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House Bill 5671 (Substitute H-3 as passed by the House)  
House Bill 5704 (Substitute H-2 as passed by the House)  
Sponsor: Representative Julie Alexander (H.B. 5671)  
Representative Annette Glenn (H.B. 5704)  
House Committee: Agriculture  
Senate Committee: Agriculture

Date Completed: 6-7-22

### **CONTENT**

#### **House Bill 5671 (H-3) would amend the Food Law to do the following:**

- **Allow a cottage food product to be sold by internet or mail order or delivered to a consumer through a third-party food delivery platform if the operation provided an opportunity for a consumer to directly interact with the operation before the food product was sold.**
- **Increase, from \$25,000 to \$40,000, the annual gross sales limit of a cottage food operation until January 1, 2024, and require the Michigan Department of Agriculture and Rural Development (MDARD) to adjust the limit for inflation annually after that date.**
- **Allow a cottage food operation to register with the Michigan State University (MSU) Product Center, if the MSU Product Center operated a registration program.**
- **Require a cottage food operation that registered with the MSU Product Center to include its MSU Product Center registration number on its food product labels.**

**House Bill 5704 (H-2) would amend the Food Law to define "third-party food delivery platform" as a business engaging in the service of delivery from a cottage food operation or online food ordering and delivery from a food service establishment to a consumer.**

The bills are tie-barred.

House Bill 5671 (H-3) is discussed in greater detail below.

#### **Online Sales; Cottage Food Products**

A cottage food operation (see **BACKGROUND**) is exempt from the licensing and evaluation provisions of the Food Law. This exemption does not include an exemption from the adulteration and other standards imposed under the Law and does not limit MDARD from taking enforcement action for applicable violations.

Cottage food products must be sold directly from the cottage food operation to the consumer only, and not by internet or mail orders. The bill would eliminate the prohibition against internet or mail order sales. Instead, a cottage food product could be sold by internet or mail

order or could be delivered to a consumer through a third-party food delivery platform if the operation provided an opportunity for a consumer to directly interact with the operation before the food product was sold. A product sold by internet or mail order or delivered through a third-party food delivery platform would have to be sold or delivered only to a consumer in Michigan. "Directly interact with" would include either a face-to-face meeting or a virtual meeting. "Virtual meeting" would include a meeting in which communication occurs electronically in a manner that permits two-way communication so that participants can see or be seen and hear or be heard by all parties to the communication.

### Gross Sales Limit; Increase

Currently, the annual gross sales of a cottage food product by a cottage food operation may not exceed \$25,000. The bill would increase this amount to \$40,000 until January 1, 2024. After that date, MDARD would have to adjust the gross sales amount limit annually by the rate of inflation, as measured by the Detroit Consumer Price Index.

### Registration Program & Labeling

The bill specifies that if the MSU Product Center administered a registration program for cottage food operations, a cottage food operation could register with the MSU Product Center. The MSU Product Center's records with respect to the program would have to be available to MDARD upon request. The MSU Product Center could do both of the following:

- Issue a document that evidenced the granting of registration and contained an identifying number unique to the operation.
- Collect a one-time registration fee of not more than \$50 to administer the program.

Information obtained as a result of an operation's registration with the MSU Product Center would not be subject to the Freedom of Information Act.

Cottage food products must be prepackaged and properly labeled before sale, and the Law prescribes information that must be included on the label. Among other things, a cottage food operation must include the name and address of the business of the cottage food operation. Under the bill, a cottage food operation would have to place on the label the name and address of the business of the operation, or, if the operation registered with the MSU Product Center, the name, telephone number, and MSU Product Center registration number issued to the business of the cottage food operation.

MCL 289.4102 (H.B. 5671)  
289.1105 & 289.1111 (H.B. 5704)

### **BACKGROUND**

A cottage food operation is an individual who produces or packages cottage food products only in the kitchen of his or her primary domestic residence in Michigan. A cottage food product is a food that is not potentially hazardous food, i.e., a food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation. Examples of these foods include jams, jellies, dried fruit, candy, cereal, granola, dry mixes, vinegar, dried herbs, and baked goods that do not require temperature control for safety.

Legislative Analyst: Jeff Mann

## **FISCAL IMPACT**

The bills would have a minimal fiscal impact on MDARD. While the Department is responsible for establishing a licensing and regulatory program for the commercial food industry, the bill would allow cottage food operations to register with the MSU Product Center. To support the Center's costs to operate the registration program (assuming it did so), the bill would allow it to collect a one-time registration fee of up to \$50 to defray expenses. The total amount of registration fees that it could collect would depend on the number of operations that ultimately registered; it is not known at this time how many would register.

Fiscal Analyst: Bruce R. Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.