



Assemblymember Robert Rivas, 30th Assembly District

AB 1144 – Cottage Food Laws

SUMMARY

Cottage Food Operations (CFOs) are small food businesses operated by individuals that make food in their homes and sell it to the public. AB 1144 will update California's outdated cottage food laws by raising the sales limit from \$50,000 to \$100,000 and simplifying the approval process of a sample product label for CFOs. AB 1144 will also allow the sale of homemade food through the mail and other third-party delivery services.

BACKGROUND

In 2013, the California Homemade Food Act, was signed into law by Governor Brown. As a result, private homes could now sell their cottage foods to the public. Over one thousand CFOs sprung up just one year after passage of the initial law. The current estimates of CFOs in the state are around five thousand, with about 55% in rural areas, despite only 19% of the state's population living in rural regions.

In 2017, the Institute for Justice conducted a nationwide study showing that 83% of CFOs are women-owned businesses. The study depicts how cottage food laws affect rural communities that rely on their business for supplemental income or as a full-time job. 49% of the CFOs sell at farmers markets.

Currently, there are two types of licenses for CFOs: "Class A" and "Class B". A "Class A" license only allows "direct sale," which means the purchase of food products directly from the CFO. Farm stands and temporary events are examples of direct sales. A "Class B" license allows both direct and "indirect sales," which means to purchase a food product of a CFO from a third-party retailer. Purchasing a food product of a CFO at a restaurant or a grocery store is an example of an indirect sale.

PROBLEM

Currently, a Class B CFO cannot fulfill an indirect sale of homemade food through the mail or other third-party delivery services across the state. The Institute for Justice study shows that cottage food laws are especially used by people in rural areas, who would benefit from mail orders. As a result, 18 states currently allow in-state mail orders of homemade food. With nearly half of CFOs selling at farmers markets, the pandemic has negatively impacted them.

In addition, the efficiency of the review process for sample labels is low and the cohesion of health departments concerning this issue is fragmented. Sample labels are previews of information that will be attached to the food packaging; health departments inspect these labels to assure the information is accurate. Almost half of the health departments in California limit their review of sample labels, but the other half of departments prolong the process by requiring more labels. Health departments frequently worry about the safety risks involved with limiting the review of sample labels, but out of the 49 states that have cottage food laws, there have never been any known outbreaks of foodborne disease from a cottage food product.

In California, the sales limit for CFOs is set at \$50,000 and does not increase with inflation. Twenty-eight states, and the District of Columbia, do not have a cap on a sales limit. CFOs annually make an average of \$36,000 as a result of keeping approximately 30% profit from their business. California's sales limit hinders the growth of small local CFOs, many of which would be otherwise able to reach more customers but are unable to due to the limit.

SOLUTION

AB 1144 will make a number of updates to California's cottage food laws, including allowing Class B CFOs to make "indirect sales" throughout the state and authorizing in-state delivery of products via mail order and other third-party delivery services. California will join other states by not restricting indirect sales between counties.

AB 1144 will also simplify the approval process of a sample product label by requiring the CFO to only submit one sample label per food category from the approved food products list. In addition, AB 1144 will allow a phone number and email address to replace a home address on labels.

Finally, AB 1144 will Increase the sales limit to \$100,000 and add a cost of living adjustment in order for the sales limit to match with the inflation each year. Together, these measures will ensure that California's cottage food laws are updated and also structured to assist small CFOs across the state.

SUPPORT



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- Institute for Justice (Sponsor)

FOR MORE INFORMATION

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