



# The National Agricultural Law Center

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Cottage Food Law Statutes:

*Washington*



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# A National Agricultural Law Center Research Publication

## Cottage Food Law Statutes: Washington

### WA Rev. Code § 69.22

#### WA Rev. Code § 69.22.010. Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Cottage food operation" means a person who produces cottage food products only in the home kitchen of that person's primary domestic residence in Washington and only for sale directly to the consumer.
- (2) "Cottage food products" means nonpotentially hazardous baked goods; baked candies and candies made on a stovetop; jams, jellies, preserves, and fruit butters as defined in 21 C.F.R. Sec. 150 as it existed on July 22, 2011; and other nonpotentially hazardous foods identified by the director in rule. No ingredient containing a tetrahydrocannabinol concentration of 0.3 percent or greater may be included as an ingredient in any cottage food product.
- (3) "Department" means the department of agriculture.
- (4) "Director" means the director of the department.
- (5) "Domestic residence" means a single-family dwelling or an area within a rental unit where a single person or family actually resides. Domestic residence does not include:
  - (a) A group or communal residential setting within any type of structure;  
or
  - (b) An outbuilding, shed, barn, or other similar structure.
- (6) "Home kitchen" means a kitchen primarily intended for use by the residents of a home. It may contain one or more stoves or ovens, which may be a double oven, designed for residential use.
- (7) "Permitted area" means the portion of a domestic residence housing a home kitchen where the preparation, packaging, storage, or handling of cottage food products occurs.
- (8) "Potentially hazardous food" means foods requiring temperature control for safety because they are capable of supporting the rapid growth of pathogenic or toxigenic microorganisms, or the growth and toxin production of *Clostridium botulinum*.

#### WA Rev. Code § 69.22.020. Requirements—Authority of director.



(1) The director may adopt, by rule, requirements for cottage food operations. These requirements may include, but are not limited to:

- (a) The application and renewal of permits under RCW 69.22.030;
- (b) Inspections as provided under RCW 69.22.040;
- (c) Sanitary procedures;
- (d) Facility, equipment, and utensil requirements;
- (e) Labeling specificity beyond the requirements of this section;
- (f) Requirements for clean water sources and waste and wastewater disposal; and
- (g) Requirements for washing and other hygienic practices.

(2) A cottage food operation must package and properly label for sale to the consumer any food it produces, and the food may not be repackaged, sold, or used as an ingredient in other foods by a food processing plant, or sold by a food service establishment.

(3) A cottage food operation must place on the label of any food it produces or packages, at a minimum, the following information:

- (a) The name and permit number issued under RCW 69.22.030 of the business of the cottage food operation;
- (b) The name of the cottage food product;
- (c) The ingredients of the cottage food product, in descending order of predominance by weight;
- (d) The net weight or net volume of the cottage food product;
- (e) Allergen labeling as specified by the director in rule;
- (f) If any nutritional claim is made, appropriate labeling as specified by the director in rule;
- (g) The following statement printed in at least the equivalent of eleven-point font size in a color that provides a clear contrast to the background: "Made in a home kitchen that has not been subject to standard inspection criteria."

(4) Cottage food products may only be sold directly to the consumer and may not be sold by internet, mail order, or for retail sale outside the state.

(5) Cottage food products must be stored only in the primary domestic residence.

## **WA Rev. Code § 69.22.030. Permits, permit renewals.**



(1) All cottage food operations must be permitted every two years by the department on forms developed by the department. All permits and permit renewals must be made on forms developed by the director and be accompanied by an inspection fee as provided in RCW 69.22.040, a \$75 public health review fee, and a \$30 processing fee. All fees must be deposited into the food processing inspection account created in RCW 69.07.120.

(2) In addition to the provision of any information required by the director on forms developed under subsection (1) of this section and the payment of all fees, an applicant for a permit or a permit renewal as a cottage food operation must also provide documentation that all individuals to be involved in the preparation of cottage food products have secured a food and beverage service worker's permit under chapter 69.06 RCW.

(3) All cottage food operations permitted under this section must include a signed document attesting, by opting to become permitted, that the permitted cottage food operation expressly grants to the director the right to enter the domestic residence housing the cottage food operation during normal business hours, or at other reasonable times, for the purposes of inspections under this chapter.

#### **WA Rev. Code § 69.22.040. Basic hygiene inspections.**

(1) The permitted area of all cottage food operations must be inspected for basic hygiene by the director both before initial permitting under RCW 69.22.030 and annually after initial permitting. In addition, the director may inspect the permitted area of a cottage food operation at any time in response to a foodborne outbreak or other public health emergency.

(2) When conducting an annual basic hygiene inspection, the director shall, at a minimum, inspect for the following:

(a) That the permitted cottage food operator understands that no person other than the permittee, or a person under the direct supervision of the permittee, may be engaged in the processing, preparing, packaging, or handling of any cottage food products or be in the home kitchen during the preparation, packaging, or handling of any cottage food products;

(b) That no cottage food preparation, packaging, or handling is occurring 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;

(c) That no infants, small children, or pets are in the home kitchen during the preparation, packaging, or handling of any cottage food products;

(d) That all food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any



cottage food products are washed, rinsed, and sanitized before each use;

(e) That all food preparation and food and equipment storage areas are maintained free of rodents and insects; and

(f) That all persons involved in the preparation and packaging of cottage food products:

(i) Have obtained a food and beverage service worker's permit under chapter 69.06 RCW;

(ii) Are not going to work in the home kitchen when ill;

(iii) Wash their hands before any food preparation and food packaging activities; and

(iv) Avoid bare hand contact with ready-to-eat foods through the use of single-service gloves, bakery papers, tongs, or other utensils.

(3) The department shall charge an inspection fee of one hundred twenty-five dollars for any initial or annual basic hygiene inspection, which must be deposited into the food processing inspection account created in RCW 69.07.120. An additional inspection fee must be collected for each visit to a cottage food operation for the purposes of conducting an inspection for compliance.

(4) The director may contract with local health jurisdictions to conduct the inspections required under this section.

#### **WA Rev. Code § 69.22.050. Annual gross sales.**

(1)

(a) Except as provided in (b) of this subsection, the annual gross sales of cottage food products may not exceed \$35,000. The determination of the maximum annual gross sales must be computed on the basis of the amount of gross sales within or at a particular domestic residence and may not be computed on a per person basis within or at an individual domestic residence.

(b) Every four years, the department shall review the cap on annual gross sales established in (a) of this subsection and increase the cap by expedited rule making, in accordance with RCW 34.05.353, based on that year's average consumer price index for the Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(2) If gross sales exceed the maximum allowable annual gross sales amount established under subsection (1) of this section, the cottage



food operation must either obtain a food processing plant license under chapter 69.07 RCW or cease operations.

(3) A cottage food operation exceeding the maximum allowable annual gross sales amount established under subsection (1) of this section is not entitled to a full or partial refund of any fees paid under RCW 69.22.030 or 69.22.040.

(4) The director may request in writing documentation to verify the annual gross sales figure.

#### **WA Rev. Code § 69.22.060. Access to permitted areas of domestic residence housing cottage food operations—Authority of director.**

(1) For the purpose of determining compliance with this chapter, the director may access, for inspection purposes, the permitted area of a domestic residence housing a cottage food operation permitted by the director under this chapter. This authority includes the authority to inspect any records required to be kept under the provisions of this chapter.

(2) All inspections must be made at reasonable times and, when possible, during regular business hours.

(3) Should the director be denied access to the permitted area of a domestic residence housing a cottage food operation where access was sought for the purposes of enforcing or administering this chapter, the director may apply to any court of competent jurisdiction for a search warrant authorizing access to the permitted area of a domestic residence housing a permitted cottage food operation, upon which the court may issue a search warrant for the purposes requested.

(4) Any access under this section must be limited to the permitted area and further limited to the purpose of enforcing or administering this chapter.

#### **WA Rev. Code § 69.22.070. Cottage foods operations permit—Denial, suspension, or revocation.**

(1) After conducting a hearing, the director may deny, suspend, or revoke any permit provided for in this chapter if it is determined that a permittee has committed any of the following acts:

(a) Refused, neglected, or failed to comply with the provisions of this chapter, any rules adopted to administer this chapter, or any lawful order of the director;

(b) Refused, neglected, or failed to keep and maintain records required by this chapter, or to make the records available when requested pursuant to the provisions of this chapter;



(c) Consistent with RCW 69.22.060, refused the director access to the permitted area of a domestic residence housing a cottage food operation for the purpose of carrying out the provisions of this chapter;

(d) Consistent with RCW 69.22.060, refused the department access to any records required to be kept under the provisions of this chapter; or

(e) Exceeded the annual income limits provided in RCW 69.22.050.

(2) The director may summarily suspend a permit issued under this chapter if the director finds that a cottage food operation is operating under conditions that constitute an immediate danger to public health or if the director is denied access to the permitted area of a domestic residence housing a cottage food operation and records where the access was sought for the purposes of enforcing or administering this chapter.

#### **WA Rev. Code § 69.22.080. Application of administrative procedure act.**

The rights, remedies, and procedures respecting the administration of this chapter, including rule making, emergency actions, and permit suspension, revocation, or denial are governed by chapter 34.05 RCW.

#### **WA Rev. Code § 69.22.090. Penalties.**

(1)

(a) Any person engaging in a cottage food operation without a valid permit issued under RCW 69.22.030 or otherwise violating any provision of this chapter, or any rule adopted under this chapter, is guilty of a misdemeanor.

(b) A second or subsequent violation is a gross misdemeanor. Any offense committed more than five years after a previous conviction shall be considered a first offense.

(2) Whenever the director finds that a person has committed a violation of any of the provisions of this chapter, and that violation has not been punished pursuant to subsection (1) of this section, the director may impose upon and collect from the violator a civil penalty not exceeding one thousand dollars per violation per day. Each violation shall be a separate and distinct offense.

#### **WA Rev. Code § 69.22.100. Exemption—Provisions of chapter 69.07 RCW or permitting and inspection by local health jurisdiction.**

Except as otherwise provided in this chapter, cottage food operations with a valid permit under RCW 69.22.030 are not subject to the provisions of chapter 69.07 RCW or to permitting and inspection by a local health jurisdiction.



**WA Rev. Code § 69.22.110. Application of other state or federal laws or local unit of government ordinances not affected.**

Nothing in this chapter affects the application of any other state or federal laws or any applicable ordinances enacted by any local unit of government.

