



# The National Agricultural Law Center

[nationalaglawcenter.org](http://nationalaglawcenter.org) | [nataglaw@uark.edu](mailto:nataglaw@uark.edu) | [@nataglaw](https://twitter.com/nataglaw)

Cottage Food Law Statutes:

*California*



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Cottage Food Laws: California

Cal. Health & Saf. Code § 113758

Cal. Health & Saf. Code §113789

Cal. Health & Saf. Code § 113825

Cal. Health & Saf. Code § 113851

Cal. Health & Saf. Code, Div. 104, Part 7, Ch. 11.5

*Current through the 2024 Legislative Session.*

**Cal. Health & Saf. Code § 113758.**

(a) “Cottage food operation” means an enterprise that has no more than the amount in gross annual sales that is specified in this subdivision, is operated by a cottage food operator, and has no more than one full-time equivalent cottage food employee, not including a family member or household member of the cottage food operator, within the registered or permitted area of a private home where the cottage food operator resides and where cottage food products are prepared or packaged for direct, indirect, or direct and indirect sale to consumers pursuant to this part. A “Class A” cottage food operation shall not have more than seventy-five thousand dollars (\$75,000) in verifiable gross annual sales. A “Class B” cottage food operation shall not have more than one hundred fifty thousand dollars (\$150,000) in verifiable gross annual sales. The gross annual sales for a “Class A” or “Class B” cottage food operation shall be annually adjusted for inflation based on the California Consumer Price Index. A cottage food operation includes both of the following:

(1) A “Class A” cottage food operation, which is a cottage food operation that may engage only in direct sales of cottage food products from the cottage food operation or other direct sales venues described in paragraph (4) of subdivision (b).

(2) A “Class B” cottage food operation, which is a cottage food operation that may engage in both direct sales and indirect sales of cottage food products from the cottage food operation, from direct sales venues described in paragraph (4) of subdivision (b), from offsite events, or from a third-party retail food facility described in paragraph (5) of subdivision (b).

(b) For purposes of this section, the following definitions shall apply:

(1) “Cottage food employee” means an individual, paid or volunteer, who is involved in the preparation, packaging,



handling, and storage of a cottage food product, or otherwise works for the cottage food operation. An employee does not include an immediate family member or household member of the cottage food operator, nor an individual who delivers a cottage food product.

(2) “Cottage food operator” means an individual who operates a cottage food operation in their private home and is the owner of the cottage food operation.

(3) “Cottage food products” means nonpotentially hazardous foods, including foods that are described in Section 114365.5 and that are prepared for sale in the kitchen of a cottage food operation.

(4) “Direct sale” means a transaction within the state between a cottage food operation and a consumer, in which the consumer purchases the cottage food product directly from the cottage food operation. Direct sales include, but are not limited to, transactions at holiday bazaars or other temporary events, such as bake sales or food swaps, transactions at farm stands, certified farmers’ markets, or through community-supported agriculture subscriptions, transactions occurring in person in the cottage food operation, and transactions made via the phone, internet, or any other digital method. A direct sale may be fulfilled in person, via mail delivery, or using any other third-party delivery service.

(5) “Indirect sale” means a transaction within the state between a cottage food operation, a third-party retailer, and a consumer, in which the consumer purchases cottage food products made by the cottage food operation from a third-party retailer that holds a valid permit issued pursuant to Section 114381. Indirect sales include, but are not limited to, sales made to retail shops or to retail food facilities where food may be immediately consumed on the premises. An indirect sale may be fulfilled in person, via mail delivery, or using any other third-party delivery service.

(6) “Private home” means a dwelling, including an apartment or other leased space, where individuals reside.

(7) “Registered or permitted area” means the portion of a private home that contains the private home’s kitchen used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, and attached rooms within the home that are used exclusively for storage.

### **Cal. Health & Saf. Code § 113789.**

(a) “Food facility” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:



- (1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.
  - (2) A place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.
- (b) “Food facility” includes permanent and nonpermanent food facilities, including, but not limited to, the following:
- (1) Public and private school cafeterias.
  - (2) Restricted food service facilities.
  - (3) Licensed health care facilities, except as provided in paragraph (12) of subdivision (c).
  - (4) Commissaries.
  - (5) Mobile food facilities.
  - (6) Mobile support units.
  - (7) Temporary food facilities.
  - (8) Vending machines.
  - (9) Certified farmers’ markets, for purposes of permitting and enforcement pursuant to Section 114370.
  - (10) Farm stands, for purposes of permitting and enforcement pursuant to Section 114375.
  - (11) Fishermen’s markets.
  - (12) Microenterprise home kitchen operations.
  - (13) Catering operation.
  - (14) Host facility.
- (c) “Food facility” does not include any of the following:
- (1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.
  - (2) A private home when used for private, noncommercial purposes or when used as a cottage food operation that is registered or has a permit pursuant to Section 114365.
  - (3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.



(4) A for-profit entity that gives or sells food at an event that occurs not more than three days in a 90-day period for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code, or premises set aside by a beer manufacturer, as defined in Section 25000.2 of the Business and Professions Code, and in the regulations adopted pursuant to those sections, that comply with Section 118375, regardless of whether there is a charge for the wine or beer tasting, if no other beverage, except for bottles of wine or beer and prepackaged nonpotentially hazardous beverages, is offered for sale or for onsite consumption and no food, except for crackers, pretzels, or prepackaged food that is not potentially hazardous food is offered for sale or for onsite consumption.

(6) An outlet or location, including, but not limited to, premises, operated by a producer, selling or offering for sale only whole produce grown by the producer or shell eggs, or both, provided the sales are conducted at an outlet or location controlled by the producer.

(7) A commercial food processing establishment, as defined in Section 111955.

(8) A child day care facility, as defined in Section 1596.750.

(9) A community care facility, as defined in Section 1502.

(10) A residential care facility for the elderly, as defined in Section 1569.2.

(11) A residential care facility for the chronically ill, which has the same meaning as a residential care facility, as defined in Section 1568.01.

(12)

(A) An intermediate care facility for the developmentally disabled, as defined in subdivisions (e), (h), and (m) of Section 1250, with a capacity of six beds or fewer.

(B) A facility described in subparagraph (A) shall report any foodborne illness or outbreak to the local health department and to the State Department of Public Health within 24 hours of the illness or outbreak.

(13) A community food producer, as defined in Section 113752.

(14) A limited service charitable feeding operation, as defined in Section 113819.

**Cal. Health & Saf. Code § 113825.**



(a) “Microenterprise home kitchen operation” means a food facility that is operated by a resident in a private home where food is stored, handled, and prepared for, and may be served to, consumers, and that meets all of the following requirements:

- (1) The operation has no more than one full-time equivalent food employee, not including a family member or household member.
- (2) Food is prepared, cooked, and served on the same day.
- (3) Food is consumed onsite at the microenterprise home kitchen operation or offsite if the food is picked up by the consumer or delivered within a safe time period based on holding equipment capacity.
- (4) Food preparation does not involve processes that require a HACCP plan, as specified in Section 114419, or the production, service, or sale of raw milk or raw milk products, as defined in Section 11380 of Title 17 of the California Code of Regulations.
- (5) The service and sale of raw oysters is prohibited.
- (6) The production, manufacturing, processing, freezing, or packaging of milk or milk products, including, but not limited to, cheese, ice cream, yogurt, sour cream, and butter, is prohibited.
- (7) Food preparation is limited to no more than 30 individual meals per day, or the approximate equivalent of meal components when sold separately, and no more than 90 individual meals, or the approximate equivalent of meal components when sold separately, per week. The local enforcement agency may decrease the limit of the number of individual meals prepared based on food preparation capacity of the operation, but shall not, in any case, increase the limit of the number of individual meals prepared.
- (8) The operation has no more than one hundred thousand dollars (\$100,000) in verifiable gross annual sales, as adjusted annually for inflation based on the California Consumer Price Index.
- (9) The operation only sells food directly to consumers and not to any wholesaler or retailer. For purposes of this paragraph, the sale of food prepared in a microenterprise home kitchen operation through the internet website or mobile application of an internet food service intermediary, as defined in Section 114367.6, is a direct sale to consumers. An operation that sells food through the internet website or mobile application of an internet food service intermediary shall consent to the disclosures specified in paragraphs (6) and (7) of subdivision (a) of Section 114367.6.

(b) “Microenterprise home kitchen operation” does not include either of the following:



(1) A catering operation.

(2) A cottage food operation, as defined in Section 113758.

(c) For purposes of this section, “resident of a private home” means an individual who resides in the private home when not elsewhere for labor or other special or temporary purpose.

(d) For purposes of this section, “meal” means the amount or quantity of food that is intended to be consumed by one customer in one sitting. A meal may include one or more of any of the following:

(1) A main dish.

(2) Appetizers.

(3) Side dishes.

(4) Beverages.

(5) Baked goods.

(6) Desserts.

#### **Cal. Health & Saf. Code § 113851.**

(a) “Permit” means the document issued by the enforcement agency that authorizes a person to operate a food facility or cottage food operation.

(b) “Registration” shall have the same meaning as permit for purposes of implementation and enforcement of this part.

#### **Cal. Health & Saf. Code § 114365.**

(a)

(1)

(A) A “Class A” cottage food operation shall not be open for business unless it is registered with the local enforcement agency and has submitted a completed, self-certification checklist approved by the local enforcement agency. The self-certification checklist shall verify that the cottage food operation conforms to this chapter, including the following requirements:

(i) No cottage food preparation, packaging, or handling may occur in the home kitchen concurrent with any other domestic activities, such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment.



(ii) No infants, small children, or pets may be in the home kitchen during the preparation, packaging, or handling of cottage food products.

(iii) Kitchen equipment and utensils used to produce cottage food products shall be clean and maintained in a good state of repair.

(iv) All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of cottage food products shall be washed, rinsed, and sanitized before each use.

(v) All food preparation and food and equipment storage areas shall be maintained free of rodents and insects.

(vi) Smoking shall be prohibited in the portion of a private home used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, while cottage food products are being prepared, packaged, stored, or handled.

(B)

(i) The department shall post the requirements described in subparagraph (A) on its internet website.

(ii) The local enforcement agency shall issue a registration number to a “Class A” cottage food operation that meets the requirements of subparagraph (A).

(C)

(i) Except as provided in clause (ii), a “Class A” cottage food operation shall not be subject to initial or routine inspections.

(ii) For purposes of determining compliance with this chapter, a representative of a local enforcement agency may access, for inspection purposes, the registered area of a private home where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation or that the cottage food operation has violated this chapter.

(iii) Access under this subparagraph is limited to the registered area and solely for the purpose of enforcing or administering this chapter.



(iv) A local enforcement agency may seek recovery from a “Class A” cottage food operation of an amount that does not exceed the local enforcement agency’s reasonable costs of inspecting the “Class A” cottage food operation for compliance with this chapter, if the “Class A” cottage food operation is found to be in violation of this chapter.

(D) A “Class A” cottage food operation shall be authorized to engage in the direct sales of cottage food products throughout the state.

(2)

(A) A “Class B” cottage food operation shall not be open for business unless it obtains a permit from the local enforcement agency in a manner approved by the local enforcement agency to engage in the direct and indirect sale of cottage food products.

(B)

(i) A “Class B” cottage food operation shall comply with the requirements described in clauses (i) to (vi), inclusive, of subparagraph (A) of paragraph (1) in addition to the other requirements of this chapter.

(ii) The local enforcement agency shall issue a permit number after an initial inspection has determined that the proposed “Class B” cottage food operation and its method of operation conform to this chapter.

(C)

(i) Except as provided in clause (ii), a “Class B” cottage food operation shall not be subject to more than one inspection per year by the local enforcement agency.

(ii) For purposes of determining compliance with this chapter, a representative of a local enforcement agency, for inspection purposes, may access the permitted area of a private home where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation, or that the cottage food operation has violated this chapter.

(iii) Access under this subparagraph is limited to the permitted area and solely for the purpose of enforcing or administering this chapter.



(D) A “Class B” cottage food operation shall be authorized to engage in the direct and indirect sales of cottage food products throughout the state.

(b)

(1) A registration or permit, once issued, is nontransferable. A registration or permit shall be valid only for the person, location, type of food sales, and distribution activity specified by that registration or permit, and, unless suspended or revoked for cause, for the time period indicated.

(2) The registration or permit or an accurate copy thereof shall be retained by the operator onsite at the time of either direct or indirect cottage food sale.

(3) A registration or permit shall be renewed annually.

(4) A registration or permit from one county shall be sufficient for a cottage food operation to operate throughout the state.

#### **Cal. Health & Saf. Code § 114365.2.**

A cottage food operation that is registered or has a permit issued pursuant to Section 114365 shall be considered a restricted food service facility for purposes of, and subject to, Sections 113953.3, 114259.5, 114285, and 114286. A cottage food operation that is registered or has a permit also shall be subject to Sections 113967, 113973, 113980, 114259.5, 114405, 114407, 114409, 114411, and 114413, and to all of the following requirements:

(a) A person with a contagious illness shall refrain from work in the registered or permitted area of the cottage food operation.

(b) A person involved in the preparation or packaging of cottage food products shall keep their hands and exposed portions of their arms clean and shall wash their hands before any food preparation or packaging activity in a cottage food operation.

(c) Water used during the preparation of cottage food products shall meet the potable drinking water standards described in Section 113869, or in accordance with the local regulatory authority. A cottage food operation shall not be required to have an indirect sewer connection. Water used during the preparation of cottage food products includes all of the following:

(1) The washing, sanitizing, and drying of any equipment used in the preparation of a cottage food product.

(2) The washing, sanitizing, and drying of hands and arms.

(3) Water used as an ingredient.



(d) A person who prepares or packages cottage food products shall complete a food processor course approved by the department and posted on the department's internet website to protect the public health within three months of becoming registered and every three years during operation. The course shall not exceed four hours in length. The department shall work with the local enforcement agency to ensure that cottage food operators are properly notified of the location, date, and time of the classes offered.

(e) A cottage food operation shall properly label all cottage food products in compliance with the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 343 et seq.). Additionally, to the extent permitted by federal law, the label shall include, but is not limited to, all of the following:

(1) The words "Made in a Home Kitchen" or "Repackaged in a Home Kitchen," as applicable, with a description of any purchased whole ready-to-eat product not used as an ingredient in 12-point type on the cottage food product's primary display panel.

(2) The name commonly used for the food product or an adequately descriptive name.

(3) The name of the cottage food operation which produced the cottage food product.

(4) The registration or permit number of the "Class A" or "Class B" cottage food operation, respectively, which produced the cottage food product and the name of the county of the local enforcement agency that issued the permit or registration number.

(5) The ingredients of the cottage food product, in descending order of predominance by weight, if the product contains two or more ingredients.

(f) A cottage food operation that advertises to the public, including through an internet website, social media platform, newspaper, newsletter, or other public announcement, shall indicate the following on the advertisement:

(1) The county of approval.

(2) The permit or registration number.

(3) A statement that the food prepared is "Made in a Home Kitchen" or "Repackaged in a Home Kitchen," as applicable.

### **Cal. Health & Saf. Code § 114365.5.**

(a) The department shall adopt and post on its Internet Web site a list of nonpotentially hazardous foods and their ethnic variations that are approved for sale by a cottage food operation. A cottage food product shall not be potentially hazardous food, as defined in Section 113871.



(b) This list of nonpotentially hazardous foods shall include, but not be limited to, all of the following:

- (1) Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas.
- (2) Candy, such as brittle and toffee.
- (3) Chocolate-covered nonperishable foods, such as nuts and dried fruit.
- (4) Dried fruit.
- (5) Dried pasta.
- (6) Dry baking mixes.
- (7) Fruit pies, fruit empanadas, and fruit tamales.
- (8) Granola, cereals, and trail mixes.
- (9) Herb blends and dried mole paste.
- (10) Honey and sweet sorghum syrup.
- (11) Jams, jellies, preserves, and fruit butter that comply with the standard described in Part 150 of Title 21 of the Code of Federal Regulations.
- (12) Nut mixes and nut butters.
- (13) Popcorn.
- (14) Vinegar and mustard.
- (15) Roasted coffee and dried tea.
- (16) Waffle cones and pizelles.

(c)

(1) The State Public Health Officer may add or delete food products to or from the list described in subdivision (b), which shall be known as the approved food products list. Notice of any change to the approved food products list shall be posted on the department's cottage food program Internet Web site, to also be known as the program Internet Web site for purposes of this chapter. Any change to the approved food products list shall become effective 30 days after the notice is posted. The notice shall state the reason for the change, the authority for the change, and the nature of the change. The notice will provide an opportunity for written comment by indicating the address to which to submit the comment and the deadline by which the comment is required to be received by the department. The address to which the comment is to be submitted may be an electronic site. The notice shall allow at least 20 calendar days for comments to be



submitted. The department shall consider all comments submitted before the due date. The department may withdraw the proposed change at any time by notification on the program Internet Web site or through notification by other electronic means. The approved food products list described in subdivision (b), and any updates to the list, shall not be subject to the administrative rulemaking requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) The State Public Health Officer shall not remove any items from the approved food products list unless the State Public Health Officer also posts information on the program Internet Web site explaining the basis upon which the removed food item has been determined to be potentially hazardous.

### **Cal. Health & Saf. Code § 114365.6.**

(a) The State Public Health Officer shall provide technical assistance, and develop, maintain, and deliver commodity-specific training related to the safe processing and packaging of cottage food products to local enforcement agencies.

(b) Local enforcement agencies may collect a surcharge fee in addition to any permit fees collected for “Class B” cottage food operations. The surcharge fee shall not exceed the reasonable costs that the department incurs through the administration of the training described in subdivision (a) to protect the public health. The surcharge fees collected shall be transmitted to the department in a manner established by the department to be deposited in the Food Safety Fund. The department shall use the surcharge fees only to develop and deliver the training described in subdivision (a) to local enforcement agency personnel on an ongoing basis.

