

**2013 DRAFTING REQUEST**

**Bill**

Received: 10/16/2013 Received By: btradewe  
 Wanted: As time permits Same as LRB:  
 For: Sheila Harsdorf (608) 266-7745 By/Representing: Melissa  
 May Contact: Drafter: btradewe  
 Subject: Agriculture - food safety Addl. Drafters:  
 Extra Copies:

Submit via email: YES  
 Requester's email: Sen.Harsdorf@legis.wisconsin.gov  
 Carbon copy (CC) to:

**Pre Topic:**

No specific pre topic given

**Topic:**

Allow sale of home-baked products, with conditions

**Instructions:**

Like AB-182 as amended in the Assembly Committee

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	btradewe 10/17/2013	scalvin 10/21/2013	jmurphy 10/21/2013	_____			
/1	btradewe 11/12/2013			_____	srose 10/21/2013		
/2		scalvin 11/12/2013	jfrantze 11/13/2013	_____	sbasford 11/13/2013	lparisi 11/14/2013	

FE Sent For:

*Not Needed*

<END>

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/?	btradewe 10/17/2013	scalvin 10/21/2013	jmurphy 10/21/2013	_____			
/1	btradewe 11/12/2013			_____	srose 10/21/2013		
/2		scalvin 11/12/2013	jfrantze 11/13/2013	_____	sbasford 11/13/2013		

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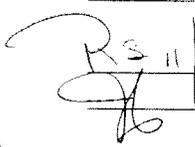
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/?	btradewe	1 sac 10/21/2013	JW 10/21	_____	_____	_____	_____

FE Sent For:

<END>

**2013 Assembly Bill 182 (LRB -1126)**

An Act to repeal 97.29 (2) (b) 2. b.; to amend 97.29 (2) (b) 2. (intro.), 97.29 (2) (b) 2. c., 97.29 (6) (title) and 97.29 (6) (b); and to create 97.29 (1) (he), 97.29 (1) (j) and 97.29 (2) (b) 3. of the statutes; relating to: the sale of homemade baked goods and homemade canned goods. (FE)

**2013**

04-30.	A.	Introduced by Representatives <b>Brooks, Ringhand, Ballweg, Berceau, Bernier, Bewley, Bies, Craig, Danou, Endsley, Hulsey, Jacque, Kahl, Kolste, Krug, Marklein, Milroy, Mursau, Ohnstad, A. Ott, Pope, Pridemore, Ripp, Stone, C. Taylor and Wright</b> ; cosponsored by Senators <b>Harsdorf, T. Cullen, Grothman, Lassa, Lehman, Schultz, L. Taylor, Tiffany and Vinehout</b> .	136
04-30.	A.	Read first time and referred to Committee on Small Business Development	136
05-28.	A.	Fiscal estimate received	
08-20.	A.	Assembly Substitute Amendment 1 offered by Representatives Brooks and Ringhand ( <b>LRB s0041</b> )	290
09-11.	A.	Public hearing held	
09-23.	A.	Senator Ellis added as a cosponsor	316
09-30.	A.	Assembly Amendment 1 to Assembly Substitute Amendment 1 offered by Representatives Brooks and Ringhand ( <b>LRB a0848</b> )	321
09-30.	A.	Assembly Amendment 2 to Assembly Substitute Amendment 1 offered by Representatives Brooks and Ringhand ( <b>LRB a0849</b> )	321
10-01.	A.	Senator Gudex added as a cosponsor	323
10-09.	A.	Assembly Amendment 3 to Assembly Substitute Amendment 1 offered by Representative Ripp ( <b>LRB a0938</b> )	341
10-09.	A.	Assembly Amendment 4 to Assembly Substitute Amendment 1 offered by Representative Ripp ( <b>LRB a0939</b> )	341
10-09.	A.	Executive action taken	
10-11.	A.	Assembly Amendment 5 to Assembly Substitute Amendment 1 offered by Committee on Small Business Development ( <b>LRB a0951</b> )	348
10-14.	A.	Report Assembly Amendment 1 to Assembly Substitute Amendment 1 adoption recommended by Committee on Small Business Development, Ayes 12, Noes 1	350
10-14.	A.	Report Assembly Amendment 5 to Assembly Substitute Amendment 1 adoption recommended by Committee on Small Business Development, Ayes 13, Noes 0	350
10-14.	A.	Report Assembly Substitute Amendment 1 adoption recommended by Committee on Small Business Development, Ayes 13, Noes 0	350
10-14.	A.	Report passage as amended recommended by Committee on Small Business Development, Ayes 12, Noes 1	350
10-14.	A.	Referred to Committee on Rules	350
10-15.	A.	Representative Smith added as a coauthor	353



State of Wisconsin  
2013 - 2014 LEGISLATURE  
SOON (in 10/17)

3449/1



LRB0041/1  
RCT:sac&jld:ff

2013 Bill

RMAR

**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO ASSEMBLY BILL 182**

August 20, 2013 - Offered by Representatives BROOKS and RINGHAND.

1 AN ACT to amend 97.29 (2) (b) 2. (intro.), 97.29 (2) (b) 2. c., 97.29 (2) (b) 2. e., 97.29  
2 (6) (title), 97.29 (6) (a) and 97.29 (6) (b); to repeal and recreate 97.29 (2) (b)  
3 2. b.; and to create 97.29 (1) (he), 97.29 (1) (j), 97.29 (2) (b) 3. and 97.29 (2) (be)  
4 of the statutes; relating to: the sale of homemade baked goods and homemade  
5 canned goods.

**Analysis by the Legislative Reference Bureau**

Current law requires food processing plant licenses from the Department of Agriculture, Trade and Consumer Protection (DATCP) for certain facilities at which food is manufactured or prepared for sale through processes such as baking, canning, freezing, and bottling, with specified exemptions.

bill

This substitute amendment provides an exemption from the requirement to obtain a food processing plant license for the face-to-face sale of nonhazardous homemade baked goods to consumers by a person who receives less than \$10,000 per year from the sale of the food, registers with DATCP, and complies with requirements concerning labeling, signage, and documenting sales. A baked good is nonhazardous if it is acidic or has a low amount of moisture and will not support the growth of dangerous organisms. The substitute amendment prohibits door to door sales under the exemption.

\*

\*

bill

takes a class on food safety approved by DATCP  
obtains food manager certification from DATCP

DATCP

\* Current law provides an exemption from the requirement to obtain a food processing plant license for the sale of food products, such as pickles, that are prepared and canned by a person at home if certain requirements are met. Under current law, the sales of the canned products must take place at a community or social event or a farmer's market. This substitute amendment replaces that requirement with a requirement that the sales be face-to-face sales to consumers, but prohibits door to door sales. Under current law, the exemption only applies if the person receives less than \$5,000 per year from the sale of the canned products. Under this substitute amendment, the exemption applies if the person receives less than \$10,000 per year from the sales. bill

\* The substitute amendment also requires DATCP to provide information about the kinds of foods that may be sold without a food processing license, about food safety, and about safe storage of baked goods, ingredients, and packaging materials. bill

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1 SECTION 1. 97.29 (1) (he) of the statutes is created to read:

2 97.29 (1) (he) "Nonhazardous baked goods" means baked goods that either  
 3 have a water activity value of 0.85 or less or an equilibrium pH value of 4.6 or lower,  
 4 that will not, in whole or part, support growth of or toxin formation by pathogenic  
 5 microorganisms, and that do not, in whole or part, contain pathogenic organisms at  
 6 a level sufficient to cause illness when the food is consumed.

7 SECTION 2. 97.29 (1) (j) of the statutes is created to read:

8 97.29 (1) (j) "Water activity value" means a measure of free moisture in a food  
 9 product, calculated by dividing the water vapor pressure of the food product by the  
 10 vapor pressure of pure water at the same temperature.

11 SECTION 3. 97.29 (2) (b) 2. (intro.) of the statutes is amended to read:

12 97.29 (2) (b) 2. (intro.) A person is not required to obtain a license under this  
 13 section to sell at retail, through face-to-face sales to consumers, food products that  
 14 the person prepares and cans at home in this state if all of the following apply:

15 SECTION 4. 97.29 (2) (b) 2. b. of the statutes is repealed and recreated to read:

1 97.29 (2) (b) 2. b. The person does not sell the food products door-to-door.

2 SECTION 5. 97.29 (2) (b) 2. c. of the statutes is amended to read:

3 97.29 (2) (b) 2. c. The person receives less than \$5,000 \$10,000 in gross receipts  
4 per year from the sale of the food products.

5 SECTION 6. 97.29 (2) (b) 2. e. of the statutes is amended to read:

6 97.29 (2) (b) 2. e. Each container of food product that is sold is labeled with the  
7 name and address of the person who prepared and canned the food product, the date  
8 on which the food product was canned, the statement "This product was made in a  
9 private home not subject to state licensing or inspection.", and a list of ingredients  
10 in descending order of prominence. If any ingredient originates from milk, eggs, fish,  
11 crustacean shellfish, tree nuts, wheat, peanuts, or soybeans, the list of ingredients  
12 shall include the common name of the ingredient and, if the ingredient originates  
13 from fish, crustacean shellfish, or tree nuts, the common name of the source species.

14 SECTION 7. 97.29 (2) (b) 3. of the statutes is created to read:

15 97.29 (2) (b) 3. A person is not required to obtain a license under this section  
16 to sell, through face-to-face sales to consumers for personal consumption and not for  
17 resale, food products that the person prepares and bakes at home in this state if all  
18 of the following apply:

- 19 a. The food products are nonhazardous baked goods.
- 20 b. The person registers with the department.
- 21 c. The person receives less than \$10,000 in gross receipts per year from the sale
- 22 of the nonhazardous baked goods.

23 d. Each food product that is sold is labeled with the name, address, and contact  
 24 information <sup>or business name</sup> of the person who prepared and baked the food product, <sup>the date on</sup> which the food product was baked, the statement "This product was made in a

*Insert 90848/1*

1 private home not subject to state licensing or inspection.”, and a list of ingredients  
2 in descending order of prominence. If any ingredient originates from milk, eggs, fish,  
3 crustacean shellfish, tree nuts, wheat, peanuts, or soybeans, the list of ingredients  
4 shall include the common name of the ingredient and, if the ingredient originates  
5 from fish, crustacean shellfish, or tree nuts, the common name of the source species.

6 e. The person displays a sign at the place of sale stating: “These baked goods  
7 are made in a private home not subject to state licensing or inspection.”

8 f. The person does not sell the food products door-to-door.

9 g. The person has a written plan for recalling food products baked by the  
10 person, should a food recall become necessary, and documents what food products the  
11 person sells and when and where the sales take place, using a form specified by the  
12 department.

Insert  
a0951/1

13 **SECTION 8.** 97.29 (2) (be) of the statutes is created to read:

14 97.29 (2) (be) *Suspension of registration.* The department may suspend the  
15 registration under par. (b) 3. b. of a person who violates par. (b) 3.

16 **SECTION 9.** 97.29 (6) (title) of the statutes is amended to read:

17 97.29 (6) (title) INFORMATION ABOUT HOME CANNING AND BAKING.

18 **SECTION 10.** 97.29 (6) (a) of the statutes is amended to read:

19 97.29 (6) (a) The department shall encourage persons to whom the exemption  
20 in sub. (2) (b) 2. applies to attend and complete training, ~~that is approved by the~~  
21 ~~department,~~ concerning preparing and canning foods and to have their recipes and  
22 processes reviewed by a person who is knowledgeable about the food canning  
23 industry ~~and who is recognized by the department as an authority on preparing and~~  
24 ~~canning food.~~ The department shall encourage persons who register under sub. (2)  
25 (b) 3. b. to attend and complete training concerning preparing nonhazardous baked

1 goods and to have their recipes and processes reviewed by a person who is  
2 knowledgeable about the baking industry.

3 **SECTION 11.** 97.29 (6) (b) of the statutes is amended to read:

4 97.29 (6) (b) The department shall provide information about the kinds of foods  
5 that may be sold under sub. (2) (b) 2. and 3., about food safety, and about safe storage  
6 of baked goods, ingredients, and packaging materials to persons who wish to home  
7 prepare and home can high-acid and acidified food products or to sell home baked  
8 goods. The department, in cooperation with the University of Wisconsin-Extension,  
9 shall attempt to maximize the availability of other information and technical  
10 services and support for persons who wish to home prepare and home can low-acid  
11 high-acid and acidified food products and persons who register under sub. (2) (b) 3.  
12 b. to sell nonhazardous baked goods.

13 (END)



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRBa0848/1  
RCT:eev:jf

ASSEMBLY AMENDMENT 1,  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO ASSEMBLY BILL 182

September 30, 2013 – Offered by Representatives BROOKS and RINGHAND.

1 At the locations indicated, amend the substitute amendment as follows:

2 ✓ 1. Page 3, line 23: delete the material beginning with “, address” and ending  
3 with “information” on line 24 and substitute “or business name”.

4 2. Page 3, line 24: after “product,” insert “the city, state, and zip code of the  
5 person’s residence, the person’s telephone number or electronic mail address.”

6 (END)

Insert a0848/1



**Tradewell, Becky**

---

**From:** Weigand, Melissa  
**Sent:** Tuesday, November 12, 2013 12:49 PM  
**To:** Tradewell, Becky  
**Subject:** Revision for LRB 3444: Senate Companion to the Cookie Bill  
**Attachments:** ASA 1.pdf; AA 1 to ASA 1.pdf; AA 6 to ASA 1.pdf

Good afternoon,

I left a voice message, but wanted to follow-up by email as well. I am wondering if we could please have LRB 3444 redrafted to reflect AA 6 to ASA 1, which is attached, instead of AA 5, which was passed in the Assembly Committee on Small Business.

Please let me know if you have any questions.

Thanks for your help,

*Melissa Weigand*

Office of Senator Sheila Harsdorf  
800.862.1092 or 608.266.7745



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-3444~~1~~ 2  
RCT:sac&jld:jm  
VWY

by Wed 11/13

2013 BILL

gen cat

1 AN ACT *to amend* 97.29 (2) (b) 2. (intro.), 97.29 (2) (b) 2. c., 97.29 (2) (b) 2. e., 97.29  
2 (6) (title), 97.29 (6) (a) and 97.29 (6) (b); *to repeal and recreate* 97.29 (2) (b)  
3 2. b.; and *to create* 97.29 (1) (he), 97.29 (1) (j), 97.29 (2) (b) 3. and 97.29 (2) (be)  
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*Analysis by the Legislative Reference Bureau*

Current law requires food processing plant licenses from the Department of Agriculture, Trade and Consumer Protection (DATCP) for certain facilities at which food is manufactured or prepared for sale through processes such as baking, canning, freezing, and bottling, with specified exemptions.

This bill provides an exemption from the requirement to obtain a food processing plant license for the face-to-face sale of nonhazardous homemade baked goods to consumers by a person who receives less than \$10,000 per year from the sale of the food, registers with DATCP, takes a class on food safety approved by DATCP, ~~obtains food manager certification from DATCP~~ and complies with requirements concerning labeling, signage, and documenting sales. A baked good is nonhazardous if it is acidic or has a low amount of moisture and will not support the growth of dangerous organisms. The bill prohibits door to door sales under the exemption.

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**BILL**

current law, the sales of the canned products must take place at a community or social event or a farmer's market. This bill replaces that requirement with a requirement that the sales be face-to-face sales to consumers, but prohibits door to door sales. Under current law, the exemption only applies if the person receives less than \$5,000 per year from the sale of the canned products. Under this bill, the exemption applies if the person receives less than \$10,000 per year from the sales.

The bill also requires DATCP to provide information about the kinds of foods that may be sold without a food processing license, about food safety, and about safe storage of baked goods, ingredients, and packaging materials.

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7           **SECTION 2.** 97.29 (1) (j) of the statutes is created to read:

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**BILL**

1           97.29 (2) (b) 2. c. The person receives less than \$5,000 \$10,000 in gross receipts  
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6 on which the food product was canned, the statement “This product was made in a  
7 private home not subject to state licensing or inspection.”, and a list of ingredients  
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14 to sell, through face-to-face sales to consumers for personal consumption and not for  
15 resale, food products that the person prepares and bakes at home in this state if all  
16 of the following apply:

17           a. The food products are nonhazardous baked goods.

18           b. The person registers with the department.

19           c. The person receives less than \$10,000 in gross receipts per year from the sale  
20 of the nonhazardous baked goods.

21           d. Each food product that is sold is labeled with the name or business name of  
22 the person who prepared and baked the food product, the city, state, and zip code of  
23 the person’s residence, the person’s telephone number or electronic mail address, the  
24 date on which the food product was baked, the statement “This product was made  
25 in a private home not subject to state licensing or inspection.”, and a list of

**BILL**

1 ingredients in descending order of prominence. If any ingredient originates from  
2 milk, eggs, fish, crustacean shellfish, tree nuts, wheat, peanuts, or soybeans, the list  
3 of ingredients shall include the common name of the ingredient and, if the ingredient  
4 originates from fish, crustacean shellfish, or tree nuts, the common name of the  
5 source species.

6 e. The person displays a sign at the place of sale stating: "These baked goods  
7 are made in a private home not subject to state licensing or inspection."

8 f. The person does not sell the food products door-to-door.

9 g. The person has a written plan for recalling food products baked by the  
10 person, should a food recall become necessary, and documents what food products the  
11 person sells and when and where the sales take place, using a form specified by the  
12 department.

13 <sup>Insert 4-15</sup>  
h. The person has completed a class on food safety that is approved by the  
14 department and has obtained certification from the department under chapter 12 of  
15 the appendix to ch. ATCP 75, Wis. Adm. Code

16 **SECTION 8.** 97.29 (2) (be) of the statutes is created to read:

17 97.29 (2) (be) *Suspension of registration.* The department may suspend the  
18 registration under par. (b) 3. b. of a person who violates par. (b) 3.

19 **SECTION 9.** 97.29 (6) (title) of the statutes is amended to read:

20 97.29 (6) (title) INFORMATION ABOUT HOME CANNING AND BAKING.

21 **SECTION 10.** 97.29 (6) (a) of the statutes is amended to read:

22 97.29 (6) (a) The department shall encourage persons to whom the exemption  
23 in sub. (2) (b) 2. applies to attend and complete training, ~~that is approved by the~~  
24 ~~department,~~ concerning preparing and canning foods and to have their recipes and  
25 processes reviewed by a person who is knowledgeable about the food canning

**BILL**

1 industry and who is recognized by the department as an authority on preparing and  
2 canning food. The department shall encourage persons who register under sub. (2)  
3 (b) 3. b. to attend and complete training concerning preparing nonhazardous baked  
4 goods and to have their recipes and processes reviewed by a person who is  
5 knowledgeable about the baking industry.

6 **SECTION 11.** 97.29 (6) (b) of the statutes is amended to read:

7 97.29 (6) (b) The department shall provide information about the kinds of foods  
8 that may be sold under sub. (2) (b) 2. and 3., about food safety, and about safe storage  
9 of baked goods, ingredients, and packaging materials to persons who wish to home  
10 prepare and home can high-acid and acidified food products or to sell home baked  
11 goods. The department, in cooperation with the University of Wisconsin-Extension,  
12 shall attempt to maximize the availability of other information and technical  
13 services and support for persons who wish to home prepare and home can low-acid  
14 high-acid and acidified food products and persons who register under sub. (2) (b) 3.  
15 b. to sell nonhazardous baked goods.

16 (END)



**ASSEMBLY AMENDMENT ,  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO ASSEMBLY BILL 182**

Insert 4-15

1  
2  
3  
4  
5  
6  
7  
8

At the locations indicated, amend the substitute amendment as follows:

**1.** Page 4, line 12: after that line insert:

"h. The person has completed a class on food safety that is approved by the department and submits proof of completing the class when the person registers under subd. 3. b."

✓ **2.** Page 4, line 25: delete the material beginning with "attend" and ending with "and to" on page 5, line 1.

(END)

**Rose, Stefanie**

---

**From:** Weigand, Melissa  
**Sent:** Thursday, November 14, 2013 3:33 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -3444/2 Topic: Allow sale of home-baked products, with conditions

Please Jacket LRB -3444/2 for the SENATE.

Thanks!

*Melissa Weigand*

Office of Senator Sheila Harsdorf  
800.862.1092 or 608.266.7745