
A BILL FOR AN ACT

RELATING TO MICROENTERPRISE HOME KITCHENS.

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

1 SECTION 1. The legislature finds that Hawaii's existing
2 commercial kitchen, permitting, and regulatory requirements,
3 while designed to protect public health, can create significant
4 barriers for small, home-based food operators. The high cost of
5 renting or constructing a commercial kitchen, combined with
6 complex permitting processes, often prevents residents with
7 limited resources from legally entering the food marketplace,
8 despite having the skills and community demand to support small-
9 scale food production.

10 The legislature further finds that jurisdictions across
11 California have successfully authorized microenterprise home
12 kitchens and cottage food operations by relying on clear
13 consumer disclosures, limited regulatory requirements, and
14 risk-appropriate food-safety standards. These models have
15 expanded economic opportunities, supported cultural and
16 community-based food traditions, and enabled residents to



1 supplement household income while maintaining strong
2 public-health protections.

3 The legislature notes that federal laws governing food
4 adulteration and misbranding continue to apply to all food
5 offered for sale in the United States and are not affected by
6 the creation of a state-level framework for microenterprise home
7 kitchens. Compliance with federal standards remains mandatory
8 and provides an additional layer of consumer protection.

9 The legislature intends to reduce regulatory barriers for
10 very small direct to consumer food entrepreneurs while
11 maintaining core public health protections through existing
12 adulterated and misbranded food laws and the department of
13 health's authority to respond to complaints, foodborne illness
14 outbreaks, and imminent threats to public health.

15 The purpose of this Act is to authorize microenterprise
16 home kitchens as a lawful, small-scale, home-based food business
17 model by eliminating pre-operation permitting and routine
18 inspections for qualifying operations of microenterprise home
19 kitchens and instead relying on clear consumer disclosure and
20 targeted, complaint based enforcement.



1 SECTION 2. The Hawaii Revised Statutes is amended by
2 adding a new chapter to title 19 to be appropriately designated
3 and to read as follows:

4 "CHAPTER

5 MICROENTERPRISE HOME KITCHENS

6 PART I. GENERAL PROVISIONS

7 § -1 Definitions. As used in this chapter:

8 "Department" means the department of health.

9 "Direct-to-consumer sale" means a transaction between an
10 operator and a consumer, whereby the consumer purchases food
11 directly from the operator and not from a third party.

12 "Food" means:

13 (1) A raw, cooked, or processed edible substance, ice,
14 nonalcoholic beverage, or ingredient used or intended
15 for use or for sale, in whole or in part, for human
16 consumption; or

17 (2) Chewing gum.

18 "Microenterprise home kitchen" or "home kitchen":

19 (1) Means a non-commercial kitchen facility located in a
20 private home where ready-to-eat food is handled,



1 stored, prepared, or offered for direct-to-consumer
2 sale; and

3 (2) Does not include a food establishment or food
4 processing establishment.

5 "Operator" means a person who resides in a private home and
6 manages or controls a microenterprise home kitchen located in
7 that private home.

8 **PART II. OPERATIONS OF MICROENTERPRISE HOME KITCHENS**

9 **§ -11 Microenterprise home kitchens; direct-to-consumer**
10 **sales; operations.** (a) An operator of a microenterprise home
11 kitchen is hereby authorized to engage in direct-to-consumer
12 sales of food prepared in the operator's home kitchen.

13 (b) A microenterprise home kitchen operating in compliance
14 with this chapter shall not be considered a food establishment
15 or food processing establishment for purposes of chapter 321.

16 (c) The following shall not be required for the operation
17 of a home kitchen:

18 (1) A food establishment permit as required by the
19 department under chapter 321;

20 (2) A pre-operation plan review or routine periodic
21 inspection;



- 1 (3) Food safety manager certification;
- 2 (4) A food handler card;
- 3 (5) Submission of standard operating procedures; and
- 4 (6) Compliance with commercial retail food establishment
- 5 construction and equipment standards as required by
- 6 law.

7 (d) No operator of a home kitchen shall sell food at
 8 wholesale or for resale by another business.

9 (e) An operator of a home kitchen shall:

10 (1) Comply with all applicable state tax laws, including
 11 chapter 237; and

12 (2) Retain basic sales and production records sufficient
 13 to demonstrate compliance with this chapter and assist
 14 the department in investigating complaints or
 15 outbreaks pursuant to section -21 and any rules
 16 adopted by the department.

17 § -12 **Microenterprise kitchens; prohibitions; food**

18 **safety.** (a) An operator shall be prohibited from:

19 (1) Allowing consumption of food sold by the operator at
 20 the operator's residence by consumers, other than by



1 the occupants of the residence and the occupants'
2 personal guests;

3 (2) Selling alcohol, controlled substances as defined in
4 chapter 329, and cannabis or manufactured cannabis
5 products;

6 (3) Engaging in the sale of adulterated or misbranded food
7 in violation of sections 328-9 and 328-10 or title 21
8 United States Code sections 342 or 343; and

9 (4) The knowing sale of food that has been stored,
10 prepared, or transported in a manner that creates a
11 reasonable likelihood of causing foodborne illness.

12 (b) Any operator who violates subsection (a) may be
13 subject to penalties and fines, as determined by the department.

14 **§ -13 Sale of food; disclosure.** (a) An operator shall
15 provide disclosure to a consumer prior to the sale of the
16 operator's product with the following language, or language
17 substantially similar to the following:

18 "This food is prepared in a home kitchen that is not
19 inspected by the department of health as a commercial food
20 establishment."



1 The disclosure shall be in a font size large enough to be
2 visible and for consumers to easily read on the label of each
3 packaged food container.

4 (b) The disclosure required by this section shall be
5 provided by the operator:

6 (1) On each packaged food container;

7 (2) On the operator's menu, websites, online listings,
8 invoices, receipts; and

9 (3) By written or electronic notice for non-packaged food
10 at the point of ordering or purchase.

11 **PART III**

12 **ADMINISTRATION AND ENFORCEMENT**

13 **§ -21 Department of health; public health; inspections;**
14 **remedies.** (a) Nothing in this chapter shall be construed to

15 limit the authority of the department under chapter 321 to
16 investigate or respond to an imminent threat to public health, a
17 substantiated consumer complaint, or a foodborne illness
18 outbreak.

19 (b) The department may conduct an investigation of an
20 operator or a microenterprise home kitchen, including site
21 visits or inspections, upon:



- 1 (1) A substantiated consumer complaint;
- 2 (2) Credible evidence of a foodborne illness outbreak
- 3 associated with the microenterprise home kitchen; or
- 4 (3) A reasonable belief of an imminent threat to public
- 5 health;

6 provided that the department shall not conduct routine or

7 periodic inspections of microenterprise home kitchens solely due

8 to the home kitchens' operation under this chapter.

9 (c) Upon confirmation of adulterated or misbranded food or

10 a foodborne illness outbreak associated with a microenterprise

11 home kitchen, the department may use any remedy available under

12 chapter 321, including:

- 13 (1) Imposing an embargo or condemnation of the food;
- 14 (2) Ordering a cease and desist of particular food items;
- 15 or
- 16 (3) Temporarily suspending the operation of the
- 17 microenterprise home kitchen when necessary to protect
- 18 public health.

19 § -22 Rules. (a) The department may adopt rules

20 pursuant to chapter 91 for the purposes of:



- 1 (1) Consumer disclosure content, format, and placement, as
2 required pursuant to section -13;
- 3 (2) Recordkeeping necessary to demonstrate compliance by
4 an operator with this chapter;
- 5 (3) Identification of specific high risk foods or
6 processes that shall be prohibited from being produced
7 in a microenterprise home kitchen; and
- 8 (4) Establishing fines and penalties for violations of
9 this chapter.
- 10 (b) The department shall not adopt rules that:
- 11 (1) Require an operator to obtain a food establishment
12 permit;
- 13 (2) Require plan review or compliance with commercial
14 retail food establishment construction standards by an
15 operator; or
- 16 (3) Require substantial compliance with rules regarding
17 retail food establishments.
- 18 (c) Any rule adopted under this chapter to require a
19 microenterprise home kitchen to operate as a food establishment
20 or food processing establishment shall be deemed void and
21 unenforceable."



1 SECTION 3. This Act shall take effect on July 1, 3000.



Report Title:

Microenterprise Home Kitchens; Home-Based Food Businesses;
Direct-to-Consumer Sales; Consumer Disclosure; Food Safety

Description:

Authorizes microenterprise home kitchens to prepare and sell food directly to consumers without food establishment permits or routine inspections, subject to consumer disclosure and basic food safety requirements. Clarifies that microenterprise home kitchens are not food establishments or food processing establishments. Authorizes the Department of Health to conduct investigations on operators and microenterprise home kitchens in response to complaints, foodborne illness outbreaks, and imminent threats to public health. Effective 7/1/3000. (HD1)

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