

Testimony To: Senate Committee on Health and Welfare

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Subject: H. 401 – An act relating to exemptions for food manufacturing establishments

Date: Friday, April 25, 2025

Good morning, Chair Lyons, Vice Chair Gulick and other members of the Committee. Thank you for reaching out regarding questions about the H. 401 proposed language.

I am Elisabeth Wirsing, Senior Environmental Health Program Manager, and my role is overseeing the Food and Lodging Program.

The Department supports the goals of H. 401 and recognizes the need for modifying the law to better reflect the current marketplace and to address inflation. We hear the concerns presented to the Committee regarding the types of products that can be made and would like to address that point. We wanted to provide more context specific to our suggestions.

The Department suggested an approach for updating the current food manufacturing licensing framework that is consistent with food safety in other states and better protects public health, while also preserving and expanding many aspects of the home business landscape that has existed in Vermont for many years.

Food safety practices are guided by widely accepted science that defines which products are potentially hazardous and which products are lower risk. Different types of food require different preparation methods and controls to ensure that they are safe.

We previously shared with you that many other state laws largely limit the types of foods that can be produced for sale in home kitchens exempt from licensing based on the potential food safety risk of products. For example, other states do not allow potentially hazardous foods that require time and temperature controls for safety, and they also don't allow canning of acidified or low-acid foods in a cottage food operation. Most other states require food manufacturers producing these types of products for sale to be licensed and prohibit these types of products from being produced for sale in home kitchens.





Many state laws we reviewed also limit sales of exempt cottage food directly to consumers and within that state. This may be partly due to the federal food safety regulations that include requirements specific to acidified foods and low-acid canned food producers which include training requirements, and requirements to file and register a scheduled process with the U.S. Food and Drug Administration (FDA) for food facilities operating in interstate commerce.

To better align Vermont law with similar laws in other states, the Department provided a bill mark-up to the Committee. The language suggested by the Department would already increase the overall exemption threshold by including these two overall categories for exempt producers:

- Keep the existing language of Section 4353(a)(3) in the current law, including the exemption for food manufacturers with annual gross receipts of \$10,000 or less;
- Add a new exemption for cottage food operators making allowable products with gross receipts of \$30,000 or less from the obligation to obtain a license and related licensure fees.

For the specific question about whether producers of pickled and fermented foods would be included in the increased exemption threshold proposed for “Cottage Food Operators,” the Department has a recommendation that will include certain home-canned pickles, vegetables, or fruits while balancing food safety risk. This recommendation is to:

- Add “home-canned pickles, vegetables, or fruits that have an equilibrium pH value of 4.6 or lower or a water activity value of .85 or less” to the definition of “cottage food product,” which would include these products under the \$30,000 exemption threshold for cottage food operations.
- Require these products be made using validated recipes available for free from the National Center for Home Food Preservation. Or if producers want to use other product recipes, those would be required to be reviewed by a process authority for safety.

These requirements would be consistent with what is required by other states that allow pickles and fermented products to be produced by exempt home operators. Process authority review is a common food safety requirement and the department has authority to request this documentation be provided.

A process review is a complete evaluation of how a food product is made, including ingredients, all the steps of preparation, and packaging. A process review is conducted by a food processing authority. A food processing authority is a person who has expert knowledge of thermal processing requirements for low-acid foods packaged in hermetically sealed containers or has expert knowledge in the acidification and processing of acidified foods.





There are lists of process authority resources in our region and beyond available. Currently, a product can be evaluated by a process authority within our region for between \$150-190. For producers of innovative products, having a process review that confirms food safety hazards will be mitigated can also increase consumer and retailer confidence in products made in a cottage food operation.

This recommendation would raise the exemption threshold for home-canned pickles, vegetables, and fruits while using existing and widely accepted food safety management tools to reduce risk to the public.

We can provide the Department's suggested language to the Committee. Thank you for your interest in this topic and your critical work on this important effort.



