**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44‑1‑310 SO AS TO DEFINE CERTAIN TERMS RELATED TO COTTAGE FOOD OPERATIONS; AND BY ADDING SECTION 44‑1‑320 SO AS TO REGULATE COTTAGE FOOD OPERATIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 1, Title 44 of the 1976 Code is amended by adding:

“Section 44‑1‑310. (A) The department shall not use any funds appropriated or authorized to the department to enforce Regulation 61‑25 to the extent that its enforcement would prohibit the preparing and serving of a cottage food product by a cottage food operation in compliance with this section and Section 44‑1‑320. The department shall promulgate regulations necessary to effectuate the purpose of this section and Section 44‑1‑320.

(B) For the purposes of this chapter:

(1) ‘Cottage food operation’ means a person who produces or packages cottage food products only in a kitchen of that person’s primary domestic residence within this State.

(2) ‘Cottage food product’ means a food that is not a potentially hazardous food as that term is defined in the food code. Examples of cottage food products include, but are not limited to, jams, jellies, dried fruit, candy, cereal, granola, dry mixes, vinegar, dried herbs, and baked goods that do not require temperature control for safety. A cottage food product does not include:

(a) any potentially hazardous food regulated under 21 C.F.R. 113 and 114, including, but are not limited to:

(i) meat and poultry products;

(ii) salsa;

(iii) milk products;

(iv) bottled water and other beverages;

(v) home‑produced ice products; and

(b) canned, low‑acid fruits or acidified vegetables and other canned foods except for jams, jellies, and preserves as defined in 21 C.F.R. 150.

(3) ‘Domestic residence’ means a single‑family dwelling or an area within a rental unit where a single person or family actually resides. Domestic residence does not include:

(a) a group or communal residential setting within any type of structure; or

(b) an outbuilding, shed, barn, or other similar structure.”

SECTION 2. Chapter 1, Title 44 of the 1976 Code is amended by adding:

“Section 44‑1‑320. (A) A cottage food product must be prepackaged and properly labeled prior to sale.

(B) At a minimum, a cottage food operation shall place the following information on the label of any food it produces or packages:

(1) the name and address of the business of the cottage food operation;

(2) the name of the cottage food product;

(3) the ingredients of the cottage food product, in descending order of predominance by weight;

(4) the net weight or net volume of the cottage food product;

(5) allergen labeling as specified by federal labeling requirements;

(6) if any nutritional claim is made, appropriate labeling as specified by federal labeling requirements; and

(7) the following statement printed in at least the equivalent of eleven‑point font size in a color that provides a clear contrast to the background: ‘Made in a home kitchen that has not been inspected by the South Carolina Department of Health and Environmental Control.’

(C) A cottage food product may be sold directly from the cottage food operation to the consumer only, and may not be sold through the internet or by mail order. The sale of a cottage food product by consignment or at wholesale is prohibited.

(D) The annual gross sales of cottage food products by a cottage food operation must not exceed fifteen thousand dollars. The determination of the fifteen thousand dollars annual gross sales of a cottage food operation must be computed on the basis of the amount of gross sales within or at a particular domestic residence and must not be computed on a per‑person basis within or at that domestic residence. The department may request in writing documentation to verify the annual gross sales figure.

(E) Cottage food products must be stored only in the primary domestic residence.

(F) The requirements under this section and Section 44‑1‑310 do not affect the application of any other state law, federal law, or ordinances enacted by any local unit of government, including, but not limited to, Chapter 25, Title 39, which concerns adulterated or misbranded food and cosmetics.”

SECTION 3. This act takes effect upon approval by the Governor.

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