

Regular Session, 2014

HOUSE BILL NO. 775

BY REPRESENTATIVE SIMON

CONSUMERS/FOOD-BEVERAGES: Provides relative to home processors of food for sale

1 AN ACT

2 To amend and reenact R.S. 40:4.9(A), to enact Chapter 3-A of Title 3 of the Louisiana
3 Revised Statutes of 1950, to be comprised of R.S. 3:251 through 260, and to repeal
4 R.S. 40:4.9(B) and (C), relative to food produced in the home for sale; to establish
5 the Louisiana Cottage Food Law; to provide for duties of the Department of
6 Agriculture and Forestry; to provide for permitting and inspection of home-based
7 preparers of foods; to provide for operations of the Home-Based Processor Program
8 and eligibility standards thereof; to limit application of laws relative to commercial
9 food preparation; to provide for effectiveness of laws contingent upon adoption of
10 rules; to provide for program implementation subject to appropriation; and to provide
11 for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. Chapter 3-A of Title 3 of the Louisiana Revised Statutes of 1950,
14 comprised of R.S. 3:251 through 260, is hereby enacted to read as follows:

15 CHAPTER 3-A. LOUISIANA COTTAGE FOOD LAW

16 §251. Short title

17 This Chapter shall be known and may be cited as the "Louisiana Cottage
18 Food Law".

1 §252. Home-Based Processor Program; creation

2 There is hereby created within the department the Home-Based Processor
3 Program for the purpose of stimulating local and small-scale food production in
4 Louisiana while protecting the health and safety of consumers.

5 §253. General program guidelines; rules

6 A. The department shall promulgate in accordance with the Administrative
7 Procedure Act all rules as are necessary to implement the Home-Based Processor
8 Program, referred to hereafter in this Chapter as the "program".

9 B. The rules shall provide for and ensure, at minimum, all of the following:

10 (1) Compliance by all home-based food processors in this state with the
11 federal food safety requirements provided in the Good Manufacturing Practices
12 regulations, 21 CFR 110 et seq.

13 (2) Limiting authorization of home-based commercial production to
14 production of only those foods designated in rule as "low-risk". The department may
15 define and designate such low-risk foods, which may include the following:

16 (a) Baked goods.

17 (b) Candies.

18 (c) Dried mixes.

19 (d) Honey and honeycomb products.

20 (e) Jams and jellies.

21 (f) Pickles and acidified foods.

22 (g) Sauces, syrup, and other liquids.

23 (h) Spices.

24 (3) An application and permitting process.

25 (4) An inspection and testing process to ensure food safety.

26 (5) Penalties and enforcement.

27 C. The rules may provide for food labeling requirements.

1 §254. Eligibility; sales threshold

2 Eligibility for the program shall be limited to preparers of foods made at
3 home for sale whose gross annual sales equal fifty thousand dollars or less.

4 §§255 through 260. [Reserved.]

5 Section 2. R.S. 40:4.9(A) is hereby amended and reenacted to read as follows:

6 §4.9. ~~Jellies, preserves, jams, honey, honeycomb products, cakes, and cookies;~~

7 ~~preparation~~ Food prepared in the home for public consumption; cottage foods

8 exemption

9 ~~A.(1)(a)~~ A. No provision of the state Sanitary Code or any provision of any
10 other law or regulation that requires any equipment, design, construction, utensils,
11 supplies, preparation, or services shall apply to the preparation of ~~jellies, preserves,~~
12 ~~jams, honey, honeycomb products, cakes, and cookies~~ food in the home for sale by
13 preparers duly permitted in accordance with the Louisiana Cottage Food Law, R.S.
14 3:251 et seq.

15 B. This Section shall not be construed to allow the sale or distribution of any
16 unwholesome food.

17 ~~(b) The provisions of Subparagraph (a) of this Paragraph shall not apply to~~
18 ~~any preparer of cakes and cookies who employs any individual to assist in the~~
19 ~~preparation of such cakes and cookies.~~

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

23 ~~(a) All outside openings shall be protected against flies and other vermin.~~

24 ~~(b) The building shall be constructed so as to exclude rats, mice, roaches or~~
25 ~~other vermin. Domestic pets shall be excluded in any part of the establishment where~~
26 ~~the preparation and baking of such cakes and cookies take place.~~

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

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

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

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

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

15 ~~(v) All food contact surfaces shall be cleaned and sanitized after each day's~~
16 ~~production.~~

17 ~~(d) Only pasteurized milk or milk products shall be used in the preparation~~
18 ~~of custard and cream-filled bakery products.~~

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

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

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

1 ~~(h) Preparers engaged in the preparation of custard or cream-filled bakery~~
2 ~~products shall not touch the custard or cream filling with their hands after it has been~~
3 ~~cooked.~~

4 Section 3. R.S. 40:4.9(B) and (C) are hereby repealed in their entirety.

5 Section 4.(A) This Act shall become effective on January 1, 2015.

6 (B) Implementation of the program provided for in R.S. 3:251 et seq., as enacted by
7 this Act, shall occur no sooner than July 1, 2015, and shall be contingent upon appropriation
8 of funds to operate the program.

9 (C) Sections 2 and 3 of this Act shall be null, void, and without effect until the date
10 of adoption of rules to implement the program provided for in R.S. 3:251 et seq., as enacted
11 by this Act.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Simon

HB No. 775

Abstract: Provides for the Louisiana Cottage Food Law to apply to home processors of food for sale.

Proposed law shall be known as the "Louisiana Cottage Food Law".

Proposed law creates within the Louisiana Department of Agriculture and Forestry (LDAF) the Home-Based Processor Program ("program") for the purpose of stimulating local and small-scale food production in La. while protecting the health and safety of consumers.

Proposed law requires LDAF to promulgate in accordance with the APA all rules as are necessary to implement the program. Provides that the rules shall provide for and ensure, at minimum, all of the following:

- (1) Compliance by home-based processor with the federal food safety requirements provided in the Good Manufacturing Practices regulations, 21 CFR 110 et seq.
- (2) Limiting authorization of home-based commercial production to production of only those foods designated in rule as "low-risk". The department may define and designate such low-risk foods, which may include the following:
 - (a) Baked goods.
 - (b) Candies.
 - (c) Dried mixes.
 - (d) Honey and honeycomb products.

- (e) Jams and jellies.
 - (f) Pickles and acidified foods.
 - (g) Sauces, syrup, and other liquids.
 - (h) Spices.
- (3) An application and permitting process.
 - (4) An inspection and testing process to ensure food safety.
 - (5) Penalties and enforcement.

Proposed law authorizes LDAF to provide in program rules for food labeling requirements.

Proposed law provides that eligibility for the program shall be limited to preparers of foods made at home for sale whose gross annual sales equal \$50,000 or less.

Present law provides that neither the state Sanitary Code nor any code, law, or regulation providing requirements relative to commercial food preparation shall apply to the preparation of jellies, preserves, jams, honey, honeycomb products, cakes, and cookies in the home for sale. Proposed law revises present law to provide that no such food preparation regulations shall apply to any home-based preparer of duly permitted in accordance with proposed law.

Proposed law deletes provisions in present law that would become inoperable pursuant to proposed law.

Proposed law stipulates that implementation of the program provided for in proposed law shall occur no sooner than July 1, 2015. Provides further that implementation of the program shall also be subject to appropriation of funds to LDAF.

Effective Jan. 1, 2015.

(Amends R.S. 40:4.9(A); Adds R.S. 3:251-260; Repeals R.S. 40:4.9(B) and (C))