

State of South Dakota

EIGHTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2011

436S0662

HOUSE BILL NO. 1240

Introduced by: Representatives Greenfield and Sly and Senator Nygaard

1 FOR AN ACT ENTITLED, An Act to exempt cottage food operations from certain licensure
2 requirements and to establish alternative requirements for the sale of certain baked goods.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 34-18 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Terms used in this Act mean:

7 (1) "Cottage food operation," any business on the premises of a person's home in which
8 prepared food is produced for sale in the person's home for consumption off the
9 premises;

10 (2) "Department," the Department of Health;

11 (3) "Home," a primary residence that is occupied by the person who operates a cottage
12 food operation and that contains a kitchen and appliances designed for common
13 residential usage;

14 (4) "Prepared food," baked goods, including breads, fruit pies, pastries, and cakes.

15 Section 2. That chapter 34-18 be amended by adding thereto a NEW SECTION to read as



1 follows:

2 No person may operate a cottage food operation unless the person has obtained a permit
3 from the department. A violation of this section is a Class 2 misdemeanor. No cottage food
4 operation that obtains a permit pursuant to this Act is required to be licensed as a food service
5 establishment pursuant to this chapter.

6 Section 3. That chapter 34-18 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 Any person seeking a permit to operate a cottage food operation shall submit an application
9 on a form prescribed by the department and pay an application fee of forty dollars. The
10 department shall issue a permit for a cottage food operation if the applicant submits the
11 application, pays the fee, and passes an inspection required by section 6 of this Act.

12 Section 4. That chapter 34-18 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 A permit to operate a cottage food operation expires one year from the date of issuance. A
15 permit may be renewed upon submission of a renewal application on a form prescribed by the
16 department and a renewal fee of forty dollars. The department may require an inspection before
17 issuing a renewal of a permit.

18 Section 5. That chapter 34-18 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 Any fees collected by the department pursuant to this Act shall be deposited in the general
21 fund.

22 Section 6. That chapter 34-18 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 The department shall inspect a cottage food operation before issuing a permit to operate. The

- 1 department shall also inspect a cottage food operation if the department has reason to believe
- 2 that the cottage food operation is operating in an unsanitary manner.