

HOME KITCHEN ACT (“CUPCAKE LAW”)

What is the Home Kitchen Act (or the “Cupcake Law”)?

Illinois counties and some municipalities can now pass an ordinance which would allow the creation of home kitchen businesses. These businesses are exempt from any health department inspections, requirements for training, and/or any health business registration requirements. These kitchens may produce up to \$1,000/month gross sales with no bartering or other discounts applied and they may only produce non-potentially hazardous foods.

Have other places adopted these ordinances? (As of 10/2015)

- 8 counties have adopted an ordinance
- 59 counties with no ordinance adopted
- 18 counties not reporting

Are these home-based kitchens considered businesses?

Yes, these would be businesses and would need to comply with any local and state business laws, zoning laws, and tax collection as necessary.

Why has the Macon County Health Department chosen not to adopt the Cupcake Law Ordinance?

The mission of the Macon County Health Department is to promote the health and healthy practices of all residents in Macon County. The MCHD works to achieve our mission by assuring food safety for the public through food safety training and inspections. Promoting the sale of uninspected food items creates an unacceptable risk of increasing the number of foodborne illnesses.

Why is it significant that these businesses have food safety training?

Today, food safety is a very complicated science. People cannot see, taste, or smell food contaminants – there is no way to know food is safe unless you are aware and know safe food handling practices. These practices need to be used during preparation, cooking, cooling, storing, and also during clean up. Food science experts have learned so much about modern food safety. Scientists now know viruses are the most common form of foodborne illness. Viruses can be transferred by any carrier, including cookies and cupcakes.

What is disease communicability?

Communicable diseases spread from one person to another and often via airborne viruses or bacteria, but also through blood or other bodily fluids. These diseases could include Hepatitis, HIV/AIDS, and influenza. When people eat contaminated food and become ill, they often spread the disease to their family and people they associate with socially or at work. *Example:* If a person was to eat foods contaminated with Hepatitis A and then visit a nursing home, they could be infectious while not showing any symptoms. This could trigger an unintentional foodborne disease outbreak.

Why is the registration process important?

- 1) The lack of business registration requirements may provide a false business sense that there is no need for collection and reporting of Illinois and local sales taxes and income tax as required by law. Failure to pay taxes can have significant consequences.
- 2) When a licensed food service facility registers through the health department, policies and procedures are discussed to ensure the business and its employees have the proper equipment, skills, and knowledge to safely and effectively cook and serve food to the public.

What foods are allowed under the Home Kitchen Act (“Cupcake Law”)?

As found in section 3.6 of the home kitchen operation:

Baked goods including, but not limited to: breads, cookies, cakes, pies, and pastries are allowed. Only high-acid fruit pies that use the following fruits are allowed: apple, apricot, grape, peach, plum, quince, orange, nectarine, tangerine, blackberry, raspberry, blueberry, boysenberry, cherry, cranberry, strawberry, red currants or a combination of these fruits.

What foods are not allowed under the Home Kitchen Act (“Cupcake Law”)?

As found in section 3.6 of the home kitchen operation:

The following are potentially hazardous and prohibited from production and sale by a cottage food operation: pumpkin pie, sweet potato pie, cheesecake, custard pies, crème pies, and pastries with potentially hazardous fillings or toppings.