



INSTITUTE FOR JUSTICE

**Testimony in support of A.B. 352**  
**Senate Committee on Health and Human Services**  
**May 27<sup>th</sup>, 2025**

Dear Chair Doñate and Members of the Committee,

Thank you for the opportunity to submit written testimony in favor of A.B. 352.

**Introduction**

Selling cottage foods is a great way for entrepreneurs with big dreams but little capital to get started small in their own homes. The cottage food industry empowers individuals to produce and sell homemade foods, fostering entrepreneurship and economic growth within communities, and providing consumers with ethnically rich, local options. By allowing the sale of items made in home kitchens, these laws lower entry barriers for small-scale food producers, enabling them to test products and build customer bases without the significant overhead of commercial facilities.

**What are cottage foods?**

In Nevada, cottage foods are defined as foods that are made in the home and are not potentially hazardous, meaning they do not need time or temperature control. Some examples include cookies, jams, cakes, and dried herbs.

Research shows these foods are safe to sell<sup>i</sup>, and the ability to sell them has an enormous impact on the community and economy.<sup>ii</sup>

**How A.B. 352 Supports Cottage Food Producers**

Unfortunately, Nevada's current law is holding these entrepreneurs back from realizing their full potential. Right now, the state caps annual revenue for cottage food producers at \$35,000, severely limiting the ability of producers to earn a living. Despite the fact that 44 other states and DC allow the sale of homemade food over the internet, Nevada prohibits online orders of cottage foods. Nevada also prevents the delivery of homemade food through the mail, which 37 states and DC permit. These rules are overly restrictive and out-of-step with regulations in other states, stifling economic growth.

To make this right, A.B. 352 will improve the opportunities for cottage food producers. This bill supports cottage food producers by:

- Increasing the annual revenue cap to \$100,000.
- Permitting the sale of homemade food over the phone and online, and allowing those sales to be fulfilled by mail or by a food delivery service platform.

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## National Trends

### Revenue Cap

Nevada has the fourth lowest revenue cap in the country. Only 20 states have revenue caps at all – and some, such as Florida and Wyoming, are as high as \$250,000.<sup>iii</sup> Since 2020, seven states have increased or removed their revenue caps.<sup>iv</sup> At least four other states are considering raising or removing their revenue caps this legislative session.<sup>v</sup> Over the last decade, nearly every state has raised or removed their revenue cap, but Nevada has not improved its cottage food law since its inception in 2013.<sup>vi</sup>

#### A revenue cap as low as \$35,000:

- **Prevents home food entrepreneurs from scaling up:** A \$35,000 revenue cap creates a one-size-fits-all business model that only serves to undermine the ability of producers to use their homes as a steppingstone to a shared commercial kitchen space or a brick-and-mortar store, keeping aspiring entrepreneurs from thriving. This cap is also gross revenue—not net—so producers take home far less. Considering costs for ingredients and other supplies, most cottage food producers are not left with much income after hitting this low revenue cap.
- **Limits earnings potential for entrepreneurs:** Cottage food entrepreneurs tend to be women of modest means living in rural areas, many of whom have children living at home.<sup>vii</sup> Raising the revenue cap would allow these families to climb the economic ladder with more ease.

In addition to helping families make ends meet, these home-based businesses create revenue and jobs for the state. Over half of all U.S. businesses are operated primarily out of the home.<sup>viii</sup> For single parents, the disabled, those without reliable transportation and many more, operating out of the home may be their only feasible business model. Regardless of the reason, it is essential that people have the ability to earn an income from the safety of their homes **without an income limitation**.<sup>ix</sup>

- **Does not accomplish its purported goal:** Sales caps were originally intended to ensure that people were not running commercial bakeries out of their homes. But a cottage food producer is naturally limited by the size of their kitchen.

### Online Sales and Mail Delivery

Every state allows homemade food to be sold directly to consumers at farmers' markets. However, in a minority of states, such as Nevada, cottage food businesses are prevented from selling their goods online. In fact, only seven states ban cottage food producers from selling their goods online.<sup>x</sup>

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Additionally, only fourteen states ban cottage food producers from delivering their goods through the mail or through a third-party delivery service.<sup>xi</sup>

However, there is no evidence to suggest that selling online or selling through a third-party delivery service threatens food safety in any way. The vast majority of states allow cottage food producers to sell online and ship through the mail, and despite our extensive research on the topic, we have not encountered any instance of an adulterated food product related to online sales or mail delivery of homemade foods.

Since 2020, nine states have begun allowing online sales of homemade foods and twelve states have changed their law to allow mail or third-party delivery of homemade foods.<sup>xii</sup> Nevada should join the nationwide trend to allow this important sales option for cottage food producers.

### Cottage Foods are Safe

Health departments originally thought that by limiting the amount of food a cottage food producer can sell; they are limiting the risk of foodborne illness. **However, cottage foods are just as safe as foods produced in commercial kitchens**, as it is incredibly unlikely for cottage foods to cause a foodborne illness. In December of 2017, the Institute for Justice filed a case against New Jersey's outright ban on cottage food businesses. Microbiologist Thomas J. Montville, Ph.D. of Rutgers University provided expert testimony during the litigation, finding that *"baked goods ... are perfectly safe [and] there is no evidence or reason to think that not-potentially hazardous baked goods prepared in home kitchens would present a greater risk of foodborne disease than those prepared in licensed and inspected commercial-grade kitchens."*<sup>xiii</sup>

The Institute for Justice (IJ) has conducted extensive research demonstrating that homemade food is safe for consumer sales. In a study involving seven states with comprehensive homemade food laws—California, Iowa, Montana, North Dakota, Oklahoma, Utah, and Wyoming—IJ found no confirmed cases of foodborne illnesses linked to foods sold under these laws. This was true even in Wyoming, which has permitted the sale of homemade perishable foods since 2015.<sup>xiv</sup>

Therefore, a revenue cap as low as \$35,000 and a prohibition on online sales and mail delivery do not improve public health and safety—but they do prevent entrepreneurial cottage food producers from realizing their full potential.

### Benefits of the Sale of Cottage Foods

The ability to sell cottage foods made in the home can create enormous opportunity for people who are struggling to make ends meet. Cottage foods have clear benefits of increasing self-employment opportunities, especially for women, increasing food access in food deserts, and allowing for more consumer choice, while allowing consumers to eat local. Below are some proven benefits that the sale of cottage foods can have on the community and the economy.

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- **Transparency, traceability, and accountability.** People know what they are getting when they buy local due to labeling requirements. A neighbor has much more stake in each product than a large food production facility.
- **Female empowerment.** Cottage food entrepreneurs tend to be women of modest means.<sup>xv</sup> While not all cottage food entrepreneurs are women, the ability to sell homemade food has the greatest impact on women by opening a viable and accessible economic opportunity.
- **Encourages small business.** Selling homemade foods helps small-scale businesses succeed, including young entrepreneurs and stay-at-home moms, by giving them an additional source of revenue and a means to get started affordably from the safety of their homes.
- **Flexible jobs with low start-up costs.** All home bakers need is their kitchen and a recipe to start supporting their families and communities, which is important in today's economy. Economic downturns create a greater need for such jobs. Selling homemade food also helps create jobs and opportunities in rural areas and small towns.
- **Increase in locally made, specialty goods.** Homemade goods are made locally and are often specialty foods: gluten free, halal, kosher, keto, etc. They can also be customized for birthdays and special events. No one can feed and understand the needs of the community better than the community.
- **Resiliency in the local food supply chain.** Local farmers and home-based food producers across the country saw a spike in sales over the course of the pandemic when grocery stores were bare. A local ecosystem of homemade food helps when the national supply chain fails.

After Wisconsin ended its ban on the sale of home-baked goods, producers reported being able to do everything from enroll their children in extra lessons to pay for healthcare to being able to afford to stay in their homes.<sup>xvi</sup>

## Conclusion

There is considerable demand for this reform. Over the past year we have spoken to dozens of Nevadans who are eager for this type of reform.

The Institute for Justice is a national nonprofit advocacy organization that supports cottage food reforms across the country. In addition to working to open opportunities for entrepreneurship through cottage food laws in the courts and in legislatures, our research team has studied the effects of cottage food businesses on local economies and communities and researched claims about health and safety risks. We have consulted experts, followed up with health departments in states that have expanded their cottage food laws, and studied best practices. Our research confirms that cottage foods are inherently safe for producers, consumers, and the community at large.

AB 352 will expand opportunities for cottage food entrepreneurs and bring economic benefits for local communities. With little to no documented health risks associated with homemade foods and

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strong consumer demand for locally produced goods, A.B. 352 supports economic growth, food accessibility, and entrepreneurship. The Institute for Justice urges the committee to support this bill and continue fostering a thriving cottage food industry in Nevada.

Please contact Ellen Hamlett at [ehamlett@ij.org](mailto:ehamlett@ij.org) for any questions or concerns.

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<sup>i</sup> Erica Smith Ewing, Jennifer McDonald, New Data Show Homemade Food For Sale Is Incredibly Safe, Sept. 6, 2023, <https://ij.org/report/new-data-show-homemade-food-for-sale-is-incredibly-safe/>

<sup>ii</sup> Jeffrey K. O'Hara, Marcelo Castillo, Dawn Thilmany McFadden, Do Cottage Food Laws Reduce Barriers to Entry for Food Manufacturers?, *Applied Economic Perspectives and Policy* (2020), pp. 1-17, <https://foodsystems.colostate.edu/wp-content/uploads/2020/07/aep13047.pdf>.

<sup>iii</sup> States that have a revenue cap for the sale of cottage foods: California (A: \$83,000, B: \$167,000), Colorado (\$10,000 per product, e.g. chocolate chip cookies, oatmeal raisin cookies, peanut butter cookies would be each be capped at \$10,000 in sales), Delaware (\$25,000), Florida (\$250,000), Kentucky (\$60,000), Louisiana (\$30,000), Maryland (\$50,000), Michigan (\$25,000), Minnesota (\$78,000), Mississippi (\$35,000), Missouri (\$50,000), Nevada (\$35,000), New Jersey (\$50,000), Oklahoma (\$75,000), Oregon (\$50,000), Rhode Island (\$50,000), Texas (\$50,000), Washington (\$35,000), Wyoming (\$250,000).

<sup>iv</sup> Seven states have removed or increased their revenue cap: Alaska (2024), Delaware (2024), New Hampshire (2023), Missouri (2022), Alabama (2021), New Mexico (2021), South Dakota (2020)

<sup>v</sup> 2025 Cottage Food Bills, Forrager.com. <https://forrager.com/bills/2025/>

<sup>vi</sup> Cottage Food Bills, Forrager.com.

[https://forrager.com/bills/?years=%2Fbills&regions=&law\\_types=cottage-food&bill\\_status=enacted](https://forrager.com/bills/?years=%2Fbills&regions=&law_types=cottage-food&bill_status=enacted)

<sup>vii</sup> McDonald, J. (2017). Flour Power: How Cottage Food Entrepreneurs Are Using Their Home Kitchens to Become Their Own Bosses. Arlington, VA: <https://ij.org/wp-content/uploads/2017/12/Cottage-Foods-Report-Sep-2018.pdf>

<sup>viii</sup> U.S. Small Business Administration Office of Advocacy. (2020). Frequently Asked Questions. <https://cdn.advocacy.sba.gov/wp-content/uploads/2020/11/05122043/Small-Business-FAQ-2020.pdf>

<sup>ix</sup> McDonald, J. (2022). Work Entrepreneur from Home: How Home-Based Businesses Provide Flexibility and Opportunity--and How Cities Can Get Out of Their Way. Arlington, VA: Institute for Justice. <https://ij.org/report/entrepreneur-from-home-how-home-based-businesses-provide-flexibility-and-opportunity-and-how-cities-can-get-out-of-their-way/>

<sup>x</sup> Seven states prohibit online sales: Delaware, Hawaii, Michigan, Mississippi, Missouri, Nevada, North Dakota. However, ND SB2386, which would allow online sales and mail delivery, has passed both Chambers of the Legislature, so it is soon to be six states that prohibit internet sales.

<sup>xi</sup> Fourteen states prohibit mail delivery: Alabama, Connecticut, Delaware, Hawaii, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Jersey, North Dakota, South Dakota, Texas. However, ND SB2386, which would allow online sales and mail delivery, has passed both Chambers of the Legislature, so it is soon to be 13 states that prohibit mail delivery.

<sup>xii</sup> 9 states have allowed online sales: Alaska (2024), Hawaii (2024), Oregon (2023), Indiana (2022), Iowa (2022), Missouri (2022), Rhode Island (2022), New Mexico (2021), Oklahoma (2021)  
12 states have allowed mail delivery: Alaska (2024), Hawaii (2024), Oregon (2023), Indiana (2022), Iowa (2022), Missouri (2022), Rhode Island (2022), South Carolina (2022), Alabama (2021), Arkansas (2021), Illinois (2021), New Mexico (2021)

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<sup>xiii</sup> Taken from Expert Report of Thomas J. Montville, Ph.D. Superior Court of New Jersey. (2018).

<sup>xiv</sup> See Ewing and McDonald (2023).

<sup>xv</sup> See McDonald (2017).

<sup>xvi</sup> McDonald, J. (2018). Ready to Roll: Nine Lessons from Ending Wisconsin's Home-Baking Ban. Arlington, VA: Institute for Justice. <https://ij.org/wp-content/uploads/2018/10/Wisconsin-Home-Bakers-FINAL.pdf>.

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