

2025 SENATE AGRICULTURE AND VETERANS AFFAIRS

SB 2386

2025 SENATE STANDING COMMITTEE MINUTES

Agriculture and Veterans Affairs Committee

Fort Union Room, State Capitol

SB 2386

2/6/2025

A bill relating to cottage food transactions.

10:54 a.m. Chairman Luick opened the hearing.

Members present: Chairman Luick, Vice-Chair Myrdal, Senator Marcellais, Senator Weston, Senator Weber, Senator Lemm

Discussion Topics:

- Internet banned sales
- Department of Agriculture
- Cottage bakery definition
- Online businesses
- Military and spouse support
- Farmers and ranchers
- New, expanding markets
- Interstate commerce
- Poultry exclusion

10:55 a.m. Senator Desiree Van Oosting, District 36, testified in favor and introduced the bill.

10:58 a.m. Jenetta M Sawyer, owner of Jenetta's Simple Treats LLC, testified in favor and submitted testimony #35233.

11:03 a.m. Carol Two Eagles, Indian Products Incorporated, testified in favor.

11:06 a.m. Brekka Kramer, President and CEO Minot Area Chamber EDC, testified in favor and submitted testimony #35650.

11:10 a.m. Zachary Cassidy, Dakota Resource Council, testified in favor.

11:13 a.m. Pete Hanebutt, Director of Public Policy with ND Farm Bureau, testified in favor.

11:14 a.m. Senator Desiree Van Oosting, District 36, testified in favor.

11:15 a.m. Lieutenant Jay Sheldon, Strategy and Policy Officer for the ND National Guard, testified in neutral.

11:17 a.m. Todd Erickson, ND Agriculture Department Meat Inspection Manager, testified in neutral.

11:18 a.m. Chairman Luick closed the hearing.

11:18 a.m. Senator Myrdal moved to adopt Amendment LC

#25.1349.01001.

11:19 a.m. Senator Desiree Van Oosting, District 36 testified in favor.

11:20 a.m. Senator Weston seconded the motion.

11:20 a.m. Voice vote - Motion passed.

11:21 a.m. Senator Myrdal moved a Do Pass As Amended.

11:21 a.m. Senator Weber seconded the motion.

Senators	Vote
Senator Larry Luick	Y
Senator Janne Myrdal	Y
Senator Randy D. Lemm	Y
Senator Richard Marcellais	Y
Senator Mark F. Weber	Y
Senator Kent Weston	Y

Motion passed 6-0-0.

Senator Lemm will carry the bill.

Additional written testimony:

Doug Farquhar, Director of Government Affairs for the National Environmental Health Association, submitted testimony #33289 in neutral.

Tim Baumann, resident of Minot, ND, submitted testimony #33969 in favor.

Melinda Ahrens, resident of Minot AFB, ND, submitted testimony #34001 in favor.

Cassie Seppi, resident of Alsen, ND, submitted testimony #34085 in favor.

Elizabeth M. Sund, resident of Minot, ND, submitted testimony #34410 in favor.

Mariia Kolomeitsev, resident of Minot, ND, submitted testimony #34430 in favor.

Erin V. DeJamett, resident of Nicholasville, KY, submitted testimony #35301 in favor.

Jason R. Sawyer, resident of Surrey, ND, submitted testimony #35320 in favor.

Giorgia De Sanzuane, resident of Niceville, FL, submitted testimony #35386 in favor.

Hope E. Anderson, resident of Minot, ND, submitted testimony #35399 in favor.

Jennifer L. McGee, resident of Destin, FL, submitted testimony #35445 in favor.

Ellen Hamlett, Activism Association Institute for Justice, submitted testimony #35575 in favor.

Samuel A. Wagner, Ag and Food Field Organizer with the Dakota Resource Council, submitted testimony #35588 in favor.

Witney M. Nielsen, owner of Unconventional Cookies, submitted testimony #35682 in favor.

Ashley N. Janssen, resident of Minot, ND, submitted testimony #35739 in favor.

Megan Seppi, resident of Cavalier, ND, submitted testimony #35762 in favor.

11:22 a.m. Senator Luick adjourned the meeting.

Audrey Oswald, Committee Clerk

35 2/6/25
1 of 1

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2386

Introduced by

Senators Van Oosting, Gerhardt, Roers

Representatives Motschenbacher, Holle, Hauck

- 1 A BILL for an Act to amend and reenact subsection 3 of section 23-09.5-02 of the North Dakota
2 Century Code, relating to cottage food transactions.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

- 4 **SECTION 1. AMENDMENT.** Subsection 3 of section 23-09.5-02 of the North Dakota
5 Century Code is amended and reenacted as follows:

- 6 3. Transactions under this section may not:

7 a. ~~Involve interstate commerce;~~

8 b. ~~Be conducted over the internet or phone, through the mail, or by consignment;~~

9 e. Include the sale of uninspected products made from meat, except as provided
10 under subdivision ~~db~~; ~~or~~

11 ~~d.b.~~ Include the sale of uninspected products made from poultry, unless:

12 (1) The cottage food operator slaughters no more than one thousand poultry
13 raised by the cottage food operator during the calendar year;

14 (2) The cottage food operator does not buy or sell poultry products, except
15 products produced from poultry raised by the cottage food operator; and

16 (3) The poultry product is not adulterated or misbranded; or

17 c. Include the sale of poultry products if the transaction involves interstate
18 commerce.

**REPORT OF STANDING COMMITTEE
SB 2386**

Agriculture and Veterans Affairs Committee (Sen. Luick, Chairman) recommends **AMENDMENTS** ([25.1349.01001](#)) and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2386 was placed on the Sixth order on the calendar. This bill does not affect workforce development.



The National Environmental Health Association (NEHA) represents more than 7,000 governmental, private, academic, and uniformed services sector environmental health professionals in the U.S., its territories, and internationally. NEHA is the profession's strongest advocate for excellence in the practice of environmental health as it delivers on its mission to build, sustain, and empower an effective environmental health workforce.

Policy Statement on Food Freedom Operations

Adopted: January 2022

Policy Sunset: January 2027

Food freedom refers to the reduction and/or exemption of governmental regulations in the production and sale of food. Many state and local jurisdictions have legislation that permits certain types of foods to be processed, packaged and sold without regulatory oversight. While NEHA recognizes the popularity of these operations, we remain concerned over the potential foodborne illnesses and inherent food safety hazards that could arise. NEHA supports food safety regulatory oversight to ensure foods sold under food freedom laws, produced in cottage food operations (CFOs), and home-based restaurants (HBRs) meet food safety standards that keep the public safe from harm.

Some form of legislation for food freedom laws, HBRs, or CFOs have been legalized in every state in the U.S. food freedom laws, which exempt almost every form of regulatory food safety oversight, have been enacted in Maine, New Mexico, North Dakota, Utah, and Wyoming. HBRs, in which an individual prepares and serves a restaurant-style meal in their home to paying customers, are permitted in California. Foods produced through food freedom laws, HBRs, and CFOs pose a risk to health due to the lack of standardized regulatory oversight.

Home-based food preparation for sale to the public under food freedom laws, HBRs, and CFOs will herein be collectively referred to as food freedom operations (FFOs). Therefore, this policy statement addresses the food safety implications of foods produced through FFOs in protecting public health.

NEHA's Policy Statement

NEHA supports the following policies and actions:

- Require registration with the appropriate state, local, territorial, or tribal regulatory food safety or public health agencies for all foods prepared and conveyed to the public through FFOs as required by their local authorities.
- If the FFO is not required to produce food in accordance with federal, state, or local public

health oversight, the FFO must include a requirement for prominent labeling and signage in English (and the predominant language of the local area, if applicable) that includes the name and address of the FFO production facility, the common or usual name of the product, the inclusion on the label of any ingredient considered to be major food allergen, and a disclosure to the consumer that the product has not been produced or prepared in accordance with federal, state, or local public health oversight.

- All ingredients used in the production of foods prepared through FFOs should be procured from licensed and inspected facilities. The use or sale of foods, including raw milk, home- canned foods, and meats, from uninspected sources should be prohibited.
- Require that the water used in FFOs meets potable drinking water standards. If the water supply is from a municipal source, a potability certificate or report from a state or local health agency or other responsible organization is acceptable. If the water supply comes from a private water well, the establishment must have its water potability certificate renewed in accordance with the most current U.S. Environmental Protection Agency primary drinking water regulations and Food and Drug Administration (FDA) sanitation regulations.
- Operators of FFOs should allow health department inspectors or regulators into their homes if their businesses are the suspected source of a foodborne illness outbreak.
- FFOs should be required to maintain sufficient liability insurance.
- State legislation and regulations for FFOs should be easy to access, as well as easy to understand for individuals interested in starting a FFO in jurisdictions where these businesses are allowed (Condra, 2013).
- FFOs should be required to provide training for food workers to ensure they have the necessary knowledge and expertise in food hygiene, food protection, employee health, and personal hygiene to produce safe food products. This training is readily available in multiple languages and should be delivered in a manner that can be easily understood by the worker. Records of this training should be retained.
- NEHA supports holding FFOs to the same science-based food safety standards as food establishments as defined by the most recent version of the FDA model *Food Code* regardless of size or annual income, including the exclusion of domestic animals in food preparation area.
- The operator of an HBR should be required to obtain and maintain a valid certified food protection manager (CFPM) certificate.
- Food produced by FFOs must practice time/temperature controls for safety (TCS) foods or foods that are rendered non-TCS solely due to processing (e.g., acidification).
- In lieu of a CFPM for FFOs, the annual completion of basic food safety and/or food handler training should be mandated.
- Prohibit food preparers with infectious diseases that can be transmitted through foods

from preparing or handling foods for sale or donation.

- Prohibit all workers from having bare-hand contact with ready-to-eat foods.
- Require adherence to proper handwashing procedures and technique per local health regulations.
- A thorough review of food freedom laws by legislatures and regulatory personnel to identify the policies that might put consumers at higher risk (Farquhar, 2020).

Analysis

The FDA model *Food Code* is a model for safeguarding public health and ensuring food is unadulterated and honestly presented when offered to the consumer. It represents the best advice for a uniform system of provisions that address the safety and protection of food offered at retail and in foodservice (U.S. Department of Health and Human Services [HHS], 2017). Additionally, the *Food Code* explicitly states that “food prepared in a private home may not be used or offered for human consumption in a food establishment” (HHS, 2017, p. 58).

The shift toward a sharing economy in the food industry and the abundance of proposed food freedom laws has opened new opportunities as well as the potential for new health risks to the U.S. public (Farquhar, 2020). It’s been hypothesized that this shift is linked to a perceived number of benefits, including improved access to healthy food, enhanced community connections, and economic opportunity for women, especially in rural areas (Hamari et al., 2016; McDonald, 2017).

Although the *Food Code* models that food produced in a home kitchen is not allowed to be conveyed to the public, every state has passed legislation permitting certain categories of foods that are produced through FFOs for direct consumer sale. States have dealt with this issue either by excluding home kitchens from the definition of a food establishment or creating separate laws and regulations for cottage foods (Condra, 2013). Retail and cottage food allowances, regulations, and laws are implemented at the state and local level as opposed to not being allowed at the federal level, thus a varied patchwork exists across the U.S. on what is and is not permissible.

A review of state cottage food laws and regulations demonstrates the nonuniformity of this industry. In most states, cottage food laws restrict foods to those that do not require TCS. These foods generally include breads, biscuits, cakes, fruit pies, other baked goods that do not require refrigeration, candies, dry herbs and seasonings, popcorn, cereals, trail mixes, granola, dried produce, nuts, vinegar, jams, jellies, and preserves (Association of Food and Drug Officials [AFDO], 2012).

Some state laws are more restrictive and allow only baked and confectionery goods. Conversely, some state laws are less restrictive, allowing some TCS foods to be produced under specific circumstances.

For the most part, cottage food producers must sell directly to the consumer, typically at farmers markets, roadside stands, community events, or from their homes. With few exceptions, sales are restricted to intrastate sales and generally are not allowed over the Internet (Farm-to-Consumer Legal Defense Fund, 2018). Additionally, one half of the states that have cottage food laws and regulations include an annual sales limit either in dollars or units sold (Farm-to-Consumer Legal Defense Fund, 2018). Five states—Maine, New Mexico, Utah, Wyoming, and North Dakota—have passed food freedom acts that greatly reduce government oversight of cottage foods. These food freedom acts 1) allow for the direct-to-consumer sale of any food other than meat (North Dakota and Wyoming will allow some poultry, Maine permits seafood and shellfish); 2) do not limit sales; and 3) do not have registration requirements (Rice et al., 2018). In North Dakota, labeling is required only if the food is considered TCS (Rice et al., 2018). Wyoming does not require labeling of certain uninspected foods and instead expects the consumer to realize the risk.

HBRs make up a smaller fraction of FFOs. HBR chefs purchase food, prepare, and either serve the meal in their homes or allow for takeout or delivery options. HBRs tend to operate using an internet-based third-party website to manage reservations and payments, although some operate independently through social media or garage sale advertising sites. HBRs differ from CFOs as the industry almost exclusively includes the preparation and sales of restaurant-style TCS foods out of the home kitchen. Additionally, in some areas, CFO and HBR foods are sold through third-party delivery services with no consumer notice that these foods are prepared in a residential home or unregulated setting.

Justification

With increased popularity of CFOs and HBRs, the potential for negative health impacts exists. Data from the National Outbreak Reporting System show that there were 1,225 reported foodborne illness outbreaks, 22,893 illnesses, 2,737 hospitalizations, and 89 deaths attributed to food prepared in private homes and residences from 2008–2018 (Centers for Disease Control and Prevention, 2018). These data demonstrate the need for state, local, territorial, and tribal public and environmental health officials to take a proactive approach to regulating these entities involved in home-based food preparation for sale to the public.

The risk categorization of food establishments from the FDA *Food Code* demonstrates the need for continued regulation of FFOs (HHS, 2017). CFOs, excluding those states that allow TCS foods, could be categorized as Risk Category 1 depending on the extent of food production. This category includes “establishments that prepare, serve, or sell only prepackaged, non-TCS foods” (HHS, 2017, p. 593). HBRs would require higher risk categorization (i.e., Risk Category 2–4) depending on the complexity of the menu and preparation methods (HHS, 2017). Categorization at this level requires two to four scheduled inspections annually.

Uninspected home kitchens do present a health risk to the public. Borrusso and Quinlan (2017) collected swab samples from 100 homes in Pennsylvania and found that 45% of home kitchens tested positive for a foodborne pathogen. Furthermore, 12% had more than one pathogen

present. Surfaces contaminated with fecal coliforms and *Staphylococcus aureus* were associated with a lack of cleaning materials such as dish soap and towels in the kitchen and hand towels in the bathroom. These basic food safety principles are required and inspectable items for FDA-defined food establishments.

To combat this risk from home kitchens and to protect public health, CFO employees should be required to annually complete food safety or food handler training that is administered by an accredited organization (AFDO, 2012). Individuals engaged in preparing TCS foods from an FFO, such as an HBR, should be required to obtain and maintain a CFPM certificate. Currently, less than one quarter of states in the U.S. require food safety or sanitation training to become a cottage foods proprietor (Farm-to-Consumer Legal Defense Fund, 2018).

Hedberg et al. (2006) compared restaurants that had a foodborne illness outbreak with those that did not have an outbreak over a 1-year period. They found that having a CFPM on staff led to fewer norovirus outbreaks and no *Clostridium perfringens* outbreaks. This study suggested that the decrease in the number of outbreaks was due to increased knowledge and practices related to hand hygiene and food temperature control. Likewise, having a CFPM on staff decreased critical violations for personnel (e.g., hygienic practices, handwashing, etc.), food source/handling (e.g., cross-contamination protection, labeling, hazard analysis critical control point plans, etc.), and facility/equipment requirements (e.g., ventilation, thermometer calibration, food contact surfaces, lighting, etc.) compared with kitchens without a CFPM (Cates et al., 2009).

In addition to having a CFPM on site, basic food safety training is also beneficial. Soon et al. (2012) conducted a meta-analysis of the impact of food safety training on hand hygiene knowledge and attitudes. The study found that compared with controls, food handlers who received training improved their knowledge and attitudes of hand hygiene, as well as self-reported compliance with protocols. Similarly, 92.6% of food handlers who did not receive food safety training did not know that people with open skin injuries, gastrointestinal disturbances, and eye/ear diseases should not be allowed to handle food to avoid contamination (Adesokan et al., 2015).

The expansion of FFOs highlights the importance of ensuring food safety practices and procedures are followed to keep the public safe from foodborne illness disease. NEHA supports regulations and requirements as appropriate for FFOs to control foodborne illness disease and protect public health.

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Drafted by the NEHA Food Safety Program Committee Members, NEHA Technical Advisors, and NEHA Staff

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2/3/25

Hello,

My name is Tim Baumann and I live at 1308 35th Ave. SW, Minot, ND 58701. I am writing today to support the change of ND Century Code 23-09.5-02 Section 3a, "Transactions under this section may not involve interstate commerce" to allow for cottage bakeries to ship their products to customers in other states. I am supportive of this change because I believe that it will help support and grow the many small, independent baking businesses that call Minot and North Dakota home. This seems like an easy and painless change that will improve the lives of people in our state.

Respectfully submitted,

Tim Baumann

Good morning. My name is Melinda Ahrens. I am a military spouse of 23 years and would like to show my appreciation for the great state of ND. Our family has had the privilege of calling Minot, ND, our home twice over the course of my husband's decorated 27-year military career. We appreciate all you do for our military families and would like you to consider allowing the cottage bakers in the area to be involved in interstate commerce (SB 2386). Currently 23-09.5-02 Section 3a, transactions under this section may not involve interstate commerce which negatively impacts the hard work and ability of cottage bakers to promote themselves and their businesses. Business owners spend countless hours building their customer base and perfecting their products. They can continue to raise their profits by selling the previously mentioned products online and in turn, reach a wider base increasing their profits and spending habits. However, ND cottage bakers cannot take advantage of this opportunity due to current law. Many military cottage bakers spend countless hours building their customer base and products only to be told that their spouse must relocate to ND to continue answering their nation's call. Since ND does not allow cottage bakers to ship across state lines, the military business owner must start from scratch negatively affecting their business, which in turn, negatively impacts the money spent in ND. By allowing all ND cottage bakers to ship and participate in interstate commerce, ND recognizes the sacrifice it takes to own a business and encourages cottage bakers to expand their markets. These facts will only benefit the state of ND by keeping cottage bakers' income here in ND, which in effect increases the state's income tax revenue and local spending. It is a win-win for all involved. Again, thank you for the support you give to our military families across the state. Thank you for the opportunity to advocate for change.

To Whom it May Concern,

My name is Cassie Seppi and I have called this great state of ND home since 2018. I have a small family business that falls under the cottage food laws. I am in full support of SB 2386. Not only would it give more freedom back to the individual, but also bring more money into the state. The ability to ship my products would benefit my business and the countless other small businesses around the state.

The opposition might bring up that there isn't any regulation, so what if people get sick. My response is let the free market do its job. Word would spread that someone's product is not good and they would either go out of business or fix their mistakes.

Please vote "YES" on SB 2386

Cassie Seppi

Alsen, ND

Elizabeth Sund

In support of: A BILL for an Act to amend and reenact subsection 3 of section 23-09.5-02 of the North Dakota Century Code, relating to cottage food transactions.

February 3rd, 2025

North Dakota has some of the best cottage food laws that support local small businesses while protecting consumer safety. I am grateful to operate my home bakery in Minot, North Dakota, and I find the current regulations to be very reasonable. Removing the restriction on shipping and telephone/internet transactions would further solidify North Dakota's position as one of the very best places to start a cottage food business.

There are many North Dakota cottage food operators that make products perfect for shipping, such as snack mixes or shelf stable cookies. Lifting shipping restrictions would help bring money to the state, because there's constant demand for shipping out of state. I currently turn down all shipping requests, but it would be amazing to accept those orders.

However, I'm torn on whether the restriction on consignment should be lifted if it opens the door to wholesale. My concern is that without interacting with the producer directly or reviewing their website, the end consumer might not realize the item is made in an uninspected home kitchen. Of course, the food operator will label the items as required. But I think most people expect items sold by consignment to be made in an inspected commercial kitchen.

The restrictions on phone/internet sales and shipping should definitely be lifted, but the restriction on consignment should be considered separately. Lifting all three would be wonderful, but I recommend adding new wording prohibiting wholesale of cottage food products if the restriction on consignment is lifted.

Thank you for your consideration. North Dakota's cottage food program has opened amazing avenues for me to pursue entrepreneurship, and I look forward to growing my business under the improved regulations.

Sincerely,

Elizabeth Sund
Sundbakes Home Bakery
Minot, North Dakota
District 38

Dear Committee Members.

My name is Mariia Kolomeitsev. I am writing to formally request that North Dakota reconsider its current cottage food regulations to allow cottage bakers to ship their products out of state. Currently, 35 states permit cottage food businesses to ship their goods across state lines, while North Dakota remains excluded from this opportunity. This restriction limits economic growth, entrepreneurial opportunities, and consumer access to locally made baked goods.

Cottage bakers in North Dakota operate under strict state guidelines to ensure food safety and quality. Many of these small businesses have established strong reputations, and the demand for their products extends beyond our state borders. However, the inability to legally ship products places North Dakota's cottage bakers at a competitive disadvantage compared to neighboring states.

Thank you for your time and consideration. I appreciate your dedication to supporting local businesses.

Jenetta Sawyer
Jenetta's Simple Treats LLC

Chairman Luick, committee members, ladies and gentlemen, my name is Jenetta Sawyer and I am the owner of Jenetta's Simple Treats, a cottage bakery located right outside Minot in the small town of Surrey. My husband was recently stationed at Minot AFB, and though our family has only been here since September of 2024, North Dakota and Minot already feel like home. As a military family, we are no strangers of change, adjusting our lives to fit within our new areas, and finding our place within communities. And I am happy to report, since before we arrived, our local community has been nothing but welcoming, supportive, and ready to help in anyway possible. This has truly been the best community of all of our duty stations.

My business was founded in July of 2022 while we were stationed at Nellis AFB in Las Vegas, Nevada. In just over a year in September of 2023, my son and I relocated to Florida where we called Eglin AFB our home while my husband commissioned and did additional training. Then in September of 2024, we moved yet again here, to North Dakota. In less than 3 years, our multiple moves have allowed me the opportunity to learn the ins and outs of local and state Cottage Food Laws within a variety of states.

According to Chapter 23-09.5 in the state of North Dakota, a cottage bakery is defined as an "individual who produces or packages cottage food products in a kitchen designed and intended for use by the residents of a private home". North Dakota has one of the friendliest sets of Cottage Food Laws in the country. In North Dakota, we are *allowed* to use traditional buttercream, we are *allowed* to use cream cheese frostings, we are *allowed* to use fresh fruits, we are *allowed* to participate in markets and events, we are *allowed* to provide samples that are prepackaged or on display, and we are not subject to inspections of our home to start our home business. These are some major wins compared to other states!

However, according to 23-09.5-02 Section 3a, "Transactions under this section may not: involve interstate commerce", which refers to not being allowed to ship goods in or out of the state of North Dakota. [HHS ND Cottage Food Outline](#)

According to Castiron, which is a platform that many food establishments use within their business, 35/50 states allow shipping in and/or out of state, yet North Dakota is not on that list. [Castiron Article](#)

As a military family, I have had the privilege and opportunity to bake in three different states: Nevada, Florida, and North Dakota, each with their own Cottage Food Laws that I have had to abide by. And North Dakota has been the best to bake yet!

However, with North Dakota not allowing shipping, it creates a difficulty for many cottage bakeries who are already established in the state and those who are inbound. With North Dakota, and focusing on Minot, we have a large oil and military presence. Many incoming cottage bakeries are already established and trying to market to a new community and state.

When we move from state to state, we are losing loyal customers. It takes us longer to regain and build within the community as we seem brand new to our new clientele. I would like to point out that this shipping law *only* applies to cottage bakeries. This *does not* apply to commercial or store front bakeries as they have a different set of rules and regulations they abide by..

By adjusting the current Cottage Food Laws and allowing cottage bakers the ability to ship goods and products in and out of state, we will be creating more balanced businesses within our own community. Families like mine would be able to continue to serve communities outside of North Dakota while we work tirelessly to rebuild in our new locations, continue to have income flow during our transitions, and have the ability to scale our business both in and out of state. Personally, I feel the benefits are endless.

Thank you for taking the time to hear my testimony. I hope that by it, you too may see how much of an impact this chance can have on the other Cottage Bakers and their families within the state. I ask for your support of this bill that supports military families and small businesses like mine. Our family is thankful to be here in North Dakota and to call it home for as long as we can.

To Whom It May Concern,

My name is Erin DeJarnett, resident of Nicholasville, Kentucky. My good friend Jenetta Sawyer, who I have known for a long while, makes all kinds of delicious sweets and treats and has grown her business from the bottom up. I have been watching her success and supporting her along the way. I would love to be able to continue to support her by ordering her treats to be sent to my Kentucky home! Jenetta has always been a hard worker and driven to make her business a success and she can do so much more if she would be allowed to ship out of state. I am in full support of the ND Cottage Law SB 2386.

My name is Jason Sawyer, a spouse of a cottage baker in the Minot, ND area.

Cottage Food businesses have been seeing widespread growth over the last several years. As such, the codes and regulations regarding their function have needed to adjust with the changing times. In North Dakota, this is indeed the case. Although there is considerable bandwidth for cottage bakers to run their operations with the best practices of the industry, reform is still vital for this business sector. Further amplifying this need is the fact that many of the bakers are spouses of military members or oil field workers who have moved to North Dakota from other states with varying cottage food laws. As they look to grow their businesses, they are often reliant on clientele bases that they established in previous locales.

As a husband of a cottage baker previously described, the propositions leveled with SB 2386 relating to interstate commerce for cottage food operations will be nothing but beneficial for bakers in the state of North Dakota, whether they recently moved here or have lived in this great state their entire lives. I believe in empowering small business entrepreneurs with the greatest level of autonomy in using their best judgment for sound business decisions—not only at the local level but also regarding interstate commerce.

I request your support for this bill that will provide decisive backing for the small businesses of North Dakota. Thank you for taking this testimony into consideration and I look forward to the decision of the committee.

Subject: Support for SB 2386 North Dakota Cottage Law

Dear Members of the Legislative Committee,

As a loyal customer of North Dakota's talented cottage bakers, I strongly support SB 2386, which would allow bakers to ship their products. This change would enable clients like me to continue enjoying delicious baked goods from small businesses like Jenetta's Simple Treats, even when distance is a factor.

These treats have become an essential part of my family's celebrations and traditions. Expanding shipping options would also help small business owners who are part of the military community. Many of these entrepreneurs face the challenge of moving frequently due to duty station changes, forcing them to rebuild their client base from scratch each time. Allowing shipping would help them maintain loyal customers and provide stability for their businesses, regardless of where they are stationed.

I urge you to support this bill and help our cottage bakers grow while continuing to serve their communities with care and quality.

Sincerely,

Giorgia De Sanzuane with GDS Photography LLC

Niceville, Florida

February 5, 2025

Testimony in Support of SB 2386 – Expanding Cottage Food Transactions

Dear Esteemed Members of the Committee,

I am writing to express my support for **SB 2386**, which seeks to modernize North Dakota's cottage food laws by allowing transactions to occur across state lines, through online platforms, phone orders, mail, and consignment. These changes will not only benefit small-scale food entrepreneurs but will also serve the consumers of North Dakota by increasing access to high-quality, locally made food products.

As a small business owner in North Dakota, I work with over 40 local handcrafters who specialize in making everything from art to handmade gifts and jewelry to knit and crocheted items to provide a location for them to sell their goods, but I am currently unable to offer this opportunity to food artisans. I believe we are missing an opportunity in our state to provide both the food entrepreneurs and consumers with more options for purchasing these goods.

Currently, North Dakota's cottage food laws limit commerce to in-person transactions, which significantly restricts the ability of home-based businesses to grow and sustain themselves. Many talented bakers, jam makers, and other artisanal food producers struggle with these limitations, preventing them from reaching broader markets. Allowing online and mail-order sales would:

- Enable small businesses to scale sustainably without requiring a costly commercial kitchen.
- Help rural and home-based entrepreneurs participate in the local food economy more effectively.
- Encourage economic growth by keeping revenue within the state rather than forcing consumers to purchase similar products from larger, out-of-state businesses.
- Allow new residents to our state, including from the Minot and Grand Forks Air Force Bases, to be able to continue serving their customers in their previous locations.

The demand for high-quality, homemade food has never been greater. According to the Specialty Food Association, consumer interest in artisanal, small-batch food products has been steadily increasing. Expanding cottage food sales would:

- Allow consumers, particularly those in rural or underserved areas, to access locally made goods without the burden of travel.
- Provide individuals with dietary restrictions or preferences access to customized and allergen-friendly options.
- Strengthen community ties by promoting relationships between local food producers and their customers, fostering trust and transparency.

Concerns about food safety are often cited as a reason for restricting cottage food transactions. However, states with broader cottage food laws—including Wyoming, Montana, and Florida—have not experienced widespread food safety issues as a result of their expanded policies. Furthermore, cottage food businesses are already subject to labeling and disclosure requirements, including labeling all products as being made in a home kitchen, ensuring transparency for consumers.

SB 2386 presents a crucial opportunity to support North Dakota's small business owners, meet growing consumer demand, and showcase the talents of our residents. By allowing interstate transactions and online sales, this bill will empower cottage food entrepreneurs while maintaining the integrity and safety of the industry. I urge the committee to support this legislation and help pave the way for a thriving, homegrown food economy in North Dakota.

I ask for your support of **SB 2386**. Thank you for your time and consideration. I appreciate your commitment to strengthening our local food system and supporting small businesses. Please feel free to reach out if you have any questions.

Sincerely,
Hope Anderson

Jennifer L. McGee
Destin, Florida

Testimony of Jennifer L. McGee

Support SB 2386

To the Agriculture and Veterans Affairs Committee, my name is Jennifer McGee, I am a Florida resident and the mother to Jenetta Sawyer of Jenetta's Simple Treats, LLC.

Jenetta, her son and her business lived in our home in Destin, Florida for just short of a year while her husband was commissioned with the United States Air Force. Our family learned quite a bit about how she manages and grows her business. Including, marketing in the area she was currently in while determining which products were capable of being shipped to previous clients in other areas.

As some of you know, it is a satisfying comfort as a parent to see your child thrive doing something they love. We got to witness it, firsthand.

On the flip side, since her and her business have moved to Minot, North Dakota, despite being pleasantly surprised by the incredible welcome of their new community, she is starting from the beginning again with her business not having the clients she's previously acquired in other states to build on. Not to mention we just miss the snacks and sweets. If you haven't ever had one of those chocolate covered mini cookies, you are missing out!

While initially transferring her business to North Dakota, we were talking about the cottage baker laws of North Dakota and how she was not going to be able to ship any goodies. Just a few days later, she was telling me about another business initiating a change in the law that benefits themselves and others. Jenetta asks, "I wonder how you even start to create a bill to change a law" and here we are!

Win-win for everyone involved is to pass this bill allowing cottage bakers to ship the goods capable of making the trip. You allow your businesses to add to their gross sales, these businesses are in turn supported by their vendors' businesses and ultimately JST fans will get their snacks and sweets.

Thank you so much for encouraging my voice through written testimony and your consideration in support of SB 2386 allowing cottage bakers to ship their goods out of state.



INSTITUTE FOR JUSTICE

Testimony in support of SB 2386
Senate Agriculture and Veterans Affairs Committee
February 6th, 2025

Dear Chairman Luick and Members of the Committee,

Thank you for the opportunity to submit written testimony in favor of SB 2386.

Introduction

Selling cottage foods is a great way for entrepreneurs with big dreams but little capital to get started small in their own homes. They are able to start selling these items without having to spend hundreds or thousands of hard-earned dollars on commercial kitchen space.

North Dakota has embraced these businesses as job creators, but SB 2386 allows even greater opportunities for these entrepreneurs.

Consumers and producers alike benefit from the sale of cottage foods: Consumers love buying local, homemade foods, and producers can earn income while supporting the local economy. As members of the community, cottage food entrepreneurs can identify and meet specific needs, such as providing much-needed food options in isolated communities, in a way that traditional food retailers cannot.

At the Institute for Justice, we have studied the effects of cottage food businesses on local economies and communities and researched food safety. We have consulted experts, reviewed CDC data, and followed up with health departments in states that have expanded their cottage food laws in ways that are similar to the approach this bill takes. Our research confirms that homemade food does not pose a greater health risk for consumersⁱ and that cottage food businesses help stimulate economic growth in their communities.ⁱⁱ

SB 2386 seeks to allow interstate commerce and allow the sale of homemade food over the internet or phone, through the mail, or by consignment. These changes will allow for even more opportunities for homemade food producers, especially given that research finds that cottage food producers are primarily women who live in rural areas.ⁱⁱⁱ

The FDA Does Not Regulate the Interstate Sales of Cottage Foods

The U.S. Food and Drug Administration (FDA) does not regulate cottage foods, nor does it prohibit them from being sold interstate. In fact, the FDA has provided written confirmation that selling cottage foods interstate is entirely permissible under federal law:



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"[S]ince home-based food businesses are not required to register with FDA, they can legally sell across state lines via the internet."

Of course, there are federal regulations for certain foods, such as meat products, poultry products, and pickled foods, that apply to all interstate sales, and all cottage food operations must comply with the FDA's labeling laws when selling interstate.

Constitutionality of Interstate Sales of Cottage Foods

The current law may be exposing itself to a constitutional violation by prohibiting interstate sales in contravention of the Commerce Clause. Interstate commerce connects the states and makes goods cheaper and more accessible to Americans nationwide. This national market is protected by the U.S. Constitution's Commerce Clause, which grants Congress the power "to regulate commerce ... among the several states." U.S. Const. art. 1, § 8, cl. 3. Because this power belongs to the U.S. Congress, not state governments, states may not impose regulations that burden interstate commerce outside of exceptional circumstances.

If a state seeks to prohibit interstate transactions, which necessarily discriminates against out-of-state consumers who wish to access intrastate goods, the state must show a legitimate, important reason for doing so, and it must show that there was no other way to accomplish its goal.

Safety of Homemade Foods

The Institute for Justice (IJ) has conducted extensive research demonstrating that homemade food is safe for consumer sale. 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.^{iv}

About the Institute for Justice

The Institute for Justice, a national nonprofit organization, is one of the nation's leading policy advisors and legal experts on cottage food laws. Through strategic research of the country's varied laws, IJ has published several reports on cottage food producers and the health and safety of their foods. IJ has helped pass reforms in over 25 states and brought 4 successful lawsuits to both protect and expand cottage food laws.

Conclusion

SB 2386 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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general@ij.org www.ij.org



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strong consumer demand for locally produced goods, SB 2386 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 North Dakota.

Thank you for your consideration,

Ellen Hamlett
Activism Associate
Institute for Justice
ehamlett@ij.org

ⁱ 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/#:~:text=New%20data%20from%20the%20Institute%20for%20Justice%20show%20that%20buying,ma de%20in%20a%20home%20kitchen>

ⁱⁱ 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), volume 00, number 00, pp. 1-17, <https://foodsystems.colostate.edu/wp-content/uploads/2020/07/aepp.13047.pdf>.

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

^{iv} See Ewing and McDonald

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Testimony SB2386

Sam Wagner
Ag and Food Field Organizer
Dakota Resource Council

To the Senate Ag and Veterans Committee,

DRC has a long-standing history of supporting the Cottage Food Industry in North Dakota and we see this bill as a common sense ways that rural communities and Ag producers to find new income sources and interact more directly with consumers.

Oftentimes small businesses run into the problem of marketing their products to a greater area. Decisions have to be made because people in the cottage food industry are being hamstrung by regulation. They can't go across state lines even if they live close to the border so they have markets shut out to them. If they are centrally located in the state, the transportation costs of their goods traveling to farmers' markets can cut into their profits. In the first scenario, you are being cut off from a market due to imaginary borders drawn up that you can't control. In the latter situation, you can't do business over the phone or the internet.

Allowing the sale of products over the phone and especially over the internet is common sense for farmers in 2025. Furthermore, we also support eliminating the rule against interstate commerce, because it is likely necessary to properly capitalize on online markets and allow farmers living near our border states to attend farmers markets and other opportunities.

The Cottage Food laws of North Dakota provide adequate protection and this bill does ask for clear labeling in certain instances for the seller to follow. We would like to see this bill passed because we live in 2025 and have the technology to reach out to customers all over the state and to our neighbors. This is common sense legislation.

While banning sales over the internet may have made sense at one time, the internet is now a major share of food sales and this will only continue to grow. The internet's share of total US food sales was just under 10 percent in 2017 and had by 2016 increased to almost 16%. By 2027 it is estimated to increase to 21.5%.¹ Our farmers and ranchers should be able to benefit from these new markets.

Thank you for your consideration. We recommend a **DO PASS** of this bill.

¹ "U.S. Food Retail Industry - Statistics & Facts | Statista." *Statista*, Statista, www.statista.com/topics/1660/food-retail/. Accessed 4 Feb. 2025.



Support for SB 2386
Senate Agriculture and Veterans Affairs Committee
Chairman Luick
February 6, 2025

Chairman Luick and Members of the Senate Agriculture and Veterans Affairs Committee,

I am Brekka Kramer, President | CEO of the Minot Area Chamber EDC (MACEDC) and Executive Committee Member of the North Dakota Military Commission. On behalf of the MACEDC and our Task Force 21, I offer testimony in favor of Senate Bill 2386 to amend the current cottage food transaction laws.

The MACEDC mission is to advocate for and invest in business activity by being a collaborative partner in the community, focused on improving quality of life for all. MACEDC has five key strategic pillars, one of them being military support. We work hard to support military across the state and removing barriers for military spouses is a priority not just for our community but the state through the hard work for the North Dakota Military Commission.

We believe that updating the North Dakota Century Code as proposed in Senate Bill 2386 would have a positive impact on both cottage food consumers and producers, and specifically military spouses who find themselves relocating due to the nature of military service.

The cottage food industry is a vital part of our local economy, providing unique, homemade food products. With a significant opportunity to expand beyond state borders and continue serving previous customers, allowing out-of-state transactions would empower these entrepreneurs to reach a broader audience and increase the potential for growth, sustainability, and economic impact.

For those serving and their families we want to do everything we can to support them while in our great state. With these efforts and all that North Dakota is doing to support military we can attract families to stay or return and make this their home.

I am a proud member of the North Dakota Military Commission, which has a vision to make North Dakota the most military friendly state in the nation. As a long-term advocate for the success of military service members and their spouses, I ask for your support of Senate Bill 2386 and am available for any questions you may have.

Thank you,

Brekka Kramer
Minot Area Chamber EDC President | CEO
North Dakota Military Commission Executive Committee Member

Members of the Committee,

I am writing to express my support for SB 2386, to expand cottage food transactions.

My name is Witney Nielsen and I am the owner (and sole employee) of Unconventional Cookies in Bismarck. Unconventional Cookies is a small cottage food bakery specializing in decorated sugar cookies. I cannot express enough how beneficial being able to ship my cookies in and out of state would be for my business and family. I am fortunate to have a great customer base in Bismarck, but I am very regularly asked if I can ship. If I were able to it would open up a completely new customer base, and endless opportunities, while allowing me to keep living and running my business out of Bismarck.

North Dakota has many talented cottage food bakers whose lives could be changed by this bill. Thank you so much for your time and consideration of this matter.

Sincerely,

Witney Nielsen
Owner
Unconventional Cookies

Ashley Janssen

Ashley's Sweet Treats Minot

February 5, 2025

Subject: Support for Expanding Cottage Food Shipping in North Dakota

To whom it may concern,

I am writing as a constituent, military spouse and a small business owner in Minot ND to urge your support for legislation that would allow cottage food businesses in North Dakota to legally ship homemade baked goods across state lines. Currently, North Dakota's cottage food laws enable home bakers to sell directly to consumers but restrict shipping, which limits economic opportunities for small-scale entrepreneurs like myself.

As a cottage food baker, I take great care in ensuring the quality and safety of my homemade baked goods. Many other states have adapted their regulations to allow for safe interstate shipping, providing small businesses with a greater customer base and economic stability. Expanding North Dakota's cottage food laws to permit shipping would help local businesses thrive, create jobs, and boost the state's economy—all while continuing to uphold food safety standards.

As a military spouse, I face relocations, making it even more essential to have a flexible and sustainable business that can operate successfully no matter where we are stationed. I have many customers and family from other states that would love to support my business. Unfortunately, current restrictions prevent me and others like me from shipping our homemade goods, limiting our ability to grow our businesses and support our families.

Many states have successfully modernized their cottage food laws to permit safe and regulated shipping, helping small businesses reach broader markets while maintaining food safety standards. By allowing cottage food entrepreneurs in North Dakota the same opportunity, we can strengthen our local economy, support military families like mine, and promote small business growth without unnecessary barriers.

I respectfully ask that you support or introduce legislation to update North Dakota's cottage food laws and remove restrictions on shipping. This change would provide military spouses and small business owners the ability to expand their businesses and remain financially independent despite the unique challenges we face.

Thank you for your time and consideration.

Sincerely,

Ashley Janssen

Dear Sir or Madam,

Greetings! My name is Megan Seppi and although not a ND born native, we are blessed to call North Dakota home.

As a small family business we encourage you to vote in favor of SB 2386. SB 2386 would increase not only our business sales and customer base as we live very close to Minnesota but that of many other cottage food businesses as well! The ability to grow our businesses would provide a larger revenue of money into ND and thus more funds would be spent locally in North Dakota as well. We are raising our children to be entrepreneurs and selling online and across state lines will also benefit them as they grow up. We are thankful that ND has excellent provisions in their cottage food laws. It would be wonderful to take that a step further and allow interstate commerce and online sales.

Thank you for your time and please vote yes on SB 2386.

- Megan Seppi Cavalier, ND

2025 HOUSE AGRICULTURE

SB 2386

2025 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Room JW327C, State Capitol

SB 2386
3/6/2025

A BILL for an Act to amend and reenact subsection 3 of section 23-09.5-02 of the North Dakota Century Code, relating to cottage food transactions.

2:53 p.m. Chairman Beltz opened the meeting.

Members Present: Chairman Beltz, Vice Chairman Hauck, Representatives Anderson, Dobervich, Henderson, Holle, Hoverson, Kiefert, Nehring, Olson, Rios, Schreiber-Beck, Tveit, Vollmer

Discussion Topics:

- Food Freedom Act
- No shipping
- Online sales
- Home Kitchen labeling
- Interstate sales, shipping
- Supporting Military families

2:53 p.m. Senator Van Oosting, District 36, Judson, ND, introduced and testified.

2:55 p.m. Jenetta M. Sawyer, Owner, Jenetta's Simple Treats LLC, testified and submitted testimony #39083.

3:05 p.m. Samuel Wagner, Ag and Food Field Organizer, Dakota Resource Council, testified in favor and submitted testimony #39130.

3:07 p.m. Brekka Kramer, President/CEO, Minot Area Chamber EDC, testified in favor and submitted testimony #39013.

3:09 p.m. Rachel Gross, ND Farm Bureau, testified in favor.

3:12 p.m. Representative Schreiber-Beck moved to amend by adding an emergency clause.

3:12 p.m. Representative Rios seconded the motion

Voice vote.

Motion passed.

3:12 p.m. Representative Olson moved Do Pass as amended.

3:12 p.m. Representative Tveit seconded the motion.

Representatives	Vote
Representative Mike Beltz	Y
Representative Dori Hauck	Y
Representative Karen A. Anderson	Y
Representative Gretchen Dobervich	Y
Representative Donna Henderson	Y
Representative Dawson Holle	Y
Representative Jeff Hoverson	Y
Representative Dwight Kiefert	Y
Representative Dennis Nehring	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Cynthia Schreiber-Beck	Y
Representative Bill Tveit	Y
Representative Daniel R. Vollmer	Y

Motion passed 14-0-0.

3:14 p.m. Representative Rios will carry the bill.

Additional written testimony:

Ellen Hamlett, Activism Associate, Institute for Justice, submitted testimony in favor #39237.

3:14 p.m. Chairman Beltz closed the meeting.

Diane Lillis, Committee Clerk

March 6, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED SENATE BILL NO. 2386

Introduced by

Senators Van Oosting, Gerhardt, Roers

Representatives Motschenbacher, Holle, Hauck

3.6-25

Jjm

1 of 1

- 1 A BILL for an Act to amend and reenact subsection 3 of section 23-09.5-02 of the North Dakota
2 Century Code, relating to cottage food transactions: and to declare an emergency.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Subsection 3 of section 23-09.5-02 of the North Dakota
5 Century Code is amended and reenacted as follows:

6 3. Transactions under this section may not:

7 a. ~~involve interstate commerce;~~

8 b. ~~be conducted over the internet or phone, through the mail, or by consignment;~~

9 e. Include the sale of uninspected products made from meat, except as provided
10 under subdivision ~~db~~; ~~or~~

11 ~~d.b.~~ Include the sale of uninspected products made from poultry, unless:

12 (1) The cottage food operator slaughters no more than one thousand poultry
13 raised by the cottage food operator during the calendar year;

14 (2) The cottage food operator does not buy or sell poultry products, except
15 products produced from poultry raised by the cottage food operator; and

16 (3) The poultry product is not adulterated or misbranded; or

17 c. Include the sale of poultry products if the transaction involves interstate
18 commerce.

19 **SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

**REPORT OF STANDING COMMITTEE
ENGROSSED SB 2386**

Agriculture Committee (Rep. Beltz, Chairman) recommends **AMENDMENTS** ([25.1349.02001](#)) and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT OR EXCUSED AND NOT VOTING). SB 2386 was placed on the Sixth order on the calendar.



Support for SB 2386
House Agriculture Committee
Chairman Beltz
March 6, 2025

Chairman Beltz and Members of the House Agriculture Committee,

I am Brekka Kramer, President | CEO of the Minot Area Chamber EDC (MACEDC) and Executive Committee Member of the North Dakota Military Commission. On behalf of MACEDC and our Task Force 21, I offer testimony in favor of Senate Bill 2386 to amend the current cottage food transaction laws.

The MACEDC mission is to advocate for and invest in business activity by being a collaborative partner in the community, focused on improving quality of life for all. MACEDC has five key strategic pillars, one of them being military support. We work hard to support military across the state and removing barriers for military spouses is a priority not just for our community but the state through the hard work for the North Dakota Military Commission.

We believe that updating the North Dakota Century Code as proposed in Senate Bill 2386 would have a positive impact on both cottage food consumers and producers, and specifically military spouses who find themselves relocating due to the nature of military service.

The cottage food industry is a vital part of our local economy, providing unique, homemade food products. With a significant opportunity to expand beyond state borders and continue serving previous customers, allowing out-of-state transactions would empower these entrepreneurs to reach a broader audience and increase the potential for growth, sustainability, and economic impact.

For those serving and their families we want to do everything we can to support them while in our great state. With these efforts and all that North Dakota is doing to support military we can attract families to stay or return and make this their home.

I am a proud member of the North Dakota Military Commission, which has a vision to make North Dakota the most military friendly state in the nation. As a long-term advocate for the success of military service members and their spouses, I ask for your support of Senate Bill 2386 and am available for any questions you may have.

Thank you,

Brekka Kramer
Minot Area Chamber EDC President | CEO
North Dakota Military Commission Executive Committee Member

Chairman Beltz and Members of the House Agriculture Committee, my name is Jenetta Sawyer and I am the owner of Jenetta's Simple Treats LLC, a cottage bakery located right outside Minot in the small town of Surrey. My husband was recently stationed at Minot AFB. As a military family and my husband 12 years of service (and counting), we are no strangers to change, adjusting our lives to fit within the mission at our new locations, and finding our places within the community. And though our family has only been here since September of 2024, North Dakota and Minot already feel like home.

My business was founded in July of 2022 while we were stationed at Nellis AFB in Las Vegas, Nevada. In just over a year in September of 2023, my son and I relocated to Florida where we called Eglin AFB our home while my husband commissioned and did additional training to become a missileer. Then in September of 2024, we moved yet again here, to North Dakota. That means in less than 3 years, our multiple moves have allowed me the opportunity to learn the ins and outs of local and state Cottage Food Laws for three separate states.

According to Chapter 23-09.5 in the state of North Dakota, a cottage bakery is defined as an "individual who produces or packages cottage food products in a kitchen designed and intended for use by the residents of a private home". Due to The Food Freedom Act that North Dakota adopted in 2017, North Dakota is one of the best states to bake, produce, and sell foods in. North Dakota and three other states adapted the The Food Freedom Act which adjusted and removed several laws that ultimately put the power back into the producers and consumers of local and state foods. Thanks to these laws, in North Dakota we are *allowed* to use traditional buttercream, cream cheese frostings, fresh fruits, participate in markets and events, provide samples that are prepackaged or on display, and we are not capped to yearly sales limits. These are some major wins compared to other states I have baked in.

However, according to 23-09.5-02 Section 3a, "Transactions under this section may not: involve interstate commerce", which refers to not being allowed to ship goods in or out of the state of North Dakota. [HHS ND Cottage Food Outline](#). And though the bill that is being brought forward, SB 2386 is working to adjust and change a few different parts, I personally want to just focus on the shipping and online sales for my testimony.

According to Castiron, which is a platform that many food establishments use within their business, 35/50 states allow shipping in and/or out of state, yet North Dakota is not on that list. [Castiron Article](#)

As a military family, I have had the privilege and opportunity to bake in three different states: Nevada, Florida, and now North Dakota, each with their own

Cottage Food Laws that I have had to abide by. However, by not allowing shipping and online sales, it creates a difficulty for many cottage bakeries who are already established in the state and those who are inbound. With North Dakota, and focusing on Minot, we have a large oil and military presence. Many incoming cottage bakeries are already established and trying to market to a new community and state. When we move from state to state, we are losing loyal customers. It takes us longer to regain and build within the community as we seem brand new to our new clientele. I would also like to point out that this shipping law *only* applies to cottage bakeries. This *does not* apply to commercial or store front bakeries as they have a different set of rules and regulations they abide by..

I urge you to adjust our current Cottage Food Laws and continue to stand with our Food Freedom Acts set forth in 2017. By allowing cottage bakers the ability to ship goods and accept online sales, we will be creating more balanced businesses within our own community. Families like mine would be able to continue to serve communities outside of North Dakota while we work tirelessly to rebuild in our new location, continue to have income flow during our transitions, and have the ability to scale our business both in and out of state. Personally, I feel the benefits are endless.

Thank you for taking the time to hear my testimony. I hope that by it, you too may see how much of an impact this chance can have on the other Cottage Bakers and their families within the state. I ask for your support of this bill that supports military families and small businesses like mine. Our family is thankful to be here in North Dakota and to call it home for as long as we can.

Testimony SB2386

Sam Wagner
Ag and Food Field Organizer
Dakota Resource Council

To the Senate Ag and Veterans Committee,

DRC has a long-standing history of supporting the Cottage Food Industry in North Dakota and we see this bill as a common sense ways that rural communities and Ag producers to find new income sources and interact more directly with consumers.

Ofentimes small businesses run into the problem of marketing their products to a greater area. Decisions have to be made because people in the cottage food industry are being hamstrung by regulation. They can't go across state lines even if they live close to the border so they have markets shut out to them. If they are centrally located in the state, the transportation costs of their goods traveling to farmers' markets can cut into their profits. In the first scenario, you are being cut off from a market due to imaginary borders drawn up that you can't control. In the latter situation, you can't do business over the phone or the internet.

Allowing the sale of products over the phone and especially over the internet is common sense for farmers in 2025. Furthermore, we also support eliminating the rule against interstate commerce, because it is likely necessary to properly capitalize on online markets and allow farmers living near our border states to attend farmers markets and other opportunities.

The Cottage Food laws of North Dakota provide adequate protection and this bill does ask for clear labeling in certain instances for the seller to follow. We would like to see this bill passed because we live in 2025 and have the technology to reach out to customers all over the state and to our neighbors. This is common sense legislation.

While banning sales over the internet may have made sense at one time, the internet is now a major share of food sales and this will only continue to grow. The internet's share of total US food sales was just under 10 percent in 2017 and had by 2016 increased to almost 16%. By 2027 it is estimated to increase to 21.5%.¹ Our farmers and ranchers should be able to benefit from these new markets.

Thank you for your consideration. We recommend a **DO PASS** of this bill.

¹ "U.S. Food Retail Industry - Statistics & Facts | Statista." *Statista*, Statista, www.statista.com/topics/1660/food-retail/. Accessed 4 Feb. 2025.



INSTITUTE FOR JUSTICE

Testimony in support of SB 2386
House Agriculture Committee
March 6th, 2025

Dear Chairman Beltz and Members of the Committee,

Thank you for the opportunity to submit written testimony in favor of SB 2386.

Introduction

Selling cottage foods is a great way for entrepreneurs with big dreams but little capital to get started small in their own homes. They are able to start selling these items without having to spend hundreds or thousands of hard-earned dollars on commercial kitchen space.

North Dakota has embraced these businesses as job creators, but SB 2386 allows even greater opportunities for these entrepreneurs.

Consumers and producers alike benefit from the sale of cottage foods: Consumers love buying local, homemade foods, and producers can earn income while supporting the local economy. As members of the community, cottage food entrepreneurs can identify and meet specific needs, such as providing much-needed food options in isolated communities, in a way that traditional food retailers cannot.

At the Institute for Justice, we have studied the effects of cottage food businesses on local economies and communities and researched food safety. We have consulted experts, reviewed CDC data, and followed up with health departments in states that have expanded their cottage food laws in ways that are similar to the approach this bill takes. Our research confirms that homemade food does not pose a greater health risk for consumersⁱ and that cottage food businesses help stimulate economic growth in their communities.ⁱⁱ

SB 2386 seeks to allow interstate commerce and allow the sale of homemade food over the internet or phone, through the mail, or by consignment. These changes will allow for even more opportunities for homemade food producers, especially given that research finds that cottage food producers are primarily women who live in rural areas.ⁱⁱⁱ

The FDA Does Not Regulate the Interstate Sales of Cottage Foods

The U.S. Food and Drug Administration (FDA) does not regulate cottage foods, nor does it prohibit them from being sold interstate. In fact, the FDA has provided written confirmation that selling cottage foods interstate is entirely permissible under federal law:

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"[S]ince home-based food businesses are not required to register with FDA, they can legally sell across state lines via the internet."

Of course, there are federal regulations for certain foods, such as meat products, poultry products, and pickled foods, that apply to all interstate sales, and all cottage food operations must comply with the FDA's labeling laws when selling interstate.

Constitutionality of Interstate Sales of Cottage Foods

The current law may be exposing itself to a constitutional violation by prohibiting interstate sales in contravention of the Commerce Clause. Interstate commerce connects the states and makes goods cheaper and more accessible to Americans nationwide. This national market is protected by the U.S. Constitution's Commerce Clause, which grants Congress the power "to regulate commerce ... among the several states." U.S. Const. art. 1, § 8, cl. 3. Because this power belongs to the U.S. Congress, not state governments, states may not impose regulations that burden interstate commerce outside of exceptional circumstances.

If a state seeks to prohibit interstate transactions, which necessarily discriminates against out-of-state consumers who wish to access intrastate goods, the state must show a legitimate, important reason for doing so, and it must show that there was no other way to accomplish its goal.

Safety of Homemade Foods

The Institute for Justice (IJ) has conducted extensive research demonstrating that homemade food is safe for consumer sale. 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.^{iv}

About the Institute for Justice

The Institute for Justice, a national nonprofit organization, is one of the nation's leading policy advisors and legal experts on cottage food laws. Through strategic research of the country's varied laws, IJ has published several reports on cottage food producers and the health and safety of their foods. IJ has helped pass reforms in over 25 states and brought 4 successful lawsuits to both protect and expand cottage food laws.

Conclusion

SB 2386 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, SB 2386 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 North Dakota.

Thank you for your consideration,

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ⁱ 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/#:~:text=New%20data%20from%20the%20Institute%20for%20Justice%20show%20that%20buying,ma de%20in%20a%20home%20kitchen>

ⁱⁱ 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), volume 00, number 00, pp. 1-17, <https://foodsystems.colostate.edu/wp-content/uploads/2020/07/aepp.13047.pdf>.

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

^{iv} See Ewing and McDonald

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