

HOUSE No. 465

The Commonwealth of Massachusetts

PRESENTED BY:

Erika Uytterhoeven

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act regulating cottage foods.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Erika Uytterhoeven</i>	<i>27th Middlesex</i>	<i>2/17/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>4/5/2021</i>

HOUSE No. 465

By Ms. Uytterhoeven of Somerville, a petition (accompanied by bill, House, No. 465) of Erika Uytterhoeven and Lindsay N. Sabadosa for legislation to regulate cottage foods. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act regulating cottage foods.

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 146 of chapter 94 of the General Laws, as appearing in the 2016
2 Official Edition, is hereby amended by inserting, in line 11, after the word “health.”, the
3 following words:- Neither local boards of health nor zoning boards shall establish rules or
4 regulations for cottage food operations.

5 SECTION 2. Section 1 of chapter 94 of the General Laws, as appearing in the 2016
6 Official Edition, is hereby amended by inserting after section 329 the following section:-

7 Section 330.

8 (a) For the purposes of this section and Section 146, the following words shall have the
9 meanings:

10 (1) ‘Cottage food operation’ is a person who produces cottage food products only in the
11 home kitchen of that person’s primary domestic residence and only for direct retail sale to the

12 consumer. A cottage food operation is not to be deemed a retail food establishment by the
13 Department of Public Health.

14 (2) ‘Cottage food product’ is a non-time/temperature control for food safety food
15 produced at a cottage food operation. Examples of cottage food products include, but are not
16 limited to jams, uncut fruits and vegetables, pickled vegetables, hard candies, fudge, nut mixes,
17 granola, dry soup mixes excluding meat based soup mixes, dried fruit, fruit empanadas, fruit
18 tamales, coffee beans, popcorn and baked goods that do not include dairy or meat frosting or
19 filling or other potentially hazardous frosting or filling, such as breads, biscuits, cookies, churros,
20 pastries and tortillas.

21 (b) Other than requirements set forth in this section, a cottage food operation is exempt
22 from permitting, licensing, inspection, packaging, and labeling requirements for food
23 establishments set by State law, the Department of Public Health, local boards of health, and
24 local zoning boards.

25 (c) “Direct retail sale to the consumer” means a transaction within the State between a
26 cottage food operation and a consumer.

27 (1) Such direct sales include, but are not limited to, transactions:

28 (a) at farm stands, farmers’ markets, community-supported agriculture subscriptions;

29 (b) at holiday bazaars, bake sales, food swaps, other temporary events, or other charitable
30 functions;

31 (c) over the telephone or online; or

32 (d) delivered by the producer to the consumer in person.

33 (2) Transactions under this act shall only occur in the Commonwealth of Massachusetts.

34 (d) The Department of Public Health shall provide guidance, accessible online, covering
35 the following topics:

36 (1) acceptable cottage food products, updating a list of acceptable cottage food products
37 that are non-time/temperature control at least every two years. This list shall expand, not reduce,
38 the food products specified in the definition of “cottage food product” in subsection (a);

39 (2) clear readable guidance to explain permissible practices for cottage food operations;

40 (3) best practices for food safety at cottage food operations; and

41 (4) other further guidance to enable and empower cottage food operations.

42 (e) Cottage food operations must provide the following information to the consumer:

43 (1) the cottage food operation’s name;

44 (2) the cottage food operation’s address and/or personal identification number;

45 (3) the common or usual name of the cottage food product;

46 (4) the ingredients of the cottage food product in descending order of predominance;

47 (5) allergen information as specified by federal labeling requirements; and

48 (6) the following statement: “This product was produced at a private residence that is
49 exempt from Massachusetts licensing and inspection requirements. This product may contain
50 allergens.”

- 51 (f) The information required in subsection (e) must be provided:
- 52 (1) on a label affixed to the package if the cottage food product is packaged;
- 53 (2) on a label affixed to the container, if the cottage food product is offered for sale from
54 a bulk container;
- 55 (3) on a placard displayed at the point of sale, if the cottage food product is neither
56 packaged nor offered for sale from a bulk container; or
- 57 (4) on the webpage on which the cottage food product is offered for sale if the cottage
58 food product is offered for sale on the internet.
- 59 (g) If the cottage food product is sold by telephone or custom order, the seller need not
60 display the information required by section (e), but the seller must disclose to the consumer that
61 the cottage food product is produced at a residential kitchen that is exempt from state licensing
62 and inspection requirements; and may contain allergens. The seller must have the information
63 required by subsection (e)(1)-(5) of this section readily available and provide it to the consumer
64 upon request.
- 65 (h) The Department of Public Health shall establish and maintain an electronic cottage
66 food operation registry within six months of enactment of this Law. This registration system
67 shall be voluntary for cottage food operations, shall be used solely for the purpose of collecting
68 general information about cottage food operations in the Commonwealth of Massachusetts, and
69 shall not impose a fee on cottage food operations, nor impose any further restrictions outside of
70 those in this section.
- 71 (i) The Department of Public Health:

72 (1) shall make available a voluntary application for the cottage food operation registry
73 that requests the following information:

74 (A) the cottage food operation's full name,

75 (B) the cottage food operation's address,

76 (C) the cottage food operation's primary telephone number, and

77 (D) the cottage food operation's primary email address.

78 (2) shall issue all cottage food operations that apply for the registry with a personal
79 identification number. Cottage food operations may, but are not required, to use this personal
80 identification number in lieu of address in complying with the provisions set forth in subsection
81 (e)(2).

82 (j) Any cottage food operation that has submitted an application to the Department of
83 Public Health's cottage food operation registry under subsections (h)-(i) shall update the
84 Department of Public Health when there is a change to any of the registration details under
85 subsection (i) including their name, residential kitchen address, telephone number, or email
86 address.

87 (k) Nothing in this act shall preclude the Department of Public Health or local boards of
88 health from providing assistance, consultation, or inspection, at the request of the cottage food
89 operation.

90 (l) A county, city, or city and county shall not impose additional restrictions on cottage
91 food operations in any residential dwelling, and shall not maintain local zoning rules as a barrier
92 or restriction to cottage food operations.

SECTION 3. This act shall take effect upon its passage.