

Law Bulletin



THE OHIO STATE UNIVERSITY
COLLEGE OF FOOD, AGRICULTURAL,
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Law you need to know from OSU Extension's Farm Office

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Ohio's Cottage Food Law

Allowing entrepreneurs to make and sell lower risk home-produced food products

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Everyone loves the baked goods you make at home and you're wondering if you should start a food business and try selling them. What laws apply? Do you need a food license? What other home-produced foods could you sell? Ohio's Cottage Food Law addresses many of these questions, and we explain the law in this bulletin.

What is the Ohio Cottage Food Law?

Ohio's Cottage Food Law establishes legal requirements for producers who want to make and sell certain food products from the home or "cottage." The law designates certain foods that have a lower food safety risk as "cottage foods" and allows a home-producer to make and sell the cottage foods with little agency oversight and without obtaining a food license. At the same time, the Cottage Food Law prohibits a home-producer from selling acidified foods, low acid canned foods, and "potentially hazardous" foods, because these foods have a higher risk of creating a foodborne illness due to processing and changes

to the food's chemistry or because the food requires temperature control to keep from spoiling.

While the Cottage Food Law does not require a producer to obtain a food license to make and sell cottage foods, it does subject an Ohio cottage food producer to these four provisions in Ohio's administrative rules at O.A.C. 901:3-20:

- Label requirements for cottage foods
- Packaging of cottage foods
- Sales of cottage foods
- Product sampling authority

The Ohio Department of Agriculture (ODA) is the state agency responsible for implementing Ohio's Cottage Food Law. ODA has the authority to enforce the law's requirements and to determine which foods a home-producer can make and sell under the Cottage Food Law.

Which foods are "cottage foods"?

ODA is responsible for maintaining the list of cottage foods a home-producer may sell under the Cottage Food Law. ODA identifies which foods are cottage foods though the rule-making procedure, and regularly reviews and updates the list. The list of designated cottage foods is in Ohio Administrative Code Section 901:3-20-04. If a food is not on the cottage food list, it does not fall under Ohio's Cottage Food Law and instead is subject to a different food safety and licensing law in Ohio.

Here are the foods on Ohio's cottage foods list:

- Jams, jellies, fruit chutneys, and fruit butters (but not freezer or sugar-free products);
- Candy (but not fresh fruit dipped, covered, or otherwise incorporated with candy);
- Granola, granola bars, and granola bars dipped in candy (and any fruit used in these products must be commercially dried fruit);
- Flavored honey produced by a beekeeper exempt under O.R.C. 3715.021(A), when at least 75% of the honey is from the beekeeper's own hives;
- Maple sugar from a maple syrup producer exempt under O.R.C. 3715.021(A), when at least 75% of the sap is collected directly by the processor;
- Popped popcorn, including flavored popcorn, kettle corn, popcorn balls, and caramel corn;
- Unfilled, baked donuts;
- Waffle cones, including if dipped in candy;
- Pizzelles;
- Seasoned dry cereal and nut snack mixes;
- Roasted coffee, whole beans or ground, including flavored;
- Dry baking and cookie mixes;
- Dry herbs and herb blends;
- Dry soup mixes containing commercially dried vegetables, beans, grains, and seasonings;
- Dry seasoning blends;
- Dry tea blends;
- "Non-potentially hazardous" bakery products.

The last item above, "non-potentially hazardous" baked products, means that "potentially hazardous" baked goods are not on the cottage foods list. A producer must obtain a Home Bakery license for potentially hazardous baked goods (see our law bulletin on "[The Home Bakery Registration Law in Ohio](#)" for information on home bakeries). ODA provides the following guidance to help a

home-producer know whether a baked good is a "non-potentially hazardous" cottage food or a "potentially hazardous" baked good that requires a Home Bakery license:

<i>Non-potentially hazardous baked goods (cottage food)</i>	<i>Potentially hazardous baked goods (home bakery license)</i>
Cookies	Cheesecake
Brownies	Cream pie
Cake	Pumpkin pie
Bread	Fry pie
Fruit pie	Cream cheese frosting
Cobbler	Filled donuts
	Pepperoni rolls

Which foods are not cottage foods?

It is not always clear whether a food fits into the cottage foods list, so ODA maintains a list of foods that are not cottage foods. Different laws apply to food products that are not cottage foods. The list of foods that are not cottage foods includes:

- A food that requires refrigeration to keep from spoiling;
- Fresh fruit garnishes and fillings;
- Candied covered fresh fruit;
- Freezer jams and jellies;
- Sugar-free jams, jellies, and fruit butters;
- Hot pepper, nut, and pumpkin butters;
- Pickles, relishes, and other acidified foods;
- Salsa;
- Fresh pasta;
- Raw cookie dough and pizza dough;
- Cheesecake, cream pie, and pumpkin pie;
- Fry pies;
- Waffles or Belgian waffles;
- Cream cheese frosting;
- Hummus;
- Dehydrated fruits or herbs;
- Beef jerky;
- Meals.

Label requirements for cottage foods

Although a producer does not need a license to produce a cottage food, the food must be properly labeled. Ohio has its own requirements for cottage food labels and has also incorporated federal labeling laws. Taken together, the state and federal laws require a cottage food producer to provide the following information on a cottage food label:

- A “statement of identity” that names the food product according to its common name.
- The name, street address, city, state and zip code of the producer, known as the “statement of responsibility.”
- The net quantity of the product, using the terms “Net Weight” or “Net Wt.” and stating U.S. weight first, followed by international (metric) weight in parentheses. Net quantity must be within the bottom 30 percent of the label area and parallel to the bottom of the package when it is displayed.
- An ingredient list using common names, listed in descending order of predominance with the ingredient that weighs the most listed first. Note that [federal law prohibits](#) any partially hydrogenated oil as an ingredient due to safety

factors. For an ingredient consisting of two or more sub-ingredients, a list of the sub-ingredients in parentheses following the ingredient name.

- Identity of any proteins from a “major food allergen,” either by stating the name of the allergen in the ingredient list or by a separate statement of “Contains (list of allergens)” immediately after or adjacent to the ingredient statement. The nine major food allergens are milk, eggs, fish, crustacean shellfish, tree nuts, peanuts, wheat, soybeans, and sesame. The label must state the specific type of tree nut, fish, or crustacean shellfish.
- If making nutrient content or health claims like “low fat” or “may reduce heart disease,” the label must also contain a “Nutrition Facts” panel. See the Food & Drug Administration’s [resources on food labeling and nutrition](#).
- The following statement, in 10-point type:
This product is home produced.

Note that one cottage food is exempt from label requirements: fruit butter produced at a festival or celebration, if sold from the production site at an event organized by a political subdivision. In that case, the cottage food label requirements do not apply to the fruit butter.

Here is an example of a cottage food label that meets the legal requirements:



Packaging of cottage foods

There is only one legal provision in the Cottage Food Law that addresses packaging: the law prohibits the use of reduced oxygen packaging for cottage foods. This type of packaging includes both vacuum packaging and modified atmosphere packaging.

Sales of cottage food products

Ohio law prohibits out-of-state sales of Ohio cottage food products. An Ohio cottage food producer can only sell its cottage food products within Ohio. But there are no restrictions on sales that occur within Ohio. This means a cottage food producer can sell the food products directly to a consumer, either from the producer's home or from locations like farmers markets and festivals. Cottage food producers should check local zoning regulations, however, to ensure there is not a zoning restriction on home-based retail sales.

Ohio law specifically allows a retail food establishment or food service operation licensed under Chapter 3717 of the Ohio Revised Code, such as a grocery store, farm market, or restaurant, to purchase labeled cottage foods and either sell the foods themselves or incorporate them into food products they offer for sale.

Product sampling authority

Ohio law states that a cottage food producer may not sell "adulterated" or "misbranded" food. The Ohio Department of Agriculture (ODA) has the authority under O.R.C. 3715.02(B) to conduct food sampling on cottage food products to ensure that the products are not misbranded or adulterated. ODA can randomly sample cottage food products that are in the marketplace or can target a cottage food product for sampling because it is the subject

of a complaint or concern. If sampling reveals an issue adulteration or misbranding of the cottage food product, ODA will work with the cottage food producer to determine a remedy.

What if I want to produce a food that is not a cottage food?

As explained above, other licensing and legal requirements may apply to a food product that is not on the cottage food list and some of those products cannot be produced in a home. A home-based producer must identify the appropriate law that applies to the food item. Contact the Ohio Department of Agriculture Food Safety Division or your local health department with questions and refer to our law bulletin on "Ohio Licenses and Laws for Making and Selling Food Products."

Where to find Ohio's Cottage Food Laws

- Definition of "cottage food production operation" is in [O.R.C. 3715.01\(A\)\(19\)](#).
- Exemption for cottage food production operations is at [O.R.C 3715.021\(A\)](#).
- Restrictions on cottage food production operation is at [O.R.C. 3715.025](#).
- Cottage food label requirements are in [O.R.C. 3715.023](#) and [O.A.C. 901:3-20-02](#).
- ODA food sampling authority is at [O.R.C. 3715.022](#).
- Ohio cottage food regulations are in [O.A.C. 901:3-20](#).

FOR MORE INFORMATION FROM OSU EXTENSION'S AGRICULTURAL & RESOURCE LAW PROGRAM:

- Find our resources in the Law Library on the Farm Office website, <http://farmoffice.osu.edu>.
- Sign up to receive the Ohio Ag Law Blog by e-mail at <http://farmoffice.osu.edu/blog>.
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