



We Feed You

Comments on SB 643

STRONGLY OPPOSED

Food Northwest is the regional trade association that represents Oregon's food manufacturing industry. We are the people who feed you and take pride in doing so safely.

Food products must be safe. There is no middle ground. That is why the U.S. Food and Drug Administration, the U.S. Department of Agriculture and the State Department of Agriculture have developed hundreds of rules, regulations and inspection programs that are designed to outline best practices and safety protocols. This highly regulated environment is present so consumers in this state can be assured that every product they buy and every meal they consume is prepared with food that has been produced for them in a regulated, safe environment.

Make no mistake, SB 643 is an attempt to circumvent critical food safety protections. It will put customers at risk and erode public confidence in the food supply chain. The risk of serious illness and even death are very real. That is why food must be prepared and sold in a regulated way.

SB 643 is contrary to Chapter 3 of the U.S. Food Code which states the following: [emphasis added]

"Food should be purchased from commercial supplies under regulatory control. Home kitchens, with their varieties of food and open entry to humans and pet animals, are frequently implicated in the microbial contamination of food. Because commercial items seldom are eaten right away, the home kitchen's limited capacity for maintaining food at proper temperatures may result in considerable microbial growth and toxin production by microorganisms introduced through the diverse sources of contamination. Controlled processing is required for the safe preparation of food entering commerce."

SB 643 creates a huge loophole from food safety protections. The bill removes the cap on income, which will open the door to potential large-scale operations that will be totally uninspected. It allows pets to be present in the house, which is unthinkable for a food operation. And it expands the allowed products to include nuts, an extremely serious allergen that requires serious safety protocols. All of this while operating outside the scrutiny of those who are tasked with keeping the public safe.

Food Northwest's food safety protection concerns in SB 643 include:

Removal of the \$20,000 cap on gross sales. Because cottage food producers are exempt from the food safety protections and oversight of ODA, this cap was set to limit the size of the cottage foods producers to small-scale operations and thus limit food safety risks. Growth in food production presents increased food safety challenges. Thus, a limit on size is necessary. ORS 616.723(5) allows ODA to increase the food sales limit by an amount that reflects changes in CPI so this amount could be updated by ODA. Food Northwest urges retention of the current law's language regarding the cap on gross sales.

Defines the types of food deemed "not potentially hazardous". SB 643 lists several foods as not potentially hazardous. Food Northwest strongly objects to this characterization and to the expansion of allowed foods beyond baked goods and confectionary. Some of the listed foods may be low risk but they can be potentially hazardous if not prepared properly. For example, if water is not sufficiently removed from freeze-dried, dried, and dehydrated foods, mold and pathogens can grow.

ORS 616.723(1)(d) restricts the allowed foods to baked goods and confectionary items in order to limit food safety risks. Baked goods and confectionary items are thought to be low risk foods that are unlikely to contain pathogenic organisms and will not normally support their growth due to food characteristics (e.g., baking kill-step and sugar content). Of course, inadequate baking, environmental contamination from handling, improper packaging or storage, or the presence of dairy products or dried fruits, or cross-contamination with allergens, like nuts, can cause food safety problems even in these foods. Without the food safety protections of ORS 616.695 to 616.755, we urge the legislature to act conservatively to protect Oregon consumers and not expand the types of products. An evaluation and recommendation from ODA should precede any consideration of food type expansion.

Allows cottage foods to be sold at retail and to the end user in any manner. Expansion of buyers and manner of sale increases distribution of cottage foods, but it also increases the risk to Oregon consumers. Rapid investigation is critically important in cases of foodborne illness. The wider the distribution without the traceability requirements imposed on licensed food processors, the more difficult these investigations will be. Especially when additional parties and distribution methods are added to the supply chain. Food Northwest recommends that sales be restricted to the end-user of the product and that sales are made from the home, at events, and that online sales must be delivered in person. Cottage food laws were designed for individuals running a small business from home, not a large-scale enterprise distributing to the masses.

Does not restrict pets from the food preparation area. Pets must be kept out of the kitchen at all times, not just during food preparation. Allergens are spread by domestic animals and are present during food preparation, whether the animal is present or not. This is a provision that is extremely difficult to enforce and will not be followed in many cases. Consumers will be at risk if pets are allowed to reside in a home that prepares commercial food.

Conclusion

Food Northwest supports entrepreneurial spirit, especially small food start-up companies. However, the primary responsibility of those in the food business is to produce safe food under conditions that are protective of public health. The SB 643 amendments to ORS 616.723 will undermine public health protections and could increase the risk of foodborne illness from cottage foods.

This bill is dangerous. Please say no to SB 643.