

# HOUSE BILL REPORT

## HB 1685

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**As Reported by House Committee On:**

Rural Development, Agriculture & Natural Resources

**Title:** An act relating to increasing the cap on gross sales for cottage food operations.

**Brief Description:** Increasing the cap on gross sales for cottage food operations.

**Sponsors:** Representatives Eslick, Shewmake, Springer, Bateman, Paul, Rule, Wylie, Griffey, Sutherland and Frame.

**Brief History:**

**Committee Activity:**

Rural Development, Agriculture & Natural Resources: 1/11/22, 1/26/22 [DPS].

**Brief Summary of Substitute Bill**

- Increases the cap on annual gross sales for cottage food operations.
- Directs the Department of Agriculture to review and increase the cap on annual gross sales.

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### HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE & NATURAL RESOURCES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 14 members: Representatives Chapman, Chair; Shewmake, Vice Chair; Dent, Assistant Ranking Minority Member; Fitzgibbon, Klicker, Kloba, Kretz, Lekanoff, McEntire, Morgan, Orcutt, Ramos, Schmick and Springer.

**Staff:** Rebecca Lewis (786-7339).

**Background:**

Any person operating a food processing plant or processing foods for retail sale must obtain

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a food processing plant license from the Washington State Department of Agriculture (WSDA). License fees are set in statute and based on gross annual sales. Certain establishments licensed under other WSDA programs, including the state cottage food program, are exempt from the food processor plant license requirement.

Under the state cottage food program, a person may produce certain non-hazardous food products in a home kitchen for direct sale to a consumer. In order to operate a cottage food business, a person must obtain a cottage food permit from the WSDA. Examples of products that may be produced under a cottage food permit are baked goods, jams, jellies, fruit butters, and preserves. Annual gross sales for a cottage food business is capped at \$25,000. If the gross sales of a cottage food business exceeds \$25,000, the business must either acquire a food processor's license, or cease operations.

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**Summary of Substitute Bill:**

The cap on annual gross sales for cottage food products is increased from \$25,000, to \$50,000. The WSDA must review the cap every two years. The WSDA must increase the cap by expedited rulemaking based on that year's Consumer Price Index for the Seattle area as compiled by the Bureau of Labor Statistics, United States Department of Labor.

The WSDA must employ sufficient full-time equivalent staff to ensure timely processing of cottage food applications, and provide improved service to cottage food businesses.

**Substitute Bill Compared to Original Bill:**

Instead of periodically, the WSDA must review the cap on annual gross sales every two years and increase the cap by expedited rule based on that year's Consumer Price Index for the Seattle area as compiled by the Bureau of Labor Statistics, United States Department of Labor. The WSDA must employ sufficient full-time equivalent staff to ensure timely processing of cottage food applications and provide improved service to cottage food businesses.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on January 26, 2022.

**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) This is a familiar idea, but this bill is a little different than the past version because many things have changed in the past two years. The sponsor would prefer to eliminate the limit, but instead added authority for the WSDA to increase the cap through rulemaking so the Legislature does not have to revisit the issue each time. Gross sales caps were originally intended to prevent people from operating a commercial kitchen out of their home, but now the cap barely keeps up with minimum wage. Some people depend on their cottage food business as their sole source of income, and certain products, such as gluten free or organic products, cost more to produce. Raising the cap will help some producers stay home to care for family members. Cottage food businesses are primarily women-owned, and 10 percent are reaching the cap on gross sales already. Most states do not have a gross sales limit, and there have been no reported food safety problems.

(Opposed) None.

(Other) The WSDA supports keeping a limit on the volume of food produced by cottage food businesses. The higher the volume of food products that can be produced, the higher the likelihood of food safety issues. The Legislature may be a better venue to review and adjust the cap than the WSDA rulemaking. Current user fees do not support the program, which has caused longer processing times for applications. Raising the sales cap could encourage more applications and stress the WSDA's ability to process applications in a timely manner.

**Persons Testifying:** (In support) Representative Carolyn Eslick, prime sponsor; Jackie Ferry; Colleen Eubanks; Tiffany Thompson; Ellen Hamlett, Institute for Justice; and Sanchit Singh, Croftery.

(Other) David Smith, Department of Agriculture.

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