

# HOME KITCHEN ACT (Cupcake Law)

## FAQ's

### 1) What is the Home Kitchen Act (or the "Cupcake Law")?

Simply, Illinois counties and some municipalities can now pass an ordinance which will allow the creation of limited home kitchen businesses. These businesses are exempt from any health department inspections, and requirements for training or any health business registration requirements. These kitchens may produce up to \$1000/month gross sales with no bartering or other discounts applied, their baked goods they are selling must be picked up and cannot be delivered to the customer, and they may only produce non-potentially hazardous foods.

### 2) Have other places adopted these ordinances? Our latest information as it stands:

8 Counties that have adopted an ordinance

59 Counties with no ordinance adopted

18 Counties not reporting

### 3) Are these "Home Kitchens" considered businesses?

Yes, these would be businesses and need to comply with any local and state business laws and tax collection as necessary.

### 4) Why is Pike County Health Department recommending no ordinance for the County?

*1. Food safety training is not required*

*2. Disease communicability*

*3. No registration process for these businesses*

Each health department is required to assure food safety for the public. Promoting the sale of uninspected food items by people who may not have any food safety training or understand this law and the business laws they need to comply with, there is an unacceptable risk of increasing foodborne illness and even deaths associated with the consumption of unsafe food. The Centers for Disease Control and Prevention estimates 3,000 to 5,000 people die each year from foodborne or waterborne illnesses. By not requiring any education on food safety or having a registration process, there is no way for Pike County Health Department staff to discuss both the law and the safety issues that go along with baking and selling their products.

**5) Why is it significant that these businesses have food safety training?**

Today, food safety is a very complicated science. In the United States, just in the fall, we saw many get sick and some die just from eating cucumbers! People cannot see, taste, or smell food contaminants – there is no way to know food is safe unless you are aware and know safe food handling practices. These practices need to be used during preparation, cooking, cooling, storing and also during clean up. Food science experts have learned so much about modern food safety. Scientists know now viruses are the most common form of foodborne illness. Viruses can be transferred by any carrier, including cookies and cupcakes. One person in our county has died from complications due to a foodborne illness called norovirus and that was one too many!

**6) What is disease communicability?**

Communicable diseases spread from one person to another and often happens via airborne viruses or bacteria, but also through blood or other bodily fluid. These include Hepatitis, HIV/AIDS, and influenza. When people eat contaminated food and become ill, they often spread the disease to their family and people they associate with socially or at work.

*Example:* If a person were to eat foods contaminated with Hepatitis A and then visit a nursing home, they could be infectious while not showing any symptoms. This could trigger an unintentional foodborne disease outbreak.

**7) Why is the registration process important?**

- 1) The lack of business registration requirements may provide a false business sense that there is no need for collection and reporting of Illinois and local sales taxes and income tax as required by law. Failure to pay taxes can have significant consequences.
- 2) When a licensed food service facility registers through the health department, policies and procedures are discussed to ensure the business and its employees have the proper equipment, skills, and knowledge to safely and effectively cook and serve food to the public.

**8) What are causes of food contamination?**

Poor personal hygiene and improper handwashing are easily one of the most common types of food contamination. Other causes are improper storage of supplies and ingredients and improper cleaning and sanitizing. If the products are not stored correctly cross contamination can occur. All food contact surfaces must be both cleaned and sanitized. The sanitizing solution must be at the correct concentration or it will not be effective. Chlorine sanitizer must be at 50-100 ppm. If the solution is below this, it is not being sanitized and the “germs” are not being killed. If the solution is above this, the solution becomes toxic.

**9) Why is it significant that these businesses have a clear understanding of the law?**

- 1) Under this law, only non-potentially hazardous foods can be made and sold.
- 2) The business faces liability when it produces goods other than allowed or exceeds the \$1000/month gross amounts.
- 3) All foods must be labeled with the ingredients and that it was made in a home kitchen. If they do not know the 8 major allergens and how to properly label their items, this could lead to allergic reactions and if severe, even death.
- 4) Just because a business is not inspected does not mean they are liability free. Safe food handling practices are ALWAYS required! Consumers must come to the house to pick up product, there could be liability for personal injury and for property damage.
- 5) These products will not be considered inspected products and therefore may be barred from many customary sales venues. Schools sometimes have policies that only foods from inspected facilities may be brought for birthday parties, etc.

**10) What foods are allowed under the Home Kitchen Act?**

**11) *As found in section 3.6 of the home kitchen operation:***

Baked goods, such as, but not limited to, breads, cookies, cakes, pies, and pastries are allowed. Only high-acid fruit pies that use the following fruits are allowed: apple, apricot, grape, peach, plum, quince, orange, nectarine, tangerine, blackberry, raspberry, blueberry, boysenberry, cherry, cranberry, strawberry, red currants or a combination of these fruits.

**12) What foods are not allowed under the Home Kitchen Act?**

*As found in section 3.6 of the home kitchen operation:*

The following are potentially hazardous and prohibited from production and sale by a cottage food operation: pumpkin pie, sweet potato pie, cheesecake, custard pies, crème pies, and pastries with potentially hazardous fillings or toppings.

**13) What happens if someone gets sick?**

Our State's Attorney will receive all complaints and if there are suspected illnesses, then the health department will inspect.

**14) What else do I need to know?**

If a home is on a private water supply it may not have, or meet the potable water standards. If the water supply is unsafe then dishes may not be properly cleaned and sanitized, and handwashing would not be effective.