
Changes to the Domestic Kitchen Laws Regulating Tennessee's Cottage Food Industry

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On April 17, 2017, the latest wave of changes to Tennessee's Domestic Kitchen Laws were signed by Governor Bill Haslam (Appendix A). These alterations will change the requirements for those who will be preparing non-potentially hazardous foods from their home kitchens. This fact sheet addresses the state regulatory framework after June 17, 2017, for individuals wishing to prepare foods in their domestic kitchen for sale.

WHICH FOODS CAN BE MADE IN A HOME KITCHEN?

Only foods considered non-potentially hazardous can be made in home kitchens. Examples of these foods are:

- Baked goods that do not require refrigeration.
- Jams, jellies and preserves.
- Candy.
- Dried baking or spice blends.

Non-potentially hazardous foods do not support the growth of harmful bacteria and the processing steps do not require stringent controls to assure a safe product. It should be understood that while these foods are inherently lower risk, it does not mean that they are without risk. They are still prone to cross-contamination from other foods in the kitchen or allergens.

Potentially hazardous food products that **cannot** be made in a home kitchen include:

- Pickled vegetables and eggs.
- Sauces and dressings.
- Products that contain meat or poultry.
- Any food that must be refrigerated.

WHAT ARE THE CHANGES TO THE DOMESTIC KITCHEN REGULATIONS?

The recently passed law alters Tenn. Code Ann. § 53-1-208 by adding wording to address the following criteria for non-potentially hazardous foods manufactured from a domestic kitchen. Below are the pertinent details:

1. **Domestic kitchens will no longer be inspected and permitted by the Tennessee Department of Agriculture Consumer and Industry Services.**

No new permits will be issued for domestic kitchens that were not previously permitted from now going forward unless the individual would like to wholesale (sales other than direct to the consumer) their product. Domestic kitchen permits will cease renewal after July 1, 2018.

2. **The person operating the domestic kitchen only sells products direct to end consumers in the same state.**

This means that the individual operating the domestic kitchen must limit their sales to retail settings they operate and the product is purchased by Tennesseans who will be consuming the product(s). An example would include selling as a vendor at a farmers market or operating a roadside store. Wholesaling to other retailers is not permitted.

3. **The domestic kitchen operator employs no regular, full-time employees for manufacturing their product.**

Part-time employees are permissible.

4. **Food must be properly labeled.**

All food items packaged in a domestic kitchen must be properly labeled prior to sale. The following, at a minimum, must be present on all food items (Figure 1):

- A. The name, street address, city, state and ZIP code of the manufacturer, packer or distributor.
- B. An accurate statement of the net amount of food in the package in English and Metric units (e.g. ounces and grams)
- C. The common or usual name of the food.
- D. The ingredients in the food in order of predominance by weight.
- E. Lot dates or numbers shall be evident on each package or container of food for traceability purposes in the event an issue occurs that may require a market withdrawal of the food. A current distribution list including quantities sold may also be of assistance should an incident occur.

All labeling shall comply with the applicable provisions of the Code of Federal Regulations, Chapter 21, Part 101. The FDA Food Labeling Guide (www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/LabelingNutrition/ucm2006828.htm) is a wonderful resource to consult to assure you have properly labeled your product. Special attention should be paid with respect to clear labeling of the eight major food allergens: milk, eggs, soy, wheat, peanuts, tree nuts, fish, crustacean shellfish.

The licensed facility may apply for a Small Business Nutritional Labeling Exemption (www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/LabelingNutrition/ucm2006867.htm), if applicable.

5. **Mandatory signage is no longer required.**

Prior to passage of this law, products manufactured in uninspected domestic kitchens were required to be labeled with the statement: *These food products were made in a private home not licensed or inspected.* An 8.5-by-11-inch sign with font no smaller than 3/4 inch also was required to be displayed at the point of sale. This mandatory signage is no longer required beginning immediately.



Figure 1. Required label components for manufactured foods.

EDUCATION IS KEY

While formal inspection will not be granted to domestic kitchens, it is important for operators to understand food safety risks associated with harmful microorganisms and chemicals, like food allergens, and take the necessary steps to mitigate risk in their home-based business. Those preparing food for sale in a domestic kitchen may be held liable if their product causes a person harm through a foodborne illness or an allergic reaction.

Although training is not a requirement, it is highly encouraged that those interested in selling food from a domestic kitchen participate in the Department of Food Science Domestic Kitchen Training Course offered online and in-person. More information about online training from the Department of Food Science is available at tiny.utk.edu/DK. This course takes roughly six hours to complete and covers pertinent aspects of safe manufacturing and product labeling.

The text of the new law made effective in April 2017, now called State of Tennessee Public Chapter Number 1105, is provided as Appendix A.



State of Tennessee

PUBLIC CHAPTER NO. 150

SENATE BILL NO. 1187

By Norris, Niceley

Substituted for: House Bill No. 299

By Hawk, Casada, Reedy, Ragan

AN ACT to amend Tennessee Code Annotated, Section 53-1-103; Section 53-1-208; Title 53, Chapter 12; Section 53-2-107; Title 53, Chapter 8, Part 1 and Title 53, Chapter 9, relative to regulation of food manufacturing and processing.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 53-1-103(a)(4), is amended by deleting the subdivision in its entirety and substituting instead the following language:

(4) The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of §§ 53-1-110, 53-1-206, 53-1-208, 53-1-209, or any rule promulgated thereunder;

SECTION 2. Tennessee Code Annotated, Section 53-1-208(b), is amended by deleting the subsection in its entirety and substituting instead the following language:

(b) Except as provided in subsection (d), no person shall manufacture, process, pack, or hold food for introduction into commerce unless the person holds a valid license issued by the commissioner. Applicants for licensure shall submit an application for the license on forms provided by the commissioner. The commissioner may issue a license to an applicant only upon receipt of the proper license fee and an inspection of the applicant's facility that indicates the applicant is in compliance with the requirements of this part and the rules promulgated thereunder. Licenses issued under this section shall expire on July 1 of each year or as the commissioner may otherwise provide by rule. The commissioner shall set annual fees for licenses issued under this section by rule pursuant to § 43-1-703. Notwithstanding § 43-1-704(b), the commissioner shall set fees for licenses issued under this section on or before April 1, 2018.

SECTION 3. Tennessee Code Annotated, Section 53-1-208, is amended by adding the following as new, appropriately designated subsections:

(d) No license shall be required under this section for any person who manufactures, processes, packs, or holds food for introduction into commerce, if:

(1) The food is not potentially hazardous, as defined by departmental regulation;

(2) The person is not subject to any license or permit requirements under §§ 53-2-107, 53-3-105, 53-3-106, 53-7-216, 53-7-220, or 53-8-206;

(3) The person introduces food into commerce only through direct retail sales to end consumers in the state;

(4) The person employs no regular, full-time employees for the manufacturing, processing, packing, or holding of food; and

(5) Prior to introducing the food into commerce, the person labels the food in accordance with this part and regulations promulgated by the commissioner.

(e) Exemption from licensure requirements under this section shall not be construed to exempt any person from any other regulations applicable to the manufacturing, processing, packing, or holding of food for introduction into commerce, including, but not limited to, requirements regarding recordkeeping, sanitary operation, and availability for inspection by agencies charged with enforcing food safety laws.

SECTION 4. Tennessee Code Annotated, Section 53-2-107(5), is amended by deleting the subdivision in its entirety and substituting instead the following language:

(5) Food manufacturers purchasing eggs for use and used only in the manufacture of their products;

SECTION 5. Tennessee Code Annotated, Title 53, Chapter 8, Part 1, is amended by deleting the part in its entirety.


SECTION 6. Tennessee Code Annotated, Title 53, Chapter 9, is amended by deleting the chapter in its entirety.

SECTION 7. Tennessee Code Annotated, Title 53, Chapter 12, is amended by deleting the chapter in its entirety.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 1187

PASSED: April 6, 2017


RANDY McNALLY
SPEAKER OF THE SENATE


BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 17th day of April 2017


BILL HASLAM, GOVERNOR



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