

# HOUSE BILL REPORT

## HB 2698

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**As Reported by House Committee On:**  
Agriculture & Natural Resources

**Title:** An act relating to expanding the products considered to be potentially nonhazardous as they apply to cottage food operations.

**Brief Description:** Expanding the products considered to be potentially nonhazardous as they apply to cottage food operations.

**Sponsors:** Representatives Freeman, Overstreet, Smith and Tharinger.

**Brief History:**

**Committee Activity:**

Agriculture & Natural Resources: 2/4/14, 2/5/14 [DPS].

**Brief Summary of Substitute Bill**

- Specifically allows baked candies and candies made on a stovetop to be produced by a cottage food operation.

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### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Blake, Chair; Lytton, Vice Chair; Buys, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Chandler, Dunshee, Haigh, Hurst, Kretz, Orcutt, Pettigrew, Schmick, Stanford, Van De Wege and Warnick.

**Staff:** Jason Callahan (786-7117).

**Background:**

The Washington State Department of Agriculture (WSDA) is authorized to adopt rules that allow for cottage food operations. Permitted cottage food operations are exempt from the state's commercial food service regulations and from licensing by public health jurisdictions. A cottage food operation is defined as a person who produces, in the kitchen of their domestic residence, a food that is not potentially hazardous.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Items that are expressly allowed to be sold by a cottage food operation, according to the rules adopted by the WSDA, include:

- baked good products that are cooked in an oven, such as loaf breads, rolls, biscuits, muffins, cakes, scones, cookies, crackers, cereals, trail mixes, candies that are cooked in an oven, certain pies, and nut mixes;
- standardized jams, jellies, preserves and fruit butters;
- recombined and packaged dry herbs, seasoning and mixtures that are obtained from approved sources; and
- flavored vinegars.

Potentially hazardous foods that are not allowed to be produced by a cottage food operator are those that require temperature control and are capable of supporting the rapid growth of pathogenic or toxigenic microorganisms.

Examples of prohibited foods, as provided in the rules adopted by the WSDA, include:

- fresh or dried meat or meat products (including jerky);
- canned fruits, vegetables, vegetable butters, and salsas;
- fish or shellfish products;
- canned pickled products;
- raw seed sprouts;
- bakery goods which require any type of refrigeration;
- tempered or molded chocolate;
- milk and dairy products;
- cut fresh fruits or vegetables and products made from them;
- garlic in oil mixtures;
- juices made from fresh fruits or vegetables;
- ice or ice products;
- barbeque sauces, ketchups, or mustards; and
- focaccia-style breads with vegetables or cheeses.

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**Summary of Substitute Bill:**

The statutory list of allowable food products that may be sold by a cottage food operation is expanded to include both baked candies and candies made on a stovetop.

**Substitute Bill Compared to Original Bill:**

The original bill was limited only to baked candies.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) There are already foods that can be sold by cottage food operations that involve cooking on a stovetop. These include jams, jellies, and the candy-like frosting that typically accompanies cakes. Peanut brittle is no different; yet is not allowed because it is cooked on a stovetop and not baked. Making this small change to the list of allowable cottage foods can have a large impact on the economics of a small, home producer. The change allows more products to be sold and more tax revenue to be collected.

The WSDA plans to embark on an interim process to look at other foods not currently allowed under the cottage food program. The program is relatively new, and it is time for the WSDA to conduct this sort of a review.

(Opposed) The cottage food program is a new program and it is important to see if what is in statute now is working before the statutes are changed. There is a risk of food-borne illness created when non-licensed food processors are allowed to sell their products to the public. An outbreak of food-borne illnesses reflects negatively on the entire food industry and not just on the home kitchen that produced the food.

**Persons Testifying:** (In support) Representative Freeman, prime sponsor; Mark Streuli, Washington State Department of Agriculture; and Amelia Dietrich.

(Opposed) Dan Coyne, Northwest Food Processors Association.

**Persons Signed In To Testify But Not Testifying:** None.