

Regular Session, 2013

SENATE BILL NO. 18

BY SENATOR WARD

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PUBLIC HEALTH. Provides for cake and cookie products and preparation of cakes and cookies in home for public consumption. (8/1/13)

1 AN ACT
2 To amend and reenact R.S. 40:4.9, relative to certain food products prepared in home for
3 public consumption and the application of the state Sanitary Code; to provide for
4 preparation of cakes and cookies in home for public consumption; to provide for
5 exceptions; to provide for penalties; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 40:4.9 is hereby amended and reenacted to read as follows:
8 §4.9. Jellies, preserves, jams, honey, ~~and honeycomb,~~ **cakes, and cookie** products;
9 preparation in home for public consumption

10 A.(1)(a) No provision of the state sanitary code or any provision of any other
11 law or regulation that requires any equipment, design, construction, utensils,
12 supplies, preparation, or services shall apply to the preparation of jellies, preserves,
13 jams, honey, ~~and honeycomb,~~ **cakes, and cookie** products in the home for sale. This
14 Section shall not be construed to allow the sale or distribution of any unwholesome
15 food.

16 **(b) The provisions of Subparagraph (a) of this Paragraph shall not apply**
17 **to any preparer of cakes and cookies who employs any individual to assist in the**

1 preparation of such cakes and cookies.

2 (2) Notwithstanding any provision of law to the contrary, the following
3 provisions of the state Sanitary Code shall apply to the preparation of cakes and
4 cookies in the home for sale:

5 (a) All outside openings shall be protected against flies and other
6 vermin.

7 (b) The building shall be constructed so as to exclude rats, mice, roaches
8 or other vermin. Domestic pets shall be excluded in any part of the
9 establishment.

10 (c) All equipment used or connected in any way with the manufacture,
11 baking, cooking or other processing, handling, packing or storing of any bakery
12 or confectionery product shall comply with the following:

13 (i) Be maintained in a clean and sanitary manner, be free from cracks
14 and wherever possible, be of non-corroding, metal or other smooth, impervious
15 material giving an easily cleanable surface. Stationary or not readily movable
16 equipment shall be so installed as to provide for easy cleaning.

17 (ii) Refrigeration shall be provided so that all perishable food products
18 used in the manufacturer processing of any kind connected with the production,
19 distribution or sale of bakery or confectionery products shall be maintained at
20 a temperature not to exceed forty-five degrees Fahrenheit.

21 (iii) Equipment too large to permit washing in the sinks shall be cleaned
22 in a manner approved by the state health officer.

23 (iv) All barrels, boxes, tubs, pails, kneading troughs, machines, racks,
24 pans or other receptacles used for holding materials from which bakery or
25 confectionery products are manufactured shall be kept clean and sanitary and
26 shall be so constructed as to be easily cleanable.

27 (v) All food contact surfaces shall be cleaned and sanitized after each
28 day's production.

29 (d) Only pasteurized milk or milk products shall be used in the

1 **preparation of custard and cream-filled bakery products.**

2 **(e) All custard or cream-filled mixtures shall be cooked, the temperature**
3 **and time of heating of the mix, to be at a minimum, the equivalent of a**
4 **temperature of one hundred forty-five degrees Fahrenheit for a period of not**
5 **less than thirty minutes.**

6 **(f) Upon completion of the cooking of the mix, it shall be immediately**
7 **transferred into previously sanitized containers, properly covered and chilled**
8 **as rapidly as possible to forty-five degrees Fahrenheit or below and maintained**
9 **at such a temperature until used.**

10 **(g) The apparatus and food contact surfaces used in adding any custard**
11 **or cream filling to a bakery product shall be of impervious material and shall**
12 **be thoroughly cleaned and sanitized after each use, in a manner approved by**
13 **the state health officer. No cloth filled bags shall be used.**

14 **(h) Preparers engaged in the preparation of custard or cream-filled**
15 **bakery products shall not touch the custard or cream filling with their hands**
16 **after it has been cooked.**

17 B. This Section shall not apply to any preparers of jellies, preserves, jams,
18 honey, ~~and honeycomb~~, **cakes, and cookie** products which are made at a home for
19 sale, whose gross annual sales equal ~~five~~ **twenty** thousand dollars or more.

20 C. **Any individual selling cookies and cakes from the home for sale to the**
21 **public pursuant to this Section shall not sell such cakes and cookies to any retail**
22 **business or individual for resale.**

23 **D.** The Department of Revenue shall provide to the Department of Health
24 and Hospitals the names of all preparers of jellies, preserves, jams, honey, and
25 honeycomb products which are made at home for sale, whose gross annual sales
26 equal ~~five~~ **twenty** thousand dollars or more.

The original instrument was prepared by Christopher D. Adams. The following digest, which does not constitute a part of the legislative instrument, was prepared by Thomas L. Tyler.

DIGEST

Ward (SB 18)

Present law provides that the state sanitary code or any code, law or regulation that requires that any equipment, design, construction, utensils, supplies, preparation, or services does not apply to the preparation of jellies, preserves, jams, honey, and honeycomb products in the home for sale. Proposed law applies application of present law to cakes and cookie products.

Proposed law does not apply to any preparer of cakes and cookies who employs any individual to assist in the preparation of cakes and cookies in the home for sale.

Present law does not apply to any preparers of jellies, preserves, jams, honey and honeycomb products made at home for sale whose gross annual sales equal \$5,000 or more.

Proposed law does not apply to preparers of jellies, preserves, jams, honey, honeycomb, cakes and cookie products made at home for sale whose gross annual sales equal \$20,000 or more.

Proposed law requires that the following provisions of the state Sanitary Code apply to the preparation of cakes and cookies in the home for sale:

- (1) All outside openings are to be protected against flies and other vermin.
- (2) The building is to be constructed so as to exclude rats, mice, roaches or other vermin and domestic pets are to be excluded from any part of the establishment.
- (3) Requires that all equipment used or connected in any way with the manufacture, baking, cooking or other processing, handling, packing or storing of any bakery or confectionery product shall comply with the following requirements:
 - (a) Be maintained in a clean and sanitary manner, be free from cracks and wherever possible, be of non-corroding metal or other smooth, impervious material giving an easily cleanable surface. All stationary or not readily movable equipment is to be installed to provide for easy cleaning.
 - (b) Refrigeration is to be provided so that all perishable food products used in the manufacturer processing of any kind connected with the production, distribution or sale of bakery or confectionery products are maintained at a temperature not to exceed 45°F.
 - (c) Equipment too large to permit washing in the sinks is to be cleaned in a manner approved by the state health officer.
 - (d) All barrels, boxes, tubs, pails, kneading troughs, machines, racks, pans or other receptacles used for holding materials from which bakery or confectionery products are manufactured are to be kept clean and sanitary and be so constructed as to be easily cleanable.
 - (e) All food contact surfaces are to be cleaned and sanitized after each day's production.
- (4) Requires that only pasteurized milk or milk products be used in the preparation of

custard and cream-filled bakery products.

- (5) Requires that all custard or cream-filled mixtures be cooked, the temperature and time of heating of the mix, to be at a minimum, the equivalent of a temperature of 145°F for a period of not less than 30 minutes.
- (6) Requires that, upon completion of the cooking of the mix, the mix is to be immediately transferred into previously sanitized containers, properly covered and chilled as rapidly as possible to 45°F or below and maintained at such a temperature until used.
- (7) Requires that the apparatus and food contact surfaces used in adding any custard or cream filling to a bakery product be of impervious material and be thoroughly cleaned and sanitized after each use, in a manner approved by the state health officer. Prohibits the use of cloth filled bags.
- (8) Requires that preparers engaged in the preparation of custard or cream-filled bakery products not touch the custard or cream filling with their hands after it has been cooked.

Proposed law provides that an individual selling cookies and cakes from the home for sale to the public under proposed law not sell cakes and cookies to any retail business or individual for resale.

Requires that the Department of Revenue provide to the Department of Health and Hospitals the names of all preparers of jellies, preserves, jams, honey, and honeycomb products which are made at home for sale, whose gross annual sales equal \$20,000 or more.

Effective August 1, 2013.

(Amends R.S. 40:4.9)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Removes the requirements that the Department of Revenue provide certain information to the Department of Health and Hospitals and removes requirement for promulgation of related rules and regulations.
2. Requires the individual register with DHH on an annual basis and that DHH maintain a registry on its website.
3. Requires an individual selling cakes and cookies from home to receive a certificate from the National Registry of Food Safety Professionals.
4. Provides penalties for failure to register.
5. Technical changes.

Senate Floor Amendments to engrossed bill

1. Reduces from \$50,000 to \$20,000 the amount of gross annual sales for which proposed law does not apply.

2. Removes requirement that preparers to register with DHH.
3. Removes requirement that persons selling cookies and cakes from home get a certificate from the National Registry of Food Safety Professionals and removes penalties for failure to register.
4. Adds provision that proposed law does not apply to the preparer of cakes and cookies who employ any individual to assist in preparation.
5. Requires compliance with the state Sanitary Code for certain items enumerated in proposed law.
6. Adds requirements regarding the use of pasteurized milk or milk products; requirements regarding custard and creme-filled mixtures; and storage of cooking mix.
7. Prohibits individuals selling cookies and cakes from the home for sale under proposed law from selling cakes and cookies to any retail business or individual for resale.