A bill to be entitled

An act relating to home kitchen operations; amending s. 500.03, F.S.; providing definitions; creating s. 500.82; exempting home kitchen operations from food permitting requirements; providing requirements for home kitchen operations; providing requirements for the sale of home kitchen products; providing construction and applicability; preempting the regulation of home kitchen operations to the state; authorizing the Department of Agriculture and Consumer Services to investigate complaints, conduct inspections, and impose disciplinary actions; providing that home kitchen operations are suject to certain disciplinary procedures; amending s. 500.121, F.S.; providing disciplinary procedures for home kitchen operations; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (s) through (cc) of subsection (1) of section 500.03, Florida Statutes, are redesignated as paragraphs (u) through (ee), respectively, paragraph (r) of subsection (1) is amended, and new paragraphs (s) and (t) are added to subsection (1) of that section, to read:

500.03 Definitions; construction; applicability.—

(1) For the purpose of this chapter, the term:

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(r) "Food service establishment" means any place where food is prepared and intended for individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term includes delicatessens that offer prepared food in individual service portions. The term does not include schools, institutions, fraternal organizations, private homes where food is prepared or served for individual family consumption, retail food stores, the location of food vending machines, cottage food operations, home kitchen operations, and supply vehicles, nor does the term include a research and development test kitchen limited to the use of employees and which is not open to the general public.

(s) "Home kitchen operation" means a natural person or an entity that stores, handles, prepares home kitchen products at the residence of the natural person or at the residence of a natural person who has an ownership interest in the entity and sells such products in accordance with s. 500.82. A home kitchen operation is not:

1. A public food service establishment as defined in s. 509.013.

2. A catering operation licensed under ch. 509.

3. A cottage food operation, as defined in s. 500.03.

(t) "Home kitchen product" means food that is:

1. Stored, handled, prepared, and packaged by a home

kitchen operation.

2. Not raw milk, raw milk products, raw oysters, or raw shellfish.

Section 2. Section 500.82, Florida Statutes, is created to read:

500.82 Home kitchen operations.—

(1)(a) A home kitchen operation must comply with the applicable requirements of this chapter but is exempt from the permitting requirements of s. 500.12 if the home kitchen operation complies with this section and:

1. Has annual gross sales of home kitchen products that do not exceed $250,000.

2. Limits preparation and service of home kitchen food products to no more than 10 individual meals per day or the approximate equivalent of meal components when sold separately.

3. Prepares, cooks, and serves home kitchen food products on the same calendar day.

4. Processes home kitchen food products in compliance with state and federal regulations and s. 500.80.

(b) For purposes of this subsection, a home kitchen's annual gross sales include all sales of home kitchen products at any location, regardless of the types of products sold or the number of persons involved in the operation. A home kitchen operation must provide the department, upon request, with written documentation to verify the operation's annual gross sales, and the department shall be granted access to such

records within 24 hours of the request.

(2) A home kitchen operation may sell, offer for sale, and accept payment for home kitchen products over the Internet or in person. Such products may be delivered in person directly to the consumer, to a specific event venue, or to the consumer by the home kitchen operation or a third party delivery service. A home kitchen operation may not sell, offer for sale, or deliver home kitchen products to any wholesaler or retailer.

(3) All home kitchen operation owners and employees must successfully complete a food safety certificate training program that complies with the United States Food and Drug Administration's Food Safety Modernization Act. The course, at a minimum, must include information and training on cross-contamination, temperature control, and personal hygiene.

(4) A home kitchen operation must:

(a) Take steps to avoid any potential contamination to:

1. Food.

2. Equipment.

3. Utensils.

4. Unwrapped single-service and single-use articles.

(b) Prevent an individual from entering the food preparation area while food is being prepared if the individual is known to be suffering from:

1. Symptoms associated with acute gastrointestinal illness; or

2. A communicable disease that is transmissible through

food.

(c) Ensure a hand washing station supplied with warm water, soap, and disposable hand towels is conveniently located in food preparation, food dispensing, and warewashing areas.

(d) Ensure that the kitchen sink is fully operational and has hot and cold water and a sanitizing agent, and that dishes are sanitized between each use.

(e) Ensure that ready-to-eat home kitchen food products are protected from contamination during storage, preparation, handling, transport, and display.

(f) Ensure that home kitchen food products are maintained at proper holding temperatures.

(g) Ensure that utensils and equipment used in the home kitchen operation:

1. Retain their characteristic qualities under normal use conditions.

2. Are properly sanitized after each use.

3. Are maintained in a sanitary manner between uses.

(h) Ensure that kitchen equipment is cleaned and sanitized between uses.

(i) Ensure that gases, odors, steam, heat, grease, vapors, and smoke are able to escape the kitchen.

(j) Ensure that temperature measuring devices or holding equipment for the time or temperature control of food is properly used for hot and cold holding of home kitchen food products during storage, serving, and cooling.

(k) Ensure that home kitchen food product preparation and service is discontinued if there is a disruption of potable water service.

(6) A home kitchen operation may only sell home kitchen products which are affixed with a label that contains the following information:

(a) The name and address of the home kitchen operation.

(b) The name of the home kitchen product.

(c) The ingredients of the home kitchen product, in descending order of predominance by weight.

(d) The net weight or net volume of the home kitchen product.

(e) Allergen information as specified by federal labeling requirements.

(f) If any nutritional claim is made, appropriate nutritional information as specified by federal labeling requirements.

(g) The following statement printed in at least 10-point type in a color that provides a clear contrast to the background of the label: "Made in a home kitchen operation that is not subject to Florida's food safety regulations."

(7) This section does not:

(a) Exempt a home kitchen operation from any state or federal tax law, rule, regulation, or certificate that applies to all home kitchen operations.

(b) Prevent the department or a local health department

from enforcing an order to cease and desist operation of a home kitchen if the department or the local health department has a valid reason to suspect that the home kitchen operation is the source of an adulterated food or of an outbreak of illness caused by contaminated food.

(c) Apply to a person operating under a food permit issued pursuant to s. 500.12.

(8) The regulation of home kitchen operations is preempted to the state. A local law, ordinance, or regulation may not prohibit a home kitchen operation or regulate the preparation, processing, storage, or sale of home kitchen products by a home kitchen operation; however, a home kitchen operation must comply with the conditions for the operation of a home-based business under s. 559.955.

(9)(a) The department must investigate any complaint which alleges that a home kitchen operation has violated an applicable provision of this chapter or rule adopted under this chapter.

(b) Upon receipt of a complaint, the department's authorized officer or employee must enter and inspect the premises of a home kitchen operation to determine compliance with this chapter and department rules, as applicable. A home kitchen operation's refusal to permit the department's authorized officer or employee entry to the premises or to conduct the inspection is grounds for disciplinary action pursuant to s. 500.121.

(10) A home kitchen operation is subject to the

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disciplinary procedures under s. 500.121(7).

Section 3. Subsection (1) of section 500.121, Florida Statutes, is amended to read:

500.121 Disciplinary procedures.—

(1) In addition to the suspension procedures provided in s. 500.12, if applicable, the department may impose an administrative fine in the Class II category pursuant to s. 570.971 against any retail food store, food establishment, home kitchen operation, or cottage food operation that violates this chapter, which fine, when imposed and paid, shall be deposited by the department into the General Inspection Trust Fund. The department may revoke or suspend the permit of any such retail food store or food establishment if it is satisfied that the retail food store or food establishment has:

(a) Violated this chapter.

(b) Violated or aided or abetted in the violation of any law of this state governing or applicable to retail food stores or food establishments or any lawful rules of the department.

(c) Knowingly committed, or been a party to, any material fraud, misrepresentation, conspiracy, collusion, trick, scheme, or device whereby another person, lawfully relying upon the word, representation, or conduct of a retail food store or food establishment, acts to her or his injury or damage.

(d) Committed any act or conduct of the same or different character than that enumerated which constitutes fraudulent or dishonest dealing.

Section 4. This act shall take effect July 1, 2022.

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