

Environmental Health

California Homemade Food Act (AB1616) Frequently Asked Questions

1. What is AB1616 and when does this new law go into effect?

AB 1616, known as the California “Homemade Food Act,” requires cottage food operations to meet specific requirements related to product sales, training for operators and employees, sanitation, product preparation, labeling, such as requiring products to be labeled as “homemade.” It would also require health inspections for certain operations. The law also establishes zoning and permit requirements for cottage food operations.

The law becomes effective January 1, 2013. There may be a delay in fully implementing the law however, as it requires certain actions by the California Department of Public Health (CDPH) before local planning and environmental health departments can develop its own plans. Further information will be forthcoming.

2. What is a Cottage Food Operation (CFO)?

A CFO is an enterprise at a private home where low-risk (“non-potentially hazardous”) food products are prepared or packaged for sale to consumers.

3. What is meant by “private home”?

“Private home” means a dwelling, including an apartment or other leased space, where individuals reside.

4. Are there limitations on the amount of CFO sales?

Yes, the limitations are as follows:

- \$35,000 or less in gross sales in 2013
- \$45,000 or less in gross sales in 2014
- \$50,000 or less in gross sales in 2015 and beyond

5. Can a CFO have employees?

Yes, a CFO can have one full-time equivalent employee (not counting family members or household members).

6. What cottage food categories are permitted at a CFO?

Only foods that are defined as “non-potentially hazardous” are approved for preparation by CFOs. These are foods that do not require refrigeration to keep them safe from bacterial growth that could make people sick. CDPH will establish and maintain a list of approved cottage food categories on its website and will establish a process by which new foods can be added to the list and other foods can be removed. The initial list referenced in the new law includes:

1. Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas.
2. Candy, such as brittle and toffee.
3. Chocolate-covered non-perishable foods, such as nuts and dried fruit.
4. Dried fruit.
5. Dried pasta.
6. Dry baking mixes.
7. Fruit pies, fruit empanadas, and fruit tamales.
8. Granola, cereals, and trail mixes.
9. Herb blends and dried mole paste.
10. Honey and sweet sorghum syrup.
11. Jams, jellies, preserves, and fruit butters that comply with standards set by the U.S. Food and Drug Administration (FDA) Code of Federal Regulations, Title 21, Volume 2, Chapter I, Subchapter B, Part 150 (found here: <http://1.usa.gov/SzKHtp> on the FDA's website).
12. Nut mixes and nut butters.
13. Popcorn.
14. Vinegar and mustard.
15. Roasted coffee and dried tea.
16. Waffle cones and pizzelles.

7. What are the two classifications of CFOs?

- **Class A** CFOs are only allowed to engage in “**direct sale**” of cottage food.
- **Class B** CFOs may engage in both “**direct sales**” of cottage food, and “**indirect sales**” within the county where they are permitted.

8. What is meant by “Direct Sale” of cottage food?

“Direct Sale” means a transaction between a CFO operator and a consumer, where the consumer purchases the cottage food product directly from the CFO. Direct sales include, but are not limited to:

- transactions at holiday bazaars or other temporary events, such as bake sales or food swaps,
- transactions at farm stands, certified farmers’ markets, or through community-supported agriculture subscriptions,
- and transactions occurring in person at the cottage food operation.

9. What is meant by “Indirect Sale” of cottage food?

“Indirect Sale” means an interaction between a CFO, a third-party retailer, and a consumer, where the consumer purchases cottage food products made by the CFO from a third-party retailer that holds a valid permit issued by the local environmental health agency in their jurisdiction.

Indirect sales are limited to within the county where the CFO is permitted. If a CFO wishes to sell cottage food products to a third party retailer in another county, they must obtain permission from the local enforcement agency in that county.

10. Do I need any special training or certification to prepare cottage food products?

A person who prepares or packages cottage food products must complete a food processor course instructed by CDPH within three months of being registered or permitted. Further information regarding a food processor course will be forthcoming from CDPH.

11. Does a CFO need a permit to operate?

It depends on the enterprise.

Planning/Zoning:

All CFOs need to obtain approval from their local city or county planning department. The law gives planning departments several options to consider, therefore planning department requirements may vary between jurisdictions.

Environmental Health:

- For **Class A** CFOs (direct sale only): **registration** with the local enforcement agency, submission of a completed “self-certification checklist,” and approval by the local environmental health agency is required.
- For **Class B** CFOs (direct and indirect sales): a **permit** from the local environmental health agency is required.
- Registrations and permits are not transferable between:
 - Persons
 - Locations
 - Type of food sale
 - Type of distribution

12. How much will CFO registration and/or permit fees cost?

Each local jurisdiction will establish fees that are not to exceed the cost of providing the service. Additional fees may be charged for inspection and/or enforcement activities if the cottage food operation is found to be in violation. Further information will be forthcoming from LA County Public Health.

13. Will my CFO Registration and/or Permit allow me to sell at other retail venues?

No, there may be additional health permits required to sell at other locations, such as Certified Farmer’s Markets or Swap Meets. Further information will be forthcoming from LA County Public Health.

14. How often will a CFO be inspected?

- Class A:** CFO kitchens and food storage areas (referenced in the law as the “registered or permitted area”) are not subject to initial or routine inspections.
- Class B:** CFO kitchens and food storage areas are inspected initially prior to permit issuance, and then annually.
- Class A or B (Other Inspections):** The local environmental health agency may access, for inspection purposes, the registered or permitted area where a cottage food operation is located if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been

produced by the cottage food operation or that the cottage food operation is found to be in violation.

15. What are operational requirements for CFOs?

All CFOs must comply with the following:

- No domestic activity in the kitchen during cottage food preparation, such as family meal preparation, clothes washing, kitchen cleaning, or guest entertainment.
- No infants, small children, or pets in kitchen during cottage food preparation.
- Kitchen equipment and utensils kept clean and in good repair.
- All food contact surfaces and utensils washed, rinsed, and sanitized before each use.
- All food preparation and storage areas free of rodents and insects.
- No smoking in kitchen area during preparation or processing of cottage food.
- Any person with a contagious illness shall refrain from working in the CFO.
- Proper hand-washing shall be completed prior to any food preparation or packaging.
- Water used in the preparation of cottage food products must be potable. Cottage food preparation activities include:
 - Washing, rinsing, and sanitizing of any equipment used in food preparation.
 - Washing and sanitizing hands and arms.
 - Water used as an ingredient of cottage food.

16. What are the food labeling requirements?

All cottage food products must be properly labeled in compliance with the Federal Food, Drug & Cosmetic (FD&C) Act, Title 21 of the United States Code, Chapter 9, Subchapter IV, Section 343 (found here <http://1.usa.gov/VgQiUw> on the U.S. Government Printing Office website). The label shall include:

- The words “made in a home kitchen” in 12-point type.
- The name commonly used for the food product.
- Name of CFO which produced the food product.
- The registration or permit number of the cottage food operation which produced the cottage food product.
- Name of the local enforcement agency that issued the registration or permit number.
- Name of the county where the registration or permit number was issued.
- Product ingredients listed in descending order by weight.

In a permitted food facility, cottage food products served without packaging or labeling shall be identified to the customer as homemade on the menu, menu board or other easily accessible location.

For the complete text of Assembly Bill 1616, go to <http://bit.ly/RJg7An> on the California Legislative Information website.

This FAQ handout was adapted from a handout prepared by the California Conference of Directors of Environmental Health dated November 28, 2012.