
A BILL FOR AN ACT

RELATING TO MICROENTERPRISE KITCHENS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that, although Hawaii has
2 many talented chefs and cooks who aspire to open their own food
3 establishments, opening a restaurant is a risky and expensive
4 proposition. The median cost of opening a restaurant in the
5 United States is about \$375,000; the price in Hawaii may be
6 significantly higher due to the State's higher cost of living.
7 Once the restaurant is in operation, the day-to-day operating
8 costs, including utilities, rent, insurance, and employees, may
9 be substantial. Other food venture options such as opening a
10 food truck or utilizing a commercial kitchen to prepare food for
11 sale may also have very high start-up and overhead costs and
12 present barriers to entry for residents.

13 The legislature further finds that creating a mechanism for
14 entrepreneurs to open a home cooking venture will significantly
15 lower the barriers to entry that these individuals face and
16 promote a more equitable food system. Data from the San Diego
17 Microenterprise Home Kitchen Operation program found that of the



1 total number of microenterprise home kitchens established,
2 fifty-eight per cent were women-owned and seventy per cent were
3 minority-owned, indicating a notably significant and positive
4 impact on these demographics. These types of enterprises,
5 called microenterprise home kitchens, enable individuals to
6 safely operate a cooking business from their home kitchens while
7 meeting applicable food safety requirements. The start-up costs
8 for these businesses are significantly less than the costs
9 associated with opening a standalone restaurant, even when
10 factoring in cost items such as permitting, inspection fees, and
11 liability insurance. By making it easier to establish a new
12 business, more individuals will be able to earn a living doing
13 something they love while building wealth and contributing to
14 and growing the local economy. This includes persons such as
15 stay-at-home parents and caregivers. For example, a
16 stay-at-home parent could prepare and deliver ready-to-eat
17 lunches to customers while their children are at school, earning
18 an income to supplement their cost of living.

19 The legislature further finds that microenterprise home
20 kitchens may be operated in a manner that ensures food safety.
21 Specifically, particular safeguards may be implemented to



1 protect public health, including the creation of sanitation,
2 equipment, and maintenance requirements; a requirement that the
3 microenterprise home kitchen pass a thorough inspection by the
4 department of health before beginning operation; periodic future
5 inspections, including at times when the department of health
6 suspects that the microenterprise home kitchen is the source of
7 an adulterated food or of an outbreak of illness caused by a
8 contaminated food; a prohibition on the preparation of certain
9 high-risk foods; and a prohibition of the on-site consumption of
10 food by customers.

11 Accordingly, the purpose of this Act is to:

- 12 (1) Authorize microenterprise home kitchens;
13 (2) Authorize the department of health to establish
14 minimum health and food safety standards applicable to
15 the operation of microenterprise home kitchens; and
16 (3) Appropriate moneys to the department of health for
17 operating and implementation costs.

18 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
19 amended by adding a new part to be appropriately designated and
20 to read as follows:



1 "PART

2 PART . MICROENTERPRISE HOME KITCHENS.

3 §321- Definitions. As used in this part:

4 "Department" means the department of health.

5 "Food" means:

6 (1) A raw, cooked, or processed edible substance, ice,
7 nonalcoholic beverage, or ingredient used or intended
8 for use or for sale, in whole or in part, for human
9 consumption; or

10 (2) Chewing gum.

11 "Hazard analysis and critical control points plan" means a
12 management system in which food safety is addressed through the
13 analysis and control of biological, chemical, and physical
14 hazards from raw material production, procurement, and handling
15 to manufacturing, distribution, and consumption of the finished
16 product.

17 "Microenterprise home kitchen" or "home kitchen":

18 (1) Means a non-commercial kitchen facility located in a
19 private home where ready-to-eat food is handled,
20 stored, prepared, or offered for sale.

21 (2) Does not include:



- 1 (A) A catering operation;
- 2 (B) A cottage food operation;
- 3 (C) A food truck;
- 4 (D) A bed and breakfast; or
- 5 (E) A state-licensed care facility.

6 "Microenterprise home kitchen permit" means a permit issued
7 by the department to an operator for the purpose of operating a
8 microenterprise home kitchen.

9 "Operator" means a person who resides in a private home and
10 manages or controls a microenterprise home kitchen located in
11 that private home.

12 "Ready-to-eat" means:

- 13 (1) Cooked animal food;
- 14 (2) Raw fruits and vegetables that are washed;
- 15 (3) Fruits and vegetables that are cooked for hot holding;
- 16 (4) A time or temperature control food that is cooked to
17 the temperature and time required for the specific
18 food, in accordance with rules adopted by the
19 department pursuant to chapter 91; or
- 20 (5) A bakery item for which further cooking is not
21 required for food safety.



1 "Time or temperature control food" means food that requires
2 time or temperature controls for safety to limit pathogenic
3 microorganism growth or toxin formation.

4 **§321- Safety and health inspections; permits.** The
5 department may:

- 6 (1) Grant a microenterprise home kitchen permit to an
7 operator; and
8 (2) Revoke a microenterprise home kitchen permit if the
9 operation of the microenterprise home kitchen violates
10 the terms of the permit or any provision of this part
11 or any rule adopted thereunder.

12 **§321- Operator requirements.** (a) An operator may
13 qualify for a microenterprise home kitchen permit if:

- 14 (1) Food that is served at the microenterprise home
15 kitchen is processed in compliance with state and
16 federal regulations;
17 (2) A kitchen facility used to prepare food for the
18 microenterprise home kitchen meets the requirements
19 established by the department;



1 (3) The microenterprise home kitchen operates only during
2 the hours approved in the microenterprise home kitchen
3 permit; and

4 (4) The microenterprise home kitchen complies with the
5 requirements of this section.

6 (b) The department shall adopt rules pursuant to
7 chapter 91 to establish sanitation, equipment, and maintenance
8 requirements for microenterprise home kitchens.

9 (c) The department shall:

10 (1) Ensure compliance with this part and the rules adopted
11 thereunder when inspecting a microenterprise home
12 kitchen;

13 (2) Inspect a microenterprise home kitchen that requests a
14 microenterprise home kitchen permit only:

15 (A) For an initial inspection, no more than one week
16 before the microenterprise home kitchen is
17 scheduled to begin operation;

18 (B) For an unscheduled inspection, if the department
19 conducts the inspection:



- 1 (i) Within three days before or after the day on
2 which the microenterprise home kitchen is
3 scheduled to begin operation; or
4 (ii) During operating hours of the
5 microenterprise home kitchen; or
6 (C) For subsequent inspections if:
7 (i) The department provides the operator with
8 reasonable advance notice of the inspection;
9 or
10 (ii) The department has a valid reason to suspect
11 that the microenterprise home kitchen is the
12 source of an adulterated food or of an
13 outbreak of illness caused by a contaminated
14 food; and
15 (3) Document the reason for any inspection after the
16 initial inspection, preserve a copy of that
17 documentation on file with the microenterprise home
18 kitchen's permit, and provide a copy of that
19 documentation to the operator.
20 (d) Each operator shall:



- 1 (1) Take steps to avoid any contamination to food,
2 equipment, utensils, or unwrapped single-service and
3 single-use articles;
- 4 (2) Prevent a person from entering the food preparation
5 area while food is being prepared if the person is
6 known to be suffering from:
- 7 (A) Symptoms associated with acute gastrointestinal
8 illness; or
- 9 (B) A communicable disease that is transmissible
10 through food; and
- 11 (3) Comply with the following requirements:
- 12 (A) Time or temperature control food shall be
13 prepared, cooked, and served on the same day;
- 14 (B) Food that is sold or provided to a customer shall
15 not be consumed onsite at the microenterprise
16 home kitchen operation;
- 17 (C) Food that is sold or provided to a customer shall
18 be picked up by the consumer or delivered within
19 a safe time period based on holding equipment
20 capacity;



1 (D) Food preparation shall not involve processes that
2 require a hazard analysis and critical control
3 points plan, or the production, service, or sale
4 of raw milk or raw milk products;

5 (E) Molluscan and panulirus shellfish shall not be
6 served or sold;

7 (F) The operator shall only sell or provide food
8 directly to consumers and shall not sell or
9 provide food to any wholesaler or retailer; and

10 (G) The operator shall provide the consumer with a
11 notification that, while a permit has been issued
12 by the department, the kitchen may not meet all
13 of the requirements of a commercial retail food
14 establishment.

15 (e) Notwithstanding subsection (b), the department shall
16 not adopt rules regarding:

17 (1) Hand washing facilities, except to require that a hand
18 washing station supplied with warm water, soap, and
19 disposable hand towels is conveniently located in food
20 preparation, food dispensing, and warewashing areas;



- 1 (2) Kitchen sinks, kitchen sink compartments, and dish
2 sanitation, except to require that the kitchen sink
3 has hot and cold water and a sanitizing agent and is
4 fully operational, and that dishes are sanitized
5 between each use;
- 6 (3) The persons allowed access to the food preparation
7 areas, food storage areas, and washing areas, except
8 during food preparation;
- 9 (4) Display guards, covers, or containers for display
10 foods, except to require that ready-to-eat food is
11 protected from contamination during storage,
12 preparation, handling, transport, and display;
- 13 (5) Outdoor display and sale of food, except to require
14 that food is maintained at proper holding
15 temperatures;
- 16 (6) Utensils and equipment, except to require that
17 utensils and equipment used in the home kitchen:
- 18 (A) Retain their characteristic qualities under
19 normal use conditions;
- 20 (B) Are properly sanitized after use; and
- 21 (C) Are maintained in a sanitary manner between uses;



- 1 (7) Food contact surfaces, except to require that food
- 2 contact surfaces are smooth, easily cleaned, in good
- 3 repair, and properly sanitized between tasks;
- 4 (8) Non-food contact surfaces, if those surfaces are made
- 5 of materials ordinarily used in residential settings,
- 6 except to require that those surfaces are regularly
- 7 cleaned and free from the accumulation of residue and
- 8 debris;
- 9 (9) Clean-in-place equipment, except to require that the
- 10 equipment is cleaned and sanitized between uses;
- 11 (10) Ventilation, except to require that gases, odors,
- 12 steam, heat, grease, vapors, and smoke are able to
- 13 escape the kitchen;
- 14 (11) Fixed temperature measuring devices or product
- 15 mimicking sensors for the holding equipment for time
- 16 or temperature control food, except to require
- 17 non-fixed temperature measuring devices for hot and
- 18 cold holding of food during storage, serving, and
- 19 cooling;
- 20 (12) Fixed floor-mounted and table-mounted equipment,
- 21 except to require that floor-mounted and table-mounted



1 equipment be in good repair and sanitized between
2 uses;

3 (13) Dedicated laundry facilities, except to require that
4 linens used for the microenterprise home kitchen are
5 stored and laundered separately from household laundry
6 and that soiled laundry is stored to prevent
7 contamination of food and equipment;

8 (14) Water, plumbing, drainage, and waste, except to
9 require that:

10 (A) Sinks be supplied with hot and cold potable water
11 from:

12 (i) An approved public water system;

13 (ii) A source that meets any rules regarding the
14 safety of drinking water; or

15 (iii) A water source that is tested at least once
16 per month for bacteriologic quality, and at
17 least once in every three year period for
18 lead and copper; and

19 (B) Food preparation and service is discontinued in
20 the event of a disruption of potable water
21 service;



- 1 (15) The number of, and path of access to, toilet
2 facilities, except to require that toilet facilities
3 are kept sanitary and are equipped with proper
4 handwashing stations;
- 5 (16) Lighting, except to require that food preparations are
6 well lit by natural or artificial light whenever food
7 is being prepared;
- 8 (17) Designated dressing areas and storage facilities,
9 except to require that items not ordinarily found in a
10 home kitchen are placed or stored away from food
11 preparation areas, that dressing takes place outside
12 of the kitchen facility, and that food items are
13 stored in a manner that does not allow for
14 contamination;
- 15 (18) The presence and handling of animals, except to
16 require that all animals are not allowed inside of
17 food preparation and service areas;
- 18 (19) Food storage, floor, wall, ceiling, and toilet
19 surfaces, except to require that surfaces are smooth,
20 of durable construction, easily cleaned, and kept
21 clean and free of debris;



- 1 (20) Kitchen facilities open to living areas, except to
2 require that food is only prepared, handled, or stored
3 in kitchen and food storage areas;
- 4 (21) Submission of plans and specifications before
5 construction or remodel of a kitchen facility;
- 6 (22) The number and type of time or temperature-controlled
7 food offered for sale, except:
- 8 (A) A raw time or temperature controlled food such as
9 raw fish or raw shellfish;
- 10 (B) Any food requiring special processes that would
11 necessitate a hazard analysis and critical
12 control points plan; and
- 13 (C) Fish from waters of the State;
- 14 (23) Approved food sources, except to require that:
- 15 (A) Food in a hermetically sealed container is
16 obtained from a regulated food processing plant;
- 17 (B) Liquid milk and milk products are obtained from
18 sources that comply with Grade A standards, as
19 specified by the department by rule;
- 20 (C) Fish for sale or service are commercially and
21 legally caught;



- 1 (D) Reef fish shall not be offered for sale except
2 that fish identified as non-native and invasive
3 may be offered for sale; ocean foods collected
4 from waters of the State must comply with all
5 laws and rules governing their collection;
- 6 (E) Mushrooms picked in the wild are not offered for
7 sale or service; and
- 8 (F) Game animals offered for sale or service are
9 raised, slaughtered, and processed according to
10 any laws and rules governing meat and poultry;
- 11 (24) The use of items produced under this chapter; or
12 (25) The use of an open air barbeque, grill, or outdoor
13 wood-burning oven.
- 14 (f) An operator applying for a microenterprise home
15 kitchen permit shall provide to the department:
- 16 (1) Written consent to enter the premises where food is
17 prepared, cooked, stored, or harvested for the
18 microenterprise home kitchen; and
- 19 (2) Written standard operating procedures that include:
20 (A) The typical types of food that will be stored,
21 handled, and prepared;



- 1 (B) The proposed procedures and methods of food
- 2 preparation and handling;
- 3 (C) Procedures, methods, and schedules for cleaning
- 4 utensils and equipment;
- 5 (D) Procedures and methods for the disposal of
- 6 refuse;
- 7 (E) A plan for maintaining time or
- 8 temperature-controlled food at the appropriate
- 9 temperatures for each time or
- 10 temperature-controlled food; and
- 11 (F) A general excise tax license.

12 (g) In addition to any other fees required by law or rule,
13 if the department is required to inspect the microenterprise
14 home kitchen as a source of an adulterated food or an outbreak
15 of illness caused by a contaminated food and finds, as a result
16 of that inspection, that the microenterprise home kitchen has
17 produced an adulterated food or was the source of an outbreak of
18 illness caused by a contaminated food, the department may charge
19 and collect from the microenterprise home kitchen a fee for that
20 inspection.

21 (h) A microenterprise home kitchen permit shall:



- 1 (1) Be non-transferable;
- 2 (2) Be renewable on an annual basis; requiring renewals to
- 3 provide a log or report of the prior year's
- 4 operations, including dates of business operations,
- 5 menus and number of meals served for each day of
- 6 operation, total meals served, and total revenue
- 7 collected;
- 8 (3) Be restricted to the location and hours listed on the
- 9 permit;
- 10 (4) Include a statement that reads: "This location is
- 11 permitted under modified FDA requirements."; and
- 12 (5) Provide the operator the opportunity to update the
- 13 food types and products handled without requiring the
- 14 operator to renew the permit.
- 15 (i) This part shall not be construed to prohibit an
- 16 operator from applying for a different type of food permit from
- 17 the department."

18 SECTION 3. The department of health shall amend its rules,
19 pursuant to chapter 91, Hawaii Revised Statutes, to conform with
20 this Act.



H.B. NO. 1591

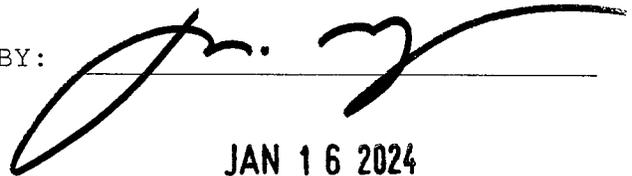
1 SECTION 4. In accordance with section 9 of article VII, of
 2 the Constitution of the State of Hawaii and sections 37-91 and
 3 37-93, Hawaii Revised Statutes, the legislature has determined
 4 that the appropriation contained in this Act will cause the
 5 state general fund expenditure ceiling for fiscal year 2024-2025
 6 to be exceeded by \$, or per cent. The reasons
 7 for exceeding the general fund expenditure ceiling are that the
 8 appropriation made in this Act is necessary to serve the public
 9 interest and to meet the need provided for by this Act.

10 SECTION 5. There is appropriated out of the general
 11 revenues of the State of Hawaii the sum of \$ or so
 12 much thereof as may be necessary for fiscal year 2024-2025 for
 13 the purposes of this Act.

14 The sum appropriated shall be expended by the department of
 15 health for the purposes of this Act.

16 SECTION 6. This Act shall take effect on July 1, 2024.
 17

INTRODUCED BY:



JAN 16 2024



H.B. NO. 1591

Report Title:

DOH; Microenterprise Home Kitchens; Rules; Permits;
Appropriation; General Fund Expenditure Ceiling Exceeded

Description:

Authorizes microenterprise home kitchens. Authorizes the Department of Health to adopt rules regarding microenterprise home kitchens, grant and revoke permits, charge fees, and conduct inspections. Appropriates moneys. Declares that the appropriation exceeds the state general fund expenditure ceiling for 2024-2025.

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