



# Homemade

A GUIDE TO START A COTTAGE FOOD  
BUSINESS IN WEST VIRGINIA



You will need:

Home Kitchen  
Delicious Recipes  
Entrepreneurial Spirit



HAPPY HOMECOOKING!

## Introduction:

So you want to start your very own business selling homemade food in West Virginia? That's great news because selling homemade food or "cottage food" in the Mountain State is much easier thanks to a new law. As of June 5, 2019, you can sell your goods directly from homes, take online orders, and even sell them at retail shops!

It hasn't always been this easy. Prior to reform, you could only sell at seasonal farmers' markets and sporadic community events. But because of the efforts of over 250 cottage food producers from around the state, the Institute for Justice, and the state's Department of Agriculture, S.B. 285 passed with wide, bipartisan support.

This simple reform makes a big difference! A home-based food business is a great way for entrepreneurs like you, who have big dreams but little capital, to get started small, without having to spend thousands of dollars on a commercial kitchen space. Customers also love buying these local foods from members of their community.

Here's a simple guide made by the Institute for Justice to help you get started.



# Home Kitchen

## Preparation:

One of the great benefits of being a cottage food producer is that start up costs are low because you're able to use your very own kitchen! As a first step to starting your cottage food business, make sure your kitchen is clean and stocked with everything you need.



# Delicious Product

## Recipe for Success:

Once your kitchen is ready, it's time to pull together your recipes! But, hold on, not just any food can be sold as a cottage food in West Virginia. Cottage foods are shelf-stable, nonpotentially hazardous foods. Their classification is not determined by category so much as by the ingredients and how they interact with each other. A good rule of thumb is: if it doesn't need to be refrigerated, you can sell it from your home-based business.

Examples include baked goods without cream, custard, cheese, or meat fillings, such as:

biscuits, breads, brittles, brownies, cakes, caramel corn, cereals, chocolate-covered nonperishable foods, chocolates, churros, coffee, confections, cookies, cotton candy, crackers, donuts, dried herbs, dried pasta, dry baking mixes, fruit empanadas, fruit pies, fruit tamales, fudge, granola, honey and honeycomb, jams, jellies, marmalades and other preserves, muffins, nuts and dried fruits, pies, pizzelles, popcorn, pretzels, rolls, scones, seasoning blends, seeds, syrups, tea blends, toffee, tortillas, trail mixes, truffles, and waffle cones.

## Labeling:

You've selected the products and now you want to sell them. The law requires that cottage foods be labeled with the following statement: "This product was produced at a private residence that is exempt from State licensing and inspection. This product may contain allergens."

In addition to that disclaimer, your label must categorize the product (e.g. apple pie) and all of the ingredients must be listed in descending order of predominance. You must also provide the customer with your (1) name, (2) home address, and (3) telephone number.

You have a few different ways you need to display this label:

- If the good is wrapped, you need to put a label on each individually wrapped good.
- If the good is sold in a bulk container, you need to put the label on the container.
- If the good is not wrapped or contained, you need to have a placard displayed at the point of sale.
- Wherever your good is offered for sale online, there needs to be a section stating the required information.
- You should include the required information on the receipt or other document provided to the customer.

Here's an example:



# Entrepreneurial Spirit

## Point of Sale:

With the right product that's correctly labeled, you are ready to sell! You have plenty of opportunity since you aren't limited to selling at farmers' markets and community events. You can take custom orders, instead of guessing what customers will like. You no longer have to pack everything up and travel to the farmers' market; instead, you can take online orders and mail them out or deliver them yourself. Or, you can have the customer pick them up at your doorstep. You can even work with your local retail shop and sell there! Know though, these sales must stay within West Virginia and cannot be sold across state lines.

To build your customer base, consider creating an online profile through Facebook or Etsy and don't be shy to approach the owners of local retail shops to see if they would sell your products.



## Pricing:

It is important to remember that your goods aren't just delicious, they're your source of income! You need to think about what you are going to charge for your products. There are many factors that go into pricing. First, there is the cost of your materials. Factor in how much flour, sugar, and additional ingredients go into each item and how much that actually costs. Then, factor in the price of any packaging, labeling, transportation, and/or shipping costs associated with your sales. Don't forget to also factor in your utility costs since you will be using more gas, electricity and water. Importantly, you need to decide what kind of hourly wage you want to be making and factor that into the cost of the goods. Make sure you are keeping things reasonable, but don't give your labor away for free!

## Business Recommendations:

As your business grows larger, here are some additional things to think about.

**Trade Name:** If you want to ensure that your business name is yours and yours alone, you should register it with the West Virginia Secretary of State.



**Insurance:** This is an optional step, but just like an apron protects your clothes, insurance protects you and your business. There are many different kinds of insurance you can purchase to cover your own cottage food business. One type is product liability insurance which protects you and your business in the event that your product causes illness. Or, you can tack additional home based business insurance onto your home owner's insurance. There are even some companies who sell cottage food specific insurance.

**Tax Identification Number:** An Employer Identification Number (EIN) - even if you don't have employees - is a best practice for tax purposes. You will likely be using your EIN for filing documents on behalf of your business; otherwise, you will have to use your social security number, which leaves you vulnerable to identity theft.



### Cleanup:

After the baking is done and your product is sold, there is one last layer of your business to take care of—your taxes. There are two important taxes you need to make sure you are paying on your cottage food business.

- 1.) Income tax
- 2.) Self-employment tax

Notice, sales tax is not included because many cottage foods are exempt. West Virginia does not require sales tax to be collected for “unprepared food” or the sale of food and food ingredients that is sold unheated and without eating utensils provided by the seller. Check reference #5 to see if your goods are exempt. For your income tax, you must pay federal, state, and any local taxes. Consult a certified public accountant for any tax questions you have.

## References:

- 1.) [http://www.wvlegislature.gov/Bill\\_Status/bills\\_history.cfm?INPUT=285&year=2019&sessiontype=RS](http://www.wvlegislature.gov/Bill_Status/bills_history.cfm?INPUT=285&year=2019&sessiontype=RS)
- 2.) <https://tax.wv.gov/Pages/default.aspx>
- 3.) <https://www.sba.gov/>
- 4.) <https://ij.org/initiatives/food-freedom/>
- 5.) <https://tax.wv.gov/Documents/TSD/tsd419.pdf>

## DISCLAIMER OF LIABILITY:

This is just a helpful guide for those interested in starting a cottage food business in West Virginia made by the Institute for Justice, a nonprofit organization. It is not a document made by the government of West Virginia and should not be construed as law.

