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H.B. 134
136th General Assembly

Bill Analysis

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Version: As Reported by House Agriculture

Primary Sponsors: Reps. Gross and Humphrey

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SUMMARY

- Authorizes the production and sale of homemade foods under a microenterprise home kitchen operation registration.
- Establishes requirements governing a microenterprise home kitchen operation for all of the following:
 - Operation;
 - Food safety; and
 - Sales and delivery.
- Requires the Department of Agriculture (ODA) Director or the Director's designee to inspect the home kitchen of every operation.
- Codifies custom meat processing standards that apply to game animals, migratory waterfowl, and game birds.

DETAILED ANALYSIS

Microenterprise home kitchen operations

Current law authorizes a person to operate a cottage food operation without obtaining a food processing license, which is generally required for food production facilities.¹ However, cottage food operations are limited to the production of foods in a person's home that are not

¹ Cottage food operations are also exempt from licensure under the retail food establishment law. A retail food establishment generally is a premises or part of a premises where food is stored, processed, prepared, manufactured, or otherwise held or handled for retail sale. R.C. 3717.22; R.C. 3717.01, not in the bill.

potentially hazardous foods, including nonrefrigerable bakery products, jams, jellies, candy, and fruit butter. Cottage food operations are not required to register or be inspected by the Ohio Department of Agriculture (ODA).

The bill broadens the types of food that may be produced in a person's home without obtaining a food processing license to include most foods. Specifically, if a person annually registers as a microenterprise home kitchen operation, the person may sell homemade foods produced in a home kitchen. However, the bill does not allow any of the following food items to be sold by a microenterprise home kitchen operation:

1. Low-acid canned foods;
2. Alcoholic beverages;
3. Foods prepared through smoking or curing as a preservation method;
4. Juices unless produced in accordance with the bill's codified meat processing standards that apply to a food service operation or retail food establishment (see "**Custom meat processing**," below);
5. Custom processed meats or poultry;
6. Shellfish from the operation of a molluscan shellfish life-support system display tank used to store or display shellfish that are offered for human consumption;
7. Potentially hazardous foods prepared using reduced oxygen methods; and
8. Foods containing any drug.²

The bill also retains the cottage food operation law for persons who wish to continue producing cottage foods under that law without registering as a microenterprise home kitchen operation.³

To receive an annual registration for a microenterprise home kitchen operation, a person must apply for it in accordance with procedures established by the Director of Agriculture (ODA Director) and pay a \$25 registration fee (unless the person submits a registration application within six months of its expiration date, in which case the fee is \$12.50). An initial registration is valid from the issuance date through January 31 of the following year unless the registration is issued in the month of January. In that case, a registration issued in January of any given year expires on January 31 of that year.

A person may renew the registration every year if the operation is in compliance with all microenterprise home kitchen requirements and if the renewal is conducted in accordance with the ODA Director's procedures, including payment of a \$25 renewal fee. Under the bill, a

² R.C. 3715.026(A)(1).

³ Conforming changes in R.C. 3715.01, 3715.021, 3715.022, 3715.023, and 3717.22. The bill also exempts a microenterprise home kitchen operation from licensure as a retail food establishment. See footnote 1, above.

renewed registration is valid from the first day of February through the last day of January of the following year.⁴

Sale limitations

The bill prohibits a microenterprise home kitchen operation's gross receipts for sales of potentially hazardous homemade food items⁵ under the registration from exceeding \$150,000 per calendar year. However, this limitation does not interfere with the operation's ability to also sell food as a cottage food operation or a licensed home bakery.⁶

Operation requirements

The bill requires a microenterprise home kitchen operation to do all of the following:

1. Allow for ODA inspections in accordance with the bill's procedures (see **"Inspections,"** below);
2. Produce all homemade food in the inspected home kitchen;
3. Label the food in accordance with current law's cottage food standards;
4. Operate the home kitchen and premises in accordance with the bill's requirements (see **"Food safety requirements,"** below); and
5. Sell and deliver homemade food in accordance with the bill's requirements (see **"Sales and delivery requirements,"** below).⁷

Food safety requirements

The bill prohibits a microenterprise home kitchen operation from operating unless the operation is in compliance with those food safety standards set forth in the Ohio Uniform Food Safety Code⁸ that could reasonably apply to a microenterprise home kitchen operation.

The ODA Director or the Director's designee must publish on the ODA website the food safety standards that apply to microenterprise home kitchen operations. The bill prohibits the ODA Director or the Director's designee from requiring a microenterprise home kitchen operation to do any of the following:

1. Use commercial kitchen equipment or other specialized kitchen equipment such as a three-compartment sink;
2. Alter the structure or design of the home kitchen;

⁴ R.C. 3715.026(B).

⁵ R.C. 3715.01(A)(18) e.g., raw or cooked meat, eggs, fish and shellfish, dairy products, cooked vegetables, rice, beans, cut melons, cut tomatoes, and baked goods that typically need to be refrigerated.

⁶ R.C. 3715.026(G).

⁷ R.C. 3715.026(D).

⁸ See Ohio Administrative Code (O.A.C.) 3717-1.

3. Install or modify venting in the home kitchen;
4. Use a certain countertop in the home kitchen; or
5. Prevent the presence of pets in parts of the home where food is not being stored or prepared, including the kitchen when homemade food items to be sold are not being prepared.⁹

Sales and delivery requirements

The bill also requires a microenterprise home kitchen operation to comply with sale and delivery requirements. Under those requirements, a homemade food item that **is not a dairy product or does not contain meat, poultry, or seafood** may be sold by the operation to the consumer in person or remotely, including by telephone or internet. Those types of homemade food items also may be sold by:

- An agent of the microenterprise home kitchen operation; or
- A third-party vendor, such as a retail shop or grocery store.

A homemade food item that **is not a dairy product or does not contain meat, poultry, or seafood** may be delivered by:

- The microenterprise home kitchen operation; or
- Third-party carrier, such as the U.S. postal service.

A homemade food item **that is a dairy product or does contain meat, poultry, or seafood** may be sold to the consumer by the same entities as described for homemade food items that are not dairy products or contain meat, poultry, or seafood, but the food must be delivered by the microenterprise home kitchen operation to the consumer in person. If a potentially hazardous food item is transported before final delivery to the consumer, the food must be maintained at an appropriate temperature during transport, cannot be transported more than once, and cannot be transported for longer than two hours.¹⁰

Food safety training

Before selling any food, a microenterprise home kitchen operation must complete food safety training approved by the ODA Director or the Director's designee. The ODA Director or their designee must ensure that low-cost and online options for training are available for the operations.¹¹

Inspections

The bill requires the ODA Director or the Director's designee to inspect every microenterprise home kitchen operation's home kitchen; locations of the home where

⁹ R.C. 3715.026(E).

¹⁰ R.C. 3715.026(F)(1) to (3).

¹¹ R.C. 3715.026(F)(4).

homemade food items and ingredients are stored; and bathrooms (to ensure that there is a functioning handwashing sink and liquid soap). The ODA Director may charge a fee, up to \$50 annually, to an operation for an inspection to cover the administrative costs of conducting the inspection.

The ODA Director must obtain a search warrant when required by law to enter a home if the operation does not consent to an inspection. A search warrant or administrative warrant is otherwise not required to conduct an inspection. ODA must publish its inspection standards on its website.¹²

Violations

The bill allows the ODA Director (or Director's designee) to charge a fine, up to \$75, to an operation found to be in violation of the microenterprise home kitchen operation requirements after a warning is given and the operation has been given the opportunity to correct the violation.¹³

It also allows the ODA Director (or Director's designee) to issue an order suspending or revoking a registration for violating the bill's operation requirements after the operation is provided a warning and has had an opportunity to correct the violation. The microenterprise home kitchen operation may appeal the suspension or revocation in accordance with the Administrative Procedure Law. However, the ODA Director (or Director's designee) may issue an order immediately suspending an operation's registration without affording the registration holder a warning or an opportunity for a hearing if it is determined that the operation presents an immediate danger to the public health. The Director then must afford the operation an opportunity for a hearing for registration reinstatement within ten days after the suspension.¹⁴

The bill does not prohibit a person from operating as an exempt cottage food operation if the person only sells and delivers food allowed under Ohio law governing cottage food operations. It also does not prohibit a local government from enforcing a generally applicable zoning law.¹⁵

Custom meat processing

The bill codifies custom meat processing standards that currently exist in administrative rules.¹⁶ Accordingly, the bill specifies that custom meat (game animals, migratory waterfowl, and game birds) processing standards that apply to food service operations and retail food establishments are as follows:

¹² R.C. 3715.026(C).

¹³ R.C. 3715.026(H).

¹⁴ R.C. 3715.026(I).

¹⁵ R.C. 3715.026(J) and (K).

¹⁶ O.A.C. 3717-1-08.2.

1. A food service operation or retail food establishment must custom process meat only at the end of the work shift or day to prevent any cross contamination of product for sale or service;
2. Prior to entry into the food service operation or retail food establishment, the operation or establishment must ensure that, with respect to custom process meat, any animal carcass is skinned, beheaded, eviscerated, and free of hair and any bird carcass is eviscerated and free of feathers;
3. If the hide and head of a custom meat product is to be retained for the owner, the operation or establishment must package and segregate the product from all food;
4. An operation or establishment must ensure that any custom meat product is wrapped or containerized and stored segregated from all retail products so as to prevent contamination;
5. Immediately after custom meat processing, an operation or establishment must ensure that all knives, tables, hooks, grinders, tenderizers, lugs, inedible barrels, saws, or any other equipment soiled during custom meat processing are thoroughly cleaned according to applicable standards set forth in adopted rules;
6. When a Department of Natural Resources inspection tag is required for an animal subject to custom meat processing, an operation or establishment must ensure that the tag or tag number remains with the animal throughout the process period and is returned with the meat product to the owner; and
7. An operation or establishment must identify all products for custom meat processing in the facility as not for sale.¹⁷

HISTORY

Action	Date
Introduced	02-25-25
Reported, H. Agriculture	11-05-25

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¹⁷ R.C. 3715.21.