

By: Senator(s) Seymour

To: Agriculture

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2638

1 AN ACT TO AMEND SECTION 75-29-951, MISSISSIPPI CODE OF 1972,
2 TO FURTHER DEFINE COTTAGE FOODS AND RELATED TERMS; TO PROVIDE A
3 LIST OF FOODS THAT ARE AUTHORIZED AS COTTAGE FOODS WITHIN THE
4 STATE; TO INCREASE THE MAXIMUM ANNUAL GROSS SALES FOR A COTTAGE
5 FOOD OPERATION TO BE EXEMPT FROM FOOD ESTABLISHMENT PERMIT FEES;
6 TO AMEND SECTION 67-3-11, MISSISSIPPI CODE OF 1972, TO EXEMPT
7 HOMEMADE ALCOHOL PRODUCTS SOLD IN A COTTAGE FOOD OPERATION FROM
8 HOMEMADE WINE AND BEER RESTRICTIONS; AND FOR RELATED PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 **SECTION 1.** Section 75-29-951, Mississippi Code of 1972, is
11 amended as follows:

12 75-29-951. (1) As used in this section, the following words
13 have the following meanings unless context clearly provides
14 otherwise:

15 (a) "Cottage food" means products that are specific
16 types of foods that individuals are allowed to make in their
17 private homes with the intention to sell said food items for
18 public consumption. Cottage foods must:

19 (i) Be nonhazardous;

20 (ii) Not require time and/or temperature control
21 to remain safe for consumption;



22 (iii) Be stored in the seller's home or
23 small-scale food operation following the safe food handling
24 guidelines outlined in the United States Food and Drug
25 Administration Retail Food Code to prevent adulteration caused by
26 insects, household chemicals, water damage, unsanitary conditions
27 and any other spoilage that would cause the cottage food products
28 to be unsafe for consumption; and

29 (iv) Not have been found to support the growth of
30 pathogens by the Food and Drug Administration.

31 (b) "Private home" means the location where a person
32 resides.

33 (c) "Specific types of foods" means foods approved as
34 cottage foods as listed in subsection (2) of this section.

35 (2) Approved cottage foods include, but not limited to:

36 (a) Baked goods without cream, custard or meat
37 fillings;

38 (b) Candy and confections;

39 (c) Chocolate covered nonperishable foods;

40 (d) Dried fruit, excluding melons;

41 (e) Dried pasta;

42 (f) Dried spices;

43 (g) Dried baking mixes;

44 (h) Granola;

45 (i) Cereal;

46 (j) Trail mixes;



- 47 (k) Dry rubs;
48 (l) Fried pies;
49 (m) Jams, jellies, and preserves that comply with the
50 standard described in part 150 of Title 21 of the Code of Federal
51 Regulations;
52 (n) Nut mixes;
53 (o) Popcorn;
54 (p) Vinegar;
55 (q) Mustard;
56 (r) Waffle cones;
57 (s) Acidified products which meet the definition as
58 stated in part 114 of Title 21 of the Code of Federal Regulations;
59 (t) Wine and any alcoholic beverage, as defined in
60 Section 67-1-5, or beer, light wine or light spirit product, as
61 defined in Section 67-3-3;
62 (u) Dried herbs, teas and vegetables; and
63 (v) Sorghum.

64 (* * *3) (a) A cottage food operation must comply with the
65 applicable requirements of this section but is exempt from the
66 permitting requirements of Section 41-3-18 if the cottage food
67 operation complies with this section and has annual gross sales of
68 cottage food products that do not exceed * * * Fifty Thousand
69 Dollars (\$50,000.00).

70 (b) For purposes of this subsection, a cottage food
71 operation's annual gross sales include all sales of cottage food



72 products at any location, regardless of the types of products sold
73 or the number of persons involved in the operation. A cottage
74 food operation must provide the department, upon request, with
75 written documentation to verify the operation's annual gross
76 sales.

77 (* * * 4) A cottage food operation may not sell cottage food
78 products over the internet, by mail order, or at wholesale or to a
79 retail establishment; however, this does not prohibit the
80 advertising of cottage food products over the internet, including
81 through social media. * * *

82 (* * * 5) A cottage food operation may only sell cottage
83 food products which are prepackaged with a label affixed that
84 contains the following information:

85 (a) The name and address of the cottage food operation;

86 (b) The name of the cottage food product;

87 (c) The ingredients of the cottage food product, in
88 descending order of predominance by weight;

89 (d) The net weight or net volume of the cottage food
90 product;

91 (e) Allergen information as specified by federal
92 labeling requirements;

93 (f) Appropriate nutritional information as specified by
94 federal labeling requirements, if any nutritional claim is made;
95 and



96 (g) The following statement printed in at least
97 ten-point type in a color that provides a clear contrast to the
98 background of the label: "Made in a cottage food operation that
99 is not subject to Mississippi's food safety regulations."

100 (* * *6) This section does not exempt a cottage food
101 operation from any federal tax laws, rules, regulations, or
102 certificates that applies to all cottage food operations.

103 (* * *7) (a) The department may investigate any complaint
104 that alleges that a cottage food operation has violated an
105 applicable provision of this section or rule adopted under this
106 section.

107 (b) Only upon receipt of a complaint, the department's
108 authorized officer or employee may enter and inspect the premises
109 of a cottage food operation to determine compliance with this
110 section and department rules. A cottage food operation's refusal
111 to permit the department's authorized officer or employee entry to
112 the premises or to conduct the inspection is grounds for
113 disciplinary action pursuant to Section 41-3-59.

114 (* * *8) This section does not apply to a person operating
115 under a food permit issued pursuant to Section 41-3-18.

116 **SECTION 2.** Section 67-3-11, Mississippi Code of 1972, is
117 amended as follows:

118 67-3-11. (1) Every person shall have the right to make
119 homemade wine for domestic or household uses only, free of all
120 restraint by this chapter or otherwise, and no such election as



121 provided for in Sections 67-3-7, 67-3-9 and 67-3-13, shall deprive
122 any person of the right to make homemade wine for domestic or
123 household uses only.

124 (2) (a) Every person twenty-one (21) years of age or older
125 shall have the right to make homemade beer for personal, family,
126 domestic or household uses without restraint by this chapter or
127 otherwise.

128 (b) The maximum amount of homemade beer that a person
129 may make in a calendar year shall not exceed:

130 (i) One hundred (100) gallons if there is only one
131 (1) person over the age of twenty-one (21) years of age residing
132 in the household; and

133 (ii) Two hundred (200) gallons if there are two
134 (2) or more persons over the age of twenty-one (21) years residing
135 in the household.

136 (c) A person who makes homemade beer as authorized in
137 this section may remove the beer from the premises of the
138 household where it is made and transport the beer only for the
139 purpose of participating in a bona fide exhibition, contest or
140 competition where homemade beer is being tasted and judged;
141 however, homemade beer may not be sold or offered for sale under
142 any circumstances.

143 (3) The restrictions of subsections (1) and (2) of this
144 section do not apply for homemade wine and any alcoholic beverage,
145 as defined in Section 67-7-5, or beer, light wine or light spirit



146 products as defined in Section 67-3-3, when the individual is
147 creating homemade alcohol products as allowed by the cottage food
148 rules and regulations within Section 75-29-951. Homemade alcohol
149 products sold in a cottage food operation shall be subject to any
150 federal tax laws, rules, regulations, or certificates that apply
151 to all cottage food operations. Homemade alcohol products
152 produced for a cottage foods operation must utilize fruits, grapes
153 or muscadines that are one hundred percent (100%) grown in
154 Mississippi on the cottage food operator's farm or residence. A
155 cottage food operation shall not sell any homemade alcohol
156 products with a percent alcohol content that exceeds eighteen
157 percent (18%). A person creating homemade alcohol products to be
158 sold in a cottage food operation shall not create more than three
159 hundred (300) gallons of alcohol products per year.

160 **SECTION 3.** This act shall take effect and be in force from
161 and after July 1, 2024, and shall stand repealed on June 30, 2024.

