

Testimony To: Senate Committee on Health and Welfare

Testimony Provided By: Interim Commissioner Julie Arel, Vermont Department of Health and Liz Wirsing, Senior Environmental Health Program Manager, Department of Health

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

Date: Wednesday, April 16, 2025

Good morning, Chair Lyons, Vice Chair Gulick, and other members of the Committee. It is a pleasure to be here this morning and we appreciate the opportunity to be a part of this conversation today.

I am Julie Arel, Interim Commissioner at the Department of Health and joining me is Liz Wirsing, Senior Environmental Health Program Manager. Ms. Wirsing oversees 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.

Although the Department is generally supportive of the objectives of the bill, the Department does have concerns that some of the approach in H. 401 may result in a greater risk to public health.

Ensuring the safety of food is a critical public health function. 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. Certain types of products, if improperly produced, could result in serious foodborne illnesses, such as salmonella, listeriosis, and botulism. Salmonella bacteria are a leading cause of foodborne illness in the US. Anyone can get a Salmonella infection but young children, older adults and people with weakened immune systems have increased risk of infection and may become seriously ill. Listeriosis is the third leading cause of death from foodborne illness with an estimated mortality rate of approximately 20 – 30%. Although some people with Listeria may not have any symptoms, it is especially harmful for pregnant women, newborns, older adults and those who are immunocompromised. Botulism is a rare but potentially fatal illness where bacteria attack the body's nerves and cause difficulty breathing, muscle paralysis, and even death. Common sources of botulism are homemade foods that have been improperly canned, preserved, or





fermented. And while we fortunately have not had any recent cases of foodborne botulism in Vermont, we have an annual average of 3 cases of listeriosis (with 5 cases reported in 2024), and more than 100 cases of salmonella infection annually. A quick note on case counts – foodborne illness rates are likely much higher; many people who become sick due to a foodborne pathogen do not seek medical care.

The Department’s goal is to prevent food safety issues before they happen. And we know that food manufacturers want to ensure that the food they produce is safe too. We will continue to work with and support small manufacturers to keep food safe without adding unnecessary burdens.

The Department would like to suggest an alternative approach for updating the current food manufacturing licensing framework that would be consistent with other states and better protect public health, while also preserving and expanding many aspects of the home business landscape that has existed in Vermont for many years.

The Department recommends that the bill be revised to more closely align with similar laws in many other states. The Department has submitted an analysis to the Committee that provides a summary of these laws in northeastern states, as well as other key state examples.

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 risk of certain products and the more limited ability to achieve the proper time and temperature controls needed to ensure the safety of certain food products in home kitchens.

In most states, exempt home kitchens are limited to producing non-potentially hazardous foods for sale. These allowable products are based on the food safety risk level associated with certain types of food. Non-potentially hazardous foods are those that do not require time and temperature control for safety. For example, non-potentially hazardous foods include baked goods, candy, jams, jellies, dry herbs, trail mix, granola, mixed nuts, flavored vinegar, popcorn, coffee beans, and dry tea.

On the other hand, products like kimchi, salsas, hot sauces and other sauces, and innovative products like “fermented cashew cheese” require time and temperature control for safety. If these types of products are improperly canned, preserved, or fermented or not maintained at the proper temperature or pH, they could result in serious foodborne illnesses. Because of this risk, 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.

The Department has submitted guidelines from Connecticut that outline the types of foods that can and cannot be produced for sale in home kitchens under that state’s cottage food law. This is an excellent example of simple guidance that can be provided to help cottage food operators understand the different types of non-potentially hazardous food that can be made.





In addition to limiting the types of foods exempt from licensing requirements, many states also require exempt operators to complete training, registration or filing processes, and labeling of food made in a home kitchen. Vermont already has a simple labeling requirement. A short powerpoint training, similar to the materials the Department has submitted from Minnesota, is the approach the Department would take to training. The exempt food manufacturers could view it on their own without expense. This training can help not only protect public health but also support the business owner with a no-cost, simple way of getting important information. We know they want to produce safe products and this is one way to help support them in that goal. The addition of an annual registration would help the Department provide support for the small businesses and add to our understanding of the cottage food industry in Vermont. The burden of submitting the form would be very low and could include a simple attestation that the business owner had viewed the training. Our goal is to achieve balance between protecting public health and supporting the business owner while keeping the training barrier low but still informative and helpful.

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:

- Define “cottage food operation,” “cottage food operator,” and “cottage food product”.
 - The definition of cottage food operator would include only people who produce or package cottage food products in the home kitchen of their private residential dwelling.
 - The definition of cottage food products would include only those foods sold by cottage food operators that are not a potentially hazardous food or not a time/temperature control for safety food.
 - The definition of cottage food operation means a food manufacturing establishment where cottage food products are produced.

The proposed language would also:

- 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 with gross receipts of \$30,000 or less from licensure requirements and related licensure fees;
- Require food manufacturers claiming a licensing exemption to provide certain documentation to the Department, including an annual licensing exemption form and an attestation of training completion; and





- Maintain current requirements in the [Manufactured Food Rule](#) Section 6.2.1 for exempt producers, including labeling requirements for products made in an exempt food manufacturing establishment.

The Department welcomes the opportunity to work with the Committee and other stakeholders on this important effort.

