



# California Homemade Food Act

## Frequently Asked Questions

### AB 1616 (Gatto) - Cottage Food Operations and AB 1252 Amendments

**When does the new Cottage Food Law go into effect?** The new law became effective January 1, 2013. The law requires the California Department of Public Health (CDPH) to carry out certain tasks associated with implementation, and imposes certain responsibilities on local planning and environmental health jurisdictions. Further information regarding the status of implementation can be obtained from your local environmental health agency.

- 1. What is a cottage food operation (CFO)?** A CFO is an enterprise at a private home where specific low-risk food products that do not require refrigeration are made or repackaged for sale to consumers.
- 2. What is meant by a private home?** "Private home" means a dwelling, including an apartment or other rented space, where the CFO operator resides.
- 3. Are there limitations on the size of CFO sales?**
  - \$35,000 or less in gross sales annually in 2013
  - \$45,000 or less in gross sales annually in 2014
  - \$50,000 or less in gross sales annually in 2015 and beyond
- 4. Can a CFO have employees?** A CFO can have one full-time equivalent employee (not counting family members or household members).
- 5. What cottage foods are CFOs permitted to produce?** Only specific foods that are defined as "non-potentially hazardous" are approved for preparation by CFOs. These are foods that do not require refrigeration to keep them safe from bacterial growth that could make people sick.

CDPH will establish and maintain a list of approved cottage food categories on their website. The list included in the new law includes:

- Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas
- Candy, such as brittle and toffee
- Chocolate-covered nonperishable foods, such as nuts and dried fruit
- Dried fruit
- Dried pasta
- Dry baking mixes
- Fruit pies, fruit empanadas, and fruit tamales
- Granola, cereals, and trail mixes
- Herb blends and dried mole paste
- Honey and sweet sorghum syrup
- Jams, jellies, preserves, and fruit butter that comply with the standard described in **Part 150 of Title 21 of the Code of Federal Regulations**.
- Nut mixes and nut butters
- Popcorn
- Vinegar and mustard
- Roasted coffee and dried tea
- Waffle cones and pizzelles
- Cotton candy
- Candied apples
- Confections such as salted caramel, fudge, marshmallow bars, chocolate covered marshmallow, nuts, and hard candy, or any combination thereof.
- Buttercream frosting, buttercream icing, buttercream fondant, and gum paste that do not contain eggs, cream, or cream cheese
- Dried or dehydrated vegetables
- Dried vegetarian-based soup mixes
- Vegetable and potato chips
- Ground chocolate
- Seasoning salt
- Flat icing
- Marshmallows that do not contain eggs
- Popcorn balls
- Dried grain mixes
- Fried or baked donuts and waffles

#### 6. What are the two classifications of CFO's?

**"Class A"** CFOs are only allowed to engage in **"direct sales"** of cottage food.

**"Class B"** CFO's may engage in both **"direct sales"** and **"indirect sales"** of cottage food.

- 7. What is meant by “direct sale” of cottage food?** “Direct sale” means a transaction **within the state of California** 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 at the cottage food operation.
- 8. What is meant by “indirect sale” of cottage food?** “Indirect sale” means an interaction within the state of California 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 food facilities including markets, restaurants, bakeries, and delis, where food may be immediately consumed on the premises.
- 9. What are limitations on Internet sales and delivery of cottage food products?** A cottage food operator may advertise as well as accept orders and payments via Internet or phone. However, a CFO must deliver (in person) to the customer. A CFO may not deliver any CFO products via US Mail, UPS, FedEx or using any other third-party delivery service. A cottage food operator may not introduce a CFO product into interstate commerce. Additionally, CFO’s can only sell cottage foods outside their county of residence only when the local environmental health agency of the outside county allows it.
- 10. What are limitations on advertising of CFO products?** It is unlawful for any person to disseminate any false advertising of any food. An advertisement is false if it is false or misleading in any particular. A cottage food product that is found to be falsely advertised would be subject to enforcement action.
- 11. Do I need any special training or certification to make cottage foods?** A person who prepares or packages cottage food products must complete a food processor course approved by CDPH within three months of being registered or permitted and every three years during operation.
- 12. Does a CFO need a permit to operate?**  
**Planning and 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), must complete an annual **registration** with the local enforcement agency and submit a fully completed “self-certification checklist” approved by the local environmental health agency. For “**Class B**” CFO’s (either direct and indirect or indirect only), must obtain an annual **permit** from the local environmental health agency.

**Other requirements:** Check on other state or local requirements that may be applicable, such as Sellers Permits through the Board of Equalization, or Business Licenses through your city or county.

**Registrations and permits are nontransferable between:**

- 1) Persons
- 2) Locations
- 3) Type of food sales [i.e., direct sales (“Class A”) vs. indirect sales (“Class B”)]
- 4) Type of distribution

**13. How much will the permit or registration 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.

**14. 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 Farmers’ Markets, Swap Meets or community events. Please check with your local environmental health department for additional permit requirements.

**15. 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 not more than once per year.

“**Class A or B (complaint inspections)**” - The local environmental health agency may access, for inspection purposes, the registered or permitted area where a cottage food operation is located 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 has violated California food safety laws.

**16. What are CFO 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 preparing or packaging cottage food products
- 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.

**17. What has to be on my cottage food label?**

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 must include:

- The words “Made in a Home Kitchen” or “Repackaged in a Home Kitchen” in 12-point type.
- The name commonly used to describe the food product.
- The name city, state and zip code of the cottage food operation which produced the cottage food product. If the CFO is not listed in a current telephone directory then a street address must also be declared. (A contact phone number or email address is optional but may be helpful for consumers to contact your business.
- The registration or permit number of the CFO which produced the cottage food product and, in the case of “Class B” CFOs, the name of the county where the permit was issued.
- The ingredients of the food product, in descending order of predominance by weight, if the product contains two or more

ingredients.

- The net quantity (count, weight, or volume) of the food product, it must be stated in both English (pound) units and metric units (grams).
- A declaration on the label in plain language if the food contains any of the eight major food allergens such as milk, eggs, fish, shellfish, tree nuts, wheat, peanuts, and soybeans. There are two approved methods prescribed by federal law for declaring the food sources of allergens in packaged foods: 1) in a separate summary statement immediately following or adjacent to the ingredient list, or 2) within the ingredient list.
- The use of the following eleven terms are considered nutrient content claims (nutritional value of a food): free, low, reduced, fewer, high, less, more, lean, extra lean, good source, and light. Specific requirements have been established for the use of these terms. Please refer to the **Cottage Food Labeling Guideline** for more details.
- A health claim is a statement or message on the label that describes the relationship between a food component and a disease or health-related condition (e.g., sodium and hypertension, calcium and osteoporosis). Please refer to the Cottage Food Labeling Guideline for more details.
- If the label makes approved nutrient content claims or health claims, the label must contain a “Nutrition Facts” statement on the information panel.
- Labels must be legible and in English (accurately translated information in another language may also be included on the label). Labels, wrappers, inks, adhesives, paper, and packaging materials that come into contact with the cottage food product by touching the product or penetrating the packaging must be food-grade (safe for food contact) and not contaminate the food.

In a permitted retail food facility (such as a restaurant, market, or deli), cottage food products served without packaging or labeling shall be identified to the customer as homemade on the menu, menu board or in another easily accessible location that would reasonably inform the consumer that the food or an ingredient in the food has been made in a private home.

**18. What is my legal responsibility as a cottage food operator in ensuring that my food product is safe?** Cottage food operators and/or their employees shall not commit any act that may cause contamination or adulteration of food.

This would include making foods that are not on the approved food list and or making foods under unsanitary conditions or with spoiled or rancid ingredients.

A cottage food operation that is not in compliance with the requirements of AB



1616 and AB 1252 would be subject to enforcement action taken by the local environmental health agency and/or the California Department of Public Health.

- 19. What if I find out an ingredient I used has been recalled because it can make people sick or has been identified as the cause of food borne illness?** You should notify your local environmental health agency or CDPH immediately and do not distribute anymore product. You may need to notify your customers and request that they return or dispose of the products. For specific food recall information, you can contact CDPH at: (916) 650-6500 or email: [FDBinfo@cdph.ca.gov](mailto:FDBinfo@cdph.ca.gov).
  
- 20. What is my liability as a cottage food business operating out of my home?** You should check with your homeowner insurance company or your landlord if you are operating out of a rental property. Many homeowner insurance policies will not extend liability coverage to liabilities arising out of home-based businesses.
  
- 21. What other educational resources and guidelines are available to assist me in ensuring I am making a safe food product?** Please see the CDPH website or contact your local environmental health agency for guidance and resource documents or web links.
  
- 22. What can I do to ensure I am still meeting legal requirements if my cottage food operation grows to exceed the gross annual sales limit and/or I decide want to make another type of food product that is not on the approved food list?** Please contact CDPH for registration and facility requirements for food processors.
  
- 23. Where can I file a complaint about a cottage food operation or cottage food product?** You can file a complaint at the CDPH toll-free complaint line – **1-800-495-3232**.