

REFERENCE TITLE: food preparation; sale; cottage food

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

# HB 2781

Introduced by  
Representative Wilmeth

AN ACT

AMENDING SECTION 36-136, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2; RELATING TO THE DEPARTMENT OF HEALTH SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 36-136, Arizona Revised Statutes, is amended to  
3 read:  
4 36-136. Powers and duties of director; compensation of  
5 personnel; rules; definitions  
6 A. The director shall:  
7 1. Be the executive officer of the department of health services  
8 and the state registrar of vital statistics but shall not receive  
9 compensation for services as registrar.  
10 2. Perform all duties necessary to carry out the functions and  
11 responsibilities of the department.  
12 3. Prescribe the organization of the department. The director  
13 shall appoint or remove personnel as necessary for the efficient work of  
14 the department and shall prescribe the duties of all personnel. The  
15 director may abolish any office or position in the department that the  
16 director believes is unnecessary.  
17 4. Administer and enforce the laws relating to health and  
18 sanitation and the rules of the department.  
19 5. Provide for the examination of any premises if the director has  
20 reasonable cause to believe that on the premises there exists a violation  
21 of any health law or rule of this state.  
22 6. Exercise general supervision over all matters relating to  
23 sanitation and health throughout this state. When in the opinion of the  
24 director it is necessary or advisable, a sanitary survey of the whole or  
25 of any part of this state shall be made. The director may enter, examine  
26 and survey any source and means of water supply, sewage disposal plant,  
27 sewerage system, prison, public or private place of detention, asylum,  
28 hospital, school, public building, private institution, factory, workshop,  
29 tenement, public washroom, public restroom, public toilet and toilet  
30 facility, public eating room and restaurant, dairy, milk plant or food  
31 manufacturing or processing plant, and any premises in which the director  
32 has reason to believe there exists a violation of any health law or rule  
33 of this state that the director has the duty to administer.  
34 7. Prepare sanitary and public health rules.  
35 8. Perform other duties prescribed by law.  
36 B. If the director has reasonable cause to believe that there  
37 exists a violation of any health law or rule of this state, the director  
38 may inspect any person or property in transportation through this state,  
39 and any car, boat, train, trailer, airplane or other vehicle in which that  
40 person or property is transported, and may enforce detention or  
41 disinfection as reasonably necessary for the public health if there exists  
42 a violation of any health law or rule.  
43 C. The director, after consultation with the department of  
44 administration, may take all necessary steps to enhance the highest and  
45 best use of the state hospital property, including contracting with third

1 parties to provide services, entering into short-term lease agreements  
2 with third parties to occupy or renovate existing buildings and entering  
3 into long-term lease agreements to develop the land and buildings. The  
4 director shall deposit any monies collected from contracts and lease  
5 agreements entered into pursuant to this subsection in the Arizona state  
6 hospital charitable trust fund established by section 36-218. At least  
7 thirty days before issuing a request for proposals pursuant to this  
8 subsection, the department of health services shall hold a public hearing  
9 to receive community and provider input regarding the highest and best use  
10 of the state hospital property related to the request for proposals. The  
11 department shall report to the joint committee on capital review on the  
12 terms, conditions and purpose of any lease or sublease agreement entered  
13 into pursuant to this subsection relating to state hospital lands or  
14 buildings or the disposition of real property pursuant to this subsection,  
15 including state hospital lands or buildings, and the fiscal impact on the  
16 department and any revenues generated by the agreement. Any lease or  
17 sublease agreement entered into pursuant to this subsection relating to  
18 state hospital lands or buildings or the disposition of real property  
19 pursuant to this subsection, including state hospital lands or buildings,  
20 must be reviewed by the joint committee on capital review.

21 D. The director may deputize, in writing, any qualified officer or  
22 employee in the department to do or perform on the director's behalf any  
23 act the director is by law empowered to do or charged with the  
24 responsibility of doing.

25 E. The director may delegate to a local health department, county  
26 environmental department or public health services district any functions,  
27 powers or duties that the director believes can be competently,  
28 efficiently and properly performed by the local health department, county  
29 environmental department or public health services district if:

30 1. The director or superintendent of the local health ~~agency~~  
31 ~~DEPARTMENT~~, environmental ~~agency~~ ~~DEPARTMENT~~ or public health services  
32 district is willing to accept the delegation and agrees to perform or  
33 exercise the functions, powers and duties conferred in accordance with the  
34 standards of performance established by the director of the department of  
35 health services.

36 2. Monies appropriated or otherwise made available to the  
37 department for distribution to or division among counties or public health  
38 services districts for local health work may be allocated or reallocated  
39 in a manner designed to ensure the accomplishment of recognized local  
40 public health activities and delegated functions, powers and duties in  
41 accordance with applicable standards of performance. If in the director's  
42 opinion there is cause, the director may terminate all or a part of any  
43 delegation and may reallocate all or a part of any ~~funds~~ ~~MONIES~~ that may  
44 have been conditioned on the further performance of the functions, powers  
45 or duties conferred.

1 F. The compensation of all personnel shall be as determined  
2 pursuant to section 38-611.

3 G. The director may make and amend rules necessary for the proper  
4 administration and enforcement of the laws relating to the public health.

5 H. Notwithstanding subsection I, paragraph 1 of this section, the  
6 director may define and prescribe emergency measures for detecting,  
7 reporting, preventing and controlling communicable or infectious diseases  
8 or conditions if the director has reasonable cause to believe that a  
9 serious threat to public health and welfare exists. Emergency measures  
10 are effective for not longer than eighteen months.

11 I. The director, by rule, shall:

12 1. Define and prescribe reasonably necessary measures for  
13 detecting, reporting, preventing and controlling communicable and  
14 preventable diseases. The rules shall declare certain diseases  
15 reportable. The rules shall prescribe measures, including isolation or  
16 quarantine, that are reasonably required to prevent the occurrence of, or  
17 to seek early detection and alleviation of, disability, insofar as  
18 possible, from communicable or preventable diseases. The rules shall  
19 include reasonably necessary measures to control animal diseases **THAT ARE**  
20 transmittable to humans.

21 2. Define and prescribe reasonably necessary measures, in addition  
22 to those prescribed by law, regarding the preparation, embalming,  
23 cremation, interment, disinterment and transportation of dead human bodies  
24 and the conduct of funerals, relating to and restricted to communicable  
25 diseases and regarding the removal, transportation, cremation, interment  
26 or disinterment of any dead human body.

27 3. Define and prescribe reasonably necessary procedures that are  
28 not inconsistent with law in regard to the use and accessibility of vital  
29 records, delayed birth registration and the completion, change and  
30 amendment of vital records.

31 4. Except as relating to the beneficial use of wildlife meat by  
32 public institutions and charitable organizations pursuant to title 17,  
33 prescribe reasonably necessary measures to ensure that all food or drink,  
34 including meat and meat products and milk and milk products sold at the  
35 retail level, provided for human consumption is free from unwholesome,  
36 poisonous or other foreign substances and filth, insects or  
37 disease-causing organisms. The rules shall prescribe reasonably necessary  
38 measures governing the production, processing, labeling, storing,  
39 handling, serving and transportation of these products. The rules shall  
40 prescribe minimum standards for the sanitary facilities and conditions  
41 that shall be maintained in any warehouse, restaurant or other premises,  
42 except a ~~meat packing~~ **MEATPACKING** plant, slaughterhouse, wholesale meat  
43 processing plant, dairy product manufacturing plant or trade product  
44 manufacturing plant. The rules shall prescribe minimum standards for any  
45 truck or other vehicle in which food or drink is produced, processed,

1 stored, handled, served or transported. The rules shall provide for the  
2 inspection and licensing of premises and vehicles so used, and for  
3 abatement as public nuisances of any premises or vehicles that do not  
4 comply with the rules and minimum standards. The rules shall provide an  
5 exemption relating to food or drink that is:

6 (a) Served at a noncommercial social event such as a potluck.

7 (b) Prepared at a cooking school that is conducted in an  
8 owner-occupied home.

9 (c) Not potentially hazardous and prepared in a kitchen of a  
10 private home for ~~occasional~~ sale or distribution for noncommercial  
11 purposes.

12 (d) Prepared or served at an employee-conducted function that lasts  
13 less than four hours and is not regularly scheduled, such as an employee  
14 recognition, an employee fundraising or an employee social event.

15 (e) Offered at a child care facility and limited to commercially  
16 prepackaged food that is not potentially hazardous and whole fruits and  
17 vegetables that are washed and cut on-site for immediate consumption.

18 (f) Offered at locations that sell only commercially prepackaged  
19 food or drink that is not potentially hazardous.

20 (g) A cottage food product ~~that is not potentially hazardous or a~~  
21 ~~time or temperature control for safety food and that is prepared in a~~  
22 ~~kitchen of a private home for commercial purposes, including fruit jams~~  
23 ~~and jellies, dry mixes made with ingredients from approved sources, honey,~~  
24 ~~dry pasta and roasted nuts~~ CONSISTENT WITH CHAPTER 8, ARTICLE 2 OF THIS  
25 TITLE. ~~Cottage food products must be packaged at home with an attached~~  
26 ~~label that clearly states the name and registration number of the food~~  
27 ~~preparer, lists all the ingredients in the product and the product's~~  
28 ~~production date and includes the following statement: "This product was~~  
29 ~~produced in a home kitchen that may process common food allergens and is~~  
30 ~~not subject to public health inspection." If the product was made in a~~  
31 ~~facility for individuals with developmental disabilities, the label must~~  
32 ~~also disclose that fact. The person preparing the food or supervising the~~  
33 ~~food preparation must complete a food handler training course from an~~  
34 ~~accredited program and maintain active certification. The food preparer~~  
35 ~~must register with an online registry established by the department~~  
36 ~~pursuant to paragraph 13 of this subsection. The food preparer must~~  
37 ~~display the preparer's certificate of registration when operating as a~~  
38 ~~temporary food establishment. For the purposes of this subdivision, "not~~  
39 ~~potentially hazardous" means cottage food products that meet the~~  
40 ~~requirements of the food code published by the United States food and drug~~  
41 ~~administration, as modified and incorporated by reference by the~~  
42 ~~department by rule.~~

43 (h) A whole fruit or vegetable grown in a public school garden that  
44 is washed and cut on-site for immediate consumption.

1 (i) Produce in a packing or holding facility that is subject to the  
2 United States food and drug administration produce safety rule (21 Code of  
3 Federal Regulations part 112) as administered by the Arizona department of  
4 agriculture pursuant to title 3, chapter 3, article 4.1. For the purposes  
5 of this subdivision, "holding", "packing" and "produce" have the same  
6 meanings prescribed in section 3-525.

7 (j) Spirituous liquor produced on the premises licensed by the  
8 department of liquor licenses and control. This exemption includes both of  
9 the following:

10 (i) The area in which production and manufacturing of spirituous  
11 liquor occurs, as defined in an active basic permit on file with the  
12 United States alcohol and tobacco tax and trade bureau.

13 (ii) The area licensed by the department of liquor licenses and  
14 control as a microbrewery, farm winery or craft distiller that is open to  
15 the public and serves spirituous liquor and commercially prepackaged food,  
16 crackers or pretzels for consumption on the premises. A producer of  
17 spirituous liquor may not provide, allow or expose for common use any cup,  
18 glass or other receptacle used for drinking purposes. For the purposes of  
19 this item, "common use" means the use of a drinking receptacle for  
20 drinking purposes by or for more than one person without the receptacle  
21 being thoroughly cleansed and sanitized between consecutive uses by  
22 methods prescribed by or acceptable to the department.

23 5. Prescribe reasonably necessary measures to ensure that all meat  
24 and meat products for human consumption handled at the retail level are  
25 delivered in a manner and from sources approved by the Arizona department  
26 of agriculture and are free from unwholesome, poisonous or other foreign  
27 substances and filth, insects or disease-causing organisms. The rules  
28 shall prescribe standards for sanitary facilities to be used in ~~identity~~  
29 ~~IDENTIFYING~~, ~~storage~~ ~~STORING~~, handling and ~~sale of~~ ~~SELLING~~ all meat and  
30 meat products sold at the retail level.

31 6. Prescribe reasonably necessary measures regarding production,  
32 processing, labeling, handling, serving and transportation of bottled  
33 water to ensure that all bottled drinking water distributed for human  
34 consumption is free from unwholesome, poisonous, deleterious or other  
35 foreign substances and filth or disease-causing organisms. The rules  
36 shall prescribe minimum standards for the sanitary facilities and  
37 conditions that shall be maintained at any source of water, bottling plant  
38 and truck or vehicle in which bottled water is produced, processed, stored  
39 or transported and shall provide for inspection and certification of  
40 bottled drinking water sources, plants, processes and transportation and  
41 for abatement as a public nuisance of any water supply, label, premises,  
42 equipment, process or vehicle that does not comply with the minimum  
43 standards. The rules shall prescribe minimum standards for  
44 bacteriological, physical and chemical quality for bottled water and for

1 ~~the submission of~~ SUBMITTING samples at intervals prescribed in the  
2 standards.

3         7. Define and prescribe reasonably necessary measures governing ice  
4 production, handling, storing and distribution to ensure that all ice sold  
5 or distributed for human consumption or for preserving or storing food for  
6 human consumption is free from unwholesome, poisonous, deleterious or  
7 other foreign substances and filth or disease-causing organisms. The  
8 rules shall prescribe minimum standards for the sanitary facilities and  
9 conditions and the quality of ice that shall be maintained at any ice  
10 plant, storage and truck or vehicle in which ice is produced, stored,  
11 handled or transported and shall provide for inspection and licensing of  
12 the premises and vehicles, and for abatement as public nuisances of ice,  
13 premises, equipment, processes or vehicles that do not comply with the  
14 minimum standards.

15         8. Define and prescribe reasonably necessary measures concerning  
16 sewage and excreta disposal, garbage and trash collection, storage and  
17 disposal, and water supply for recreational and summer camps, campgrounds,  
18 motels, tourist courts, trailer coach parks and hotels. The rules shall  
19 prescribe minimum standards for preparing food in community kitchens,  
20 adequacy of excreta disposal, garbage and trash collection, storage and  
21 disposal and water supply for recreational and summer camps, campgrounds,  
22 motels, tourist courts, trailer coach parks and hotels and shall provide  
23 for inspection of these premises and for abatement as public nuisances of  
24 any premises or facilities that do not comply with the rules. Primitive  
25 camp and picnic grounds offered by this state or a political subdivision  
26 of this state are exempt from rules adopted pursuant to this paragraph but  
27 are subject to approval by a county health department under sanitary  
28 regulations adopted pursuant to section 36-183.02. Rules adopted pursuant  
29 to this paragraph do not apply to two or fewer recreational vehicles as  
30 defined in section 33-2102 that are not park models or park trailers, that  
31 are parked on owner-occupied residential property for less than sixty days  
32 and for which no rent or other compensation is paid. For the purposes of  
33 this paragraph, "primitive camp and picnic grounds" means camp and picnic  
34 grounds that are remote in nature and without accessibility to public  
35 infrastructure such as water, electricity and sewer.

36         9. Define and prescribe reasonably necessary measures concerning  
37 the sewage and excreta disposal, garbage and trash collection, storage and  
38 disposal, water supply and food preparation of all public schools. The  
39 rules shall prescribe minimum standards for sanitary conditions that shall  
40 be maintained in any public school and shall provide for inspection of  
41 these premises and facilities and for abatement as public nuisances of any  
42 premises that do not comply with the minimum standards.

43         10. Prescribe reasonably necessary measures to prevent pollution of  
44 water used in public or semipublic swimming pools and bathing places and  
45 to prevent deleterious health conditions at these places. The rules shall

1 prescribe minimum standards for sanitary conditions that shall be  
2 maintained at any public or semipublic swimming pool or bathing place and  
3 shall provide for inspection of these premises and for abatement as public  
4 nuisances of any premises and facilities that do not comply with the  
5 minimum standards. The rules shall be developed in cooperation with the  
6 director of the department of environmental quality and shall be  
7 consistent with the rules adopted by the director of the department of  
8 environmental quality pursuant to section 49-104, subsection B,  
9 paragraph 12.

10 11. Prescribe reasonably necessary measures to keep confidential  
11 information relating to diagnostic findings and treatment of patients, as  
12 well as information relating to contacts, suspects and associates of  
13 communicable disease patients. ~~In no event shall~~ Confidential information  
14 MAY NOT be made available for political or commercial purposes.

15 12. Prescribe reasonably necessary measures regarding human  
16 immunodeficiency virus testing as a means to control the transmission of  
17 that virus, including the designation of anonymous test sites as dictated  
18 by current epidemiologic and scientific evidence.

19 13. Establish an online registry of food preparers that are  
20 authorized to prepare cottage food products for commercial purposes  
21 pursuant to paragraph 4 of this subsection AND CHAPTER 8, ARTICLE 2 OF  
22 THIS TITLE. A registered food preparer shall renew the registration every  
23 three years and shall provide to the department updated registration  
24 information within thirty days after any change.

25 14. Prescribe an exclusion for fetal demise cases from the  
26 standardized survey known as "the hospital consumer assessment of  
27 healthcare providers and systems".

28 J. The rules adopted under the authority conferred by this section  
29 shall be observed throughout ~~the~~ THIS state and shall be enforced by each  
30 local board of health or public health services district, but this section  
31 does not limit the right of any local board of health or county board of  
32 supervisors to adopt ordinances and rules as authorized by law within its  
33 jurisdiction, ~~provided that~~ IF the ordinances and rules do not conflict  
34 with state law and are equal to or more restrictive than the rules of the  
35 director.

36 K. The powers and duties prescribed by this section do not apply in  
37 instances in which regulatory powers and duties relating to public health  
38 are vested by the legislature in any other state board, commission, agency  
39 or instrumentality, except that with regard to the regulation of meat and  
40 meat products, the department of health services and the Arizona  
41 department of agriculture within the area delegated to each shall adopt  
42 rules that are not in conflict.

43 L. The director, in establishing fees authorized by this section,  
44 shall comply with title 41, chapter 6. The department shall not set a fee  
45 at more than the department's cost of providing the service for which the



1 fee is charged. State agencies are exempt from all fees imposed pursuant  
2 to this section.

3 M. After consultation with the state superintendent of public  
4 instruction, the director shall prescribe the criteria the department  
5 shall use in deciding whether or not to notify a local school district  
6 that a pupil in the district has tested positive for the human  
7 immunodeficiency virus antibody. The director shall prescribe the  
8 procedure by which the department shall notify a school district if,  
9 pursuant to these criteria, the department determines that notification is  
10 warranted in a particular situation. This procedure shall include a  
11 requirement that before notification the department shall determine to its  
12 satisfaction that the district has an appropriate policy relating to  
13 nondiscrimination of the infected pupil and confidentiality of test  
14 results and that proper educational counseling has been or will be  
15 provided to staff and pupils.

16 N. Until the department adopts exemptions by rule as required by  
17 subsection I, paragraph 4, subdivision (f) of this section, food and drink  
18 are exempt from the rules prescribed in subsection I of this section if  
19 offered at locations that sell only commercially prepackaged food or drink  
20 that is not potentially hazardous, without a limitation on its display  
21 area.

22 O. Until the department adopts exemptions by rule as required by  
23 subsection I, paragraph 4, subdivision (h) of this section, a whole fruit  
24 or vegetable grown in a public school garden that is washed and cut  
25 on-site for immediate consumption is exempt from the rules prescribed in  
26 subsection I of this section.

27 P. Until the department adopts an exclusion by rule as required by  
28 subsection I, paragraph 14 of this section, the standardized survey known  
29 as "the hospital consumer assessment of healthcare providers and systems"  
30 may not include patients who experience a fetal demise.

31 Q. Until the department adopts exemptions by rule as required by  
32 subsection I, paragraph 4, subdivision (j) of this section, spirituous  
33 liquor and commercially prepackaged food, crackers or pretzels that meet  
34 the requirements of subsection I, paragraph 4, subdivision (j) of this  
35 section are exempt from the rules prescribed in subsection I of this  
36 section.

37 R. For the purposes of this section:

38 1. ~~"Cottage food product":-~~

39 ~~(a) Means a food that is not potentially hazardous or a time or~~  
40 ~~temperature control for safety food as defined by the department in rule~~  
41 ~~and that is prepared in a home kitchen by an individual who is registered~~  
42 ~~with the department.~~

43 ~~(b) Does not include foods that require refrigeration, perishable~~  
44 ~~baked goods, salsas, sauces, fermented and pickled foods, meat, fish and~~  
45 ~~shellfish products, beverages, acidified food products, nut butters or~~

1 ~~other reduced-oxygen packaged products~~ HAS THE SAME MEANING PRESCRIBED IN  
2 SECTION 36-931.

3 2. "Fetal demise" means a fetal death that occurs or is confirmed  
4 in a licensed hospital. Fetal demise does not include an abortion as  
5 defined in section 36-2151.

6 Sec. 2. Title 36, chapter 8, Arizona Revised Statutes, is amended  
7 by adding article 2, to read:

8 ARTICLE 2. COTTAGE FOOD PRODUCTS

9 36-931. Definitions

10 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

11 1. "COTTAGE FOOD PRODUCT":

12 (a) MEANS A FOOD THAT IS PREPARED IN A HOME KITCHEN BY AN  
13 INDIVIDUAL WHO IS REGISTERED WITH THE DEPARTMENT AND THAT EITHER, AS  
14 DEFINED BY THE DEPARTMENT IN RULE:

15 (i) IS NOT POTENTIALLY HAZARDOUS OR DOES NOT REQUIRE TIME OR  
16 TEMPERATURE CONTROL FOR SAFETY.

17 (ii) IS POTENTIALLY HAZARDOUS OR REQUIRES TIME OR TEMPERATURE  
18 CONTROL FOR SAFETY.

19 (b) DOES NOT INCLUDE ALCOHOLIC BEVERAGES, UNPASTEURIZED MILK OR  
20 FOODS THAT ARE OR CONTAIN ALCOHOLIC BEVERAGES, FISH AND SHELLFISH  
21 PRODUCTS, MEAT, MEAT BYPRODUCTS, POULTRY OR POULTRY BYPRODUCTS UNLESS THE  
22 SALE OF THOSE ITEMS IS ALLOWED BY FEDERAL LAW, INCLUDING ALL OF THE  
23 FOLLOWING:

24 (i) POULTRY, POULTRY BYPRODUCTS OR POULTRY FOOD PRODUCTS IF THE  
25 PRODUCER RAISED THE POULTRY PURSUANT TO THE ONE THOUSAND BIRD EXEMPTION  
26 SET FORTH IN 9 CODE OF FEDERAL REGULATIONS SECTION 381.10(c).

27 (ii) POULTRY, POULTRY BYPRODUCTS OR POULTRY FOOD PRODUCTS IF THE  
28 POULTRY IS FROM AN INSPECTED SOURCE PURSUANT TO 9 CODE OF FEDERAL  
29 REGULATIONS SECTION 381.10(d).

30 (iii) MEAT, MEAT BYPRODUCTS OR MEAT FOOD PRODUCTS IF THE MEAT IS  
31 FROM AN INSPECTED SOURCE PURSUANT TO 9 CODE OF FEDERAL REGULATIONS SECTION  
32 303.1(d).

33 2. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH SERVICES.

34 3. "POTENTIALLY HAZARDOUS" MEANS THAT A COTTAGE FOOD PRODUCT DOES  
35 NOT MEET THE REQUIREMENTS OF THE FOOD CODE PUBLISHED BY THE UNITED STATES  
36 FOOD AND DRUG ADMINISTRATION, AS MODIFIED AND INCORPORATED BY REFERENCE BY  
37 THE DEPARTMENT BY RULE.

38 36-932. Labeling; food handler certification; sale and  
39 delivery requirements

40 A. COTTAGE FOOD PRODUCTS MUST BE PACKAGED AT HOME WITH AN ATTACHED  
41 LABEL THAT DOES ALL OF THE FOLLOWING:

42 1. CLEARLY STATES THE NAME AND REGISTRATION NUMBER OF THE FOOD  
43 PREPARER.

44 2. LISTS ALL THE INGREDIENTS IN THE COTTAGE FOOD PRODUCT AND THE  
45 COTTAGE FOOD PRODUCT'S PRODUCTION DATE.

1 3. INCLUDES THE FOLLOWING STATEMENT: "THIS PRODUCT WAS PRODUCED IN  
2 A HOME KITCHEN THAT MAY PROCESS COMMON FOOD ALLERGENS AND IS NOT SUBJECT  
3 TO PUBLIC HEALTH INSPECTION."

4 4. IF THE COTTAGE FOOD PRODUCT WAS MADE IN A FACILITY FOR  
5 INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES, DISCLOSES THAT FACT.

6 B. THE PERSON PREPARING THE COTTAGE FOOD PRODUCT OR SUPERVISING THE  
7 FOOD PREPARATION MUST COMPLETE A FOOD HANDLER TRAINING COURSE FROM AN  
8 ACCREDITED PROGRAM AND MAINTAIN ACTIVE CERTIFICATION. THE FOOD PREPARER  
9 MUST REGISTER WITH THE ONLINE REGISTRY ESTABLISHED BY THE DEPARTMENT  
10 PURSUANT TO SECTION 36-136, SUBSECTION I, PARAGRAPH 13. THE FOOD PREPARER  
11 MUST DISPLAY THE PREPARER'S CERTIFICATE OF REGISTRATION WHEN OPERATING AS  
12 A TEMPORARY FOOD ESTABLISHMENT.

13 C. A FOOD PRODUCER MAY SELL COTTAGE FOOD PRODUCTS TO THE MAXIMUM  
14 EXTENT ALLOWED BY FEDERAL LAW.

15 D. COTTAGE FOOD PRODUCTS MAY BE SOLD AND DELIVERED ONLY UNDER THE  
16 FOLLOWING CONDITIONS:

17 1. COTTAGE FOOD PRODUCTS THAT DO NOT CONTAIN DAIRY, MEAT OR POULTRY  
18 MUST BE SOLD BY THE FOOD PREPARER OF THE COTTAGE FOOD PRODUCT OR AN AGENT  
19 OF THE FOOD PREPARER, INCLUDING A THIRD-PARTY VENDOR, AND DELIVERED TO THE  
20 CONSUMER BY THE FOOD PREPARER, THE AGENT OF THE FOOD PREPARER, THE  
21 THIRD-PARTY VENDOR OR A THIRD-PARTY CARRIER.

22 2. COTTAGE FOOD PRODUCTS THAT ARE DAIRY PRODUCTS OR THAT CONTAIN  
23 MEAT OR POULTRY MUST BE SOLD BY THE FOOD PREPARER OF THE COTTAGE FOOD  
24 PRODUCT IN PERSON OR REMOTELY, INCLUDING OVER THE INTERNET, AND DELIVERED  
25 TO THE CONSUMER IN PERSON.

26 3. IF A COTTAGE FOOD PRODUCT IS POTENTIALLY HAZARDOUS OR REQUIRES  
27 TIME OR TEMPERATURE CONTROL FOR SAFETY AND IS TRANSPORTED BEFORE FINAL  
28 DELIVERY TO CONSUMERS, THE COTTAGE FOOD PRODUCT MUST BE MAINTAINED AT AN  
29 APPROPRIATE TEMPERATURE DURING TRANSPORT, CANNOT BE TRANSPORTED MORE THAN  
30 ONCE AND CANNOT BE TRANSPORTED FOR LONGER THAN TWO HOURS.

31 4. IF A COTTAGE FOOD PRODUCT IS SOLD BY A THIRD-PARTY VENDOR, THE  
32 COTTAGE FOOD PRODUCT MUST BE SOLD IN A SEPARATE SECTION OF THE STORE OR ON  
33 A SEPARATE DISPLAY CASE FROM NONHOMEMADE FOOD ITEMS AND THE VENDOR MUST  
34 DISPLAY A SIGN THAT INDICATES THAT THE COTTAGE FOOD PRODUCTS ARE HOMEMADE  
35 AND EXEMPT FROM STATE LICENSING AND INSPECTION.

36 36-933. Applicability of article; rules; enforcement

37 A. THIS ARTICLE:

38 1. IS NOT MORE RESTRICTIVE THAN THE APPLICABLE FEDERAL LAWS.

39 2. DOES NOT IMPEDE THE DEPARTMENT OR A COUNTY FROM INVESTIGATING  
40 ANY FOODBORNE ILLNESS.

41 3. DOES NOT CHANGE THE REQUIREMENTS FOR BRAND INSPECTIONS, ANIMAL  
42 HEALTH INSPECTIONS OR ANY FOOD INSPECTIONS REQUIRED BY STATE OR FEDERAL  
43 LAW, OR CHANGE THE REQUIREMENTS FOR THE SALE OF MILK, MILK PRODUCTS, RAW  
44 MILK OR RAW MILK PRODUCTS PURSUANT TO SECTION 3-606.

1           B. THE DEPARTMENT SHALL ADOPT RULES ON COTTAGE FOOD PRODUCTS  
2 CONSISTENT WITH THIS ARTICLE AND SECTION 36-136, SUBSECTION I.

3           C. THE DEPARTMENT MAY ENFORCE THIS ARTICLE.

4           Sec. 3. Rulemaking exemption; department of health services

5           Notwithstanding any other law, for the purposes of this act, the  
6 department of health services is exempt from the rulemaking requirements  
7 of title 41, chapter 6, Arizona Revised Statutes, for eighteen months  
8 after the effective date of this act.