

SENATE No. 2761

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

SENATE, May 2, 2024.

The committee on Agriculture, to whom was referred the petitions (accompanied by bill, Senate, No. 484) of Ryan C. Fattman for legislation to promote economic opportunities for cottage food entrepreneurs; (accompanied by bill, Senate, No. 553) of Jacob R. Oliveira, Lydia Edwards, Brian W. Murray, Patrick M. O'Connor and other members of the General Court for legislation to promote economic opportunities for cottage food entrepreneurs; and (accompanied by bill, House, No. 758) of Nicholas A. Boldyga relative to the regulation and availability of cottage foods, report the accompanying bill (Senate, No. 2761).

For the committee,
Joanne M. Comerford

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**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act to promote economic opportunities for cottage food entrepreneurs.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 94 of the General Laws, as appearing in the 2022
2 Official Edition, is hereby amended by inserting after the definition of “cosmetic” the following
3 definitions:- “Cottage food operation”, in section 46A, the production of food by a person who
4 produces cottage food products only in the home kitchen of that person’s domestic residence for
5 retail sale directly to the consumer either in person, including but not limited to farmers markets,
6 public events, and roadside stands, or by telephone, internet, or mail delivery.

7 “Cottage food product”, in section 46A, a food product determined by the department of
8 public health to be a non-time/temperature controlled for safety food, including, but not limited
9 to, baked goods, jams or jellies, and other non-time/temperature controlled for safety foods
10 produced by a cottage food operation. The production of non-time/temperature controlled
11 fermented foods shall be permitted if the producer uses a USDA-approved recipe or completes a
12 food safety course approved by the department of public health.

13 SECTION 2. Said chapter 94 of the General Laws, as so appearing, is hereby further
14 amended by inserting after section 46 the following section:-

15 Section 46A. (a) The department of public health shall establish uniform standards and
16 rules for cottage food operations and the sale of cottage foods. These standards and rules shall
17 apply to all local boards of health. Boards of health shall not impose more restrictive standards
18 and rules than those required by the department of public health.

19 (b) The department of public health shall by regulation define categories of cottage food
20 products that may be sold without requiring a permit from a local board of health.

21 (c) For cottage food products that require a permit from a local board of health to be sold,
22 if a local board of health requires a pre-operational inspection, the inspection must occur within
23 30 days of a person's application for a permit.

24 (d) The department may issue a state permit to a cottage food operation if the local board
25 of health in the jurisdiction where the cottage food operation is located does not issue permits to
26 sell cottage food. State inspections shall not be required to obtain a permit.

27 (e) Other than requirements set forth in this section, a cottage food operation shall be
28 exempt from permitting, licensing, inspection, packaging, and labeling requirements for food
29 establishments set by state law, the department of public health, and local boards of health.

30 (f) This section shall not exempt a cottage food business from any applicable state or
31 federal tax laws.

32 (g) Cottage food operations must provide the following information to the consumer:

33 (1) the cottage food operation's name;

34 (2) the cottage food operation’s address or personal identification number;
35 (3) the common or usual name of the cottage food product;
36 (4) the ingredients of the cottage food product in descending order of predominance; and
37 (5) the following statement: “This product was produced at a private residence that is
38 exempt from Massachusetts licensing and inspection requirements. This product may contain
39 allergens.”

40 (h) The information required in subsection (g) shall be provided:

41 (1) on a label affixed to the package if the cottage food product is packaged;

42 (2) on a label affixed to the container, if the cottage food product is offered for sale from
43 a bulk container;

44 (3) on a placard displayed at the point of sale, if the cottage food product is neither
45 packaged nor offered for sale from a bulk container; or

46 (4) on the webpage on which the cottage food product is offered for sale if the cottage
47 food product is offered for sale on the internet.

48 (5) If the cottage food product is sold by telephone or custom order, the seller need not
49 display the information required by this section, but the seller must disclose to the consumer that
50 the cottage food product is produced at residential kitchen that is exempt from state licensing and
51 inspection requirements; and may contain allergens.

52 (i) The department of public health shall establish and maintain a voluntary cottage food
53 operation registry. The voluntary cottage food operation registry shall allow the department of

54 public health to issue personal identification numbers for cottage food product labels as an
55 alternative to the cottage food operation's address. The department of public health shall issue a
56 personal identification number to cottage food operators who have submitted applications for the
57 registry that are approved by the department of public health and have paid the registration fee.
58 The department of public health may charge a one-time fee, not to exceed \$25, to each cottage
59 food operation registrant.

60 (j) The department of public health shall make available an application for the cottage
61 food operation registry that provides for the following:

- 62 (1) the cottage food operator's full name,
- 63 (2) the cottage food operation's address,
- 64 (3) the cottage food operation's primary telephone number, and
- 65 (4) the cottage food operation's primary email address.

66 (k) The cottage food operation shall update the department of public health when there is
67 a change to any of the registration details including their name, residential kitchen address,
68 telephone number, and email address.

69 (l) The department of public health shall not require cottage food operators to register for
70 a personal identification number.

71 (m) Nothing in this section shall be construed to impede the department of public health
72 or local health boards from investigating a reported foodborne illness.

73 (n) Nothing in this section shall preclude the department of public health or local health
74 boards from providing assistance, consultation, or an inspection at the request of the producer of
75 a cottage food product.