



# MIKE ROHRKASTE

STATE REPRESENTATIVE • 55<sup>TH</sup> ASSEMBLY DISTRICT

Assembly Bill 417: the sale of homemade baked goods and homemade canned goods

Testimony of Representative Mike Rohrkaste

Assembly Committee on Small Business Development

November 11, 2015

Thank you, Chairman Tauchen, and members of the Committee on Small Business Development for holding this public hearing.

Before I get into the specifics of Assembly Bill 417, I want to take a minute to talk about the role of government in a free market, which has made our country's economy by far the strongest in the world. Allowing people to create and sell unique products without overly restrictive government regulations leads to innovation, jobs, income growth, tax revenue, and competitive products and services that consumers want. These products could be anything from my smart phone, to some of the great food products that we're discussing today.

AB 417 allows limited face-to-face sale of up to \$7,500 of certain home baked and canned goods as long as the seller registers with the Department of Agriculture, Trade and Consumer Protection (DATCP), and complies with requirements concerning food safety, labeling, training, signage and documenting sales. Currently, home baked goods are not allowed for sale in Wisconsin unless they are made in a commercial kitchen which holds a food processing plant license from DATCP. The "Pickle Bill" (2009 Wisconsin Act 101) allows individuals to sell up to \$5,000 of high-acid canned foods produced in their home kitchen. This bill would raise that threshold to \$7,500, along with the addition of homemade baked goods.

The goal of this bill is to allow citizens a free market opportunity to make safe homemade baked or canned goods without unnecessary regulatory burdens that costs thousands of dollars. Wisconsin is one of very few states that does not have some kind of "cottage food" law, which allows cooks to sell food products made in their homes without a special license. All of our neighboring states allow for the sale of non-hazardous homemade baked goods, with much higher monetary thresholds. For example, Minnesota allows for up to \$18,000 of annual sale, while Michigan allows for up to \$20,000 in sales to consumers. Iowa has no annual sales limit when selling cottage food at farmers' markets. We are alone in the upper Midwest when it comes to our lack of a cottage food law. This bill gives Wisconsin entrepreneurs the ability to start and grow a business from right at home in their kitchen.

The role of government is also to protect our citizens in multiple ways, one being to ensure safe food products for consumers. Our current regulations on commercial kitchen standards do that, but in this case they also provide a barrier, or wall, to start up food businesses. AB 417 removes that barrier allowing entrepreneurs to supplement their incomes by starting a new business, and in the process, provide consumers delicious and safe products.

Let's pass AB 417 and support greater small business growth for Wisconsin. Thank you for your time, I'm happy to answer any questions.



## State Senator Sheila Harsdorf

---

Date: November 11, 2015

To: Assembly Committee on Small Business Development

Fr: Senator Sheila Harsdorf

Re: Assembly Bill 417—Sale of homemade baked and canned goods

---

Dear Chair Tauchen and Committee Members,

Thank you for holding a public hearing on Assembly Bill 417 (AB 417), sometimes referred to as the “Cookie Bill,” which would allow home bakers to sell certain baked goods without requiring a food processing license from the state. This bill is a revised draft of 2013 AB 182, which was recommended for passage by this committee on a vote of 12-1 in the last legislative session.

AB 417 would exempt home bakers from the requirement to obtain a food processing plant license to make and sell nonhazardous, home baked goods if they receive less than \$7,500 annually in gross sales. Baked goods are defined as nonhazardous if they are acidic or have a low moisture content that does not support the growth of dangerous bacteria known to cause illness.

AB 417 would require home bakers to provide consumers with clear information about their products. Under the bill, home bakers must adhere to labeling, signage and training requirements, as well as register with DATCP and document their sales.

Additionally, AB 417 updates the “Pickle Bill” for home canners by increasing the gross sales limit under the home canning license exemption from \$5,000 to \$7,500 annually. As you may recall, the Legislature passed the “Pickle Bill” (2009 Wisconsin Act 101) in 2010 to allow individuals to make and sell certain home canned foods in response to input from entrepreneurs seeking to start small businesses from their homes.

AB 417 would also require that the home canned and baked goods be sold face-to-face and stipulates that they cannot be sold door-to-door. AB 417 instructs DATCP to provide food safety and storage guidelines and information on the types of foods that are allowed to be sold under the home baker exemption.

As it can be expensive and challenging for individuals to rent or access industrial kitchen space in order to prepare baked goods, I believe AB 417 is an important measure that will help remove barriers for entrepreneurs and those interested in starting a business while providing appropriate consumer protections.

All of our neighboring states currently allow the sale of non-hazardous baked goods made in home kitchens. Minnesota allows up to \$18,000 in annual sales, while Illinois bakers can sell up to \$25,000 of their products at farmers markets and Michigan allows up to \$20,000 in sales directly to consumers. Iowa has no limit on annual sales of cottage foods at farmers markets. AB 417 is a small step toward giving Wisconsin's home bakers the same opportunity that our neighboring states already allow.

I urge your support for this legislation in order to encourage Wisconsinites to start and grow their own business.

Good Morning. My name is BettyAnn Toldt, and I currently reside in Waukesha County.

I am here to speak in favor of the cookie bill. A little background on me, I currently work full time in the insurance industry. I am married, have one beautiful almost 4 year old daughter, and a baby on the way. I have always had a great passion for baking, but about 7 years ago – my passion grew to a whole new level. I began decorating sugar cookies for family birthdays, retirements, weddings and holidays. 2 years ago, after receiving overwhelming support and great feedback about my cookies, I decided I wanted to pursue this as a fulltime job, and begin taking the steps to starting my own business. After much research and confusion, I came to learn that baking and selling my cookies out of my house was illegal. I couldn't understand why Wisconsin was one of only a few states that does not allow this. After much talk with my husband, we seriously considered moving to a state that allows this type of sale.

I began to search for ways I could still make this business work. We looked into adding a commercial kitchen to our basement, but couldn't justify taking out a loan, and the extra space needed in my house. So, I looked into renting. Decorating and detailing the cookies takes a significant amount of time, so renting a space was not an option.

Over the course of 2 years, I have easily given away \$40,000 worth of cookies. I have donated cookies to multiple elementary schools, church bake sales, family members, and organizations such as Susan G Komen. I have also had to turn away business from Northwestern Mutual, Rockwell Automations, and Medical College of Wisconsin.

I am extremely passionate for this law to pass, as this will not only give me the freedom for me to pursue my cookie dream but it will also allow me to stay at home for my soon to be family of 4. My ultimate goal is to one day have a brick and mortar bakery – this law would be a giant stepping stone. Please see some of my examples of my work on the following page.

With the current proposed sales cap of \$7500, once I take out my expenses, I wouldn't be taking in nearly enough to help supplement our household. BUT, regardless of cap, if this law is passed- I will be pursuing my cookie dream and will start a business. Members of the committee, I ask you to pass this law and allow me to become a small business owner in the great state of Wisconsin. If anyone has any questions, I will take them now.

BettyAnn Toldt

[bawrobelt@gmail.com](mailto:bawrobelt@gmail.com)

4265 N. 163<sup>rd</sup> Street

Brookfield, WI 53005

414-732-8990





## Memorandum

November 10, 2015



**To: Honorable Gary Tauchen, Chair  
Members of the Assembly Committee on Small Business Development**

**From: Susan Quam, Executive Vice President  
Wisconsin Restaurant Association**

**RE: Opposition to AB 417 (Cottage Foods) – allowing face-to-face sales of certain homemade baked and canned foods without a licensing requirement**

---

The Wisconsin Restaurant Association (WRA) adamantly supports entrepreneurship and small business development. The foodservice and hospitality industry is one where entrepreneurs thrive and become job creators.

Part of WRA's mission is to advocate for and protect the foodservice industry and to make sure there is a level playing field for all businesses to fairly compete. We also believe in strong, science-based food safety and licensing programs to protect the food industry and the public from foodborne illnesses. A food borne illness associated with any food business is not only damaging to the business involved, it hurts business and consumer confidence for all segments of the food industry.

WRA has concerns about Assembly Bill 417 and opposes the legislation. Wisconsin has a strong food safety history and there are unequivocal, science-based reasons why food prepared in private homes should not be sold to the public. Numerous empirical studies have found that the majority of foodborne illnesses are caused by food prepared in the home.

Home kitchens are multi-functional areas that are essential to family life. **However, home kitchens are not constructed or equipped to provide the same barriers professional kitchens have to prevent food contamination.** Some examples of these shortfalls are:

- Home refrigeration equipment is not able to maintain temperatures below 41 degrees, which is necessary to prevent growth of pathogens.
- Most home kitchens are not able to prevent access or contamination by pets or family members when food is being prepared. Dirty paws and dirty hands can spread pathogens and parasites on countertops, equipment and utensils.

Most home cooks do not have the **necessary food safety knowledge** to ensure proper ingredient storage, handling, preparation and packaging. Professional chefs and bakers go through extensive training, testing and certification to ensure they possess the knowledge to what is needed to prevent foodborne illnesses.

AB 417 uses product water activity and pH levels to determine if the food is considered non-hazardous. The vast majority of licensed bakeries, restaurants and grocery stores do not even have equipment to measure water activity and pH levels. They rely on standardized recipes or use computer or lab analysis to measure their own unique recipes. It is hard to see how a home cook would be able to determine these metrics on their own, unique recipes, without proper computer or lab analysis. In short, the home cook will have absolutely no way of knowing if the foods they are selling to the public are safe, or not, and the bill utilizes a metric that is essentially useless.

The proposed legislation also states the home baker should seek guidance from a “knowledgeable” person. The qualifications of who a “knowledgeable” person in relation to baking non-potentially hazardous baked goods is not defined. How would a cottage food baker determine who would meet this criteria?

**The proposed legislation further complicates a food safety loop hole that should be closed not enlarged.** Current state statute and administrative rule prohibits the service of food prepared in a home kitchen in a licensed food establishment. There is a “loop hole” for private parties held at licensed establishments, where food prepared in the home can be served if the party is not open to the public; e.g. a home-baked cake is served at an anniversary party held in the banquet room of a restaurant.

For both public health and liability reasons, WRA always recommends that restaurants require any outside food brought onto its premise be from another licensed food establishment, such as a licensed bakery. While restaurant owners have the right to set a policy prohibiting home baked goods, the private party loop hole puts operators in the difficult situation of being the “bad guy” who won’t allow an activity that is technically legal. Unfortunately, if the neighbor’s famous birthday cake makes party goers sick, the restaurant will be blamed for the foodborne illness outbreak and will likely be involved in a lawsuit. It is a no-win situation for restaurant operators.

By legalizing the sale of baked goods from unlicensed kitchens, the proposed legislation further pits restaurants and other establishments which host private parties, against its potential customers by prohibiting what is now considered a legal product into their business.

We hope you will support Wisconsin’s strong food safety laws and oppose AB 417. We would welcome the opportunity to answer questions regarding our concerns.



## How could AB-417 be improved to make cottage foods sales safer?

WRA recognizes more liberal cottage food laws are spreading throughout the country. If this committee decides to move this legislation forward, we strongly encourage the following provisions be added to provide some protection for the public and the foodservice industry:

### Approval of recipes

In our research of cottage food regulations in other states, we found submitting recipes for foods to be prepared is a required part of the registration application. This allows for review of recipes and ingredient statements by knowledgeable individuals, prior to the sale of products.

WRA would support a requirement for recipe review at the time of registration. This would help to ensure that the baked goods approved for sale to the public meet the non-hazardous food limitation. Unfortunately, **the metrics included in AB-417, intended to ensure that the cottage foods being sold are non-hazardous, are useless.** They will not be utilized because no one in the cottage foods business will have the equipment necessary to test for pH or water activity. Few licensed food production facilities even have that equipment.

### CFPM Requirement

The proposed legislation requires the registered person to complete a class on food safety that is approved by DATCP and submit proof of completing the class when the person registers with the Department.

WRA strongly believes that individuals who are preparing any type of food which is being sold to the public be under the supervision of a person who is a Certified Food Protection Manager (CFPM). Multiple studies show the supervision of a CFPM greatly improves food safety practices in food operations. Since registered individuals who will be preparing food will be the “supervisor” of their cottage food business, it makes sense they have the same requirement as licensed food establishments. This would be the same requirement Illinois has for cottage food sales.

### Prohibition of all homemade products served at licensed food establishments

WRA would support legislation which would prohibit any products prepared in a home kitchen from being served in a licensed food establishment – even for a private party - whether the home baked good was sold or not. This measure would protect licensed food establishments from potential food borne illness outbreaks associated with their business and close the private party loophole.





TO: Members of the Assembly Committee on Small Business Development  
 FROM: Zach Herrnstadt, Wisconsin Farmers Union – (608)234-3741;  
 zherrnstadt@wisconsinfarmersunion.com  
 DATE: November 11, 2015  
 RE: Assembly Bill 417/Senate Bill 330, Relating to Homemade Baked Goods

My name is Zach Herrnstadt and I am the Government Relations Associate for Wisconsin Farmers Union. I'd like to thank you for the opportunity to share comments on AB-417, relating to non-hazardous homemade baked goods. This common-sense bill would allow home-based food entrepreneurs to sell their non-hazardous baked goods via face-to-face sales, without needing a commercial license or commercial kitchen. AB-417, also known as the "Cookie Bill" builds on the successful track record of the "Pickle Bill," which passed the legislature in 2010 by supporting aspiring food entrepreneurs and serving as an on-ramp for new business development. For these reasons, Wisconsin Farmers Union supports this bill and urges you to pass it through committee.

**Background**

In 2010, the Wisconsin State Legislature enacted a new law enabling individuals to prepare some high-acid, home-canned foods such as pickles, jams, and salsas in home kitchens and sell them to the public in certain settings like farmers' markets. This law, often referred to as the "Pickle Bill," supports a national trend toward such cottage food legislation, removing prohibitively burdensome barriers to aspiring entrepreneurs to produce non-hazardous food in home kitchens for limited sale while still maintaining food safety.

**Issue & Need**

While the Pickle Bill is a strong step in the right direction, it is limited to high acid foods. Oddly, Wisconsin is the **only** state with cottage food legislation that **does not** include baked goods. At least 25 states nationwide have passed such cottage food laws with nearly all states including provisions for the production of non-hazardous baked goods such as cakes, cookies, and baking mixes produced in home kitchens. Almost all of these states also allow higher gross sales caps to encourage small business innovation and enterprise growth that may result in a scaled up business down the line that leads to additional job creation. All other Midwest states have successfully enacted versions of the Cookie Bill, including Illinois, Iowa, Michigan, Minnesota and Indiana with no reported cases of related food safety violations.

**Annual gross sales caps within similar legislation in surrounding states\***

	<b>Cookie Bill Equivalent</b>	<b>Annual Gross Sales Cap</b>
Illinois	YES	\$25,000
Indiana	YES	Unlimited
Iowa	YES	Unlimited
Michigan	YES	\$20,000
Minnesota	YES	\$18,000
<b>Wisconsin</b>	<b>NO</b>	<b>\$7,500 (proposed)</b>

\*Information in this table from *forrager.com*



## **Key reasons why AB-417 is needed**

### **1. Builds on the success of the Pickle Bill**

Since its enactment in 2010, numerous businesses have registered with DATCP to sell their high-acid goods, generating new small business revenue at virtually no additional cost to the state budget. Wisconsin food entrepreneurs, especially family farmers currently selling under the Pickle Bill, miss opportunity by not being able to sell baked goods.

### **2. Supports New Entrepreneurial Start-Ups and Adds Value to Existing Ones**

The Cookie Bill would enable talented home bakers to launch and test their business on a small scale before needing to invest in the expense of a commercial operation. Additionally, this new legislation would enable other existing Wisconsin businesses, such as bed & breakfasts, to expand sales without additional costs.

### **3. Builds Rural Economic Revitalization**

The Cookie Bill would particularly stimulate entrepreneurship in rural economies by enabling farmers to launch complimentary, food-based businesses. Industry standards for mark-up on high-quality baked goods provide a 50-percent profit margin or more. Other states with variations of this legislation in place have experienced such economic gain.

### **4. Low Food Safety Risk**

In surveying cottage food legislation in other states and industry experts, the general consensus is that non-hazardous baked goods present a much lower risk of food-borne illnesses than other food categories.

### **5. Supports Wisconsin's Artisan Food Tradition**

The Cookie Bill partners with Wisconsin's deep-rooted artisan food heritage, supporting local entrepreneurs to create businesses that champion the various tastes and flavors of our state. Additionally, the Cookie Bill positively impacts tourism as it gives the growing culinary travel segment more opportunities to take home unique local flavors.

***Wisconsin is currently losing business opportunities*** for entrepreneurial start-ups, job creation and economic revitalization (especially in rural areas) by not having cottage food legislation including baked goods. We need to quickly catch-up with other states already championing such cottage food business start-ups, especially as the local food movement and interest in food artisans continues to grow in Wisconsin. AB-417 represents an important step forward for aspiring and existing food entrepreneurs. For these reasons, we urge you to support this bill.

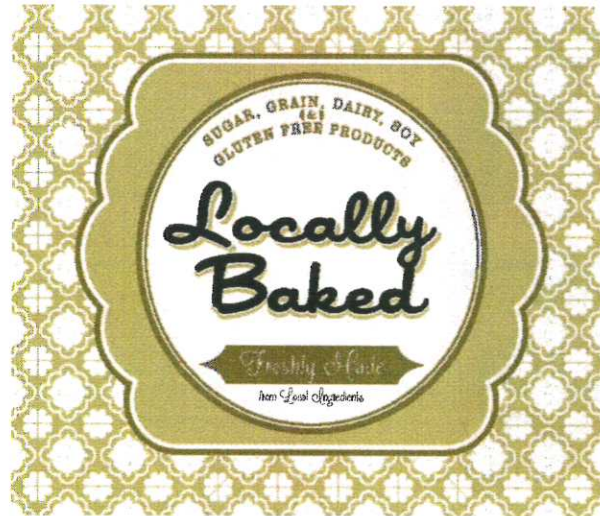


Dear Members of the Assembly Committee on Small Business Development,

My name is Billie Kotecki, and I live in Green Bay, Wisconsin. I am a homeschooling mother who is talented at making homemade treats. I would like to open a business, but at this point it is not a possibility with our family because I have a desire to stay home and take care of our home, as my husband and girls are of first priority. Being able to advertise and make the occasional cake, cupcakes, or cookies would help our income in a small, but important way, possibly offsetting one or two of our bills (which we all know is helpful, no matter who you are!). In the future, we will probably open a business, and passing the Cottage Food bill would afford us the opportunity to increase our client base beforehand so that our business is a success. Attached is an example of one of my cakes.

Thank you,  
Billie Kotecki  
[billiekotecki@hotmail.com](mailto:billiekotecki@hotmail.com)





Dear Members of the Assembly Committee on Small Business Development,

My name is Wendi M. Lindenmuth and I am the founder of Locally Baked, a local bakery in Osceola, Wisconsin. I offer baked goods free of gluten, sugar, grains, soy and dairy. I have a Master's Degree in Public Health. My grad research and experience have helped me educate people on the direct correlation of what we eat/drink and the impact it has on us both mentally and physically. I am also ServSafe Food Handler Certified.

Currently, I am using a certified kitchen located on a local farm. Although using the certified kitchen has been helpful, being able to use my own kitchen would be a better solution for many reasons. The kitchen I am using is not gluten, sugar, grain, soy and dairy free. So there is the chance of cross contamination to my products. I do have this disclaimer on my labels, but by using my own kitchen, cross contamination would not be an issue. Also, the certified kitchen I use, is not very sanitary but I am required to use this kitchen over my own, which meets all sanitary regulatory standards.

The location of my home is very convenient for customers to pick up their orders, whereas the certified kitchen is a few miles out of town. Also, I have to pay a monthly fee for using the kitchen, which would be eliminated by using my own kitchen.

Thank you for your time,

Wendi M. Lindenmuth

[locallybakedgoods@gmail.com](mailto:locallybakedgoods@gmail.com)

<https://www.facebook.com/locallybaked/>







### **Beginning Farmer Succeeds in Value-Added**

Dedicated to growing food sustainably and building community, Erin Schneider and her husband, Rob McClure, own Hilltop Community Farm, a small-scale diversified CSA and orchard in LaValle, Wisconsin. Erin exemplifies how beginning farmers can successfully use cottage food legislation to increasing farm income.

“Cottage food legislation like the Pickle Bill champions family farms and entrepreneurship in rural Wisconsin communities like mine,” explains Schneider.

“Thanks to opportunities through the Pickle Bill, I was able to quickly and easily increase and diversify my farm income stream: My farm business generates over \$2,000 in additional revenues thanks to the Pickle Bill as I sold sweet pickle relish, salsas and jams at local farmers’ markets and community events. I found the process and information provided via DATCP very helpful and easy to understand.”

Not only did Schneider increase her farm income, these value-added goods enabled Hilltop Community Farm to also showcase the farm’s fruits and vegetables in new ways and put any excess farm harvest to productive use.

“Other diversified farmers like myself could easily have doubled that income by also including baked goods, showcasing items grown from their farms,” sums up Schneider. “Expanding Wisconsin’s cottage food legislation to also include baked goods would tremendously help other young farmers achieve business success through added income streams, particularly through the winter months by having more product to sell at winter farmers’ markets,” says Schneider.

“Legislation such as the proposed Cookie Bill directly creates jobs, expands income streams for small farms and businesses like mine and helps fuel the local food economy and provides opportunities to expand small-business, entrepreneurship in the state where jobs are greatly needed!”

Erin Schneider, Hilltop Community Farm ([www.hilltopcommunityfarm.org](http://www.hilltopcommunityfarm.org)); LaValle, WI

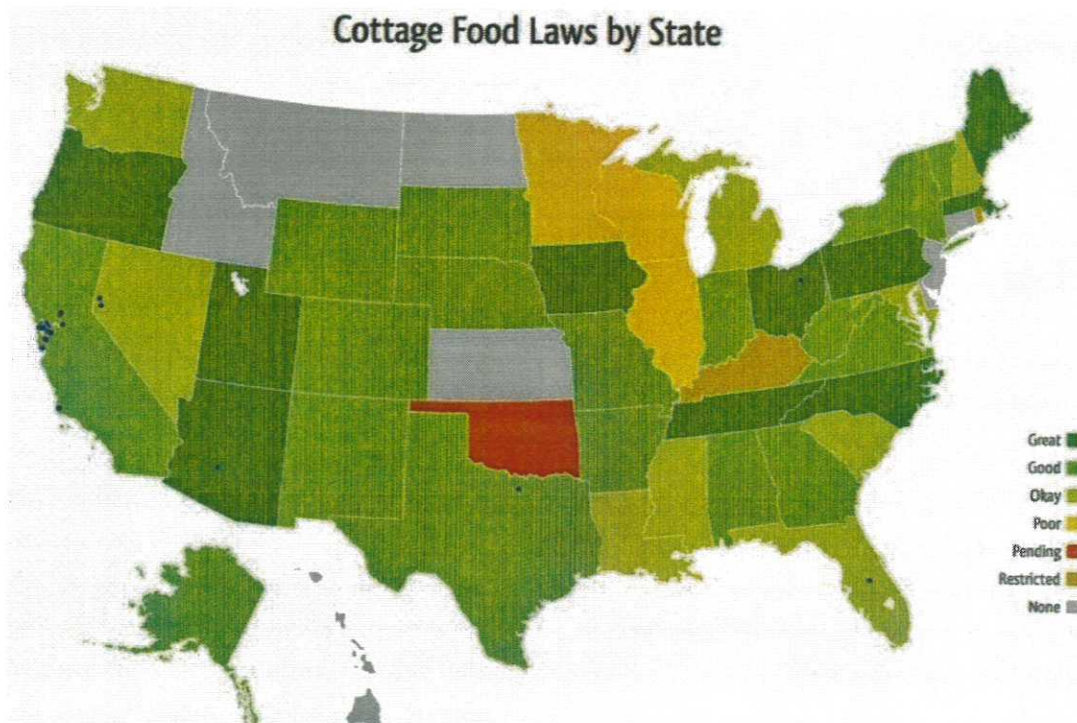


Dear members of the Assembly Committee on Small Business Development,

My name is Stacy Beduhn, and I live in the Town of Greenville in Outagamie County. In regards to starting a home cake business with the laws currently in place, the alterations that would be required to bring my home into compliance would around \$25,000. It appears that to move forward in this fashion I would have to take out a large loan which would leave me far into debt before I ever get started. Renting a kitchen would cost me the same as what I would make for doing a wedding cake. There is no profit in that direction either.

There are many entrepreneurs who have the ability to run their businesses out of their own home and I feel that this can be done in my field as well. Currently 32 states have the ability to sell baked goods out of their private residence and I believe that with the proper health and safety guidelines an at home business can provide a cost efficient and safe product for the public. I feel that this could be the stepping stone I need to open up my cake shop outside of the home as soon as I can get the clientele.

Please consider voting yes to AB417 "Cookie Bill" and helping to develop small businesses in Wisconsin. On a side note, this bill previously had done really well in both Senate and Assembly until Rep. Voss decided not to schedule the final vote. I would hope this year the Cookie Bill would get a fair chance in the democratic process with no personal interests getting in the way. Please help the small businesses grow by passing this bill. The gross of \$7,500 is not very high but would give our family a little extra income and the state more revenue with income taxes. Here are a few examples of Cottage Food Laws



Thank you,  
Stacy Beduhn  
W6572 Talon Dr. Greenville WI

Tuesday, November 10, 2015

Dear Wisconsin Legislative Assembly and Senate Members,

Thank you for this opportunity to share information on the Cottage Food legislation called the "Cookie Bill", which is being folded into the already existing "Pickle Bill".

Sorry I can't share this in person at the hearing, but my husband is now disabled, and I need to transport him to work each day until he retires at year's end.

I am so glad the bill has gained this hearing, with hopes that a reasoned approach can be fully implemented, so I can begin baking and selling my cookies this summer. Just try to get a great Oatmeal cookie anywhere; they are rare. Mine is GREAT!!! Taste the nuts, honey, coconut, butter, eggs and whole grains and oats. You just want a whole glass of milk with one cookie! (Is your mouth watering?)

Thanks so much to my Representatives, Rep. Thiesfeldt and Sen. Gudex for their support and co-sponsorship. Yay! Everyone should be supporting this bill!

The points I am hoping to convey in this written testimony:

1. We are all for more entrepreneurship, safety, and freedom from unnecessary regulation. This bill accomplishes all three!
2. Currently there is a \$5,000 limit on receipts from pickles and jams before you need a licensed institutional kitchen. The first draft adding certain baked goods was then raised to \$10,000, and in this current version was reduced to \$7,500 for an unknown reason. In fact it could be argued that this number might be \$20,000 as it is in Michigan with increases in 2017, or \$50,000 as it is in Texas and California, or \$5,000 per type of item or flavor as it is in Colorado.

I hope you will reconsider increasing freedom and support entrepreneurship. Please think about all the work and investment that goes into this kind of income; \$7,500 or even \$10,000 are hobby type income limits. There are those of us like myself who want to make a decent, even full time income, and hopefully, if everybody loves my cookies as much as I think they will, I will get an institutional kitchen built or rented within a few years. The kitchen will cost upwards of \$15,000 for starters. Baking these cookies if I maxed out on the \$7,500 might net half that if I am lucky, as I use high quality, health food variety ingredients. With all the hours it takes to bake and hawk the cookies (as you are required to be face to face), I might make \$3,000 to \$4,000. No chance to save for a kitchen, or chance to really test the product in a retail setting.

So, I would suggest raising the limits each year to a maximum of \$50,000 before you need an institutional kitchen. Let's say:

\$20,000 year one,

\$30,000 year two and



\$50,000 in year three and beyond before you need an institutional kitchen. Over \$50,000 would likely be the point where one might need an extra worker to help, and a larger space to work, like a real kitchen. Remember this is gross income, not net, which is much lower. And it would provide me the opportunity to save for an institutional kitchen.

3. Finally, with the controls and labeling proposed, I would humbly suggest that we be allowed to place our products at one retail setting each, where we could closely monitor results and responses to our product(s). This setting would "test" the real market before we expand our operations. This would be our road to entrepreneurship. I bought some pickles the other day at the Farmers' Market in Fond du Lac at Festival Foods, and I would buy those again in a heartbeat, but the Farmers' Market is closed all winter. I have a relationship with a local small chain of gas stations whose manager said he'd love stock my cookies if his is allowed to. There would be absolutely no problem with accountability there, if one of the stores is my only outlet, although ideally I'd love to grow to the point where my products can be at the registers at every Cabela's nationwide someday, and over the internet. Can't even think about that now. We all have humble beginnings.

In closing, please move this legislation quickly, and rethink the points I am making. Ideally, if you want to do more homework, my understanding is that the most local food freedom thinking legislation in the country is in Wyoming.  
<https://reason.com/archives/2015/03/14/tremendous-victory-for-wyomings-bi-parti>

There also is a recent Harvard study compiling states' various laws on Cottage Foods  
[http://blogs.law.harvard.edu/foodpolicyinitiative/files/2013/08/FINAL\\_Cottage-Food-Laws-Report\\_2013.pdf](http://blogs.law.harvard.edu/foodpolicyinitiative/files/2013/08/FINAL_Cottage-Food-Laws-Report_2013.pdf).

But, please pass something now, so we can take the training and be ready to bake and sell come Spring!

Thanks so much for your support! Third time is a charm.

Donna Richards  
121 North National Avenue  
Fond du Lac, WI. 54935  
920-907-0326  
414-333-9533 (cell)  
[dhrichards@charter.net](mailto:dhrichards@charter.net)



**The Wisconsin Bakers Association stands in accord with the following statement from the Retail Bakers of America:**

RBA and WBA support all Cottage Industry Bakers and Decorators provided that the laws regulating them are no different than licensed retail bakeries.

RBA and WBA oppose all "Cottage Industry" laws that treat home bakers and decorators differently from licensed retail bakeries in these key aspects:

1. First and foremost, Food Safety and Sanitation laws must be followed by all home baking/decorating facilities.
2. Home baking/decorating facilities must be licensed by an appropriate government body.
3. They must be inspected in the same manner and the same frequency as licensed retail bakeries in the same jurisdiction.
4. They must carry the appropriate insurance (including but not limited to liability and worker's compensation) for their activities.
5. They must remit all appropriate taxes in the same manners as a licensed retail bakery.

*For more information about the Retail Bakers of America,  
please contact the RBA office at 800-638-0924.*

*For more information about Wisconsin Bakers Association,  
please contact the WBA office at 800-542-2688.*



## **Petition of OBJECTION to AB417, relating to: Face-to-face sales of home baked goods by unlicensed, home bakers**

Since 1905, the Wisconsin Bakers Association has strived to emphasize quality, fresh bakery products, produced through safe handling practices, proper methods of production standards, in clean sanitary conditions that are not achieved in most home environments! If the bakery facility is large or small, baking industry standards have been set forth to protect against food borne illness.

Generations of bakeries, many still in operation today, have worked together to make certain the baking industry provides the best products, made in well-maintained, clean food production facilities able to pass inspection on a routine random basis at any given time through these standards which have been developed with the USDA Food Codes as well as the rules & regulations set forth by DATCP and local agencies, as well as taxing authorities like the Wisconsin Department of Revenue.

Every single Retail, Wholesale, Bakery Outlet, Convenience store, Restaurant or Institution is required to carry licensing for proper handling of any & all baked goods as set forth by DATCP & the USDA and other agencies. Professional baking is a science that requires training in all areas from proper ingredient storage temperatures & handling, production procedures, cooling methods, prevention of cross contamination of finished goods, packing, proper finishing procedures, packaging, labeling and storing of finished product prior to sale.

Today's Bakery operations are constantly being required to update labeling information, nutritional & ingredient declarations and others all at great expense to every professional baker's bottom line.

The industry standards of operating are high to protect the public, the consumers who enjoy grain based foods every day.

However, in SECTION 1. 97.29(1) of the proposed AB417 Bill now being considered, those seeking to move this bill forward suggest that untrained HOME BAKERS, with no professional training or experience are to determine on a regular basis of home baking practice, if the product they are producing has an acceptable level of water migration activity to avoid the development of pathogenic organisms to not cause a food borne related illness.

In SECTION 2. 97.29(1) (J) The Bill explains calculation of water VAPOR pressure of the food product by the VAPOR pressure of pure water at the same temperature. It is impossible to perform this test without the assistance of a laboratory facility or other methodical proven testing procedure according to multiple industry professionals. To date, there is no such provision for this testing within this bill and there is no legitimate testing kit available to purchase on the open market.

Only working in a controlled environment with professional licensed bakery operators, constantly producing similar products can this continually be achieved? Home kitchens do not provide for that kind of consistency or prevention of potential cross contamination.

DATCP currently provides a set of rules & regulations, working with county & local agencies for small licensed kitchens or home operated bakeries that meet certain requirements. Those requirements meet food code safety standards as set forth by the agencies for proper ingredient storage away from personal/family foods of the operator, separate utilities, separate entrances, refrigeration and plumbing requirements, all designated to assure the prevention of food borne illness through cross contamination within the regular home environment! (i.e., kids, pets, cats on the counter, husbands, that gerbil you couldn't find!)

There is simply no baked food product nor any food product that can be deemed non-hazardous when not properly processed, baked at the right temperature to destroy organisms within wet ingredients of chemically leavened goods, properly cooled, packaged and stored before consumption without proper training and background experience!

Bakery operators are REQUIRED by law in Wisconsin to carry Workers Compensation Insurance, pay into the UC Fund, contribute sales tax to Dept. of Revenue, as well as carry business liability insurance!

Under AB417, there are no provisions or requirements for these home bakers to have these in place, but these requirements already are the burden of every small business in Wisconsin.

SECTION 7. Requires the person to register with the Department, yet no department is specified! Is it DATCP, DOR or some other state agency!

How can the State of Wisconsin, without issuing retail or other type licensing reporting system, guarantee that no Home Baker will exceed the proposed limits of annual gross receipts totaling \$7,500.00? There is no reporting method established in the bill to prevent fraud. If the Home Baker exceeds the limit, what are the consequences of the action? Are they required to then pay a licensing fee or penalty? Nothing is outlined in the event of such occurrence.

SECTION 10. 97.29 (6) (A) What Standard is used to determine the knowledge & capability of a person subject to review recipes & processes for HOME BAKERS? Where will they be located - Great Aunt's house, local Tavern, a friend down the street? No licensed RETAIL BAKERY OPERATOR affected by this Bill will contribute or support this process if asked.

SECTION 11-97.29 (6) (B) The Bill suggests the Department, presumably DATCP, shall attempt to maximize other information as well as technical support. With all due respect to our great professionals



at DATCP, they are already stretched beyond their current capabilities to achieve everything they need to do to inspect under the latest food code laws & regulation changes! These dedicated professionals will not have the time to dedicate to home bakers and the potential of food borne illness outbreaks will be the result.

THEREFORE,

We, the undersigned Licensed Professional Bakers and Bakery Operators across the Great State of Wisconsin, do hereby OBJECT to the passage of this poorly drafted piece of Legislation - AB417 in regards to the sale of home baked goods by private unlicensed unregulated individuals residing in the state.

We dedicate our lively hood to providing good paying jobs for our local & state economy, we train and retrain to maintain inspected, clean, up-to-date food manufacturing facilities under the rules and regulations that have been set forth by Wisconsin agencies as well as federal policies.

Support of this faulty Legislation undermines the continuation for the small town bakery owner to make a living, support their community and contribute to the future of Wisconsin's economy. WHY, because too many small bakery owners are over burdened by regulations, we don't need more competition, we need cooperation from our government!

We support the entrepreneurial spirit here in Wisconsin. This is how many of us got started and continue to grow our businesses. There must be a level playing field not through faulty legislation that puts the public at risk and destroys the small town professional baker as well. All new businesses have risks, startup costs, liability costs, and regulation costs. We took the risks, we found a way to make it work and as we say in Wisconsin - HARD WORK pays off!

We, the undersigned Bakers of Wisconsin, members & non-members of the Wisconsin Bakers Association, Suppliers, and others signed on this petition, stand firmly against this Bill AB417, as a threat to our lively hood, our businesses, our communities and the future of Professional Baking as a skilled trade in the great state of Wisconsin, as well as a potential threat to the great public for the potential of food borne illnesses by unregulated producers.

Sincerely,

A handwritten signature in black ink, appearing to read 'David J. Schmidt', with a large, sweeping flourish extending to the right.

David J. Schmidt, CMB

And the undersigned petitioners of the following licensed Bakery operations:

Petition of OBJECTION to AB417

#	Name	Date of Signature	Comments:
1	Jennifer Bukouricz	10/28/2015	
2	Anna Bakalinsky	10/28/2015	
3	Sara I Riedel	10/28/2015	
4	Mary Stendel	10/28/2015	
5	Anton Stricker	10/28/2015	"its about time. the health dept, does noting. they are a cop out"
6	Taylor's Bakery (Indianapolis, IN 46220)	10/28/2015	
7	Mike Vande Walle	10/28/2015	
8	Thomas Endejan	10/28/2015	"Sad day that it comes to this. Small cottage industry should be welcomed, with the proper guidelines to protect consumers and businesses."
9	Robert Chaffee	10/29/2015	"No free rides for home bakers. Amish sell products made with uninspected ingredients, eggs as an example, that are prohibited. No double standards. If home bakers don't need to pay, fees, insurance, taxes, etc. Small business should be exempt as well."
10	Dawn Ebert	10/29/2015	
11	Russell Reeves	10/29/2015	
12	Susan Bice	10/29/2015	"Let's keep our small businesses safe and our consumers too!"
13	Theresa Cook	10/29/2015	
14	Joseph Crubaugh	10/29/2015	
15	Tamara Mugerauer	10/29/2015	
16	Tavi Karoses	10/29/2015	
17	Harriet Redman	10/29/2015	"Clean up this bill and treat small businesses fairly."
18	Sara Smith	10/29/2015	
19	Larry Mugerauer	10/29/2015	
20	Kim Schuelke	10/29/2015	
21	Patricia Durfee	10/29/2015	"Why should bakeries be subject to safety inspections and home bakers have no supervision."
22	Robert Johnson	10/29/2015	"Please register me in opposition."
23	Lynn Engel	10/29/2015	
24	Judy Simon	10/29/2015	
25	Charles Lane	10/29/2015	
26	Barbara L. Foote	10/29/2015	
27	Carol Killian	10/30/2015	
28	Diane Wisnieski	10/30/2015	
29	Lynn Hopfensperger	10/30/2015	
30	Linda Zillges	10/30/2015	
31	Lisa Fuhrmann	10/30/2015	
32	Madison	10/30/2015	
33	Carrington Noak	10/30/2015	
34	Tara Nowak	10/30/2015	
35	Mitchel Kaczmarowski	10/30/2015	
36	Angie Gonzalez	10/30/2015	
37	Brooke Muggenthaler	10/30/2015	
38	Kelly Marquardt	10/30/2015	
39	Chad Mulcahy	10/30/2015	
40	Timothy Atherton	10/30/2015	
41	Marc Anderson	10/30/2015	"You should license all or none and should not be determined by size or age of the company"
42	Sandra Thielman	11/2/2015	

Petition of OBJECTION to AB417

43	Thomas Siewert	11/2/2015	"We all need to have the same set of rules, otherwise it's just not fair to tell established business that you need to comply but your potential competition doesn't need to follow the same rules. NOT FAIR!"
44	Kevin Rietveld	11/2/2015	"Our bakeries originated with in the current laws, passing this make us penalized for following the proper health, safety, and regulatory guidelines."
45	Mark Baggenstoss	11/2/2015	
46	Athanea Iacofano	11/2/2015	
47	Greg Smurawa	11/2/2015	
48	Samantha smurawa	11/2/2015	
49	Rachel Smurawa	11/2/2015	
50	Pamela Hartung	11/2/2015	
51	Mark Rutkowski	11/2/2015	
52	Amy Novak	11/2/2015	"It seems more than reasonable to apply the same rules to all. It makes NO sense at all to penalize (disadvantage) established businesses to help a few that should have the same regulatory guidelines."
53	Valerie Doll	11/2/2015	
54	Bryant krauss	11/2/2015	
55	Carrie Calaway	11/2/2015	
56	Amanda Nieto	11/2/2015	
57	Tony Nieto	11/2/2015	
58	Thomas F. Smith	11/2/2015	
59	Laura Strackbein	11/2/2015	
60	Mary Burgdorff	11/2/2015	
61	Gloria M Bart	11/2/2015	
62	Joanne Weeden	11/2/2015	"This bill does not consider health and legal ramifications. It puts catering/event facilities in a difficult position regarding liability of carry-in baked goods. The argument that it is no different than pickle bill is absurd. There is no comparison. I know many women who do cakes from their unlicensed kitchens where dogs and cats are free to roam and snotty nose kidshelp. If this bill goes through then what is the point of having registered kitchens for the rest of us?"
63	JoAnn Schneider	11/2/2015	
64	Tharasa M Bohrer	11/2/2015	
65	Myra Stokdyk Eischen	11/2/2015	"all people should have to follow the same rules if they want to sell items to the public"
66	Donna M Nemecek	11/2/2015	
67	Sheri Ebert	11/3/2015	
68	Carol Jones	11/3/2015	
69	Barb Smurawa	11/3/2015	"as a person who works in health care, I find this bill more than idiotic. There are so many people being effected by food borne illnesses with sources that are regulated. I can't even imagine the ramifications of having food sold without regulations attached."
70	Tatiana Laiter	11/3/2015	"I agree!"
71	Christopher Heyer	11/3/2015	
72	Denien sramek	11/3/2015	
73	Kari Hahn	11/3/2015	
74	Jeff Callen	11/3/2015	
75	John Allen	11/3/2015	
76	Bradley C Beran	11/4/2015	

Petition of OBJECTION to AB417

77	David Weber	11/4/2015	"As president of the Wisconsin Bakers Association, I support any bakeries that are trying to make it but the law must be applied evenly to all of us. Maybe there needs to be a revamping of the law so that smaller businesses can pay less of a fee something to consider."
78	Suzanne Daly	11/4/2015	
79	Rhonda Matts	11/4/2015	
80	Felicia Bernhardt	11/4/2015	
81	Dawn Bybee	11/4/2015	
82	Noel Weber	11/4/2015	
83	Steve Holzbauer	11/4/2015	
84	Bob Anderson	11/4/2015	"All bakeries including home bakers should be under the same requirements."
85	Mike St. George	11/4/2015	
86	Bill Ebert	11/4/2015	
87	Kevin Kerstein	11/5/2015	
88	Samantha Kristiansen	11/5/2015	
89	Derek Van Alstyne	11/5/2015	"Why should Susie homemaker be able to profit from her home kitchen, under cut professional legitimate business owners and not be subject to the same laws, regulations and taxes that business owners do?"
90	Linda Zillges	11/5/2015	
91	Kathy Kelly	11/5/2015	
92	Jennifer Goldbeck	11/5/2015	
93	Michele Cook	11/5/2015	
94	Jeremy Smith	11/5/2015	
95	Julie Vosters	11/5/2015	
96	Gail Paulson	11/5/2015	
97	Tim Guyer	11/5/2015	
98	Teresa McMahon	11/5/2015	
99	Aimee Schmidt	11/5/2015	
100	Judy Semrad	11/5/2015	
101	Sarah Breister	11/5/2015	
102	Brandon Grebe	11/5/2015	
103	Cheri Barnett	11/5/2015	"Please reconsider the idea of passing this bill. It's not good for protecting the public against health related issues. This will be the demise of many small family bakeries who cannot compete with others that don't have expense of taxes and other related business issues. Thank you."
104	Bernadette Shanahan-Haas	11/5/2015	
105	Ashley Weber	11/5/2015	
106	Bobby Nowak	11/5/2015	
107	Kellie Ann	11/5/2015	
108	Ken Heil	11/5/2015	
109	Martee Mikalson	11/5/2015	
110	Mary Vande Walle	11/5/2015	
111	Robin Corozza	11/6/2015	
112	Sara Perkins	11/6/2015	
113	Bob Hiller	11/6/2015	
114	Carla Robinson	11/6/2015	
115	Dawn Westhoff	11/6/2015	
116	Jackie Scott	11/6/2015	
117	Susan Warner	11/9/2015	"Everyone selling food should be required to operate in a licensed kitchen and have food safety training."





## MEMORANDUM

*November 11, 2015*

TO: Members of the Assembly Committee on Small Business Development

FROM: Brandon Scholz & Michelle Kussow  
Wisconsin Grocers Association

RE: Assembly Bill 417 relating to the sale of homemade baked and canned goods

---

**The Wisconsin Grocers Association supports ensuring that all food provided to the public is safe, and therefore we are opposed to Assembly Bill 417 as written.** Wisconsin's food safety laws are based on the assurance that any time a consumer pays for a food product, they are guaranteed a safe and wholesome food. With that said, we would support and encourage a new licensing category for these businesses or other types of assistance to help navigate regulatory requirements, but within the confines of Wisconsin's existing licensing and inspection laws.

Licensing and inspection through DATCP ensures safe food through the entire process. It ensures food is made in clean kitchens free of garbage and rodents. It ensures that water used has been tested for bacteria. It ensures that proper hand washing and handling procedures are met. It ensures that equipment and utensils are properly cleaned and sanitized. It ensures that food storage is maintained at specific temperatures. It ensures that poisonous and hazardous substances are properly contained. It ensures that all food ingredients, including eggs, are purchased from licensed processing facilities. It ensures that food is properly labeled, specifically for allergen labeling. It ensures that the persons handling food wear clean clothing, hair restraints and do not have communicable diseases.

This bill attempts to ensure food safety by suggesting that DATCP provides information, but without DATCP inspections, there are no assurances. If any one of these provisions are not met, it could result in unsafe food. For example, food prep in unsanitary environments, purchasing products from unlicensed facilities, handling by sick and contagious individuals and cross-contamination with unsafe food are all examples of ways that foods become contaminated. Without proper inspections, there is no way to regulate these situations.

WGA members go above and beyond when it comes to food safety and we believe that others that sell food to the public should comply with similar standards and laws. To this end, we are asking committee members to consider amending AB 471 to incorporate licensing and inspection requirements.

November 11, 2015

I support the passing of the "Cookie Bill".

As a young mother, I was able to have various home businesses in my home while I raised my four daughters. It was great to be able to stay home with them while I also earned money to support our family.

One of those daughters now wants to have a home-based cake business, so she can also remain home with her son. Her eventual goal is to have her own cake shop, when her son is older, and to hire a number of employees. Overhead costs are too high for her getting started, so using her home kitchen works best for her for now.

Many other businesses get their start at home, in garages, basements, etc. , and later on expand to become employers of many more people. A bake shop needs to be one of those businesses that are allowed to be home-based to get the owner off to an affordable start.

Please consider passing the Cookie Bill so my daughter, and other entrepreneurs like her, can get their businesses going.

A handwritten signature in black ink that reads "Karen Kelly". The signature is written in a cursive style with a large initial 'K'.

Karen Kelly

N4794 – 35<sup>th</sup> Dr.

Fremont, WI 54940

Phone: 920-428-5304

Tuesday, November 10, 2015

Dear Wisconsin Legislative Assembly and Senate Members,

Thank you for this opportunity to share information on the Cottage Food legislation called the "Cookie Bill", which is being folded into the already existing "Pickle Bill".

Sorry I can't share this in person at the hearing, but my husband is now disabled, and I need to transport him to work each day until he retires at year's end.

I am so glad the bill has gained this hearing, with hopes that a reasoned approach can be fully implemented, so I can begin baking and selling my cookies this summer. Just try to get a great Oatmeal cookie anywhere; they are rare. Mine is GREAT!!! Taste the nuts, honey, coconut, butter, eggs and whole grains and oats. You just want a whole glass of milk with one cookie! (Is your mouth watering?)

Thanks so much to my Representatives, Rep. Thiesfeldt and Sen. Gudex for their support and co-sponsorship. Yay! Everyone should be supporting this bill!

The points I am hoping to convey in this written testimony:

1. We are all for more entrepreneurship, safety, and freedom from unnecessary regulation. This bill accomplishes all three!
2. Currently there is a \$5,000 limit on receipts from pickles and jams before you need a licensed institutional kitchen. The first draft adding certain baked goods was then raised to \$10,000, and in this current version was reduced to \$7,500 for an unknown reason. In fact it could be argued that this number might be \$20,000 as it is in Michigan with increases in 2017, or \$50,000 as it is in Texas and California, or \$5,000 per type of item or flavor as it is in Colorado.

I hope you will reconsider increasing freedom and support entrepreneurship. Please think about all the work and investment that goes into this kind of income; \$7,500 or even \$10,000 are hobby type income limits. There are those of us like myself who want to make a decent, even full time income, and hopefully, if everybody loves my cookies as much as I think they will, I will get an institutional kitchen built or rented within a few years. The kitchen will cost upwards of \$15,000 for starters. Baking these cookies if I maxed out on the \$7,500 might net half that if I am lucky, as I use high quality, health food variety ingredients. With all the hours it takes to bake and hawk the cookies (as you are required to be face to face), I might make \$3,000 to \$4,000. No chance to save for a kitchen, or chance to really test the product in a retail setting.

So, I would suggest raising the limits each year to a maximum of \$50,000 before you need an institutional kitchen. Let's say:

\$20,000 year one,

\$30,000 year two and

\$50,000 in year three and beyond before you need an institutional kitchen. Over \$50,000 would likely be the point where one might need an extra worker to help, and a larger space to work, like a real kitchen. Remember this is gross income, not net, which is much lower. And it would provide me the opportunity to save for an institutional kitchen.

3. Finally, with the controls and labeling proposed, I would humbly suggest that we be allowed to place our products at one retail setting each, where we could closely monitor results and responses to our product(s). This setting would “test” the real market before we expand our operations. This would be our road to entrepreneurship. I bought some pickles the other day at the Farmers’ Market in Fond du Lac at Festival Foods, and I would buy those again in a heartbeat, but the Farmers’ Market is closed all winter. I have a relationship with a local small chain of gas stations whose manager said he’d love stock my cookies if his is allowed to. There would be absolutely no problem with accountability there, if one of the stores is my only outlet, although ideally I’d love to grow to the point where my products can be at the registers at every Cabela’s nationwide someday, and over the internet. Can’t even think about that now. We all have humble beginnings.

In closing, please move this legislation quickly, and rethink the points I am making. Ideally, if you want to do more homework, my understanding is that the most local food freedom thinking legislation in the country is in Wyoming.

<https://reason.com/archives/2015/03/14/tremendous-victory-for-wyomings-bi-parti>

There also is a recent Harvard study compiling states’ various laws on Cottage Foods [http://blogs.law.harvard.edu/foodpolicyinitiative/files/2013/08/FINAL\\_Cottage-Food-Laws-Report\\_2013.pdf](http://blogs.law.harvard.edu/foodpolicyinitiative/files/2013/08/FINAL_Cottage-Food-Laws-Report_2013.pdf).

But, please pass something now, so we can take the training and be ready to bake and sell come Spring!

Thanks so much for your support! Third time is a charm.

Donna Richards  
121 North National Avenue  
Fond du Lac, WI. 54935  
920-907-0326  
414-333-9533 (cell)  
[dhrichards@charter.net](mailto:dhrichards@charter.net)