



Support SB 541/ HB 520 and HB 2588

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 13 years since the law's 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.

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. Three bills have been filed to expand this law: SB 541 by Senator Kolkhorst, HB 520 by Representative Goodwin, and HB 2588 by Lacy Hull.

SB 541/ HB 520 is a multi-faceted expansion of the current cottage food law:

- 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 541/ HB 520 raises the cap to \$100,000 annually.
- 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 541/ HB 520 allows CFOs to choose whether to use a mailing address or register with the Texas Department of State Health Services.
- 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 541/ HB 520 allows CFOs to sell shelf-stable foods 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 Refrigerated 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 directly from home bakers, as they are allowed to do in ten other states. SB 541/ HB 520 limits the sale of refrigerated baked goods to direct-to-consumer only.
- 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 harass these small businesses. SB 541/ HB 520 provides that local governments may not employ individuals who knowingly require CFOs to obtain permits.

HB 2588 by Representative Lacy Hull includes many of the same provisions as SB 541/ HB 520, but this “Food Freedom” bill goes further in expanding options for both producers and consumers.

- 1) **Allows direct-to-consumer sales of a wide range of foods, with specific exclusions.** HB 2588 allows producers to sell any food made in their home kitchen except for meat, poultry, seafood, low-acid canned foods, ice products, raw milk and raw dairy products, and products containing CBD or THC because of specific safety and/or regulatory issues with those excluded items. This opens the door for cottage food producers to sell vegetarian prepared meals, improving healthy food access in many communities. Several states, including Alaska, Wyoming, Utah, and Maine, allow the sales of such foods by cottage food operations.
- 2) **Adds special requirements where a cottage food operation sells time-or-temperature-controlled for safety (TTCS) foods directly to consumers.** Cottage food operations that sell TTCS foods will be required to register with DSHS, store and deliver these items at safe temperatures, label the items with safe handling instructions, and include a “made on” date for consumer information.
- 3) **Indexes the sales cap for inflation.** Like SB 541, HB 2588 raises the sales cap to \$100,000 annually. It also indexes it for inflation, so that future legislatures don’t have to keep addressing this issue.
- 4) **Clarifies sampling requirements.** Currently, cottage food producers have to portion and individually package and label each sample in their home kitchen. This time-consuming and wasteful practice is due to the convoluted regulations governing sampling of foods. HB 2588 provides that cottage food producers can provide samples of their foods using the same basic sanitary requirements as are currently used at farmers’ markets.
- 5) **Allows indirect sales of non-TTCS.** This provision is identical to SB 541, but deserves emphasis. While HB 2588 allows many perishable foods to be sold direct to consumers, it only allows indirect sales through a vendor of non-TTCS, shelf-stable items.

Both of these bills follow examples from other states that have broadened their cottage food laws, benefiting producers and consumers without reported problems. As public awareness grows about the problems with our consolidated, mass-produced food system, consumers increasingly wish to buy from local people they know and trust. While food safety regulations are important in the conventional system with its convoluted supply and distribution chains, controlled by large corporations, they unnecessarily block consumers from accessing healthy local foods.

SB 541, HB 520, and HB 2588 would restore greater consumer choice and promote local small food businesses.

SB 541 was unanimously approved by the Senate Health & Human Services Committee on 3/18/25 and recommended for the Local & Consent Calendar.

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