

Law Bulletin

OSU EXTENSION AGRICULTURAL & RESOURCE LAW PROGRAM

January 2014

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

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, the State of 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"? The home bakery license is only 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.

What's required for a home bakery license? The home bakery operator must apply for a license and pay a \$10 license 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 in 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 maintaining 45 degrees and 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 result for coliform bacteria;
- Food product labels that meet labeling requirements.

What if the baker also produces foods that are not "potentially hazardous"? An operator with a home bakery license may also produce and sell any food defined by Ohio law as a "cottage food." Cottage foods include non-hazardous baked goods such as cookies, cakes, fruit pies, brownies, breads, candies, jams, jellies, fruit butters, granola, popcorns, unfilled baked donuts, waffle cones, pizzelles, dry cereal, nut snack mixes with seasonings, roasted coffee, dry baking mixes, dry seasoning blends and dry tea blends. Those who produce *only* cottage foods do not need any type of license from ODA.

What if someone operates without a home bakery license? Failing to obtain the home bakery license can result in prosecution; the operator is subject to criminal misdemeanor charges. Additionally, those without a license may not be able to sell their baked goods in many situations, as it is common for farmer's markets and others to require that a vendor have the proper license.

A license is one form of food safety insurance. 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.

Author: Peggy Kirk Hall, Asst. Professor, Agricultural & Resource Law

