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Members of the Committee,

Hello, my name is Juarez Lee-Shelton, I am a cottage food baker and an adjunct professor of history at Stevenson University. Accordingly, I write to propose revisions to The Maryland Cottage Food Law, defined in COMAR 10.15.03, and allowable items to be sold pursuant to it, found in COMAR 10.15.03.27.

For reference purposes, here contained is the link for the present MDH Guidelines for Cottage Food Businesses:

[https://health.maryland.gov/phpa/OEHFP/OFPCHS/Documents/MDH%20Cottage%20Food%20Businesses\\_Revised\\_9-2022\\_FINAL.pdf](https://health.maryland.gov/phpa/OEHFP/OFPCHS/Documents/MDH%20Cottage%20Food%20Businesses_Revised_9-2022_FINAL.pdf)

At present, the “Cottage Food Law” is too restrictive on the items allowed to be sold out of a home kitchen, and places an undue burden on entrepreneurs who wish to sell other types of baked goods not permitted in the section. Prohibited items are referred to as “potentially hazardous”, thus things which contain perishable ingredients and thus require refrigeration. My focus here is on the “potentially hazardous baked goods”, as opposed to other types of food items. As most preparers of meats and vegetables operate via food trucks, restaurants, catering businesses etc., the standard is arguably higher and necessary for these items as opposed to simple baked goods. With respect to baked goods alone, Those who wish to bake these “potentially hazardous” items must obtain, among other things, sophisticated licensing, and have access to a commercial kitchen that is licensed and inspected by the health department.

That means either opening one's own commercial bakery or having access to a commissary kitchen of sorts. With this understood, the statutes should be amended for several reasons to allow these now prohibited baked goods to be baked in the home kitchen under the state’s cottage food law. As most individuals who engage in cottage baking have no short term interest or resources in opening an actual facility, I will focus on the problems with commissary kitchens.

**The first reason is the economic aspect.** It is beyond debate that using a commissary kitchen can be quite cost prohibitive for the average individual. These entities can range from roughly \$250 on the low end, to in excess of \$5000 or more dollars per month on the high end. Additionally, such facilities may charge extra for the use of their equipment, storage of goods/supplies, insurance, and other related costs. For individual bakers who may already be financially challenged, these overhead expenses can be extremely detrimental for the operation of their business, especially if it is just one or two products that they are using the kitchen for, e.g. cheesecakes, custards.

Moreover, the aforementioned costs do not take into account the additional fees which local governments may impose in order to become licensed to produce these items. For example, Baltimore City requires a “Catering License” which costs \$655 per year, Baltimore County requires a “High Priority Food Licence” which costs \$545 per year, and Howard County requires a “High Priority License” which costs \$415 per year, and Anne Arundel County’s Licensure costs nearly \$1,000 per year as of January 2025, just to name a few. Operating a business is expensive in itself, and the state’s law requiring commercial kitchens for certain baked goods only serves to burden individuals with more prohibitive and unnecessary costs. The law should strike a fair balance between supporting the entrepreneur and protecting food safety, and there is no overwhelming evidence to suggest that allowing “potentially hazardous” baked goods for home sale (as many states do) would pose a significant threat to public health. If these goods could be baked in the home oven, overhead costs in this respect would be non-existent.

**The second point against commissary kitchens is the availability aspect.** As you may or may not be aware, most of these facilities have a limit on how many tenants they have on their roster at any given time, which means if they are booked to capacity, you must find another facility. If you are fortunate, you may be placed on a waiting list should a vacancy occur, but like trying to find housing in certain aspects, that could take months or even years. If you do find another kitchen, it may be out of your price range, leading the individual back to square one. What occurs with your enterprise during that time? Similarly, while certain facilities may have availability and affordability, as a tenant, you may be restricted to its use only on certain days or hours. As many of them are entirely communal in nature, other tenants having been there are likely to have first preference. New tenants are thus placed at a significant disadvantage in being able to produce their products. Moreover, all of these facilities have business hours, and if you are unable to use them during their business hours, then no baking and selling can occur according to state law. The bottom line is that this is no way to run a business, and having to use a commissary kitchen places a potential undue burden on the individual when access to the facility may not be consistently guaranteed or even possible. By allowing the prohibited baked goods to be produced at home, one could consistently operate without concerns over availability or basic access to a commissary

kitchen at all.

**The third argument against forced use of commissary kitchens is the potential for location disadvantage.** It is a fact that such kitchen facilities are not ubiquitous. With that, they may be a prolonged distance from the house of the baker, requiring burdensome travel to be able to bake the prohibited items excluded from cottage protections. While the Baltimore area and Maryland's D.C. suburbs may have a decent amount of commissary kitchens, those living in more rural areas of the state may have a much more challenging time finding one which is of reasonable traveling distance. Thus getting to the facility itself may be prohibitive and counterproductive for those wishing to bake certain items not allowed for home sale. A basic fact is that not everyone drives, and bus/rail service outside the major population centers is either scant and inconsistent at best or nonexistent at its worst. Geographical limitations are thus another way the current state restriction on certain baked goods impede the growth of such small businesses. By amending the state law to allow these baked goods to be produced at home, geographic challenges of any sort would cease to exist.

**The fourth and final argument against commissary kitchens is the time disadvantage.** Using a commissary kitchen for the purposes of baking certain prohibited goods places a significant time disadvantage on the home baker. Assuming one has found a facility that has availability, that they can reasonably travel to, that they can use during their business hours and without access conflict with a fellow tenant, spending hours at one of these kitchens requires a tremendous sacrifice of time out of one's day. I speak as a single man with a full time career and no spouse or children, but can only imagine the time loss one must take in having a spouse and family to consider as well. Not only does one have to travel to this facility, but then prepare their wares, bake them, wait for them to bake, and then wrap them for storage in said facility as well. That alone may easily devour three or more hours of one's valuable time which may have been spent doing productive things outside that kitchen. Time is precious, and unlike money, it can never be regained. As such, the state's requirement to use a commercial kitchen places an undue burden on the business owner by forcing them to forfeit valuable time at these facilities. It is another compelling reason why the law should be amended to allow for the baking of "potentially hazardous baked goods" in the home where the baker can function without interference with one's valuable time and schedule.

With these points of advocacy noted, I move to provide suggestions for amending these restrictions as they stand. The State of Ohio provides a very good compromise example in which Maryland could adopt if there is broad opposition to changing the Cottage Food restrictions on baked goods. In Ohio, in addition to their Cottage Food laws (which are similar to Maryland's) individuals may apply for a license to have a "Home Bakery". Under such licensure, Ohioans are permitted to bake all

things permitted under the Cottage Food laws as well as certain “potentially hazardous” baked goods, such as cheesecakes, custard, meringues, pumpkin pies, etc. Moreover, the Home Bakery is subject to regulations and restrictions as if it were a standard retail bakery, such as regular inspections, prohibitions on pets being in the property, property sanitizing of utensils and other equipment, oven requirements, refrigeration requirements, proper labeling and much more. With this privilege, persons may sell their goods not only to the people of Ohio, but those in other states as well. For reference purposes, here is link to their law: <https://agri.ohio.gov/divisions/food-safety/resources/home-bakery>

Should Maryland consider amending its Cottage Food laws to either simply include the “potentially hazardous” baked goods, or enacting a compromise “Home Bakery” license like Ohio, I would not oppose a regulatory scheme to ensure that potentially hazardous baked goods are produced in clean, properly structured home kitchens that is subject to regular inspections. These inspections could logically take place every six months, or a minimum once per year. These particulars can certainly be worked during legislative deliberations.

In summary, Maryland’s prohibition on “hazardous food items” with respect to baked goods, presents both a visible cost prohibitive and mobile barrier to cottage food bakers. By removing said prohibition and placing reasonable regulations on the production of “hazardous” baked goods, Maryland would facilitate small business growth and continue to ensure food safety principles. The current status quo serves little more than to discourage the starting and development of small business in Maryland, something that should never be. The state should always be trying to encourage individuals to pursue the American dream, not kill it at the outset. Maryland already has a very bad reputation of being a very difficult state to start and maintain a business, especially a small business due to our excessive regulatory structure, high taxes and bloated fees. We have the ability to make our state a much more friendly climate for small businesses one law at a time, and cottage food businesses are an excellent place to begin this task. Thank you for your time and consideration of this matter.

Respectfully Submitted,

Juarez Lee-Shelton

