

# Law Bulletin



OSU EXTENSION AGRICULTURAL &amp; RESOURCE LAW PROGRAM

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## Ohio's Home Bakery License: What's Required?

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Bakers who want to produce and sell baked goods such as cheesecakes, cream pies, custard pies, or pumpkin pies in Ohio must first obtain a “home bakery” license. These types of baked goods are considered “potentially hazardous” because they create food safety risks if not prepared and stored properly. To safeguard against a food safety incident, Ohio requires the home bakery to be inspected and licensed by the Ohio Department of Agriculture’s Food Safety Division.

### What is a home bakery?

Under Ohio Revised Code Section 911.02, a home bakery is defined as “[a]ny person who owns or operates a home bakery with only one oven, in a stove of ordinary home kitchen design and located in a home, used for the baking of baked goods to be sold.” The home bakery license is available for those who produce potentially hazardous baked goods in kitchens that are in homes ordinarily used by the owner as a primary residence. A home bakery kitchen may contain only one single or double oven, which cannot be a commercial oven. The following situations are not home bakeries, and likely require a “bakery” license rather than a home bakery license: the kitchen is not in a home, the home is not used as a residence, the home is not occupied by its owner, the kitchen is a second kitchen, the kitchen has multiple separate stoves or ovens, or the kitchen has a commercial stove or oven.

### Requirements for a home bakery license

The home bakery operator must apply for a license and pay a \$10 fee. The process begins by contacting the Food Safety Division at the Ohio Department of Agriculture at

(614) 728-6250. The Division will supply an application and arrange for an inspection. Once licensed, the operator must pay a \$10 annual renewal fee.

### What happens during a home bakery inspection?

An inspector from ODA will visit the home, meet with the applicant and inspect the home kitchen for the following:

- Walls, ceilings, and floors are clean, easily cleanable, and in good repair;
- Kitchen does not have carpeted floors;
- There are no pets or pests in the home;
- Kitchen, equipment, and utensils are maintained in a sanitary condition;
- Kitchen has a mechanical refrigerator capable of maintain 45 degrees and is equipped with a thermometer;
- If the home has a private well, proof of a well test completed within the past year and showing a negative test results for coliform bacteria;
- Food product labels that meet labeling requirements

### What type of food can be produced with a home bakery license?

With a home bakery license, you are permitted to produce both potentially hazardous and non-potentially hazardous good products. Potentially hazardous foods are those that are in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms—these are food products that require temperature control because they create risks for sickness if not prepared and handled properly. Examples of potentially hazardous baked goods are cheesecakes, custard pies, filled donuts, and cream pies – think of baked goods that typically need to be refrigerated.

With a home bakery license, you may also produce foods that are not “potentially hazardous” food products, which

fall under Ohio's cottage food law. For more information on cottage food regulations, see our bulletin entitled *Ohio's Cottage Food Law*.

### **Where can you sell home bakery food products?**

Home bakery products may be sold through a variety of outlets. As long as you have properly labeled the product, you may sell it:

- Directly from the home where it was produced
- Through grocery stores
- Through convenience stores
- At farm markets
- At farmer's markets
- To restaurants, which may serve the home bakery food products
- Unlike cottage food products, which you may sell only within Ohio, you may sell home bakery food products outside of Ohio.

### **Properly labeling and packaging of a home bakery food product**

You must label each food product produced in a home bakery and the label must include the following information:

- The name and address of the home bakery business
- The name of the food product
- The ingredients of the food product, in descending order of predominance by weight
- The net weight and volume of the food product
- If your home bakery product requires refrigeration, then you must include the language "Keep Refrigerated," or a similar statement, on your label

The labeling must meet the federal requirements found in 21 CFR Part 101, which requires an allergen statement if your product contains milk, eggs, fish, crustacean shellfish, tree nuts, wheat, peanuts or soybeans. Home bakery food products may be packaged in any way that is appropriate for the food product. For a more detailed explanation of the labeling and packaging requirement, see our bulletin on *Labeling and Packaging Home-Based Food Products*.

### **Liability issues**

Obtaining a home bakery license may be a perfect fit for an individual who does not want to jump right into opening up a storefront and would prefer to test the waters out first by producing and selling the products from the home. In Ohio,

there is very little cost associated with starting a home bakery business, other than paying the \$10 license fee and purchasing the supplies needed to produce the food.

However, the potential risk of liability could turn this low expense operation into a costly one. Passing an ODA inspection for a home bakery license is one layer of insurance against the possibility of a food safety incident – those who satisfy ODA's requirements have assurance that they're using good practices. But home bakers shouldn't use the license as the only form of insurance. Careful control of the home kitchen environment, continuous education on food safety practices, food product liability insurance coverage and formation of a business entity such as a Limited Liability Company are additional layers of liability protection. Because selling food products poses a high risk of legal liability, home bakers should consider the license as just one of several requirements for operating a home bakery business.

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