

1 SB160  
2 208265-2  
3 By Senators Allen and McClendon  
4 RFD: Healthcare  
5 First Read: 02-FEB-21

8 SYNOPSIS: Existing law provides that in-home cottage  
9 food production of baked goods, jams, jellies,  
10 candies, and dried herb and herb mixes are excluded  
11 from regulation by the State Department of Health  
12 and county health departments, as well as the  
13 requirement to have a food service permit.

14 Existing law also prohibits online,  
15 in-person, and phone sales by cottage food  
16 production operations.

17 This bill would allow online, in-person, and  
18 phone sales by cottage food production operations,  
19 as well as delivery directly to consumers in  
20 person, by mail, or through an agent of the  
21 producer.

22 Existing law also places a \$20,000 cap on  
23 gross receipts by cottage food production  
24 operations.

25 This bill would remove the \$20,000 cap on  
26 gross receipts by cottage food production  
27 operations.

1                   This bill would also require cottage food  
2                   production operations to label each product sold  
3                   with a list of the ingredients contained in the  
4                   product, as well as a disclaimer if the product  
5                   contains or may contain allergens.

6  
7                   A BILL  
8                   TO BE ENTITLED  
9                   AN ACT

10  
11                   Relating to cottage food production operations; to  
12                   amend Section 22-20-5.1, Code of Alabama 1975; to allow  
13                   various methods of sales by cottage food production  
14                   operations; to remove the existing cap on gross receipts by  
15                   cottage food production operations; and to require cottage  
16                   food production operations to include certain nutrition  
17                   information on the label of each product offered for sale.

18                   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19                   Section 1. Section 22-20-5.1, Code of Alabama 1975,  
20                   is amended to read as follows:

21                   "§22-20-5.1.

22                   "(a) For purposes of this section, the following  
23                   words have the following meanings:

24                   "(1) ~~BAKED GOOD. Includes~~ COTTAGE FOOD.

25                   Non-potentially hazardous food that is prepared in a person's  
26                   home, including cakes, breads, Danish, donuts, pastries, pies,  
27                   canned jam or jelly, a dried herb mix, candy, and other items

1 that are prepared by baking, cooking, drying, mixing, cutting,  
2 fermenting, preserving, dehydrating, growing, raising, or  
3 other process ~~the item in an oven.~~ A ~~baked good~~ cottage food  
4 does not include a potentially hazardous food item as defined  
5 by rule of the department.

6 "(2) COTTAGE FOOD PRODUCTION OPERATION. A person  
7 operating out of his or her home who meets ~~all of~~ the  
8 following requirements:

9 "a. Produces ~~a baked good, a canned jam or jelly, a~~  
10 ~~dried herb or herb mix, or a candy~~ cottage food for sale at  
11 ~~the person's home.~~

12 "~~b. Has an annual gross income of twenty thousand~~  
13 ~~dollars (\$20,000) or less from the sale of food described in~~  
14 ~~paragraph a.~~

15 "~~(c) b.~~ Sells the foods produced under paragraph a.  
16 only directly to consumers, whether in-person, by phone, or  
17 online in the state.

18 "c. Delivers the foods produced under paragraph a.  
19 directly to consumers in the state, whether in person, through  
20 an agent of the producer, or by mail.

21 "(3) DEPARTMENT. The State Department of Public  
22 Health.

23 "(4) HOME. A primary residence that contains a  
24 kitchen and appliances designed for common residential use.

25 "(5) NON-POTENTIALLY HAZARDOUS. A food that does not  
26 require time or temperature control for safety to limit  
27 pathogenic microorganism growth or toxin formation.

1           "(b) A cottage food production operation is not a  
2 food service establishment and is not required to have a food  
3 service permit issued by the county health department.

4           "(c) Neither the State Department of Public Health  
5 nor a county health department may regulate the production of  
6 food at a cottage food production operation except as provided  
7 by this section.

8           "(d) The department may issue a stop sale, seize, or  
9 hold order for any food suspected of being the cause of a food  
10 borne illness.

11           "~~(e) The department shall promulgate rules requiring~~  
12 ~~a~~ A cottage food production operation to shall label all baked  
13 ~~goods, canned jams or jellies, candies, and dried herb or herb~~  
14 ~~mix~~ cottage foods that the operation sells to consumers, and  
15 ~~requiring completion of~~ shall complete a food safety course  
16 approved by the department. The label shall include in at  
17 least size 10-point font the common or usual name of the food,  
18 the name, and home or P.O. Box address of the cottage food  
19 production operation, and a statement that the food is not  
20 inspected by the department or local health department. The  
21 label shall also contain a list of the ingredients in the food  
22 in descending order of predominance and shall include a  
23 disclaimer that the food may contain allergens. The operator  
24 of a cottage food production operation, shall maintain  
25 certification of having attended and passed a food safety  
26 course approved by the department.

1                   "~~(f) A cottage food production operation may not~~  
2 ~~sell baked goods, jams and jellies, candies, or dried herbs~~  
3 ~~and herb mixes over the Internet.~~"

4                   Section 2. This act shall become effective on the  
5 first day of the third month following its passage and  
6 approval by the Governor, or its otherwise becoming law.