

To: Sen. Golden, Chair; Sen. Girod, Vice-Chair, and  
Members of the Senate Natural Resources Committee  
From: Leslie Foster, Owner, The Cake Room, LLC,  
2375 Falcon Drive, West Linn, OR 97068  
503-781-7506 Thecakeroomstudio.com  
[thecakeroomstudio@comcast.net](mailto:thecakeroomstudio@comcast.net)  
Subject: Criticism of SB643  
Date: January 25, 2023

### **Executive Summary:**

As a person who has been licensed for 15 years and running a successful home business I personally know what it takes to get and stay licensed. The process is extraordinarily easy and inexpensive. Home bakery fees are significantly lower than what a commercial baker, making the same revenue, pays. The number one complaint I get from the home-baker community is the no pet rule. It is the only barrier that prevents home-based bakers from getting licensed. I believe the better option to SB 643 is to add exceptions to the no pet rule for licensed and unlicensed home based businesses. If that one rule about pets is changed to include exceptions then everyone will be able to get licensed and the concerns that SB 643 addresses become moot.

### **Arguments For and Against:**

I am Leslie Foster, of West Linn, the owner of a successful licensed domestic kitchen since 2008. My licensed home-based bakery is one of the longest licensed home-based bakeries in Oregon. Because of that I am respected and asked for guidance and mentorship by many of my peers who have home bakeries or want to start a home bakery. As an advocate of home-based bakery businesses I must speak in opposition to Senate Bill 643 as it is written.

For clarity, the term “cottage food law” is used by the FDA and other states as a blanket term to describe a home bakery. In the state of Oregon the Dept. of Agriculture’s Oregon Administrative Rules (OAR) that govern home-based bakery businesses uses the term “domestic kitchen” to define home-based bakeries. You can operate as a **licensed** domestic kitchen or an **unlicensed** domestic kitchen. The unlicensed domestic kitchen wasn’t created until 2016. Home bakers operating under the exemption are self regulated and their operation is solely on the honor system.

A fact sheet, created by the Oregon Extension at Oregon State Univ. and prepared in consultation with the ODA Food Safety, titled “What is the Home Bakery Exemption?” reads:

**“In 2016, the Oregon Legislature passed a law that creates new small-business opportunities for home bakers while providing rural communities access to fresh baked goods. The Home Bakery Exemption allows people to produce certain baked goods and confectionary items in their home kitchens and sell them directly to consumers without having to obtain a food establishment license or undergo an inspection from the Oregon Department of Agriculture (ODA). Exempt home kitchens must be built and maintained in a clean, healthful, and sanitary manner.”**

As SB 643 is written:

1. **I am Opposed to removing the revenue cap on unlicensed domestic kitchens:**
  1. The argument that a person cannot grow their business because they are not making enough money to do so is not accurate. My business has grown from its humble beginnings in a small galley kitchen to now being in a million dollar home with its own studio. I have done it as many others have by expanding as the business grows. We did it like any other small business by proving our business at an entry level. **Licensed domestic kitchens have no revenue cap.** Meaning I can make as much as I can manage to generate in my licensed domestic kitchen. The only restrictions that hold back my earning potential is actually my Cities Code for residential businesses.
  2. Furthermore, like any other small business there are organizations who assist in training and funding. Since I began my business I have applied for grants and small business loans based on my business income. It is a process that is available to home-based businesses through the SBA, Mercy Corp, MESO, City Chamber of Commerce, angel investors, commercial funding, women's groups and so-on.
  3. **I am in favor of increasing the cap for unlicensed domestic kitchens to \$35,000 maximum.** This keeps up with today's dollar and allows for more income while bakers are building their business presence.
  4. The cap serves the purpose of the exemption law. The average income of an Oregon baker is \$14-\$20 per hour. Well under the \$35,000 cap I recommend.
  
2. **I am Opposed to mail delivery, wholesale sales to retail stores, and coffee shops from unlicensed domestic kitchens:**
  1. Wholesale and retail accounts are very lucrative accounts that are **allowed with a domestic kitchen license.** If a person working without a license wants to make the volume of baked goods that these accounts bring that puts their bakery business beyond the mission of the exemption and into the requirement for have a licensed kitchen. These types of accounts are lucrative and in most cases require more room beyond the average kitchen space, more equipment, bigger equipment, and usually an employee.
  2. **I am in favor of giving this rule an exemption,** on a case by case basis, taking into account the populous around the baker accounting for rural towns where it is difficult at best to get fresh baked products at local venues.
  3. The problem with making this a statewide law is that it opens it up to everyone, including bigger cities. The pandemic opened a pandoras box for people to make and sell baked goods. It was fantastic that so many found baking as a means to provide for their families and friends. However, for the norm people with little to no training in food handling or food safety are learning these things from youtube and Instagram where the subject is rarely, if ever, discussed outside professional online groups. Selling to a small number of people in smaller towns is not as risky as selling to grocery stores and other high volume locations where there is little to no traceability.
  
3. **I am Opposed to unlimited online sales for unlicensed domestic kitchens:**

1. The unlicensed law is for home bakers selling to their local community.  
**Unlimited online selling is for licensed domestic kitchens.**
2. I have seen all over social media channels people selling cakes and baked goods who have not done their due diligence to learn about selling food from their homes. These home bakers are uninformed, untrained in food safety and handling, and there is zero traceability if one should cause food poisoning or worse. They do not get FDA alerts like I do, they do not access ODA to get the correct answers. They do not have food handlers training. And most get their information from online chat groups where the advice could be coming from an uninformed person down the street, in the next state, or in another country all together. Many customers have shared their stories of buying baked goods, especially cakes, from home bakers who were over their skill level or knowledge.
4. **I am in favor of online payment access:** So much of our world has gone mobile and online that giving unlicensed bakers the ability to **take payments** via an online or payment app like Venmo, Cashapp, ApplePay, absolutely should be allowed.
5. **I am in favor of allowing ID numbers instead of home addresses for both :**
  1. In spite of only hearing of two cases since 2008 involving a crime with a home baker I absolutely believe home bakers should have the option of using a number issued by the Dept. of Ag. in place of their address. Being registered with the Dept. of Ag allows for traceability if ever needed.
6. **I am Opposed to pets in an unlicensed or licensed domestic kitchen:**
  1. The current rule prohibiting pets in licensed and unlicensed homes is too restrictive. It is the number one barrier for the majority of those seeking to operate licensed or unlicensed domestic kitchens.
  2. I don't know of any state that allows pets **inside** a cottage or domestic kitchen.
  3. Restrictions must be in place regarding animals. However, I believe there are ways to accommodate family pets without putting unnecessary risk to the public.
7. **I am in favor of pets with exceptions:**
  1. Owners cannot control what their animals do in a kitchen. They shed, they have dander, and they cause allergies for some people. Anyone who has pets in the home of a domestic kitchen should be required to disclose that fact in the same way they are required that they are unlicensed.
  2. Pets that are immobile in children's rooms and away and outside of the kitchen should be allowed.
  3. A domestic kitchen that is 100% closed off from the rest of the home where the pets meander should be allowed. The pets should **never enter** that kitchen work space.
  4. The domestic kitchen that is a separate space or room that is closed off 100% from the rest of the home where the pets meander should be allowed. The pets should **never enter** that kitchen work space. The work space may

require further upgraded (ie: hand sink, ovens, 2 or 3 sink compartment, etc. based off an inspection.).

5. The baker, licensed or unlicensed, is required to work with the Dept. of Ag. inspector who approves the space and pet(s) that will be on the premises. As a one-time evaluation for unlicensed domestic kitchens and as part of the annual inspection of licensed domestic kitchens.

### **Closing:**

I believe that SB 643 is the result of a small group of bakers who do not want to be regulated in any way. They want the benefits and rewards of being licensed without the responsibility. To be clear I believe SB 643 is looking to undermine the Oregon Administrative Rules that govern licensed domestic kitchens by drastically changing the Oregon Home Baking Bill exemption. If this bill passes as-is there will be no reason for the licensed domestic kitchen rules.

As a person who has been licensed for 15 years and running a successful home business I personally know what it takes to get and stay licensed. The process is extraordinarily easy and inexpensive. Home bakery fees are significantly lower than what a commercial baker, making the same revenue, pays. The number one complaint I get from the home-baker community is the no pet rule. It is the only barrier that prevents home-based bakers from getting licensed. I believe the better option to SB 643 is to add exceptions to the no pet rule for licensed and unlicensed home based businesses. If that one rule about pets is changed to include exceptions then everyone will be able to get licensed and the concerns that SB 643 addresses become moot.

I have links and sources I can share if you need them. I am just unable to attach them here with my time constraints and needing to return to work.

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