

SUBJECT: Revising provisions on cottage food production operation

COMMITTEE: Public Health — committee substitute recommended

VOTE: 11 ayes — Klick, Campos, Collier, Jetton, A. Johnson, J. Jones, V. Jones, Oliverson, Price, Smith, Tinderholt
0 nays

SENATE VOTE: On final passage (April 12) — 31 - 0

WITNESSES: For — Judith McGeary, Farm and Ranch Freedom Alliance; Jada Lucero (*Registered, but did not testify*: Heather Sheffield)

Against — Christopher Sparks, City of Houston, Houston Health Department (*Registered, but did not testify*: Denee Barsalou)

On — (*Registered, but did not testify*: Timothy Stevenson, Department of State Health Services)

BACKGROUND: Some have suggested that revising certain provisions that limit cottage food producers could support the growing cottage food industry and help producers.

DIGEST: CSSB 829 would include in the definition of "cottage food production operation" a nonprofit organization that produced at the home of an individual who was a director or officer of the nonprofit. The bill would specify that cottage-produced baked goods could not contain meat, poultry, shellfish, or fish.

The annual gross income of a cottage food production operation would be capped at \$100,000 or less from sales, rather than \$50,000.

The bill would allow these production operations to sell foods directly to a cottage food vendor. "Cottage food vendor" would be defined as a person who had a contractual relationship with a cottage food production

operation and sold food, except baked goods, on behalf of the production operation directly to consumers. A cottage food production operation could sell food, except baked goods, to a cottage food vendor at wholesale.

A cottage food vendor could sell food, except baked goods, directly to consumers at a farmers' market, farm stand, food service establishment, or any retail store. The vendor would be required to display in a sign that said "THIS PRODUCT WAS PRODUCED IN A PRIVATE RESIDENCE AND IS NOT SUBJECT TO GOVERNMENTAL LICENSING OR INSPECTION." A cottage food vendor that purchased food from a cottage food production operation at wholesale would be required to register with the Department of State Health Services (DSHS). The executive commissioner of the Health and Human Services Commission (HHSC) could adopt rules to implement this provision.

A cottage food production operation that sold baked goods to consumers would be required to store and deliver the food at the air temperature necessary to prevent bacteria growth that could cause human illness. A local government authority, including a local health department, could not require a cottage food production operation to obtain any type of license or permit or pay any fee to sell food directly to a consumer or cottage food vendor. A local government authority, including a local health department, also could not employ or continue to employ a person who knowingly required or attempted to require a cottage food production operation to obtain a license or permit.

The bill would specify that food labels required to be used by cottage food production operations would have to include the words "prepared on" immediately followed by the date on which the food was prepared and the statement, "THIS PRODUCT WAS PRODUCED IN A PRIVATE RESIDENCE AND IS NOT SUBJECT TO GOVERNMENTAL LICENSING OR INSPECTION." A cottage food production operation would not be required to include the address of the operation on food labels if the operation registered with DSHS.

A cottage food production operation that sold time and temperature control for safety baked goods would be required to include on the label of the food, or on an invoice or receipt provided with the food, "SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria, keep this food refrigerated or frozen until the food is prepared for consumption."

The bill would take effect September 1, 2023.