

Chapter 371

(Senate Bill 290)

AN ACT concerning

Public Health – Cottage Food Products – Definition and Sale

FOR the purpose of altering the definition of “cottage food product” to include certain food sold in the State to retail food stores or food cooperatives; requiring that a certain label for a cottage food product offered for sale at a retail food store include certain information; requiring the owner of a cottage food business to submit certain information to the Maryland Department of Health before selling a cottage food product to a retail food store; requiring the Department, on or before a certain date each year, to submit a certain annual report to certain committees of the General Assembly; and generally relating to cottage food products.

BY repealing and reenacting, without amendments,

Article – Health – General

Section 21–301(a) and (b–1)

Annotated Code of Maryland

(2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General

Section 21–301(b–2) and 21–330.1

Annotated Code of Maryland

(2015 Replacement Volume and 2018 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health – General

21–301.

(a) In this subtitle the following words have the meanings indicated.

(b–1) “Cottage food business” means a business that:

(1) Produces or packages cottage food products in a residential kitchen;

(2) Sells the cottage food products in accordance with § 21–330.1 of this subtitle and regulations adopted by the Department; and

(3) Has annual revenues from the sale of cottage food products in an amount not exceeding \$25,000.

(b-2) “Cottage food product” means a nonhazardous food, as specified in regulations adopted by the Department, that is sold in the State **[directly] IN ACCORDANCE WITH § 21-330.1 OF THIS SUBTITLE AND REGULATIONS ADOPTED BY THE DEPARTMENT:**

(1) **DIRECTLY** to a consumer from a residence, at a farmer’s market, at a public event, by personal delivery, or by mail delivery [in accordance with § 21-330.1 of this subtitle and regulations adopted by the Department]; **OR**

(2) **TO A RETAIL FOOD STORE, INCLUDING A GROCERY STORE, OR A FOOD COOPERATIVE.**

21-330.1.

(a) This section does not:

(1) Apply to a food establishment that is required to have a license under § 21-305 of this subtitle; or

(2) Exempt a cottage food business from any applicable State or federal tax laws.

(b) A cottage food business is not required to be licensed by the Department if the owner of the cottage food business complies with this section.

(c) The owner of a cottage food business may sell only cottage food products that are:

(1) Stored on the premises of the cottage food business; and

(2) Prepackaged with a label that contains:

(i) The following information:

1. The name and address of the cottage food business;

2. The name of the cottage food product;

3. The ingredients of the cottage food product in descending order of the amount of each ingredient by weight;

4. The net weight or net volume of the cottage food product;

5. Allergen information as specified by federal labeling requirements; and

6. If any nutritional claim is made, nutritional information as specified by federal labeling requirements; [and]

(ii) The following statement printed in 10 point or larger type in a color that provides a clear contrast to the background of the label: “Made by a cottage food business that is not subject to Maryland’s food safety regulations.”; AND

(III) FOR A COTTAGE FOOD PRODUCT OFFERED FOR SALE AT A RETAIL FOOD STORE:

1. THE PHONE NUMBER AND E-MAIL ADDRESS OF THE COTTAGE FOOD BUSINESS; AND

2. THE DATE THE COTTAGE FOOD PRODUCT WAS MADE.

(d) The owner of a cottage food business shall comply with all applicable county and municipal laws and ordinances regulating the preparation, processing, storage, and sale of cottage food products.

(e) (1) The Department may investigate any complaint alleging that a cottage food business has violated this section.

(2) On receipt of a complaint, a representative of the Department, at a reasonable time, may enter and inspect the premises of a cottage food business to determine compliance with this section.

(3) The owner of a cottage food business may not:

(i) Refuse to grant access to a representative who requests to enter and inspect the premises of the cottage food business under paragraph (2) of this subsection; or

(ii) Interfere with any inspection under paragraph (2) of this subsection.

(4) An investigation of a cottage food business conducted under this subsection may include sampling of a cottage food product to determine if the cottage food product is misbranded or adulterated.

(F) BEFORE THE OWNER OF A COTTAGE FOOD BUSINESS MAY SELL A COTTAGE FOOD PRODUCT TO A RETAIL FOOD STORE, THE OWNER SHALL SUBMIT TO THE DEPARTMENT:

(1) DOCUMENTATION OF THE OWNER’S SUCCESSFUL COMPLETION OF A FOOD SAFETY COURSE APPROVED BY THE DEPARTMENT; AND

(2) THE LABEL THAT WILL BE AFFIXED TO THE COTTAGE FOOD PRODUCT IN ACCORDANCE WITH SUBSECTION (C)(2) OF THIS SECTION.

(G) BEGINNING ON OR BEFORE DECEMBER 30, 2020, AND EVERY DECEMBER 30 THEREAFTER, THE DEPARTMENT SHALL REPORT TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON:

(1) THE DOCUMENTATION AND LABELS SUBMITTED UNDER SUBSECTION (F) OF THIS SECTION; AND

(2) ANY COMPLAINTS RECEIVED BY THE DEPARTMENT RELATED TO A COTTAGE FOOD BUSINESS OR COTTAGE FOOD PRODUCT.

[(f)] (H) The Department shall adopt regulations to carry out this section.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2019.

Approved by the Governor, April 30, 2019.