foods which has been approved by the State Department of**
13 **Agriculture.**

14 **(d) Has provided proof of completion of the requirements of**
15 **paragraphs (b) and (c) to the health authority with whom the**
16 **person is registered pursuant to subsection 3 of NRS 446.866.**

17 **(e) Maintains a log and supporting documentation for not less**
18 **than 5 years which must include:**

19 **(1) The name of each product produced;**

20 **(2) The recipe for each product produced, including,**
21 **without limitation, the ingredients and the process used in**
22 **preparation of the product;**

23 **(3) The canning date of each batch produced; and**

24 **(4) The results of the pH test for each batch produced.**

25 **(f) For the purposes of paragraph (e), uses a pH test meter that**
26 **meets the requirements of the regulations adopted by the State**
27 **Department of Agriculture.**

28 **(g) Uses only canning recipes that have been approved by, or**
29 **included in publications approved by, the State Department of**
30 **Agriculture.**

31 **(h) Is registered with the State Department of Agriculture to**
32 **receive updates on, without limitation, the testing and preparation**
33 **of acidified foods and workshops or other training relating to the**
34 **safe production of acidified foods.**

35 **(i) Includes on the label of each acidified food:**

36 **(1) In addition to the requirements of paragraph (c) of**
37 **subsection 1 of NRS 446.866, the date the product was produced;**
38 **and**

39 **(2) In place of the requirements of paragraph (d) of**
40 **subsection 1 of NRS 446.866, the words “Made in an Acidified**
41 **(Cottage) Food Operation That is Not Subject to Government**
42 **Inspection” printed prominently and in capital letters.**



1 2. *The State Department of Agriculture may charge a*
2 *reasonable fee for:*

3 (a) *Registration pursuant to paragraph (h) of subsection 1;*

4 (b) *A course of training pursuant to paragraph (b) of*
5 *subsection 1; and*

6 (c) *An examination pursuant to paragraph (c) of subsection 1.*

7 3. *The State Department of Agriculture shall adopt*
8 *regulations necessary to carry out the provisions of this section.*

9 4. *As used in this section, "acidified foods" means an item*
10 *containing either fruits, vegetables or both fruits and vegetables*
11 *which, when prepared for sale, has a finished equilibrium pH level*
12 *of not more than 4.6. The term:*

13 (a) *Includes, without limitation, pickles, salsa and hot sauce.*

14 (b) *Does not include any product that includes, without*
15 *limitation, milk or milk products, eggs, meat, poultry, fish,*
16 *shellfish, edible crustacean ingredients or any other ingredients*
17 *capable of supporting the rapid growth of infectious or toxigenic*
18 *microorganisms.*

19 **Sec. 2.** NRS 446.866 is hereby amended to read as follows:

20 446.866 1. A cottage food operation which manufactures or
21 prepares a food item by any manner or means whatever for sale, or
22 which offers or displays a food item for sale, is not a "food
23 establishment" pursuant to paragraph (h) of subsection 2 of NRS
24 446.020 if each such food item is:

25 (a) Sold on the private property of the natural person who
26 manufactures or prepares the food item or at a location where the
27 natural person who manufactures or prepares the food item sells the
28 food item directly to a consumer, including, without limitation, a
29 farmers' market licensed pursuant to chapter 244 or 268 of NRS,
30 flea market, swap meet, church bazaar, garage sale or craft fair, by
31 means of an in-person transaction that does not involve selling the
32 food item by telephone or via the Internet;

33 (b) Sold to a natural person for his or her consumption and not
34 for resale;

35 (c) Affixed with a label which complies with the federal labeling
36 requirements set forth in 21 U.S.C. § 343(w) and 9 C.F.R. Part 317
37 and 21 C.F.R. Part 101;

38 (d) ~~Labeled~~ *Except as otherwise provided in section 1 of this*
39 *act, labeled* with "MADE IN A COTTAGE FOOD OPERATION
40 THAT IS NOT SUBJECT TO GOVERNMENT FOOD SAFETY
41 INSPECTION" printed prominently on the label for the food item;

42 (e) Prepackaged in a manner that protects the food item from
43 contamination during transport, display, sale and acquisition by
44 consumers; and



1 (f) Prepared and processed in the kitchen of the private home of
2 the natural person who manufactures or prepares the food item or, if
3 allowed by the health authority, in the kitchen of a fraternal or social
4 clubhouse, a school or a religious, charitable or other nonprofit
5 organization.

6 2. No local zoning board, planning commission or governing
7 body of an unincorporated town, incorporated city or county may
8 adopt any ordinance or other regulation that prohibits a natural
9 person from preparing food in a cottage food operation.

10 3. Each natural person who wishes to conduct a cottage food
11 operation must, before selling any food item, register the cottage
12 food operation with the health authority by submitting such
13 information as the health authority deems appropriate, including,
14 without limitation:

15 (a) The name, address and contact information of the natural
16 person conducting the cottage food operation; and

17 (b) If the cottage food operation sells food items under a name
18 other than the name of the natural person who conducts the cottage
19 food operation, the name under which the cottage food operation
20 sells food items.

21 4. The health authority may charge a fee for the registration of
22 a cottage food operation pursuant to subsection 3 in an amount not
23 to exceed the actual cost of the health authority to establish and
24 maintain a registry of cottage food operations.

25 5. The health authority may inspect a cottage food operation
26 only to investigate a food item that may be deemed to be adulterated
27 pursuant to NRS 585.300 to 585.360, inclusive, or an outbreak or
28 suspected outbreak of illness known or suspected to be caused by a
29 contaminated food item. The cottage food operation shall cooperate
30 with the health authority in any such inspection. If, as a result of
31 such inspection, the health authority determines that the cottage
32 food operation has produced an adulterated food item or was the
33 source of an outbreak of illness caused by a contaminated food item,
34 the health authority may charge and collect from the cottage food
35 operation a fee in an amount that does not exceed the actual cost of
36 the health authority to conduct the investigation.

37 6. As used in this section:

38 (a) "Cottage food operation" means a natural person who
39 manufactures or prepares food items in his or her private home or, if
40 allowed by the health authority, in the kitchen of a fraternal or social
41 clubhouse, a school or a religious, charitable or other nonprofit
42 organization, for sale to a natural person for consumption and whose
43 gross sales of such food items are not more than \$35,000 per
44 calendar year.

45 (b) "Food item" means:



- 1 (1) Nuts and nut mixes;
- 2 (2) Candies;
- 3 (3) Jams, jellies and preserves;
- 4 (4) Vinegar and flavored vinegar;
- 5 (5) Dry herbs and seasoning mixes;
- 6 (6) Dried fruits;
- 7 (7) Cereals, trail mixes and granola;
- 8 (8) Popcorn and popcorn balls; ~~for~~
- 9 (9) *Acidified foods that meet the requirements of section 1*
- 10 *of this act; or*
- 11 (10) Baked goods that:
 - 12 (I) Are not potentially hazardous foods;
 - 13 (II) Do not contain cream, uncooked egg, custard,
 - 14 meringue or cream cheese frosting or garnishes; and
 - 15 (III) Do not require time or temperature controls for food
 - 16 safety.
- 17 **Sec. 3.** This act becomes effective:
 - 18 1. On passage and approval for the purpose of adopting
 - 19 regulations and performing any other preparatory administrative
 - 20 tasks necessary to carry out the provisions of this act; and
 - 21 2. On January 1, 2016, for all other purposes.

