

REVENUE ESTIMATING CONFERENCE

Tax: Other Taxes and Fees

Issue: Cottage Food Operations

Bill Number(s): CS/HB 663

☒ **Entire Bill**

☐ **Partial Bill:**

Sponsor(s): Representatives Salzman and Botana

Month/Year Impact Begins: On the same date that HB 403 or similar legislation takes effect

Date of Analysis: 06/14/2021

Section 1: Narrative

- a. **Current Law:** Florida's cottage food law, s. 500.80, F.S., allows a person to use their home kitchen to produce foods that can be sold from their residence, at a limited number of locations (such as a farmers market), or through a website. Products sold through a website require the operator to deliver the food "in-person" directly to the consumer or consumer's venue. Cottage food operators must be natural persons whose operation is within his or her residence.

These operations are exempted from permitting and building requirements under the following conditions:

- The products must meet the definition of "cottage food product."
- The operator's annual gross sales must be less than \$50,000 (the gross sales limit was \$15,000 prior to 2017).
- The food must be properly labeled.

Qualifying foods are generally known as "non-potentially hazardous" or foods that do not require temperature control or refrigeration. These types of products limit pathogenic microorganism growth and toxin formation, such as certain confectionaries, breads, jams, jellies, and popcorn.

Operations that do not qualify under the cottage food law must obtain a food establishment permit from the Department of Agriculture and Consumer Services (department), which fee amount varies depending on the type of food establishment.

In addition to a food establishment permit, the department must assess a \$10 surcharge for use in an environmental health program. Specifically, the surcharge is used to educate, promote, and disseminate knowledge about the relationship between toxic substances and human health. After collection and deposit into the General Inspection Trust Fund, the department transfers it to the Department of Health.

- b. **Proposed Change:** The "Home Sweet Home Act" makes the following changes:
- Increases the annual gross sales limitation from \$50,000 to \$250,000.
 - Allows an operator to deliver products through the postal service or other commercial delivery service.
 - Allows a person who does not live in the residence to take an ownership interest in the operation.
 - Preempts regulation of operations to the state.

Section 2: Description of Data and Sources

House Staff Analysis, Senate Staff Analysis, Department of Agriculture and Consumer Services Bill Analysis, Discussion with the Department of Agriculture and Consumer Services, McDonald Jennifer, Flour Power: How Cottage Food Entrepreneurs Are Using Their Home Kitchens To Become Their Own Bosses, Institute for Justice, September 2018.

Section 3: Methodology (Include Assumptions and Attach Details)

The law change affects revenue in likely two ways. There are cottage food operators that would surpass the \$50,000 threshold within the forecast window that will not need to get a food establishment permit because the threshold is now increased, and there are cottage food operators that already have food establishment permits that will no longer need to renew them.

We know little about these two cohorts because Florida law does not require cottage food operators to register as a cottage food operation nor does it require current food establishment permit holders to inform the department about their sales amount. There are multiple reasons why an operation may obtain a permit today that inherently make the impact from the law change indeterminate. For example, the gross sales exceed the \$50,000 threshold or the operation is established as a partnership. However, third party research in conjunction with Department of Agriculture and Consumer Services information on current permit holders can help to understand the magnitude of the law change.

REVENUE ESTIMATING CONFERENCE

Tax: Other Taxes and Fees

Issue: Cottage Food Operations

Bill Number(s): CS/HB 663

A study conducted by The Institute for Justice identified 25,418 operations across 25 states where some form of registration is required. As of 2017, Arizona had 5,671 registrations. In contrast, Delaware had registered only six. The mean number of operations was 1,017 and the number of registered operations was skewed to the low side. With assistance from the department by reviewing each permit category for the likelihood that an operation may be contained within, the current number of permit holders (47,378) was reduced by category type to identify an upper bound of 10,698.

A couple of factors that could mitigate the significance of the law change are (1) that as an operation grows the space and equipment available in a home kitchen may be insufficient to handle the volume and (2) reported sales amounts included in the IJ study could indicate a “natural” ceiling regardless of Florida’s newly increased limit. The IJ study sent a survey to 775 operations. Of the 548 respondents who provided a response to the question on sales amount, only 17 (3%) reported sales between \$50,000 and \$250,000. This low figure is likely explained by the fact that these food items tend to be low-dollar products that would take large volumes to meet higher gross sales amounts.

To generate a significant impact, the number of operators required to forgo obtaining a new permit or renewing an old permit is only 250. (50,000/\$200). Using the IJ study and data from the department, this analysis estimates approximately 491 operators could avail themselves of the change in law. Assume that 3 percent of Arizona’s cottage food operations are those that would be required to obtain a new permit, then 170 operators could forgo obtaining a permit. In addition, 3 percent of the upper bound of current permit holders equals 321 operators, which would not renew their existing permit.

Section 4: Proposed Fiscal Impact

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2021-22			(**)	(**)		
2022-23			(**)	(**)		
2023-24			(**)	(**)		
2024-25			(**)	(**)		
2025-26			(**)	(**)		

List of affected Trust Funds:

General Inspection Trust Fund

General Revenue Service Charge

Section 5: Consensus Estimate (Adopted: 06/14/2021): The Conference adopted the proposed estimate.

	GR		Trust		Local/Other		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2021-22	(**)	(**)	(**)	(**)	0.0	0.0	(**)	(**)
2022-23	(**)	(**)	(**)	(**)	0.0	0.0	(**)	(**)
2023-24	(**)	(**)	(**)	(**)	0.0	0.0	(**)	(**)
2024-25	(**)	(**)	(**)	(**)	0.0	0.0	(**)	(**)
2025-26	(**)	(**)	(**)	(**)	0.0	0.0	(**)	(**)

REVENUE ESTIMATING CONFERENCE

Tax: Other Taxes and Fees

Issue: Cottage Food Operations

Bill Number(s): CS/HB 663

FE Type	Total	Hemp	Non-Hemp	Likelihood	Recast	Fee Amount	EPI Fee
Bottling Plant	112	9	103	-	-	385	10
Bottling Water Plant	54	8	46	-	-	500	10
Canning Plant	129	13	116	-	-	490	10
Convenience Store	4,556	547	4,009	0.24	962	330	10
Convenience Store with Limited Food Service	5,083	1,805	3,268	0.24	784	430	10
Convenience Store with Significant Food Service	4,229	1,442	2,787	0.24	669	475	10
Food Salvage Center	6	-	6	-	-	470	10
Food Storage Warehouse	2,210	297	1,913	-	-	355	10
Grocery Store	1,431	118	1,313	-	-	540	10
Health Food Store	1,101	667	434	1.00	434	300	10
Health Food Store with Food Service	597	139	458	1.00	458	415	10
Limited Poultry and Egg	272	-	272	-	-	100	10
Limited Sales	1,510	17	1,493	-	-	130	10
Meat Market	256	8	248	-	-	455	10
Minor Outlet	4,634	95	4,539	0.24	1,089	300	10
Minor Outlet, Only Non-perishable Foods	5,723	939	4,784	0.24	1,148	190	10
Minor Outlet with Limited Food Service	403	50	353	0.24	85	415	10
Minor Outlet with Significant Food Service	266	23	243	0.24	58	470	10
Mobile Vendor	3,074	91	2,983	1.00	2,983	300	10
Packaged Ice Plant	659	1	659	-	-	250	10
Processors, Other Non-perishable Foods	1,311	260	1,051	0.24	252	335	10
Processors, Other Perishable Foods	770	29	741	-	-	490	10
Rabbit or Game Processor	-	-	-	-	-	390	10
Retail Bakery	664	11	653	1.00	653	355	10
Retail Bakery with Food Service	940	12	928	1.00	928	490	10
Salvage Store	40	3	37	-	-	470	10
Seafood Market	1,197	5	1,192	-	-	410	10
Seafood Processor	347	4	343	-	-	520	10
Semi-permanent Vendor	66	-	66	1.00	66	195	10
Supermarket	2,228	1,625	603	-	-	650	10
Tomato Packing House	1	-	1	-	-	100	10
Wholesale Bakery	558	21	537	0.24	129	530	10
Unattended Food Establishment	83	-	83	-	-	175	10
Water Vending Machine	2,868	-	2,868	-	-	35	10
Total FEs:	47,378		39,130		10,698		