



Support SB 829 Support Small Food Businesses

Prior to 2011, it was illegal to sell homemade food in Texas. The passage of the Cottage Food Law has enabled thousands of small businesses to be launched in Texas. No outbreaks of food-borne illness caused by cottage foods have been reported in Texas in the 12 years since its initial adoption.

Cottage food sales promote more spending in the local economy and increase the amount of money circulated within it. Cottage food sales support local farmers, who can generate more revenue by supplementing fresh produce sales with prepared products that they can sell year-round and at a higher profit margin.¹

Some of the law's current provisions limit farmers and other entrepreneurs from building a viable business, without materially improving food safety, and Texas is lagging behind multiple other states. SB 829 by Senator Kolkhorst would:

- 1) **Raise the Sales Cap:** Cottage food operators (CFOs) are limited to selling no more than \$50,000 per year, an amount set in 2011. More than half of the states have no monetary cap on their cottage food operations, and several of those with caps have set them higher than Texas' cap (e.g., Oklahoma's is \$75,000, Minnesota's is \$78,000, and Florida's is \$250,000). SB 829 raises the cap to \$100,000 annually, while HB 176/ SB 329 eliminates the cap.
- 2) **Replace the Home Address:** The current law requires individuals to include their home address on their product labels, raising safety concerns for producers. Accountability and transparency can be achieved without requiring people to share where they live (sometimes in homes with elderly or disabled individuals or young children). SB 829 allows CFOs to choose whether to use a mailing address, email address, or phone number in addition to their city..
- 3) **Allow Sales Through a Contracted Vendor:** The cottage food law is premised on the reduced need for government regulation in a transparent, accountable food system, and FARFA thus supports some restrictions on the scope of sales – but the current blanket ban on indirect sales goes farther than necessary. Several states, including Oklahoma, Arkansas, and Louisiana, allow at least some indirect sales under the cottage food laws. SB 829 allows CFOs to sell through a third party vendor (such as a local co-op or small grocer) who in turn sells directly to consumers, keeping the distribution chain short and transparent.
- 4) **Expand the Allowed Baked Goods.** The current limitation to non-Time-or-Temperature- Controlled-for -Safety (non-TTCS) foods means that pecan pies are allowed, but pumpkin pies are not. With clear labeling, consumers should be allowed to choose if they want to buy TTCS baked goods from home bakers, as they are allowed to do in ten other states.
- 5) **Stop Local Health Department Abuses.** The state law prohibits local health departments from regulating the production of foods by CFOs and explicitly excludes CFOs from the definition of “Retail food establishment.” For over a decade, no health department required CFOs to obtain a permit, but during 2022, multiple local departments decided to disregard the state law and have been requiring CFOs to get retail food establishment permits. These local departments are relying on the expense of bringing a lawsuit and the inability to collect damages due to sovereign immunity to allow them to flout state law. SB 829 provides that local governments may not employ individuals who knowingly require CFOs to obtain permits.

For more information, contact Judith McGeary, Farm and Ranch Freedom Alliance, Judith@FarmAndRanchFreedom.org, 512-484-8821 (c)

¹ Rice, Christina, and Emily Broad Lieb. *Cottage Food Laws in the United States*. Food Law and Policy Clinic: Harvard Law School, Aug. 2018, www.chlpi.org/wp-content/uploads/2013/12/FLPC_Cottage-Foods-Report_August-2018.pdf.