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Bill Analysis

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Primary Sponsors: Reps. Gross and Humphrey

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SUMMARY

- Authorizes the production and sale of homemade foods under a microenterprise home kitchen operation registration.
- Establishes requirements governing a microenterprise home kitchen operation for all of the following:
 - Operation;
 - Food safety;
 - Storage and preparation; and
 - Sales and delivery.
- Requires the Department of Agriculture (ODA) Director or the Director's designee to inspect the home kitchen of every operation, but generally not more than once per year unless there are certain public safety concerns.

DETAILED ANALYSIS

Microenterprise home kitchen operations

Current law authorizes a person to operate a cottage food operation without obtaining a food processing license, which is generally required for food production facilities.¹ However, cottage food operations are limited to the production of foods in a person's home that are not

¹ Cottage food operations are also exempt from licensure under the retail food establishment law. A retail food establishment generally is a premises or part of a premises where food is stored, processed, prepared, manufactured, or otherwise held or handled for retail sale. R.C. 3717.22; R.C. 3717.01, not in the bill.

potentially hazardous foods, including nonrefrigerable bakery products, jams, jellies, candy, and fruit butter. Cottage food operations are not required to register or be inspected by the Ohio Department of Agriculture (ODA).

The bill broadens the types of food that may be produced in a person's home without obtaining a food processing license to include most foods. Specifically, it authorizes the sale of homemade foods (food made in a home kitchen besides alcohol or foods containing any drug)² that a person produces in a home kitchen if the person receives an annual microenterprise home kitchen operation registration. It also retains the cottage food operation law for persons who wish to continue producing cottage foods under that law without registering as a microenterprise home kitchen operation.³

To receive an annual registration for a microenterprise home kitchen operation, a person must apply for it in accordance with procedures established by the Director of Agriculture (ODA Director) and pay a \$25 registration fee (unless the person submits a registration application within six months of its expiration date, in which case the fee is \$12.50). An initial registration is valid from the issuance date through January 31 of the following year unless the registration is issued in the month of January. In that case, a registration issued in January of any given year expires on January 31 of that year.

A person may renew the registration every year in accordance with the ODA Director's procedures and pay the \$25 renewal fee. Under the bill, a renewed registration is valid from the first day of February through the last day of January of the following year.⁴

Operation requirements

The bill requires a microenterprise home kitchen operation to do all of the following:

1. Allow for ODA inspections in accordance with the bill's procedures (see "**Inspections**," below);
2. Produce all homemade food in the inspected home kitchen;
3. Label the food in accordance with current law's cottage food standards;
4. Operate the home kitchen and premises in accordance with the bill's requirements (see "**Safety requirements**," below);
5. Store and prepare food in accordance with the bill's requirements (see "**Storage and preparation requirements**," below); and

² R.C. 3715.026(A)(1).

³ Conforming changes in R.C. 3715.01, 3715.021, 3715.022, 3715.023, and 3717.22. The bill also exempts a microenterprise home kitchen operation from licensure as a retail food establishment. See footnote 1, above.

⁴ R.C. 3715.026(B).

6. Sell and deliver homemade food in accordance with the bill's requirements (see "**Sales and delivery requirements**," below).⁵

Food safety requirements

The bill prohibits a microenterprise home kitchen operation from operating unless all of the following requirements are met:⁶

⁵ R.C. 3715.026(D).

⁶ R.C. 3715.026(E).

Microenterprise home kitchen operation food safety requirements



The home kitchen must be equipped with at least one accessible hand washing sink plumbed with hot and cold potable water and supplied with hand soap.



The home kitchen must have surfaces that are easy to clean and sanitized with a sanitizer that is safe to use on food preparation surfaces.



The home kitchen must be free from pests.



Garbage and refuse must be kept in closed containers and removed from the premises regularly.



The home kitchen must have mechanical refrigeration with sufficient capacity to maintain the temperature of potentially hazardous food at 41°F or below.



All equipment, utensils, and containers used in the preparation of food in the home kitchen must be washed with soap and water or sanitizer for cleaning food contact surfaces and kept clean.



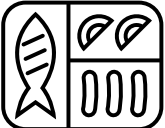



Animals, including pets, must not enter the home kitchen while food is being prepared.

Storage and preparation requirements

All microenterprise home kitchen operations must adhere to food storage and preparation requirements, detailed below.⁷

Safe food storage and preparation practices

<p>Safe food in a clean environment</p> 	<p>Special consideration for potentially hazardous food⁸</p> 	<p>Storage</p> 	<p>Food handler responsibilities</p> 
<p>Food must be in sound condition, free from spoilage, filth, or other contamination.</p> <p>Food must be safe for human consumption.</p> <p>Food cannot be stored on the floor and must only be prepared in the home kitchen.</p>	<p>Prepared potentially hazardous food must be maintained at 41°F or below under mechanical refrigeration.</p> <p>Prepared potentially hazardous food must be cooled to 41°F within four hours of preparation</p>	<p>Food ingredients must be stored in original containers.</p> <p>If removed from the original container, food and ingredients must be stored in labeled and closed containers of a material that will prevent the food from becoming adulterated.</p>	<p>Any person preparing food in the home kitchen must:</p> <ul style="list-style-type: none"> Be free from contagious or communicable diseases, sores, or infected wounds, and keep their hair restrained; Keep themselves and their clothing clean; Ensure that their hands are washed as frequently as necessary to maintain good sanitation and not cross-contaminate food; Minimize bare hand contact with prepared food; and Not smoke while handling or preparing food or in food preparation or storage areas while preparing food.

⁷ R.C. 3715.026(F).

⁸ R.C. 3715.01(A)(18); e.g., raw or cooked meat, eggs, fish and shellfish, dairy products, cooked vegetables, rice, beans, cut melons, cut tomatoes, and baked goods that typically need to be refrigerated.

Sales and delivery requirements

The bill also requires a microenterprise home kitchen operation to comply with sale and delivery requirements.

A homemade food item that **does not contain dairy or meat** may be sold to the consumer in person or remotely, including by telephone or internet by:

- The microenterprise home kitchen operation;
- An agent of the microenterprise home kitchen operation; or
- A third-party vendor, such as a retail shop or grocery store.

A homemade food item that **does not contain dairy or meat** may be delivered by:

- The microenterprise home kitchen operation; or
- Third-party carrier, such as the United States postal service.

A homemade food item **that contains dairy or meat** may be sold to the consumer by the same entities as described for homemade food items that do not contain dairy or meat, but the food must be delivered by the microenterprise home kitchen operation to the consumer in person. If a potentially hazardous food item is transported before final delivery to the consumer, the food must be maintained at an appropriate temperature during transport, cannot be transported more than once, and cannot be transported for longer than two hours.⁹

Inspections

The bill requires the ODA Director or the Director's designee to inspect the home kitchen of every microenterprise home kitchen operation not more than once per year. However, inspections may occur more frequently if there is a report of a foodborne illness, there is a reasonable suspicion of an immediate threat to public health, or the Director or the Director's designee is conducting a reinspection of an operation that had a prior violation. Inspections are limited to the home kitchen in the home. The ODA Director may charge a fee, up to \$75 annually, to an operation for an inspection to cover the administrative costs of conducting the inspection.

Prior to conducting an inspection, the ODA Director must obtain an administrative warrant. ODA must publish its inspection standards on its website and ensure that each operation receives a copy of inspection standards and criteria it uses to conduct inspections when submitting an application for registration.¹⁰

Violations

The bill allows the ODA Director (or Director's designee) to charge a fine, up to \$75, to an operation found to be in violation of the microenterprise home kitchen operation requirements

⁹ R.C. 3715.026(G).

¹⁰ R.C. 3715.026(C).

after a warning is given and the operation has been given the opportunity to correct the violation.¹¹

It also allows the ODA Director (or Director's designee) to issue an order suspending or revoking a registration for violating the operation requirements after the operation is provided a warning, has had an opportunity to correct the violation, and has had an opportunity to appeal the suspension or revocation. However, the ODA Director (or Director's designee) may issue an order immediately suspending an operation's registration without affording the registration holder a warning or an opportunity for a hearing if it is determined that the operation presents an immediate danger to the public health. The Director then must afford the operation an opportunity for a hearing for registration reinstatement within ten days after the suspension.¹²

The bill does not prohibit a person from operating as an exempt cottage food operation if the person only sells and delivers food allowed under Ohio law for a cottage food operation. It also does not prohibit a local government from enforcing a generally applicable zoning law.¹³

HISTORY

Action	Date
Introduced	02-25-25

ANHB0134IN-136/ts

¹¹ R.C. 3715.026(H).

¹² R.C. 3715.026(I).

¹³ R.C. 3715.026(J) and (K).