

Revision to MD Cottage Food Law (3).pdf

Uploaded by: Juarez Lee-Shelton

Position: FAV

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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

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

SB 701 Cottage Foods testimony (1).pdf

Uploaded by: Justin Ready

Position: FAV

JUSTIN READY
Legislative District 5
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MINORITY WHIP
Finance Committee



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 28, 2025

SB 701

Public Health - Cottage Food Products - Nonpotentially Hazardous Foods and Refrigerated Baked Goods

Chair Beidle, Vice Chair Hayes and member of the Finance Committee:

Senate Bill 701 was brought to me by a constituent currently engaged in the cottage baking business. He hopes to expand his business by adding items that require refrigeration, what is currently labeled as “potentially hazardous”. The list of these items is long but includes items like cheesecakes, custards, merengues, fresh fruit tarts, and pumpkin pies. Currently, to produce and sell these items, you must have access to a commercial kitchen that is licensed and inspected by the health department.

Working out of a commercial kitchen or commissary kitchen can be quite expensive and they often charge more for use of their equipment. Location of a kitchen of this type are not available everywhere, creating a huge disadvantage. This arrangement would also require a catering license, which can cost from \$400 to \$1,000 depending on the county. You also typically have limited access to the facility and be required to work only during their business hours. Baking at home would eliminate these overhead costs.

Ohio has a Home Bakery Law which requires a \$10 license.¹ This law allows your home to be recognized as a bakery and allow you to prepare perishable baked goods for sale. A "Home Bakery" is permitted to manufacture non-potentially hazardous bakery products (such as cookies, breads, brownies, cakes, fruit pies, etc.), and potentially hazardous bakery products (such as cheesecakes, cream pies, custard pies, pumpkin pies, etc.) which require refrigeration.

For these reasons, I respectfully request a favorable vote on Senate Bill 701.

¹ [Home Bakery](#)

Testimony of Kimberly Treacy SB 0701 2:28:2025.pdf

Uploaded by: Kimberly Treacy

Position: FAV

Prepared Testimony of Kimberly Treacy
Senate Finance Committee Hearing on SB 0701
Public Health – Cottage Food Products –
Non-potentially Hazardous Foods and Refrigerated Baked Goods

February 28, 2025

In March of 2018, I sat in the gallery and listened to several home bakers provide testimony in support of House Bill 1106, which would greatly expand one of the most restrictive cottage food laws in the nation. Today, I am compelled to stand up and speak up before this committee to let you know that, seven years later, many home bakers are suffering under misguided policy decisions by the Maryland Department of Health bureaucrats that seem to undermine the legislative intent of Maryland lawmakers.

I have great admiration for bureaucrats – I was one. I enlisted in the U.S. Army Reserve during college, and, after graduation, I began working for the federal government. While employed, I earned a master's in government from Johns Hopkins University. I spent a decade in the federal government and met my fair share of bureaucrats all over the world, but the ones at the Maryland Department of Health really take the cake.

In 2018, the Maryland legislature passed House Bill 1106 with resounding bipartisan support so that home bakers could legally engage in state commerce and earn a living. Unfortunately, since then, home bakers have been on a roller coaster of new policies and frequent policy changes issued by the Department of Health that continually hinder our ability to run a successful business. We jump through hoop after hoop and never feel like we are on solid ground. A fellow home baker cited being “tired of all the random cottage laws,” as a reason she closed her successful cottage food business in 2023. Other home bakers lament that things are worse now than they were before we got the laws expanded in 2018.

Just last week, after taking several months off to recover from some injuries, I found out that bureaucrats in the Department of Health quietly destroyed my cottage food business model with an FAQ-style update posted to their website. My cottage food business consists almost

exclusively of teaching cookie-decorating classes. This business model works best for me as I navigate the sandwich generation of caring for school-age children and an elderly parent.

In 2020, I began teaching cookie-decorating classes after I was selected as an instructor at Cookie Con, a cookie-decorating convention attended by hundreds of cookie decorators from around the world. I have invested thousands of dollars in my cottage food business, including LLC fees, insurance premiums, website fees, education/professional development, marketing, equipment, cookie cutters, labels/packaging, and class materials. In addition to my for-profit classes, I have donated several cookie-decorating classes over the years that have raised thousands of dollars for local schools and non-profits.

According to the information on the Department of Health website (<https://health.maryland.gov/phpa/OEHFP/OFPCHS/Pages/Cottagefoods.aspx>), “packaging of wet icing is not allowed.” This policy makes no sense as every cookie decorator safely uses bagged icing in their home kitchens to prepare products that are allowable under cottage food laws. Furthermore, they already require us to have our icing tested by an accredited lab for food safety.

As a “solution,” the Department of Health proposes that we can provide the ingredients for icing and “class participants would be able to reconstitute the icing and decorate baked goods at the decorating class.” I am very curious how they came to the conclusion that having multiple people, including children, each operating electric mixers (plugged into outlets!) in a classroom setting with limited hand-washing stations protects the public’s health and safety more than bagged icing – prepared in my home kitchen in the same manner that I would prepare icing used to decorate cookies allowable for sale under cottage food laws? It is absurd, and a perfect example of how the Department of Health seems more interested in thwarting the success of cottage food businesses than engaging in thoughtful and informed policymaking to protect the public’s health and safety.

I hope that passage of Senate Bill 0701 will put an end to the Maryland Department of Health’s executive overreach that has plagued the Maryland cottage food industry for years. This

bill is an indictment of the behavior of bureaucrats at the Department of Health who have subverted legislative intent, and by default, the will of the people for far too long.

Let me be clear – no one – especially cottage food makers, wants to put the public's health at risk. However, we must also acknowledge the fact that every single person in this room has been fed by home cooks *their entire lives*. Humans have been fed by home cooks for millennia. The Department of Health has lost sight of this. I cannot testify as to why they seem so intent on squashing cottage food businesses; I can only testify that they have succeeded in destroying mine.

This month, I celebrate eleven years of cookie decorating. I have safely baked thousands of cookies for all types of people and events. I have had the solemn honor of gifting cookies for a young veteran and his family to celebrate Thanksgiving while in hospice at Walter Reed. I have made cookies to celebrate teachers, deployed troops, first responders, nurses, local small businesses and authors, including the Duchess of York on her book tour of the United States. Through cookies, I have helped raise money for pediatric cancer research, homeless shelters, the ALS Foundation, the Cystic Fibrosis Foundation, World Central Kitchen, local youth sports and local schools/parent teacher organizations.

Home bakers are a *good thing*. We do *good work*. We are there for our communities to celebrate life's milestones and provide support during the tough times, too. Cookies have enriched my life beyond measure through the people I have met and the joy my craft brings into their lives. Please, help Maryland cottage food makers succeed without fear of the rug being pulled out from under us by the misguided whims of the executive branch. Senate Bill 0701 is a step in the right direction, but I also believe an oversight committee comprised of cottage food makers and representatives from the Department of Health, the Comptroller of Maryland, and the legislative branch would be invaluable moving forward to make sure all stakeholders are considered and a balance is achieved between public safety and commerce.

Thank you for your time and attention. It has been an honor to testify before you today.

SB 701 - FIN - MDH- LOO.docx (1).pdf

Uploaded by: Meghan Lynch

Position: UNF



Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

February 28, 2025

The Honorable Pamela Beidle
Chair, Finance Committee
3 East Miller Senate Office Building
Annapolis, MD 21401-1991

RE: Senate Bill (SB) 701 – Public Health – Cottage Food Products – Nonpotentially Hazardous Foods and Refrigerated Baked Goods – Letter of Opposition

Dear Chair Beidle and Committee members:

The Maryland Department of Health (the Department) respectfully submits this letter of opposition for Senate Bill (SB) 701 – Public Health – Cottage Food Products – Nonpotentially Hazardous Foods and Refrigerated Baked Goods. SB 701, if enacted, will modify the definition of a cottage food product to include refrigerated baked goods (i.e., cheesecake, custard and meringue, fresh fruit tarts, and refrigerated nonmeat pies), in addition to non-potentially hazardous food.

As defined in Health-General Article §21-301(b-2), cottage foods are limited to non-potentially hazardous baked goods such as cookies, breads, etc. These low-risk foods do not require time and temperature control to remain safe. Foods requiring refrigeration are not included as cottage foods because they present a much greater risk of foodborne illness if handled unsafely. Cottage food businesses are not subject to licensure or routine inspections, and therefore food safety practices cannot be monitored and consumers cannot be assured of the quality and safety of their products.

The National Environmental Health Association (NEHA) presented data from the National Outbreak Reporting System that showed that there were 1,225 reported foodborne illness outbreaks, 22,893 illnesses, 2,737 hospitalizations, and 89 deaths attributed to food prepared in private homes and residences from 2008–2018.¹ Processes such as baking, refrigerating, frying and freezing do not kill all types of foodborne illness pathogens. For example, salmonellosis has been proven to survive the baking and refrigeration process in cheesecake.² Of the proposed

¹ *Policy Statement on Food Freedom Operations*. (2022). National Environmental Health Association. <https://www.neha.org/Images/resources/NEHA-Policy-Statement-Food-Freedom-Operations-Final-Jan-2022.pdf>

² Hao, Y. Y., Scouten, A. J., & Brackett, R. E. (1999). Cheesecake: a potential vehicle for salmonellosis? *Journal of Food Protection*, 62(1), 26–29. <https://doi.org/10.4315/0362-028x-62.1.26>

³ Poetter, C., Kunstmann, G., Peter, D., & Mattner, F. (2014). Containment of a cheesecake-associated outbreak of salmonellosis in 3 different hospitals, detected by continuous microbiologic surveillance. *American Journal of Infection Control*, 42(7), 816–817. <https://doi.org/10.1016/j.ajic.2014.03.013>

refrigerated food items: cheesecake, meringue, custard and fresh fruits, all have been implicated in foodborne outbreaks.^{3,4,5,6}

For these reasons, the Department respectfully urges an unfavorable report on Senate Bill 701. If you would like to discuss this further, please do not hesitate to contact Sarah Case-Herron, Director of Governmental Affairs at sarah.case-herron@maryland.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Laura Herrera Scott'.

Laura Herrera Scott, M.D., M.P.H.
Secretary

⁴ Mazurek, J., Holbert, L., Parrish, M. K., & Salehi, E. (2005). Raw Eggs—Lessons Learned From an Outbreak of Salmonella Serotype Enteritidis Infections Associated With Meringue Pie. *Journal of Public Health Management and Practice*, 11(3), 201–207. <https://doi.org/10.1097/00124784-200505000-00004>

⁵ Barnes, G. H., & Edwards, A. T. (1992). An investigation into an outbreak of *Salmonella enteritidis* phagetype 4 infection and the consumption of custard slices and trifles. *Epidemiology and Infection*, 109(3), 397–403. <https://doi.org/10.1017/s095026880005038x>

⁶ Melo, J., & Quintas, C. (2023). Minimally processed fruits as vehicles for foodborne pathogens. *AIMS Microbiology*, 9(1), 1–19. <https://doi.org/10.3934/microbiol.2023001>

SB 701 - FIN - MACHO - LOO.docx.pdf

Uploaded by: State of Maryland (MD)

Position: UNF



Affiliates of
The Maryland Association of Counties, Inc.

TO: Members of the Senate Finance Committee

FROM: Maryland Conference of Environmental Health Directors
Maryland Association of County Health Officers (MACHO)

RE: SB 701 – Public Health – Cottage Food Products – Nonpotentially Hazardous Foods and Refrigerated Baked Goods

POSITION: Letter of Opposition

The Maryland Conference of Local Environmental Health Directors (Conference) and the Maryland Association of County Health Officers (MACHO) provide this Letter of Opposition for SB 701. In their capacities as the state's twenty-four Health Officers who oversee the state's twenty-four local public health departments and their Environmental Health Directors who carry out delegated authorities from both MDE and MDH, they have the responsibility for local enforcement and response. Our members have the following public health concerns:

As stipulated in the definition of refrigerated baked good, this legislation would allow products to be produced in a home kitchen that require refrigeration to ensure food safety, without adequate oversight or regulation.

Without regulatory oversight, there is no control over the processes that prevent the introduction of pathogens into the product.

Home refrigeration is not designed to cool products quickly and may not hold products at the proper temperature, allowing the proliferation of pathogens in the product.

Without safeguards to how the products are prepared and stored, these products present a risk to public health.

Therefore, MACHO and the Conference provide a **letter of OPPOSITION** for SB 701.

For more information:

Conference: Lisa A Laschalt, President, Maryland Conference of Local Environmental Health Directors, Phone: 301-609-6758, lisa.laschalt@maryland.gov

MACHO: Ruth Maiorana, Executive Director, Maryland Association of County Health Officers, Phone: 410-937-1433, rmaiora1@jhu.edu

This communication reflects the position of MACHO and the Conference.