

By the Committee on Regulated Industries; and Senators Jones and Book

580-02822-22

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1 A bill to be entitled
2 An act relating to home kitchen operations; amending
3 s. 500.03, F.S.; defining terms; creating s. 500.82,
4 F.S.; exempting home kitchen operations from food
5 permitting requirements; providing requirements for
6 home kitchen operations; providing requirements for
7 the sale of home kitchen food products; prohibiting
8 home kitchen operations from selling, offering for
9 sale, or delivering home kitchen food products to
10 wholesalers or retailers; providing construction and
11 applicability; preempting the regulation of home
12 kitchen operations to the state; requiring the
13 Department of Agriculture and Consumer Services to
14 investigate complaints and conduct inspections as
15 necessary; providing that home kitchen operations are
16 subject to certain disciplinary procedures; amending
17 s. 500.121, F.S.; providing that home kitchen
18 operations are subject to specified administrative
19 fines; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Present paragraphs (s) through (cc) of
24 subsection (1) of section 500.03, Florida Statutes, are
25 redesignated as paragraphs (u) through (ee), respectively, new
26 paragraphs (s) and (t) are added to that subsection, and
27 paragraph (r) of that subsection is amended, to read:

28 500.03 Definitions; construction; applicability.—

29 (1) For the purpose of this chapter, the term:

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30 (r) "Food service establishment" means any place where food
31 is prepared and intended for individual portion service, and
32 includes the site at which individual portions are provided. The
33 term includes any such place regardless of whether consumption
34 is on or off the premises and regardless of whether there is a
35 charge for the food. The term includes delicatessens that offer
36 prepared food in individual service portions. The term does not
37 include schools, institutions, fraternal organizations, private
38 homes where food is prepared or served for individual family
39 consumption, retail food stores, the location of food vending
40 machines, cottage food operations, home kitchen operations, and
41 supply vehicles, nor does the term include a research and
42 development test kitchen limited to the use of employees and
43 which is not open to the general public.

44 (s) "Home kitchen food product" means food that is:

45 1. Stored, handled, prepared, and packaged by a home
46 kitchen operation.

47 2. Not raw milk, raw milk products, raw oysters, or raw
48 shellfish.

49 (t) "Home kitchen operation" means a natural person or an
50 entity that stores, handles, and prepares home kitchen food
51 products at the residence of the natural person or at the
52 residence of a natural person who has an ownership interest in
53 the entity and sells such products in accordance with s. 500.82.

54 A home kitchen operation is not:

55 1. A public food service establishment as defined in s.
56 509.013(5).

57 2. A catering services operation licensed under chapter
58 509.

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59 3. A cottage food operation.

60 Section 2. Section 500.82, Florida Statutes, is created to
61 read:

62 500.82 Home kitchen operations.-

63 (1) (a) A home kitchen operation must comply with the
64 applicable requirements of this chapter but is exempt from the
65 permitting requirements of s. 500.12 if the home kitchen
66 operation complies with this section and:

67 1. Has annual gross sales of home kitchen food products
68 that do not exceed \$250,000.

69 2. Limits preparation and service of home kitchen food
70 products to no more than 10 individual meals per day or the
71 approximate equivalent of meal components when sold separately.

72 3. Prepares, cooks, and serves home kitchen food products
73 on the same calendar day.

74 4. Processes home kitchen food products in compliance with
75 state and federal regulations and this section.

76 (b) For purposes of this subsection, a home kitchen
77 operation's annual gross sales include all sales of home kitchen
78 food products at any location, regardless of the types of
79 products sold or the number of persons involved in the
80 operation. A home kitchen operation must provide the department,
81 upon request, with written documentation to verify the
82 operation's annual gross sales, and the department shall be
83 granted access to such records within 24 hours after the
84 request.

85 (2) A home kitchen operation may sell, offer for sale, and
86 accept payment for home kitchen food products over the Internet
87 or in person. Such products may be delivered in person directly

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88 to the consumer, to a specific event venue, or to the consumer
89 by the home kitchen operation or a third party delivery service.
90 A home kitchen operation may not sell, offer for sale, or
91 deliver home kitchen food products to any wholesaler or
92 retailer.

93 (3) All home kitchen operation owners and employees must
94 successfully complete a food safety certificate training program
95 that complies with the United States Food and Drug
96 Administration's Food Safety Modernization Act. The course, at a
97 minimum, must include information and training on cross-
98 contamination, temperature control, and personal hygiene.

99 (4) A home kitchen operation must:

100 (a) Take steps to avoid any potential contamination to:

101 1. Food.

102 2. Equipment.

103 3. Utensils.

104 4. Unwrapped single-service and single-use articles.

105 (b) Prevent an individual from entering the food
106 preparation area while food is being prepared if the individual
107 is known to be suffering from:

108 1. Symptoms associated with acute gastrointestinal illness;
109 or

110 2. A communicable disease that is transmissible through
111 food.

112 (c) Ensure a handwashing station supplied with warm water,
113 soap, and disposable hand towels is conveniently located in food
114 preparation, food dispensing, and warewashing areas.

115 (d) Ensure that the kitchen sink is fully operational and
116 has hot and cold water and a sanitizing agent, and that dishes

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117 are sanitized between each use.

118 (e) Ensure that ready-to-eat home kitchen food products are
119 protected from contamination during storage, preparation,
120 handling, transport, and display.

121 (f) Ensure that home kitchen food products are maintained
122 at proper holding temperatures.

123 (g) Ensure that utensils and equipment used in the home
124 kitchen operation:

125 1. Retain their characteristic qualities under normal use
126 conditions.

127 2. Are properly sanitized after each use.

128 3. Are maintained in a sanitary manner between uses.

129 (h) Ensure that kitchen equipment is cleaned and sanitized
130 between uses.

131 (i) Ensure that gases, odors, steam, heat, grease, vapors,
132 and smoke are able to escape the kitchen.

133 (j) Ensure that temperature measuring devices or holding
134 equipment for the time or temperature control of food is
135 properly used for hot and cold holding of home kitchen food
136 products during storage, serving, and cooling.

137 (k) Ensure that home kitchen food product preparation and
138 service is discontinued if there is a disruption of potable
139 water service.

140 (5) A home kitchen operation may sell home kitchen food
141 products which are affixed with a label that contains the
142 following information:

143 (a) The name and address of the home kitchen operation.

144 (b) The name of the home kitchen food product.

145 (c) The ingredients of the home kitchen food product, in

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146 descending order of predominance by weight.

147 (d) The net weight or net volume of the home kitchen food
148 product.

149 (e) Allergen information as specified by federal labeling
150 requirements.

151 (f) If any nutritional claim is made, appropriate
152 nutritional information as specified by federal labeling
153 requirements.

154 (g) The following statement printed in at least 10-point
155 type in a color that provides a clear contrast to the background
156 of the label: "Made in a home kitchen operation that is not
157 subject to Florida's food safety regulations."

158 (6) This section does not:

159 (a) Exempt a home kitchen operation from any state or
160 federal tax law, rule, regulation, or certificate that applies
161 to all home kitchen operations.

162 (b) Prevent the department or a local health department
163 from enforcing an order to cease and desist operation of a home
164 kitchen if the department or the local health department has a
165 valid reason to suspect that the home kitchen operation is the
166 source of an adulterated food or of an outbreak of illness
167 caused by contaminated food.

168 (c) Apply to a person operating under a food permit issued
169 pursuant to s. 500.12.

170 (7) The regulation of home kitchen operations is preempted
171 to the state. A local law, ordinance, or regulation may not
172 prohibit a home kitchen operation or regulate the preparation,
173 processing, storage, or sale of home kitchen food products by a
174 home kitchen operation; however, a home kitchen operation must

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175 comply with the conditions for the operation of a home-based
176 business under s. 559.955.

177 (8) (a) The department must investigate any complaint which
178 alleges that a home kitchen operation has violated an applicable
179 provision of this chapter or a rule adopted under this chapter.

180 (b) Upon receipt of a complaint, the department's
181 authorized officer or employee must enter and inspect the
182 premises of a home kitchen operation to determine compliance
183 with this chapter and department rules, as applicable. A home
184 kitchen operation's refusal to allow the department's authorized
185 officer or employee entry to the premises or to conduct the
186 inspection is grounds for disciplinary action pursuant to s.
187 500.121.

188 (9) A home kitchen operation is subject to the disciplinary
189 procedures under s. 500.121(7).

190 Section 3. Subsection (1) of section 500.121, Florida
191 Statutes, is amended to read:

192 500.121 Disciplinary procedures.—

193 (1) In addition to the suspension procedures provided in s.
194 500.12, if applicable, the department may impose an
195 administrative fine in the Class II category pursuant to s.
196 570.971 against any retail food store, food establishment, home
197 kitchen operation, or cottage food operation that violates this
198 chapter, which fine, when imposed and paid, shall be deposited
199 by the department into the General Inspection Trust Fund. The
200 department may revoke or suspend the permit of any such retail
201 food store or food establishment if it is satisfied that the
202 retail food store or food establishment has:

203 (a) Violated this chapter.

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204 (b) Violated or aided or abetted in the violation of any
205 law of this state governing or applicable to retail food stores
206 or food establishments or any lawful rules of the department.

207 (c) Knowingly committed, or been a party to, any material
208 fraud, misrepresentation, conspiracy, collusion, trick, scheme,
209 or device whereby another person, lawfully relying upon the
210 word, representation, or conduct of a retail food store or food
211 establishment, acts to her or his injury or damage.

212 (d) Committed any act or conduct of the same or different
213 character than that enumerated which constitutes fraudulent or
214 dishonest dealing.

215 Section 4. This act shall take effect July 1, 2022.