The Department may adopt rules as may be necessary to implement the provisions of this Section.
(Source: P.A. 98-660, eff. 6-23-14; 99-191, eff. 1-1-16.)

(Text of Section after amendment by P.A. 100-35)
Sec. 4. Cottage food operation.
(a) For the purpose of this Section:
"Cottage food operation" means an operation conducted by a person who produces or packages food or drink, other than foods and drinks listed as prohibited in paragraph (1.5) of subsection (b) of this Section, in a kitchen located in that person's primary domestic residence or another appropriately designed and equipped residential or commercial-style kitchen on that property for direct sale by the owner, a family member, or employee.
"Department" means the Department of Public Health.
"Farmers' market" means a common facility or area where farmers gather to sell a variety of fresh fruits and vegetables and other locally produced farm and food products directly to consumers.
"Main ingredient" means an agricultural product that is the defining or distinctive ingredient in a cottage food product, though not necessarily by predominance of weight.
"Potentially hazardous food" means a food that is potentially hazardous according to the Department's administrative rules. Potentially hazardous food (PHF) in general means a food that requires time and temperature control for safety (TCS) to limit pathogenic microorganism growth or toxin formation.
(b) Notwithstanding any other provision of law and except as provided in subsections (c), (d), and (e) of this Section, neither the Department nor the Department of Agriculture nor the health department of a unit of local government may regulate the transaction of food or drink by a cottage food operation providing that all of the following conditions are met:
(1) (Blank).
(1.5) A cottage food operation may produce homemade food and drink. However, a cottage food operation, unless properly licensed, certified, and compliant with all requirements to sell a listed food item under the laws and regulations pertinent to that food item, shall not sell or offer to sell the following food items or processed foods containing the following food items, except as indicated:
(A) meat, poultry, fish, seafood, or shellfish;
(B) dairy, except as an ingredient in a non-potentially hazardous baked good or candy, such as caramel;
(C) eggs, except as an ingredient in a non-potentially hazardous baked good or in dry noodles;
(D) pumpkin pies, sweet potato pies, cheesecakes,
custard pies, cream pies, and pastries with potentially hazardous fillings or toppings;
(5) garlic in oil;
(6) canned foods, except for fruit jams, fruit jellies, fruit preserves, fruit butters, and acidified vegetables;
(7) sprouts;
(8) cut leafy greens, except for leafy greens that are dehydrated or blanched and frozen;
(9) cut fresh tomato or melon;
(10) dehydrated tomato or melon;
(11) frozen cut melon;
(12) wild-harvested, non-cultivated mushrooms; or
(13) alcoholic beverages.

(2) The food is to be sold at a farmers' market, with the exception that cottage foods that have a locally grown agricultural product as the main ingredient may be sold on the farm where the agricultural product is grown or delivered directly to the consumer.

(3) (Blank).

(4) The food packaging conforms to the labeling requirements of the Illinois Food, Drug and Cosmetic Act and includes the following information on the label of each of its products:
(A) the name and address of the cottage food operation;
(B) the common or usual name of the food product;
(C) all ingredients of the food product, including any colors, artificial flavors, and preservatives, listed in descending order by predominance of weight shown with common or usual names;
(D) the following phrase: "This product was produced in a home kitchen not subject to public health inspection that may also process common food allergens."
(E) the date the product was processed; and
(F) allergen labeling as specified in federal labeling requirements.

(5) The name and residence of the person preparing and selling products as a cottage food operation is registered with the health department of a unit of local government where the cottage food operation resides. Registration shall be for a minimum period of one calendar year.

(6) The person preparing or packaging products as a cottage food operation has a Department approved Food Service Sanitation Management Certificate (8 hours of instruction followed by an exam, valid for five years).

(7) At the point of sale a placard is displayed in a prominent location that states the following: "This product was produced in a home kitchen not subject to public health inspection that may also process common food allergens."
(c) Notwithstanding the provisions of subsection (b) of this Section, if the Department or the health department of a unit of local government has received a consumer complaint or has reason to believe that an imminent health hazard exists or that a cottage food operation's product has been found to be misbranded, adulterated, or not in compliance with the exception for cottage food operations pursuant to this Section, then it may invoke cessation of sales of cottage food products until it deems that the situation has been addressed to the satisfaction of the Department.

(d) Notwithstanding the provisions of subsection (b) of this Section, a State-certified local public health department may, upon providing a written statement to the Department, regulate the service of food by a cottage food operation. The regulation by a State-certified local public health department may include all of the following requirements:

1. That the cottage food operation (A) register with the State-certified local public health department, which shall be for a minimum of one year and include a reasonable fee set by the State-certified local public health department that is no greater than $25 notwithstanding paragraph (5) of subsection (b) of this Section and (B) agree in writing at the time of registration to grant access to the State-certified local public health department to conduct an inspection of the cottage food operation's primary domestic residence in the event of a consumer complaint or foodborne illness outbreak.

2. That in the event of a consumer complaint or foodborne illness outbreak the State-certified local public health department is allowed to (A) inspect the premises of the cottage food operation in question and (B) set a reasonable fee for that inspection.

(e) The Department may adopt rules as may be necessary to implement the provisions of this Section.

(Source: P.A. 99-191, eff. 1-1-16; 100-35, eff. 1-1-18.)