



INSTITUTE FOR JUSTICE

Testimony in Support of HF 1430 and HF 433

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Dear Chair Sundin and Members of the House Agriculture Finance and Policy Committee:

Thank you for the opportunity to submit written testimony in support of HF 1430 and HF 433. I am an attorney at the Institute for Justice. We are a nonprofit, public interest law firm that works to protect civil liberties. We have helped cottage food producers in Minnesota and across the country reform restrictive laws that prevent them from earning a living. We support these two bills because they will expand economic opportunity and will be especially helpful as Minnesotans recover from the pandemic.

Cottage food businesses are a way for entrepreneurs with big dreams but little capital to start small in their own homes without having to spend thousands of dollars on professional equipment and commercial kitchen space. Nearly every state across the country recognizes these businesses as job creators and revenue generators, but Minnesota's regulatory approach is pushing this business model out of reach for entrepreneurs across the state.

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. Our research confirms that cottage food is inherently safe for producers and consumers and that cottage food businesses help stimulate economic growth in their communities.¹

HF 1430 brings much-needed reform for Minnesota's cottage food producers. Minnesota has one of the most restrictive cottage food laws in the country. Minnesota's \$18,000 gross sales cap is one of the lowest revenue caps for cottage food producers in the country. Across the country, 34 states do not cap producers' gross sales, and states that have gross sales caps often have higher caps. Revenue caps are intended to limit producers' volumes, but a producer's volume is already naturally limited by the size of their kitchen. A low revenue cap undermines the ability of producers to use their homes as a steppingstone to shared commercial kitchen space or a brick-and-mortar store.

In addition to limiting income, the Minnesota Department of Agriculture has adopted a policy regarding the types of businesses that cottage food producers can be that

¹ Jeffrey K. O'Hara, Marcelo Castillo, Dawn Thilmann 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/aep.13047.pdf>.



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raises constitutional concerns. The department allows cottage food producers to have sole proprietorships but disallows other types of business entities, such as LLCs. Minnesota is the only state in the country that allows cottage food sales but disallows cottage food producers from organizing as LLCs. Business organization is not tied to food safety. From a legal standpoint, this arbitrary policy of favoring some business entities over others could make the state vulnerable to legal challenges.

Lastly, we also support HF 433. HF 433 expands Minnesota's cottage food law by lifting restrictions on where cottage food producers can sell their food and allowing cottage food producers to sell a broader variety of food. Four states—North Dakota, Wyoming, Utah and Maine—have similar laws that give cottage food producers and consumers the freedom to buy and sell the homemade food of their choice. These laws have been in effect for some time, and to date there have been no illnesses reported related to cottage food sold under these laws. Wyoming's law has received national recognition for safely increasing access to local food and opportunity.²

HF 1430 and HF 433 reform Minnesota's cottage food laws to expand economic opportunities for cottage food producers without compromising food safety. We encourage the committee to support these important reforms.

Sincerely,

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²CBS This Morning, State law makes locally-sourced food more accessible than ever for Wyoming residents, Aug. 15, 2020, <https://youtu.be/iQnI8iuy2XE>.