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# Development of a Cottage Food Industry in Nevada – A Legislative Perspective

Frederick Steinmann, Extension Educator/Assistant Professor

The Healthy Communities Coalition of Lyon and Storey Counties in Nevada spearheaded the effort to develop legislation that would encourage the development of cottage food industries in Nevada during the 2013 session of the Nevada State Legislature. This University of Nevada Cooperative Extension Special Publication provides a policy analysis of cottage food industry legislation in other states.

## Introduction

Led by the Healthy Communities Coalition of Lyon and Storey Counties in Nevada, the Nevada State Legislature in its 2013 session considered a bill draft outlining the creation of a regulatory framework designed to support the development of cottage food operations in Nevada. A cottage industry, according to a Sept. 12, 2012, Los Angeles Times article (Hsu, 2012), is a type of industry that permits individuals to make certain foods and baked goods at home and sell them to stores, restaurants and directly to customers. Several states, including California and Oregon, have already adopted legislation that provides sufficient regulation to protect the public's health and safety while supporting the development of cottage food operations and entrepreneurial efforts within their respective states.

University of Nevada Cooperative Extension faculty were asked in late 2012 to examine the possibility of developing a cottage food industry in Nevada and identify potential legislative models in other states that could help guide the development of cottage food industry legislation in Nevada. This special publication summarizes the potential benefits of a cottage food industry bill in Nevada and the key regulatory points in California's and Oregon's cottage food industry legislation. The first section lists several important definitions. The second section identifies the possible benefits of a cottage food industry in Nevada. The third section examines the critical aspects of California's cottage food industry legislation, and the fourth section examines the critical aspects of Oregon's cottage food industry.

California and Oregon were selected largely because of their applicability to Nevada in that both are western states and share similar regulatory structures as Nevada. As more populated states, both California and Oregon must contend with additional issues that might not be necessarily relevant to Nevada. Nonetheless, examining their legislation is informative as the Nevada State Legislature

considers similar cottage food industry legislation in the 2013 session.

## Key Definitions

Although both California and Oregon have developed specific definitions in each of their respective pieces of cottage food industry legislation, CottageFoodLaws.com (2012) has developed a series of definitions for key terms that tend to be common in statewide cottage food industry pieces of legislation. Although this is not an exhaustive list of definitions, these definitions are useful in clarifying key terms that would appear in any Nevada cottage food industry legislation.

Key definitions from CottageFoodLaws.com, related to cottage food industry legislation, include:

- **Food Truck:** A mobile kitchen, canteen or catering truck that sells food and/or drinks to the public. Food trucks usually park in high-traffic areas such as urban centers, downtown office complexes, carnivals, festivals, parks and football games. A food truck may move from location to location throughout the day and showcases numerous cuisines and exotic foods indigenous to various regions of the United States.
- **Approved Cottage Foods:** The type of food approved by your state cottage food law will vary from those in other states. These products are usually limited to non-potentially hazardous food products that are not time- and/or temperature-controlled to assure food safety, namely foods that can safely be kept at room temperature and do not require refrigeration. The following is a sample of the cottage foods that can be sold in various states: breads, similar baked goods, vinegar and flavored vinegars, cakes (including celebration cakes such as birthday, anniversary and wedding), sweet breads and muffins that contain fruits or vegetables (such as pumpkin or zucchini bread), cooked fruit pies including crusts

made with butter, lard or shortening, jams and jellies in glass jars that can be stored at room temperature, cookies, dry herbs and dry herb mixtures, dry baking mixes, dry dip mixes, dry soup mixes, dehydrated vegetables or fruits, popcorn and cotton candy.

- **Kitchen Incubators:** A licensed, inspected commercial kitchen that allows food processors who cannot use their home kitchen to prepare food product. A food processor may use a kitchen incubator because their state does not have a cottage food law, or because their home kitchen is too small for the type of food production operation they are interested in, usually a larger food production operation than their home kitchen can handle.
- **Home-Based Baker:** Someone who bakes non-potentially hazardous food product that can be sold in her or his community. Home-based bakers usually operate their home bakery businesses in compliance with their state cottage food laws. A home-based baker operates a legitimate bakery business from a home kitchen, and the products produced are not limited to baked goods but may include any number of foods approved by the state cottage food law.
- **Cottage Food Law:** The legal tool employed by a state government to establish a legal arrangement for low-risk food production prepared at a home residence. A state regulatory agency may be the State Department of Agriculture or the local health department. It should be noted that there are states that have no cottage food law at all and simply do not allow home food processors to produce food products from home for sale to the public.
- **Cottage Food Production Operation:** A food production operation that typically involves a person using a home kitchen to produce food items that are not potentially hazardous. These products may include,

but are not limited to, breads, similar baked goods, vinegar and flavored vinegars, cakes (including celebration cakes such as birthday, anniversary and wedding), sweet breads and muffins that contain fruits or vegetables (such as pumpkin or zucchini bread), cooked fruit pies including crusts made with butter, lard or shortening, jams and jellies in glass jars that can be stored at room temperature, cookies, dry herbs and dry herb mixtures, dry baking mixes, dry dip mixes, dry soup mixes, dehydrated vegetables or fruits, popcorn and cotton candy.

### **Benefits of a Cottage Food Industry in Nevada**

Benefits of a cottage food industry, based upon the experience of states with existing cottage food industries, range from promoting entrepreneurship and economic development through small business development and incubation, to promoting social justice in disadvantaged and impoverished communities, to addressing food security concerns in urban and rural food deserts.

In a Nov. 25, 2011 article for The Austin Chronicle, Melanie Haupt (Haupt, 2011) documented the experiences of four home-based cottage food entrepreneurs who had successfully started their own home-based bakery in Austin, Texas after the Texas Legislature successfully passed a statewide cottage food industry bill that took effect on Sept. 1, 2011. Haupt (2011) found that the Texas cottage food industry law had many significant benefits that primarily benefited women in the state that were interested in starting their own businesses. According to Haupt (2011), "...Texas' new cottage food law benefits primarily women in its current iteration – who stand to benefit from the newly legal practice of making and selling cakes, pies, jams, and jellies from home without the prohibitive start-up costs associated with such a venture, from renting a commercial kitchen to licensing, food handlers' permits, inspections, and insurance."

By significantly reducing the start-up costs associated with starting a baked goods business, the 2011 Texas cottage foods industry legislation, also known as 2011 Texas Senate Bill 81, eliminated several barriers to entrance into the baked goods market. These barriers proved to disproportionately prevent women from entering the baked goods market in Texas, and the mitigation of certain start-up costs has allowed a significant number of women in Texas to start up their own small businesses. According to Haupt (2011), "...SB 81 (did) not just provide opportunities for struggling wives and mothers to supplement their family's income, which was the dominant narrative surrounding the efforts to get it passed; it also provides opportunities for young, pastry-minded entrepreneurs to establish their businesses without going into hock."

And although this type of social justice benefit is very important, the cottage food industry legislation in Texas has helped families augment their total annual incomes through their home-based cottage food businesses. One of the authors of the 2011 Texas Senate Bill 81, Rep. Lois Kolkhorst, according to Haupt (2011), made this type of personal economic stimulus a primary focus of the Texas cottage food industry legislation. Speaking to Haupt (2011), Kolkhorst stated that, "Even if we don't want to make a lot, we should be able to operate small-scale home baked-goods businesses. Some of the letters I got would break my heart – people whose husbands had lost their jobs or who had disabled children or were caring for elderly parents. There are people who can't leave their houses that could do this." Kolkhorst has found that many working mothers and wives, who would work full-time during the day, have been able to bake during the evening and on weekends and have been able to supplement their own salaries and support their families. Haupt (2011) found several such examples in which several women were able to, "...hold the family together and keep them above the poverty line..." using the supplemental income

generated from the sale of their home-based baked goods.

Finally, Haupt (2011) found evidence in Texas of increased demand by different consumer groups for more value-added food found in home-based bakeries and kitchens. According to Haupt (2011), "While there is indeed a market for ready-made food items, there are people who want something a little more personal, perhaps with a bit more integrity than what the big chains have to offer. SB 81 (Texas) makes it possible for people to outsource their Thanksgiving pies, but through local relationships rather than merely transactional ones."

In short, Haupt (2011) found several important benefits of the 2011 Texas cottage food industry legislation including: (1) reduction of start-up costs associated with starting a fully developed and licensed bakery, (2) encouragement of entrepreneurship among women, (3) enhanced income opportunities for struggling families, and (4) satisfaction of a growing demand for value-added food products by a growing customer base.

In a 2012 article for Chron.com, Barbara Bean-Mellinger (Bean-Mellinger, 2012) identified four primary benefits of cottage food industries common to states that have adopted cottage food industries and where the cottage food industry has had time to grow and mature as an industry. These four primary benefits include:

- **Work From Home:** A major benefit of cottage industries is that they allow people to work from their homes. Women have benefited the most because they can work from home while still tending to their families. Many cottage businesses include the entire family in their operations, however, including husbands and children. Some businesses start as cottage industries and then become too large, necessitating a move out of the home into a business environment, but at that point they

likely have the financial means to make the move.

- **Save Operating Costs:** By operating from home, cottage businesses save money by not having to rent a commercial kitchen, office space or plant, and by not incurring the associated utilities expenses and other costs. Cottage industries also are typically exempt from many of the licensing and registration fees businesses often have to pay. This allows entrepreneurs to start their businesses without investing major capital or taking out loans. Cottage businesses may need local licenses to operate, but these are usually not as expensive nor as difficult to obtain as the licenses required for normal business operations.
- **Buy Local and Fresh:** Consumers benefit from cottage industries because they are able to buy local products and, in the case of food products, items they know are fresh. They know where the products were made, and that they likely were made with fresh, local ingredients as well. They are able to enjoy items of higher quality than those that are mass-produced, with the added benefit of knowing who created the items.
- **Help Local Economy:** While consumers appreciate having access to locally produced products, the local economy benefits from dollars spent nearby. Ingredients and supplies purchased locally help the local economy as well. Most states' cottage food industry laws also allow goods to be sold at local farmers markets and roadside stands, which helps these local business enterprises to prosper. Neighbors get to know their neighbors and derive additional satisfaction from knowing they are helping a local family by purchasing their products.

### California's Cottage Food Industry Legislation

On Sept. 21, 2012, California Gov. Jerry Brown signed and approved California Assembly Bill

No. 1616. California Assembly Bill No. 1616, which went into effect in January 2013, establishes a regulatory framework for cottage industries in California. According to The Sustainable Economics Law Center (2013), California Assembly Bill (AB) 1616, known as the California Homemade Food Act, "...creates a new category of food production called a cottage food operation, which, unlike other types of commercial food facilities, can be operated out of a home kitchen. These types of foods that a cottage food operation can sell are limited to 'non-potentially hazardous foods', which are foods that are unlikely to grow harmful bacteria or other toxic microorganisms at room temperature." The California Homemade Food Act lists several foods that can be cooked, baked or prepared in a cottage food industry business, including:

- Baked goods without cream, custard or meat fillings, such as breads, biscuits, churros, cookies, pastries and tortillas.
- Candy, such as brittle and toffee.
- Chocolate-covered nonperishable foods, such as nuts and dried fruit.
- Dried fruit.
- Dried pasta.
- Dry baking mixes.
- Fruit pies, fruit empanadas and fruit tamales.
- Granola, cereals and trail mixes.
- Herb blends and dried mole paste.
- Honey and sweet sorghum syrup.
- Jams, jellies, preserves and fruit butter that comply with the standard described in Part 150 of Title 21 of the Code of Federal Regulations.
- Nut mixes and nut butters.

- Vinegar and mustard.
- Roasted coffee and dried tea.
- Waffle cones and pizelles.
- Other foods that the Director of the California Department of Public Health chooses to add.

According to the Sustainable Economies Law Center (2013), the specific requirements for a cottage food operation in California Assembly Bill 1616 include:

- Register with the county health department in the county in which the cottage food industry business is located. A small fee may be required. Also required is the filling out of a self-inspection checklist that includes basic safe food-handling practices for direct-to-consumer sales (including at festivals and events, farmers markets, etc.).
- Acquire a permit from the county health department in the county in which the business is located that entails an annual inspection by a local health officer **only if** the cottage food operation will conduct indirect sales (meaning selling products through local shops, restaurants or other third parties that are not the producer or the consumer) and pay the permitting fee, which varies by county.
- Attend a class and pass an exam designed by the California Department of Public Health.
- Package and label all food products with the name of the product, ingredients (in order of their prevalence by weight), a list of allergens, net weight of contents, county of production and registration or permit number issued by the local county health department.
- Adhere to sanitary procedures outlined in the California Health and Safety Code, including washing, rinsing and sanitizing all surfaces and utensils before use in food preparation; washing hands before handling food; keeping all ingredients in sealed containers when not in use; and other such standard procedures.

Other important and key components of the California Homemade Food Act, according to the Sustainable Economies Law Center (2013), include:

- Cottage food products can be sold directly to consumers through the Internet or mail order and to in-state retail food facilities (such as grocery stores) provided that the cottage food operator obtains the proper registration or permit.
- Cottage food operations may not exceed a certain amount of gross annual revenue. In 2013 the limit will be \$35,000, in 2014 it will be \$45,000, and in 2015 and following years it will be \$50,000.
- In addition to help from family or household members, cottage food operations may also have up to one full-time equivalent (FTE) employee.
- Indirect sales (such as sales through local shops, cafes and restaurants) are generally going to be limited to within the county where the food was produced. However, individual county health departments may choose to coordinate and allow for inter-county sales of cottage food products. Direct sales (between a producer and a consumer) may occur anywhere in California (such as at farmers markets, in the home, at special events, at fundraisers and anywhere else where there is a direct purchasing relationship between the cottage food operation and the consumer).
- While preparing homemade food products for sale, small children and pets may not be in the kitchen (but they can be elsewhere in the house). Smoking, other noncommercial meal preparation, washing clothes and other such household activities may not

take place in the kitchen while cottage food products are being made.

Although the California Homemade Food Act makes several alterations and changes to several existing statutes and laws in California, including the Sherman Food, Drug, and Cosmetic Law; the California Retail Food Code; and various sections of the California Health and Safety Code, AB 1616 also establishes various zoning and permitting requirements relating to cottage food operations. Like many communities located throughout the United States, many local communities, municipalities and counties, located throughout California have some form of Euclidian zoning ordinance. Euclidian zoning, in general, creates strict separations in land use in order to promote and protect public health and safety as defined by the Standard State Zoning and Enabling Act (SSZEA) of 1926. For example, residential uses are strictly separated from commercial or industrial or office uses as a way of protecting the public from the potential harmful effects of noise, air or water pollution that might come from commercial or industrial uses. The California Homemade Food Act creates a special use permitting system in which local governments, municipalities or counties in California can issue special use permits to residential homeowners to conduct commercial activity in their kitchens. Such an activity and mix of land uses (a residential home and a commercial kitchen) is generally prohibited under most Euclidian zoning ordinances. In this way, the California Homemade Food Act is as much a land use bill as a health and human safety or food regulatory bill.

The California Homemade Food Act also distinguishes between two types of cottage food operations: (1) A “Class A” Cottage Food Operation (Direct Sales), and (2) A “Class B” Cottage Food Operation (Direct or Indirect Sales). Taken directly from the California Homemade Food Act, Section 7 of Chapter 6.1 Cottage Food Operations, subsection 113758 defines both a “Class A” and “Class B” cottage food operation:

- (1) A ‘Class A’ cottage food operation, which is a cottage food operation that may engage only in direct sales of cottage food products from the cottage food operation or other direct sales venues described in paragraph (4) of subdivision (b).
- (2) A ‘Class B’ cottage food operation, which is a cottage food operation that may engage in both direct sales and indirect sales of cottage food products from the cottage food operation, from direct sales venues described in paragraph (4) of subdivision (b), from offsite events, or from a third-party retail food facility described in paragraph (5) of subdivision (b).

California AB 1616 provides separate regulatory frameworks for both Class A and Class B cottage food operations. Taken directly from the legislation, the key regulatory requirements of a Class A cottage food operation are found in subsection 114365 (a) (1) (A) of Chapter 11.5 Cottage Food Operations, stating:

- A ‘Class A’ cottage food operation shall not be open for business unless it is registered with the local enforcement agency and has submitted a completed, self-certification checklist approved by the local enforcement agency. The self-certification checklist shall verify that the cottage food operation conforms to this chapter, including the following requirements:
  - (i) No cottage food preparation, packaging, or handling may occur in the home kitchen concurrent with any other domestic activities, such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment.
  - (ii) No infants, small children, or pets may be in the home kitchen during the preparation, packaging, or handling of any cottage food products.

- (iii) Kitchen equipment and utensils used to produce cottage food products shall be clean and maintained in a good state of repair.
- (iv) All food contact surfaces, equipment, and utensils used for the preparation, packaging, or handling of any cottage food products shall be maintained free of rodents and insects.
- (v) All food preparation and food and equipment storage areas shall be maintained free of rodents and insects.
- (vi) Smoking shall be prohibited in the portion of a private home used for the preparation, packaging, storage, or handling of cottage food products and related ingredients or equipment, or both, while cottage food products are being prepared, packaged, stored, or handled.

The key regulatory requirements of a Class B cottage food operation, directly taken from the California Homemade Food Act, are found in subsection 114365 (a) (2) (A) through subsection 114365 (a) (2) (D) of Chapter 11.5 Cottage Food Operations, stating:

- (A) A 'Class B' cottage food operation shall not be open for business unless it obtains a permit from the local enforcement agency in a manner approved by the local enforcement agency to engage in the direct and indirect sale of cottage food products.
- (B) (i) A 'Class B' cottage food operation shall comply with the requirements described in clauses (i) to (vi), inclusive, of subparagraph (A) of paragraph (1) in addition to the other requirements of this chapter. (ii) The local enforcement agency shall issue a permit number after an initial inspection has determined that the proposed 'Class B' cottage food operation and its method of operation conform to this chapter.

- (C) Except as provided in this subparagraph, a 'Class B' cottage food operation shall not be subject to more than one inspection per year by the local enforcement agency. (i) For purposes of determining compliance with this chapter, a representative of a local enforcement agency, for inspection purposes, may access the permitted area of a private home where a cottage food operation is located only 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 has violated this chapter. (ii) Access under this subparagraph is limited to the permitted area and solely for the purpose of enforcing or administering this chapter.
- (D) (i) A 'Class B' cottage food operation shall be authorized to engage in the indirect sales of cottage food products within the county in which the 'Class B' cottage food operation is permitted. (ii) A county may agree to allow a 'Class B' cottage food operation permitted in another county to engage in indirect sales of cottage food products in the county.

### **Oregon's Cottage Food Industry Legislation**

Amended in 2012 by the Oregon Legislature, Oregon Revised Statutes (ORS) Chapter 616 through ORS 635 provide the general regulatory framework for cottage food operations in Oregon. Referred to as domestic kitchens in the Oregon legislation, Oregon's regulatory framework of cottage food operations is primarily focused on exempting domestic kitchens from the regulatory requirements to which commercial kitchens and commercial food producers are required to adhere.

ORS 616.695 provides a series of key definitions that apply to both commercial kitchens or commercial food producers and



domestic kitchens or cottage food operations. ORS 616.695 specifically states that:

- (1) 'Department' means the State Department of Agriculture.
- (2) 'Food Establishment' means:
  - (a) Any room, building, structure or place, use or intended for use, or operating for storing, preparing, compounding, manufacturing, processing, freezing, packaging, distributing, handling, salvaging or displaying food.
  - (b) The ground upon which such place or business is operated or used and so much ground adjacent thereto is also used in carrying on the business of the establishment. The department may prescribe such additional area or places which, although they may not be contiguous or adjacent to the above area or establishment, may be included therein.
  - (c) Vehicles, machinery, equipment, utensils, tools, fixtures, implements, and all other articles or items, used in operating or carrying on the business of a food establishment.
- (3) 'Food' means any article used, or intended to be used, for food, ice, drink, confection or condiment, whether simple or compound, or any part or ingredient thereof or in the preparation thereof, and for human consumption.
- (4) 'Salvaging' means the business of reconditioning, repacking, relabeling, cleaning or culling of foods that have been damaged or adulterated as a result of fire, storm, flood, water, smoke, chemicals or commercial transit accident.

ORS 616.700 provides a general outline of different sanitation requirements for food and food establishments that the Oregon State Department of Agriculture is responsible for enforcing. These general requirements in ORS

616.700, including exceptions for domestic kitchens, include the requirement that the State Department of Agriculture enforce the provisions ORS 616.695 to 616.755 and adopt any rules the Department deems necessary to ensure and verify that:

- (1) Food establishments are constructed and maintained in a clean, healthy and sanitary condition. This shall include floors, walls, ceilings, doors, windows, lighting and ventilation, toilet and lavatory facilities, water supply, separation or partitioning of rooms, health and cleanliness of personnel, cleanliness and sanitation of surrounding premises, disposal of all waste and sewage material, insect and rodent control, construction and sanitation of equipment and utensils, and prohibition of pets therein. ***However, ORS 616.695 to 616.755 shall not be applied to prevent licensing and operation of a food establishment solely because such establishment is in an area which is part of and not separate from a domestic kitchen if the establishment is upon investigation by the department found to be constructed and maintained in a clean, healthful and sanitary condition.*** (Italics and bold emphasis added)
- (2) Food establishments maintain time and temperature controls, indicating and recording thermometers and indicating pressure gauges for pressure cookers and retorts, minimum temperature and time period standards for cooking foods, and other facilities necessary to carry out the intent and purpose of ORS 616.695 to 616.755.
- (3) Food dispensed, transported, sold, held for sale, stored, salvaged or displayed, is not filthy, decomposed, putrid, unsafe, contaminated, deleterious to health, unfit, unwholesome, unclean, insanitary or diseased.

ORS 616.706 subparagraph (1) states that, "(1) Except as otherwise provided in ORS

616.695 to 616.755, a person may not operate a food establishment without first obtaining and thereafter maintaining a license under this section. A person shall make an application for a license to the State Department of Agriculture on forms prescribed by the department. Each license shall expire on June 30 next following the date of issuance or on such date as may be specified by department rule.” ORS 616.706 subparagraph (6) states that, “(6) The license for a food establishment that is part of a domestic kitchen is \$189.” Other food establishments that are not part of a domestic kitchen are subject to a sliding scale of licensing fees based on the estimated gross sales of commercial kitchens and food producers and distributors.

In addition to the regulatory framework outlined in ORS Chapter 616 through ORS Chapter 635, domestic kitchens in Oregon are also subject to the regulatory framework developed by the Oregon State Department of Agriculture, Food Safety Division, in Oregon Administrative Rule (OAR) 603-025-0200. According to the Oregon State Department of Agriculture, Food Safety Division (2007 (a)), all homes with a domestic kitchen must contain the following features in order to operate as a licensed domestic kitchen in the State of Oregon:

- **Doors:** Any domestic kitchen doors must be kept closed during operation of the domestic kitchen.
- **People:** No one other than the licensee and employees directly under his/her handling of commercial food are allowed in the domestic kitchen during operating hours.
- **Children:** No infants or children allowed in kitchen during domestic kitchen processing activity.
- **Pets:** No pets allowed – ever – in the same building that houses the domestic kitchen.
- **Domestic Activity:** All domestic activities must be completed before any commercial processing or baking takes place.

- **Storage:** Separate closed storage facilities are required for ingredients, finished products, cleaning materials, labels and packaging materials. A separate refrigerated storage space is required for perishable materials. Storage of medical supplies is not permitted in the domestic kitchen. A separate storage area must be provided for household cleaning materials and other chemicals or toxic substances.

In addition to these requirements and characteristics, OAR 603-025-0200 also requires that all domestic kitchens shall be made available for inspection between 8 a.m. and 5 p.m. on weekdays or during other production times by a proper representative of the Oregon State Department of Agriculture, Food Safety Division.

The Oregon State Department of Agriculture, Food Safety Division (2007 (b)) has also developed five mandatory requirements that all food packages, even food packaged by domestic kitchen operators, for either direct or indirect retail sale, must follow. Two of these mandatory requirements are specifically for the principal display panel of the package, and the remaining three mandatory requirements are for the information panel. The Oregon State Department of Agriculture, Food Safety Division (2007 (b)) provides definitions for the principal display panel and the information panel. These definitions, including each of the five mandatory requirements (two for the principal display panel and three for the information panel), are listed here:

- **Principal Display Panel:** As you look at the front of the package, the entire surface area that you can see is referred to as the face or principal display panel. The height times the width of this entire surface determines the font size requirement of the label that is affixed to the front of the principal display panel. The principal display panel must contain certain information in a specific order or location and be of specific type size. Although a

brand name may appear on the principal display panel, this is voluntary.

Federal Regulations) 101.9 (j) can file for the exemption.

- (1) **Product Identity:** The truthful or common name of the product that is contained in the package. This is required to be in the middle portion of the principal display panel front label. The product identity must be dominant and stand out from all other print and pictures on the package. Bold and contrasting type is the normal method of achieving this. Minimum type height is 1/16 inch.
- (2) **Net Weight:** Must be located in the lower 30 percent of the principal display panel. No other type can be placed adjacent to or below the net weight. The net weight or volume must be in both the U.S. lbs/oz (Avoirdupois oz.) and metric scale. "Net Wt. 12 oz (340g)" for a dry product and "Net Wt. 32 fl. Oz (1QT) 946 ml" for a liquid product. Minimum type height is 1/16 inch. In some instances, count instead of weight maybe used. The net weight must be listed as the minimum net weight, not by the average net weight. Net weight is the gross weight minus the tare weight of the packaging.
- **Informational Panel:** This is the area normally to the right of the of the principal display panel. On a box, it would be the label on the right side of the package; on a jar it would be directly to the right of the principal display panel. The labeling requirements are designed to provide the consumer with a consistent arrangement of information on packaged foods. The information panel must contain certain information in a specified order.
- (3) **Nutrition Facts:** Most packaged foods require a nutrition fact statement panel. Some firms may qualify for an exemption of the nutritional facts statement. A manufacturer that meets the requirements in 21 CFR (Code of
- (4) **Ingredient Statement:** This statement is located below the nutrition facts and above the manufacturer or distributor information. The ingredients including food colorings and chemical preservatives must be listed in descending order of predominance by weight or volume. If less than 2 percent by weight, the ingredient can be listed at the end with a statement "contains 2% or less of \_\_\_\_\_." The ingredient shall be the specific name of the ingredient except that certain spices and flavorings need to be declared according to regulation (21 CFR 101.22). An ingredient that contains two or more subingredients may be declared by the common name but must also list in parentheses all the ingredients that are in the particular ingredient. If the ingredient label has specific allergen information, it must be carried over to the manufactured food. If M&M's are used in cookies, the warning on the M&M package about the possibility of containing peanuts must be carried over to your manufactured food label.
- (5) **Place of Address:** The place of business is located on the lower portion of the information panel. The name, street address, city, state and zip code of the food manufacturer or the distributor must be listed. If the company name is correctly listed and can be found in the local phone book, the actual physical street address is not required. A telephone number or an email address may be listed but is not a requirement. When the person whose name appears on the label does not manufacture the packaged food, the name shall reflect the connection of the person with the appropriate term "manufactured by" or "distributed by."

Some additional requirements for labeling required by the Oregon State Department of Agriculture, Food Safety Division (2007 (b)) include:

- Bottled water has additional labeling requirements about the source (21 CFR 165.110).
- Perishable foods are required to have a pull date (OAR 603-025-0800) and should be labeled “Keep Refrigerated.”
- SAFE HANDLING INSTRUCTIONS are required on certain types of foods (such as meats, eggs, juice, etc.).

## Conclusion

There are distinct possible benefits a cottage food industry could provide in Nevada. In other states that have adopted cottage food industry legislation, they have realized benefits including encouraging economic development through entrepreneurial and small business development, encouraging social justice, and the addressing food security issues in rural and urban food deserts.

Despite these benefits, state governments also have an obligation to ensure and protect the public’s general health and safety. Although there are clear benefits for communities that encourage the development of cottage food operations, state legislatures must develop proper regulatory systems that ensure that home-based cottage food operations do not threaten the public’s health and safety. Development of proper public policy that balances the benefits of cottage food operations with the need to properly regulate and oversee them is the challenge of developing statewide cottage food industry legislation in Nevada.

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