

What You Need to Know: Nebraska's Cottage Food Regulations

Introduction

The 2024 expansion of cottage food law in Nebraska is a significant step toward empowering local entrepreneurs and fostering economic growth in rural communities. The law allows individuals to produce and sell certain low-risk foods from their homes without the need for a commercial kitchen, which not only provides opportunities for small-scale food producers but also supports the local economy by keeping money in the community. Nebraska's improved cottage food law contributes to a more vibrant and diverse food landscape in the state.

History

In 2019, the Nebraska Legislature passed Legislative Bill (LB) 304, which first expanded the scope of allowable cottage foods and simplified the regulatory framework.¹ The legislation allowed for non-potentially hazardous foods, such as baked goods, jams, and jellies, to be prepared in non-state inspected kitchens and sold directly to consumers at farmers markets and other local venues. Since then, amendments to LB 304 have reduced barriers for small-scale food producers by permitting actions such as online sales and home delivery.

Nebraska further updated its cottage food law in 2024 with the passage of LB 262, or the Nebraska Pure Food Act, which expanded the items cottage food producers can sell, including some that require time and temperature control for safety (TCS).²



A TCS food requires time and temperature control for safety—either refrigeration or heat. A non-TCS food is shelf stable.³

Including provisions for the sale of more types of foods and increased support for producers to sell in various settings recognizes the vital role rural entrepreneurs play in the state's economy.

Sources

1 "Legislative Bill 304." Nebraska Legislature, 2019, nebraskalegislature.gov/FloorDocs/106/PDF/Final/LB304.pdf. Accessed October 2024.

2 "Legislative Bill 262." Nebraska Legislature, 2024, nebraskalegislature.gov/FloorDocs/108/PDF/Final/LB262.pdf. Accessed October 2024.

3 "Cottage Food Law, Frequently Asked Questions." University of Nebraska-Lincoln Institute of Agriculture and Natural Resources, cottagefoodlaw.unl.edu/faq. Accessed October 2024.



How does it work?⁴

Nebraska cottage food law can be found under Nebraska Revised Statute 81-2,280.⁵ The text of the law details the rules and requirements for individuals selling homemade foods direct to consumers in the state.

The cottage food law allows individuals to produce and sell certain types of foods made in their home kitchens. These foods are typically considered “non-potentially hazardous,” meaning they do not spoil at room temperature. Some TCS foods that are not shelf stable are also allowed.



Examples of foods that may be legally produced and sold under current cottage food regulations include:

- Shelf-stable foods, such as:
 - » Baked goods such as breads, cookies, and cakes
 - » Jams, jellies, and preserves made using pectin
 - » Homemade candies
 - » Granola
 - » Dry mixes
- Some TCS foods, such as:
 - » Cheesecake
 - » Buttercream frosting
 - » Cheese- or cream-filled pastries
 - » Refrigerated sauces and salsas
 - » Refrigerated pickled vegetables (not heat-sealed)



Where cottage foods may be sold:

- Farmers markets or roadside stands
- Public events, like fairs and festivals
- At the producer’s home
- Online or mail order (within Nebraska, or to states where it is legal to mail cottage foods)
- Delivered in person by the producer



Foods NOT allowed to be produced or sold under current cottage food regulations:

- Meat-based products
- Raw eggs
- Milk
- Unpasteurized juice
- Infused honey or oils (raw honey is permitted)
- Sprouts
- Low-acid canned or hermetically sealed acidified foods, including heat-sealed canned pickles
- Tofu, tempeh, or similar meat substitutes
- Fermented foods such as kimchi, kombucha, or sauerkraut



Where cottage foods may NOT be sold:

- Restaurants
- Retail stores
- Catering events or venues
- Wholesale outlets

Sources, continued

4 Ibid.

5 “Nebraska Revised Statute 81-2, 280.” Nebraska Legislature, July 19, 2024, nebraskalegislature.gov/laws/statutes.php?statute=81-2%2C280. Accessed October 2024.

Requirements⁶

The Nebraska cottage food law outlines specific requirements producers must follow to ensure their homemade goods are safe for consumers. Producers must use clean equipment, practice good hygiene, and label products with ingredients and allergen information. Proper food safety standards must be met, even for foods considered “non-potentially hazardous.” Food producers wishing to apply the cottage food law must complete the requirements outlined below to comply with food safety guidelines.



1. Education

Prior to conducting any foods sales, the producer must successfully complete ONE of the following:⁷

- a. A nationally accredited food safety and handling education course that covers topics such as food safety issues, regulations, and techniques to maintain a food-safe environment;
- b. A certified food safety and handling training course offered at a culinary school or as required by a county, city, or village to obtain a food handler permit; or
- c. A food safety and handling education course approved by the Nebraska Department of Agriculture.

Examples of qualifying courses⁸

- National Environmental Health Association food safety
neha.org/professional-food-handler-certificate
- Safemark Food Handler
fmi.org/safemark/food-handler-training
- American National Standards Institution National Accreditation Board Food Handler Training Certificate Program
anabpd.ansi.org/Accreditation/credentialing/certificate-issuers/AllDirectoryListing?prgID=237,238&statusID=4
- University of Nebraska ServSafe
food.unl.edu/food-safety-training



2. Well Testing

If the producer is using a private well as the water source for cottage foods production, it must be tested for nitrates and bacteria.

- Nebraska Department of Health and Human Services Public Health Environmental Lab
dhhs.ne.gov/Pages/Public-Health-Lab.aspx

Sources, continued

⁶ “Cottage Food Law, Frequently Asked Questions.” University of Nebraska-Lincoln Institute of Agriculture and Natural Resources, cottagefoodlaw.unl.edu/faq. Accessed October 2024.

⁷ “Cottage Food Law: Prepping You to Sell Goods, Business Requirements.” University of Nebraska-Lincoln Institute of Agriculture and Natural Resources, cottagefoodlaw.unl.edu/#business-requirements. Accessed October 2024.

⁸ Ibid.



3. Registration⁹

Producers are required to register their cottage food businesses with the Nebraska Department of Agriculture. The registration process is free and can be completed online.

When registering, producers must provide their contact information; details of food safety courses they completed (including the course name and completion date); and, if applicable, the date of their private well testing.

- nda.nebraska.gov/fscp/foods/index.html#LB304



4. Labeling and notification requirements¹⁰

Labels must be in English and include:

- Common name of the food
- Name and address of the producer
- For TCS foods, labeling that includes ingredients in descending order of predominance (ingredient that weighs the most is listed first, and the ingredient that weighs the least is listed last)

Producers must provide consumers visible notification that food was prepared in a kitchen that is not subject to regulation and inspection by a regulatory authority and may contain allergens. This notification must be provided at the location of sale. For items that are sold through pickup or delivery, notification must be provided at the producer's home, on their website, and in any advertisements.

Sources, continued

⁹ Ibid.

¹⁰ "Cottage Food Law: Prepping You to Sell Goods, Labeling." University of Nebraska-Lincoln Institute of Agriculture and Natural Resources, cottagefoodlaw.unl.edu/#labeling. Accessed October 2024.



5. Food handling and safety¹¹

Delivery

- Non-TCS food may be mailed within the state of Nebraska.
- TCS food may be given directly to the consumer only by the person who made or prepared it.
- During transportation, food must be maintained at temperature in accordance with the Nebraska Revised Statute 81-2,280.
- Food transport time must not exceed two hours.
- TCS foods must be kept out of the temperature danger zone—between 40°F and 135°F. Pathogens grow well within this range, so it is crucial to ensure that TCS foods are maintained at higher or lower temperatures; a food thermometer must be used to check the internal temperature of the food, and a refrigerator/freezer thermometer must be used to monitor appliance temperatures.

Cold foods (41°F or lower)

- Place refrigerator and freezer thermometers in the appliance door where temperatures are warmest, ensuring the refrigerator stays at 41°F or lower.
- When transporting food, use thermometers and coolers to ensure it stays colder than 41°F.

Hot foods (135°F or higher)

- Hot foods need to be kept at 135°F or higher, requiring a heat source to maintain this temperature.

Temperature danger zone

- Food should not remain out of refrigeration for more than two hours.
- If the air temperature is about 90°F, food should not be left out for more than one hour.

More information

- University of Nebraska-Lincoln Institute of Agriculture and Natural Resources cottagefoodlaw.unl.edu
- Nebraska Pure Food Act §81-2,280 - “Cottage Food” Registration nda.nebraska.gov/fscp/foods/cottagefood.html

Sources, continued

11 Personal communication, Cindy Brison, extension educator, Nebraska Extension, July 2024.