



# CALIFORNIA HOMEMADE FOOD ACT

## FREQUENTLY ASKED QUESTIONS

### AB 1616 (GATTO) – COTTAGE FOOD OPERATIONS

#### 1. When does the new law go into effect?

The new law becomes effective January 1, 2013. The law requires the California Department of Public Health to carry out certain tasks associated with implementation, and imposes certain responsibilities on local planning and environmental health jurisdictions. The California Conference of Directors of Environmental Health (CCDEH) is working with other stakeholders to ensure that the law is implemented in an orderly and effective manner. Further information regarding the status of implementation can be obtained from your local environmental health agency.

Note: The information in this FAQ handout is intended to provide a uniform statewide response to questions posed and will be updated as needed. The questions & answers were evaluated by the CCDEH Ad Hoc AB 1616 Implementation Workgroup. This information should not be construed as a legal interpretation.

**AB1616 Chaptered Law:** [http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab\\_1601-1650/ab\\_1616\\_bill\\_20120921\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1601-1650/ab_1616_bill_20120921_chaptered.pdf)

#### 2. What is a Cottage Food Operation (CFO)?

A CFO is an enterprise at a private home where low-risk food products are prepared or packaged for sale to consumers.

#### 3. What is meant by “private home?”

“Private home” means a dwelling, including an apartment or other leased space, where individuals reside.

#### 4. Are there limitations on the size of CFO’s sales?

- \$35,000 or less in gross sales in 2013
- \$45,000 or less in gross sales in 2014
- \$50,000 or less in gross sales in 2015 and beyond

#### 5. Can a CFO have employees?

A CFO can have one full-time equivalent employee (not counting family members or household members).

## 6. What cottage food categories are permitted at a CFO?

Only foods that are defined as “non-potentially hazardous” are approved for preparation by CFO’s. These are foods that do not require refrigeration to keep them safe from bacterial growth that could make people sick. The California Department of Public Health will establish and maintain a list of approved cottage food categories on their website and will establish a process by which new foods can be added to the list and other foods can be challenged and removed. The initial list included in the new law includes:

- 1) Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas
- 2) Candy, such as brittle and toffee
- 3) Chocolate-covered nonperishable foods, such as nuts and dried fruit
- 4) Dried fruit
- 5) Dried pasta
- 6) Dry baking mixes
- 7) Fruit pies, fruit empanadas, and fruit tamales
- 8) Granola, cereals, and trail mixes
- 9) Herb blends and dried mole paste
- 10) Honey and sweet sorghum syrup
- 11) Jams, jellies, preserves, and fruit butter that comply with the standard described in Part 150 of Title 21 of the Code of Federal Regulations (These should be fruit products to assure that they are not potentially hazardous).
- 12) Nut mixes and nut butters
- 13) Popcorn
- 14) Vinegar and mustard
- 15) Roasted coffee and dried tea
- 16) Waffle cones and pizzelles

## 7. What are the two classifications of CFOs?

- ☐ **Class A** CFO’s are only allowed to engage in “**direct sale**” of cottage food.
- ☐ **Class B** CFO’s may engage in both “**direct sale**” and “**indirect sale**” of cottage food.

## 8. What is meant by “Direct Sale” of cottage food?

“Direct Sale” means a transaction between a CFO operator and a consumer, where the consumer purchases the cottage food product directly from the CFO. Direct sales include, but are not limited to, transactions at holiday bazaars or other temporary events, such as bake sales or food swaps, transactions at farm stands, certified farmers’ markets, or through community-supported agriculture subscriptions, and transactions occurring in person in the cottage food operation.

## 9. What is meant by “Indirect Sale” of cottage food?

“Indirect Sale” means an interaction between a CFO, a third-party retailer, and a consumer, where the consumer purchases cottage food products made by the CFO from a third-party retailer that holds a valid permit issued by the local environmental health agency in their jurisdiction. Indirect sales include, but are not limited to, sales made to retail shops or to retail food facilities where food may be immediately consumed on the premises.

## 10. Do I need any special Training or Certification to prepare Cottage foods?

A person who prepares or packages cottage food products must complete a food processor course instructed by the California Department of Public Health within three months of being registered or permitted.

## 11. Does a CFO need a permit to operate?

- ☐ **Planning/Zoning:** All CFO’s need to obtain approval from their local city or county planning department. The Homemade Food Act gives planning departments several options to consider, so planning department requirements may vary between jurisdictions.
- ☐ **Environmental Health:**
  - For “**Class A**” CFO’s (direct sale only), **registration** with the local enforcement agency and submission of a completed “self-certification checklist” approved by the local environmental health agency.
  - For “**Class B**” CFO’s (direct and indirect), a **permit** from the local environmental health agency is required.
- ☐ **Other Requirements:** Check on other state or local requirements that may be applicable
- ☐ Registrations and permits are not transferable between:
  - Persons
  - Locations
  - Type of food sales [i.e., direct sales (Class A) vs. indirect sales (class B)]
  - Type of distribution

## 12. How much will the registration or permit cost the CFO?

Each local jurisdiction will establish fees that are not to exceed the cost of providing the service. Additional fees may be charged for inspection and/or enforcement activities if the cottage food operation is found to be in violation of California food safety laws on cottage food operations.

## 13. Will my CFO Registration/Permit allow me to sell at other retail venues?

There may be health permits required to sell at other locations, such as Certified Farmer’s Markets or Swap Meets. Please check with your local enforcement agency for additional permit requirements.

## 14. How often will a CFO be inspected?

- ☐ **Class A** CFO kitchens and food storage areas (referenced in the law as the “registered or permitted area”) are not subject to initial or routine inspections.
- ☐ **Class B** CFO kitchens and food storage areas are inspected initially prior to permit issuance, and then annually after that.
- ☐ **Class A or B (Other Inspections)** The local environmental health agency may access, for inspection purposes, the registered or permitted area where a cottage food operation is located only if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the cottage food operation or that the cottage food operation is found to be in violation of California food safety laws on cottage food operations.

## 15. What are the CFO’s operational requirements

- ☐ All CFOs must comply with the following:
  - No domestic activity in kitchen during cottage food preparation
  - No infants, small children, or pets in kitchen during cottage food preparation
  - Kitchen equipment and utensils kept clean and in good repair
  - All food contact surfaces and utensils washed, rinsed, and sanitized before each use
  - All food preparation and storage areas free of rodents and insects
  - No smoking in kitchen area during preparation or processing of cottage food
  - A person with a contagious illness shall refrain from working
  - Proper hand-washing shall be completed prior to any food preparation or packaging
  - Water used in the preparation of cottage food products must be potable. Cottage food preparation activities include:
    - Washing, rinsing, and sanitizing of any equipment used in food preparation.
    - Washing and sanitizing hands and arms.
    - Water used as an ingredient of cottage food.

## 16. What would be my food labeling requirements?

- ☐ All cottage food products must be properly labeled in compliance with the Federal, Food, Drug, and Cosmetic Act ([21 U.S.C. Sec. 343 et seq.](#)) The label shall include:
  - The words “Made in a Home Kitchen” in 12-point type
  - The name commonly used for the food product
  - Name of CFO which produced the food product
  - The registration or permit number of the cottage food operation which produced the cottage food product and the name of the local enforcement agency that issued the number
  - Product ingredients in descending order by weight
- ☐ In a permitted food facility, cottage food products served without packaging or labeling shall be identified to the customer as homemade on the menu, menu board or other easily accessible location.