



# READY TO ROLL

Nine Lessons from Ending Wisconsin's  
Home-Baking Ban







Cover image: From left, Wisconsin home bakers and IJ clients Dela Ends, Lisa Kivist and Kriss Marion

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## Nine Lessons from Ending Wisconsin's Home-Baking Ban

by Jennifer McDonald

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In February 2018, we shared a survey in a Facebook group for Wisconsin home bakers asking members to tell us about their businesses and what their newfound ability to sell home-baked goods has meant to them.

Results demonstrate the near-immediate impacts of positive legal and policy reforms.



# INTRODUCTION

All across the country, Americans are using their home kitchens to prepare food for sale in their communities. Together, they make up the small but growing homemade, or “cottage,” food industry. Research shows cottage food businesses are important to their owners, offering much-needed flexibility and financial support and serving as a creative outlet for farmers, homemakers and others with a passion for cooking or baking.<sup>1</sup>

Most states have “cottage food laws,” which regulate the sale of homemade foods. While the specifics vary from state to state, most cottage food laws restrict the types of homemade foods that may be sold, with most allowing the sale only of certain shelf-stable foods, such as baked and canned goods not requiring refrigeration.<sup>2</sup> Research suggests such restrictions may hinder entrepreneurship.<sup>3</sup>

Now, a recent change in Wisconsin law provides an opportunity to examine what it can mean for cottage food entrepreneurs when they are allowed to sell homemade foods that were previously prohibited.

Until September 2017, Wisconsin’s cottage food laws made it legal to sell homemade jams, pickles, popcorn, honey, maple syrup and raw apple cider, but not home-baked goods, such

as cookies, cakes and muffins. Thanks to a lawsuit brought by three Wisconsin home bakers and the Institute for Justice, the home-baking ban was declared unconstitutional, leaving all Wisconsinites free to bake their cakes and sell them, too.<sup>4</sup> Within just a few short months, Wisconsin’s home bakers were on a roll.

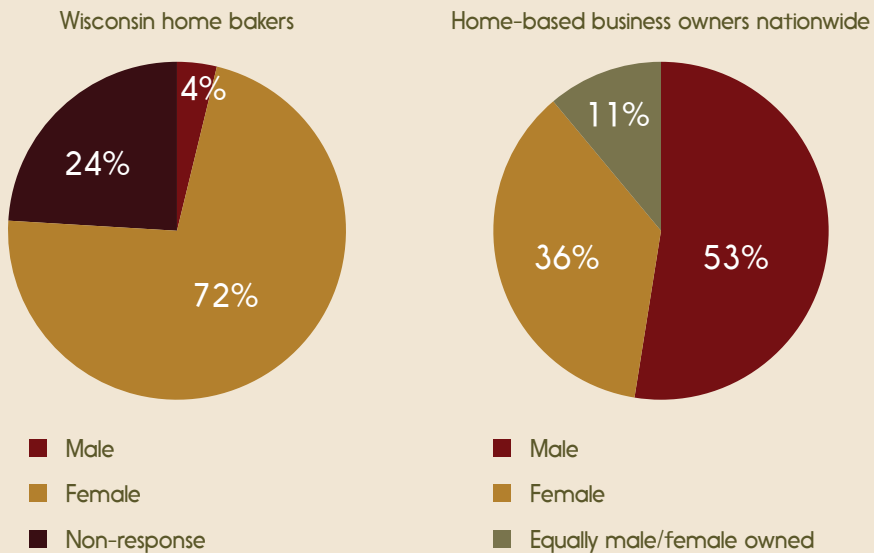
To find out what the end of the home-baking ban has meant for Wisconsin home bakers, we went to the source. In February 2018, we shared a survey in a Facebook group for Wisconsin home bakers asking members to tell us about their businesses and what their newfound ability to sell home-baked goods has meant to them. Seventy-nine home bakers responded to our survey.<sup>5</sup>

Most of the respondents were women—many of them homemakers—who have started selling their baked goods from home in order to earn much-needed extra income for their families. Many hope to one day open their own commercial bakeries. While Wisconsin’s new rules<sup>6</sup> are fairly narrow—they allow the sale only of homemade foods that do not require refrigeration—these results demonstrate the near-immediate impacts of positive legal and policy reforms.

# NINE KEY FINDINGS

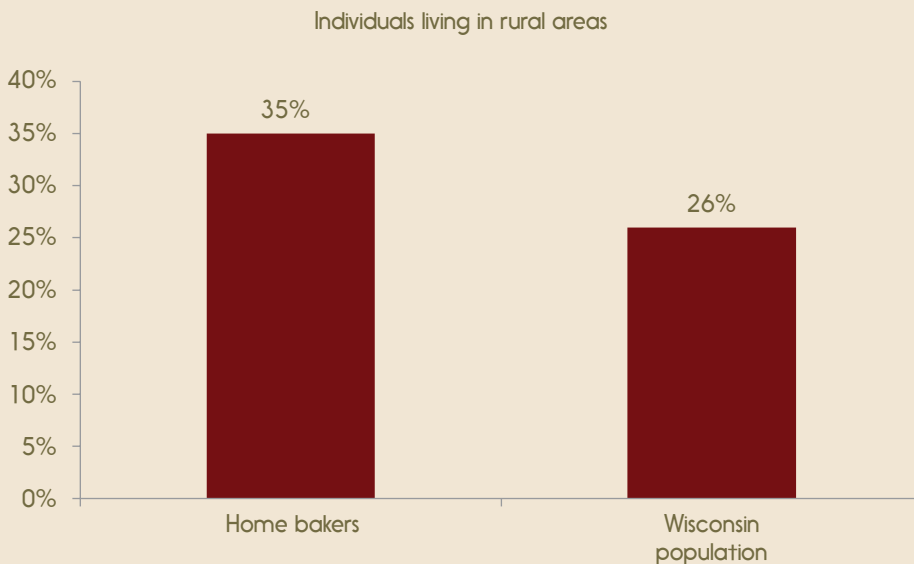
## Finding 1:

**Women represent a greater share of Wisconsin home bakers compared to America's home-based business owners more generally.<sup>7</sup> The newly legal industry provides an attractive avenue to entrepreneurship for women.**



## Finding 2:

**Survey respondents are slightly more likely to live in rural communities than the general Wisconsin population.<sup>8</sup> Comments from bakers suggest a particular need for locally produced baked goods in rural communities with fewer accessible bakeries and other food stores.**





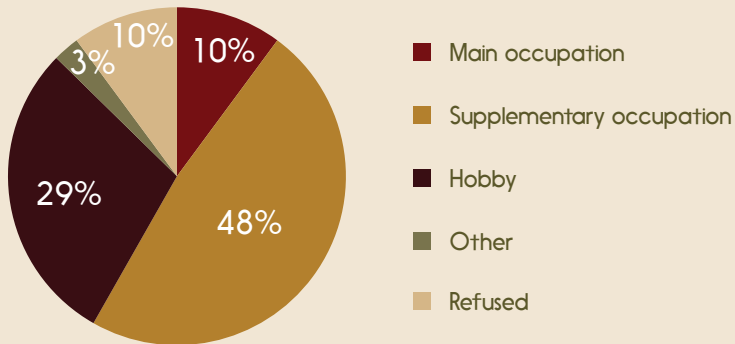
*"[The ability to sell home-baked goods is] an opportunity to bring extra income into our family and provide desserts to the people in our small rural town [who] otherwise have only a gas station or small grocery store to purchase less than desirable desserts from."*



### Finding 3:

**Most home bakers view their businesses as a supplementary occupation or hobby.**

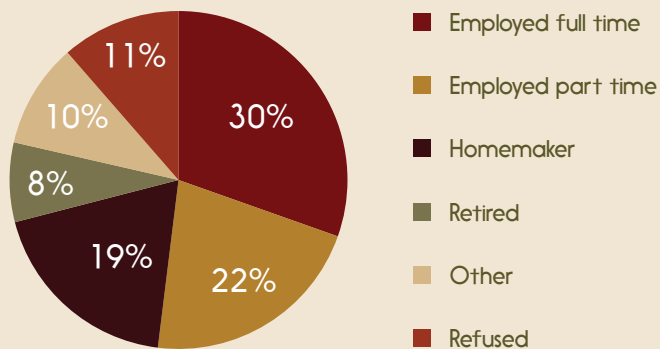
How would you describe your home-baking business?



### Finding 4:

**Home bakers tend to be employed full or part time at other jobs or identify as homemakers.**

When not working on your home-baking business, are you ... ?



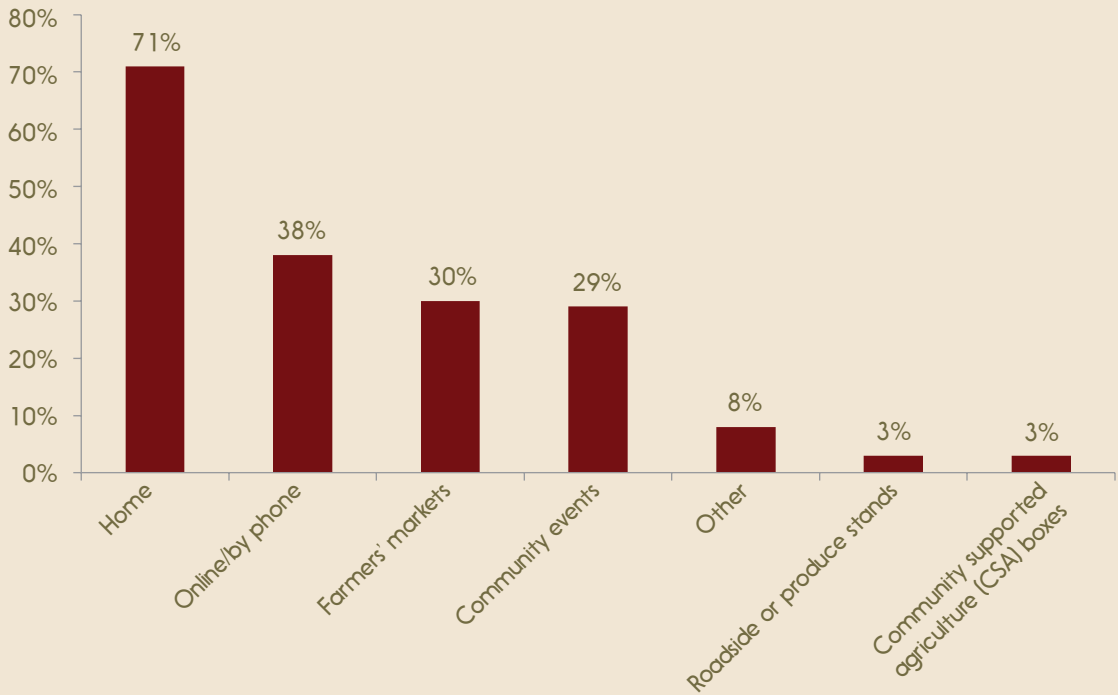
Note: This question was asked only of those respondents who indicated home baking is not their main occupation.



## Finding 5:

**Most Wisconsin home bakers sell their goods from home.  
This could change with time as new businesses grow.<sup>9</sup>**

From what types of venues or locations do you typically sell?



Note: Percentages do not add up to 100 because bakers could select more than one response.



## Finding 6:

Wisconsin home bakers report their businesses allow them the flexibility to care for their children and families while still earning income at home. And while the income home-baking businesses provide is seemingly small—respondents report median monthly sales of \$200<sup>10</sup>—many home bakers tell us it makes a big difference to their financial well-being.

*“[Being able to sell home-baked goods] gave me the freedom to quit my job outside the home and focus on growing this home-based business, which allows for a more flexible schedule so that I can help care for my three young children.”*

*“Lifting the ban has allowed me to do something I love and to help other people have enjoyable treats while working around my family’s schedule and being able to supplement our family’s income, which came at a perfect time since my husband’s hours were cut at work. Knowing that I can make up that extra \$1,000 of lost income by doing something I love and not having to worry about someone else’s schedule has been a big impact.”*

*“[The end of the ban] means that I can afford to stay in my home, sleep a little better at night, buy food from my fellow farmers, afford [health insurance], have a car ... It means a lot.”*

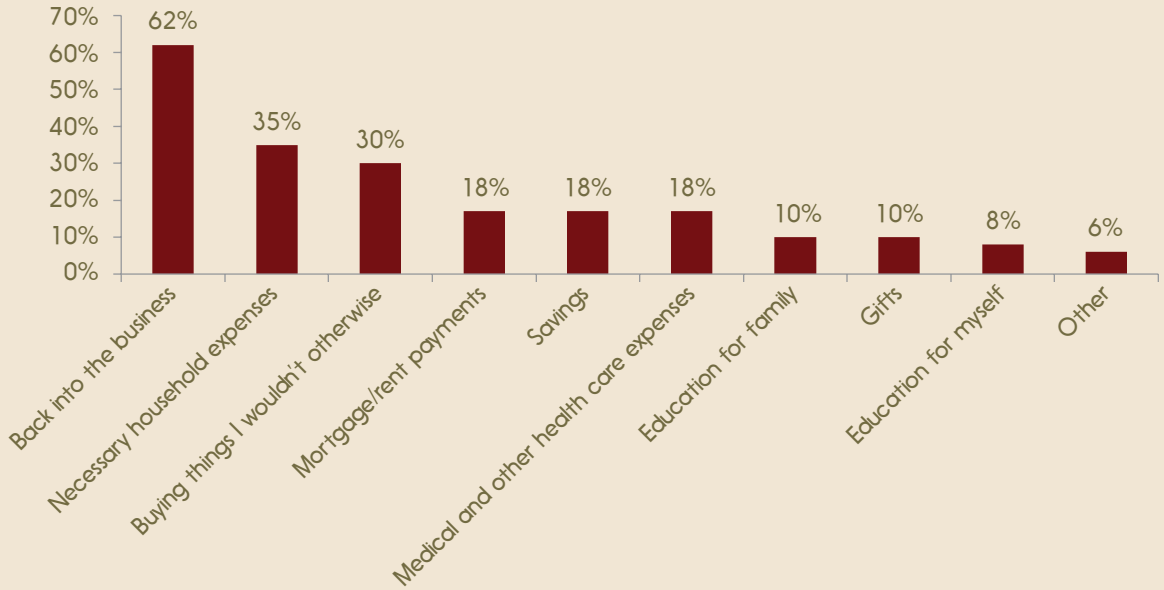
*“I lost my job of 14 years days before this ban was lifted. If it [hadn’t been] lifted, I can’t tell you what would have happened to my family. I was able to make enough to cover expenses until I was able to find another job. Now I am able to work part time and bake.”*

*“[Being able to sell home-baked goods] has allowed me to provide for my kids without credit card debt.”*

## Finding 7:

**Most home bakers put their earnings back into their businesses, and many use the extra income to cover necessary household expenses and even to supplement their retirement.**

Do you spend any income from your home-baking business on any of the following?



Note: Percentages do not add up to 100 because bakers could select more than one response.

*“Two weeks after the ban was lifted we were able to enroll our kids in lessons we could not afford before.”*

*“[Baking] has provided me the ability to make some much-needed extra income to supplement my retirement.”*



## Finding 8:

Home-baking businesses offer other, perhaps less tangible but no less significant, benefits that fulfill important personal needs, from providing an artistic outlet to helping manage difficult medical conditions.

*"It has led me to finding my passion again... Baking relaxes me and helps me not hav[e] to medicate for my anxiety and depression."*

*"It gives me freedom to do what I'm passionate about."*

*"I am able to share my art."*

*"[I am] able to live a dream that wasn't possible before."*

*"I was able to work and earn money [while] trying to do school and having health issues."*

## Finding 9:

Many home bakers plan to ramp up operations and to do so by renting a commercial kitchen or opening a brick-and-mortar bakery.

*“I’ve worked in commercial bakeries throughout my career and always wanted to have my own business. Lifting of the home-baking ban has allowed me to take the first step without investing tons of money up front and has been [a] great learning opportunit[y] to think like a business owner.”*

*“[The lifting of the ban has] enabled me to sell and really see if there is a demand for my product.”*





# CONCLUSION

The 2017 ruling declaring Wisconsin's home-baked good ban unconstitutional was a welcome—and long overdue—change for home bakers throughout the state. Indeed, although sales so far are modest, the income home-baking businesses provide is already making a real difference in the lives of many home bakers and their families.

At the same time, Wisconsin's cottage food regime is still fairly restrictive in that it allows the sale only of baked goods and other homemade foods not requiring refrigeration. This leaves items like cheesecakes and cream-filled desserts off the menu. Expanding the types of homemade foods that may be sold would likely help home bakers and other cottage food entrepreneurs grow their businesses even more.

To that end, Wisconsin legislators should consider taking recent reforms further. For models, they can look westward to Wyoming and North Dakota, whose “food freedom laws” allow the virtually unrestricted sale of most homemade foods, including many requiring refrigeration.<sup>11</sup> They should also consider the Institute for Justice's model Food Freedom Act,<sup>12</sup> which would greatly expand opportunities for home-based food entrepreneurs to produce—and consumers to access—delicious homemade foods.

These survey results illustrate the near-immediate positive impacts of expanding food freedom on the lives and livelihoods of real people. Expanding this freedom still further would likely open up even more opportunities for budding cottage food entrepreneurs.







# ENDNOTES

- 1 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>
- 2 Some states' cottage food laws are more restrictive than others. For example, most states allow the sale only of home-made foods not requiring refrigeration, and many have laws dictating the quantities of cottage foods that may be sold, where they may be sold or even who may sell them. North Dakota and Wyoming, on the other hand, have "food freedom laws" allowing the unrestricted sale of virtually all homemade foods. McDonald, 2017.
- 3 McDonald, 2017.
- 4 See <http://ij.org/case/wisconsin-baked-good-ban/>
- 5 Because the sample of respondents used for this survey was not random—and therefore is likely not representative—results cannot be extrapolated to apply to all of Wisconsin's home bakers. Throughout this paper, when we refer to "home bakers" as a group, we mean the bakers who responded to our survey—not all home bakers in the state.
- 6 No legislation or rules to govern home-baked goods have been adopted in Wisconsin. Rather, home bakers operate under the terms of the court judgment ruling the ban on home baking unconstitutional.
- 7 U.S. Small Business Administration. (2017). *Women's business ownership: Data from the 2012 Survey of Business Owners* (Issue Brief Number 13). <https://www.sba.gov/sites/default/files/advocacy/Womens-Business-Ownership-in-the-US.pdf>; U.S. Census Bureau. (2012). *Statistics for all U.S. firms that were home-based by industry, gender, ethnicity, race, and veteran status for the U.S.: 2012 Survey of Business Owners*. <https://factfinder.census.gov/bkmk/table/1.0/en/SBO/2012/00CSCB19>
- 8 U.S. Department of Agriculture Economic Research Service. (2018, July 30). Population [Table]. *State fact sheets: Wisconsin*. <https://data.ers.usda.gov/reports.aspx?StateFIPS=55&StateName=Wisconsin&ID=17854>
- 9 Moreover, these results may be skewed because we conducted our survey in February, when there are likely to be few farmers' markets open in many areas. Data collected in late fall may show greater diversity in locations of sales.
- 10 This number is likely artificially low since the survey went into the field just months after the law changed.
- 11 2017 North Dakota Laws Ch. 191 (H.B. 1433), <http://www.legis.nd.gov/assembly/65-2017/documents/17-0559-05000.pdf>; Powers, M. (2017, May 3). North Dakota is now open for homemade food businesses. Arlington, VA: Institute for Justice. <http://ij.org/north-dakota-now-open-homemade-food-businesses/>; Farm-to-Consumer Legal Defense Fund. (2017, March 28). Wyoming expands Food Freedom Act. <https://www.farmtoconsumer.org/blog/2017/03/28/wyoming-expands-food-freedom-act/>; Wyoming Food Freedom Act, 2015 Wyo. Laws Ch. 121 (H.B. 56), <http://legisweb.state.wy.us/2015/bills/HB0056.pdf>; Linnekin, B. (2015, March 14). Tremendous victory for Wyoming's bipartisan Food Freedom Act. *Reason*. <http://reason.com/archives/2015/03/14/tremendous-victory-for-wyomings-bi-parti>
- 12 See <https://ij.org/activism/legislation/model-legislation/model-food-freedom-act/>







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Jennifer McDonald is a senior research analyst at the Institute for Justice, where she conducts original social science research as part of the strategic research team. Her research is featured in *Flour Power: How Cottage Food Entrepreneurs Are Using Their Home Kitchens to Become Their Own Bosses*, *License to Work: A National Study of Burdens from Occupational Licensing* (2nd ed.), *Policing for Profit: The Abuse of Civil Asset Forfeiture* (2nd ed.), and *Forfeiture Transparency and Accountability: State-by-State and Federal Report Cards*. Prior to joining IJ, McDonald worked in California politics. She holds a Master of Public Administration, with emphases on management and economic policy, from the London School of Economics and Political Science and a bachelor's degree in history with a political science minor from California State University San Marcos.





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