

Regular Session, 2014

HOUSE BILL NO. 1270 (Substitute for House Bill No. 775 by Representative Simon)

BY REPRESENTATIVE SIMON

PUBLIC HEALTH: Provides for preparation of low-risk foods in the home for public consumption

1 AN ACT

2 To amend and reenact R.S. 40:4.9(A)(1), (2)(introductory paragraph), (b), (c)(introductory  
3 paragraph), (ii), and (iv), (B), and (C) and to enact R.S. 40:4.9(D) and (E), relative  
4 to certain foods prepared in the home for sale; to provide for application of the state  
5 Sanitary Code; to provide for regulations concerning preparation of low-risk foods  
6 in the home for public consumption; to provide a definition of low-risk foods; to  
7 provide special conditions for preparation and sale of certain baked goods; and to  
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 40:4.9(A)(1), (2)(introductory paragraph), (b), (c)(introductory  
11 paragraph), (ii), and (iv), (B), and (C) are hereby amended and reenacted and R.S. 40:4.9(D)  
12 and (E) are hereby enacted to read as follows:

13 §4.9. ~~Jellies, preserves, jams, honey, honeycomb products, cakes, and cookies~~ Low-  
14 risk foods; preparation in home for public consumption

15 A.(1)(a) No provision of the state Sanitary Code or any provision of any  
16 other law or regulation that requires any equipment, design, construction, utensils,  
17 supplies, preparation, or services shall apply to the preparation of ~~jellies, preserves,~~  
18 ~~jams, honey, honeycomb products, cakes, and cookies~~ low-risk foods, as defined in  
19 Subsection E of this Section, in the home for sale. This Section shall not be  
20 construed to allow the sale or distribution of any unwholesome food.

1 (b) The provisions of Subparagraph (a) of this Paragraph shall not apply to  
2 any preparer of breads, cakes, ~~and~~ cookies, or pies who employs any individual to  
3 assist in the preparation of such ~~cakes and cookies~~ food for sale.

4 (2) Notwithstanding any provision of law to the contrary, all of the following  
5 ~~provisions of the state Sanitary Code~~ restrictions, conditions, and requirements shall  
6 apply to the preparation of breads, cakes, ~~and~~ cookies, and pies in the home for sale:

7 \* \* \*

8 (b) The building shall be constructed so as to exclude rats, mice, roaches or  
9 other vermin. Domestic pets shall be excluded in any part of the establishment  
10 where ~~the~~ preparation and baking of such ~~cakes and cookies~~ bakery products  
11 takes place.

12 (c) All equipment used or connected in any way with the manufacture,  
13 baking, cooking or other processing, handling, packing, or storing of any bakery ~~or~~  
14 ~~confectionery~~ product shall comply with the following:

15 \* \* \*

16 (ii) Refrigeration shall be provided so that all perishable food products used  
17 in the manufacturer processing of any kind connected with the production,  
18 distribution, or sale of bakery ~~or confectionery~~ products shall be maintained at a  
19 temperature not to exceed forty-five degrees Fahrenheit.

20 \* \* \*

21 (iv) All barrels, boxes, tubs, pails, kneading troughs, machines, racks, pans,  
22 or other receptacles used for holding materials from which bakery ~~or confectionery~~  
23 products are manufactured shall be kept clean and sanitary and shall be so  
24 constructed as to be easily cleanable.

25 \* \* \*

26 B. This Section shall not apply to any ~~preparers of jellies, preserves, jams,~~  
27 ~~honey, honeycomb products, cakes, and cookies~~ preparer of low-risk foods  
28 made at a home for sale, whose gross annual sales equal twenty thousand dollars or  
29 more.

1 C. ~~Any~~ No individual ~~selling cookies and cakes from who prepares breads,~~  
2 cakes, cookies, or pies in the home for sale to the public pursuant to this Section shall  
3 ~~not sell such cakes and cookies foods~~ to any retail business or individual for resale.

4 D.(1) Any individual who prepares low-risk foods in the home for sale, as  
5 authorized by this Section, shall affix to any such food offered for sale a label which  
6 clearly indicates that the food was not produced in a licensed or regulated facility.

7 (2) No individual who prepares low-risk foods in the home shall sell such  
8 foods unless he has applied for and been issued all of the following:

9 (a) A Louisiana General Sales Tax Certificate from the Louisiana  
10 Department of Revenue.

11 (b) A local sales tax certificate from the local taxing authority of any  
12 jurisdiction in which he intends to sell foods.

13 E. For purposes of this Section, "low-risk foods" shall include all of the  
14 following, none of which shall consist of any animal muscle protein or fish protein:

15 (1) Baked goods, including breads, cakes, cookies, and pies.

16 (2) Candies.

17 (3) Dried mixes.

18 (4) Honey and honeycomb products.

19 (5) Jams, jellies, and preserves.

20 (6) Pickles and acidified foods.

21 (7) Sauces and syrups.

22 (8) Spices.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Simon

HB No. 1270

**Abstract:** Provides an exception to Sanitary Code requirements and other food preparation regulations for preparation of certain low-risk foods in the home for public consumption.

Present law provides that neither the state Sanitary Code nor any code, law, or regulation providing requirements relative to commercial food preparation shall apply to the preparation of jellies, preserves, jams, honey, or honeycomb products in the home for sale. Provides that such general exception also applies to home-based preparers of cakes and cookies; however, subjects preparers of cakes and cookies to certain specific food preparation requirements. Provides further that the general exception to food preparation regulations shall not apply to any home-based food preparer whose gross annual sales equal \$20,000 or more.

Proposed law retains present law and extends application of the general exception to food preparation regulations provided therein to all home-based preparers of low-risk foods. Proposed law provides that for purposes of proposed law, "low-risk foods" shall include all of the following, none of which shall consist of any animal muscle protein or fish protein:

- (1) Baked goods, including breads, cakes, cookies, and pies.
- (2) Candies.
- (3) Dried mixes.
- (4) Honey and honeycomb products.
- (5) Jams, jellies, and preserves.
- (6) Pickles and acidified foods.
- (7) Sauces and syrups.
- (8) Spices.

Present law provides that the general exception to food preparation regulations provided therein shall not apply to any preparer of cakes and cookies who employs an individual to assist in the preparation of such food products. Proposed law retains present law and adds stipulation that preparers of breads or pies who employ an individual for such purpose shall not qualify for the exception to food preparation regulations.

Present law provides that no preparer of cakes or cookies to which present law applies shall sell such food products to any retail business or individual for resale. Proposed law retains present law and extends to home-based preparers of breads and pies the prohibition on selling foods for resale.

Proposed law extends to home-based preparers of breads and pies all of the following specific requirements relative to the food preparation facility and procedures provided in present law for preparers of cakes and cookies:

- (1) All outside openings of the building shall be protected against flies and other vermin.
- (2) The building shall be constructed so as to exclude rats, mice, roaches, or other vermin. Domestic pets shall be excluded in any part of the establishment where preparation and baking takes place.
- (3) All equipment used or connected in any way with the manufacture, baking, cooking or other processing, handling, packing, or storing of any bakery product shall comply with the following:
  - (a) Be maintained in a clean and sanitary manner, be free from cracks, and, wherever possible, be composed of non-corroding metal or other smooth, impervious material giving an easily cleanable surface. Stationary or not

readily-movable equipment shall be so installed as to provide for easy cleaning.

- (b) Refrigeration shall be provided so that all perishable food products used in the manufacturer processing of any kind connected with the production, distribution, or sale of bakery products shall be maintained at a temperature not to exceed 45 degrees Fahrenheit.
  - (c) Equipment too large to permit washing in the sinks shall be cleaned in a manner approved by the state health officer.
  - (d) All barrels, boxes, tubs, pails, kneading troughs, machines, racks, pans, or other receptacles used for holding materials from which bakery products are manufactured shall be kept clean and sanitary and shall be so constructed as to be easily cleanable.
  - (e) All food contact surfaces shall be cleaned and sanitized after each day's production.
- (4) Only pasteurized milk or milk products shall be used in the preparation of custard and cream-filled bakery products.
  - (5) All custard or cream-filled mixtures shall be cooked, the temperature and time of heating of the mix, to be at a minimum, the equivalent of a temperature of 145 degrees Fahrenheit for a period of not less than 30 minutes.
  - (6) Upon completion of the cooking of the mix, it shall be immediately transferred into previously sanitized containers, properly covered and chilled as rapidly as possible to 45 degrees Fahrenheit or below and maintained at such a temperature until used.
  - (7) The apparatus and food contact surfaces used in adding any custard or cream filling to a bakery product shall be of impervious material and shall be thoroughly cleaned and sanitized after each use, in a manner approved by the state health officer. No cloth filled bags shall be used.

Proposed law deletes references to confectionery products in present law and proposed law providing specific requirements for preparation of certain baked goods.

Proposed law requires individuals who prepare low-risk foods in the home for sale, as authorized by present law and proposed law, to affix to any such food offered for sale a label which clearly indicates that the food was not produced in a licensed or regulated facility.

Proposed law stipulates that no individual who prepares low-risk foods in the home shall sell such foods unless he has applied for and been issued all of the following:

- (1) A Louisiana General Sales Tax Certificate from the Louisiana Department of Revenue.
- (2) A local sales tax certificate from the local taxing authority of any jurisdiction in which he intends to sell foods.

(Amends R.S. 40:4.9(A)(1), (2)(intro. para.), (b), (c)(intro. para.), (ii), (iv), (B), and (C); Adds R.S. 40:4.9(D) and (E))

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. Added provision prohibiting an individual who prepares foods in the home, as authorized by proposed law, from selling such foods unless he has applied for and been issued all of the following:
  - (a) A Louisiana General Sales Tax Certificate from the Louisiana Department of Revenue.
  - (b) A local sales tax certificate from the local taxing authority of any jurisdiction in which he intends to sell foods.