AB 626/AB 377

What is AB 626/AB 377? Assembly Bill 626 (AB 626) passed into law in 2018 and became effective January 1, 2019. AB 626 allows home cooks to apply for a Microenterprise Home Kitchen Operations ("MEHKO") permit to legally sell most types of food directly to the public from a home kitchen. AB 626 builds upon the success of the Cottage Food Law, which enabled home cooks to legally sell baked goods and shelf-stable items. AB 626 requires each County to opt-in to the policy to authorize this type of food facility. Following Riverside County’s opt-in decision in May 2019, many counties across the state are taking steps to move forward with AB 626 implementation. The cleanup bill, AB 377, became law October 2019.

Benefits of MEHKO permitting

MEHKO creates a legal framework for burgeoning food entrepreneurs, including recent immigrants and individuals from low-income communities.

- Creates a pathway for burgeoning food entrepreneurs to generate income and test out their business models at minimal cost
- Ensures health and safety standards
- Supports access to healthy and culturally appropriate food opportunities

How MEHKO works

- Must be operated by a permitted resident operator, with a maximum of one employee
- Maximum of 30 meals/day or 60/week (equates to less than cooking 3 meals a day for a family of 4)
- No more than $50,000 in verifiable gross annual sales per permittee
- Health inspectors permitting operations can lower production limits based on food preparation capacity

Demand for MEHKO in San Diego County

San Diego County is home to nearly 300 Cottage Food Producers. The number of MEHKO applicants is expected to surpass that number, with many most likely already selling food within the informal economy. The demand for MEHKOs is clear – with interest growing countywide across food enterprise technical assistance program participants, particularly those living in immigrant communities. San Diego Volunteer Lawyer Program, International Rescue Committee and the National City Kitchenista Program each have more than 10 participants positioned to become MEHKO entrepreneurs.

Please call, email, or write a letter to your County Supervisor urging them to OPT IN to AB 626/377.

To learn more, contact: San Diego Food System Alliance policies@sdfsa.org
Homemade Food Operations Act FAQ

The County of San Diego is requesting City support as it considers opting into AB 626/AB 377 over the coming months. With the Homemade Food Operations Act (AB 626/AB 377) passing into law, partnership among our community’s food entrepreneurs, advocates and cities is vital to ensuring timely implementation of Micro-Enterprise Home Kitchen Operations (“MEHKO”) opportunities. Outstanding misconceptions or concerns can be answered through an understanding of the limitations and benefits of MEHKOs. The economic empowerment and entrepreneurship opportunities made available by opting into AB 626/AB 377 far outweigh fears founded in misinformation.

We urge cities and the County Board of Supervisors to support local entrepreneurs positioned to thrive as a result of the implementation of this transformative permitting system.

What is a Microenterprise Home Kitchen Operation (MEHKO)?

Microenterprise Home Kitchen Operation (MEHKO): A food facility operated by a resident in a private home where food is stored, handled, and prepared for, and may be served to consumers.

- State Assembly Bill “Homemade Food Operations Act” (AB 626):
  - 2018 Passed into law => Effective January 1, 2019
- AB 626 allows home cooks to apply for a MEHKO permit to legally sell many types of food directly to the public from a home kitchen
- Home-based operations are incubators for burgeoning microbusinesses or sources of ancillary income
  - Opportunity for micro-entrepreneurs to start businesses without breaking the bank
  - Not intended to subvert the professional food industry or evade health and safety processes required for commercial scale businesses

What is the demand for MEHKOs in San Diego County?

“Hundreds—if not thousands—of home cooks in California break the law every day, by selling or trading food with neighbors” in the informal economy. “Contributing dishes to the church BBQ fundraiser,” selling tamales out of their homes to friends and family during the holidays,

(continued on next page)
“selling Chinese dumplings on WeChat, or hosting a cooking club or home-based pop-up meal” can all be criminalized without a county’s opt-in to MEHKO licenses. (The New Food Economy: Thousands of California home cooks have no idea they are breaking the law everyday)

San Diego County is home to nearly 300 Cottage Food Producers. The number of MEHKO applicants is expected to surpass the number of Cottage Food Producers, with many most likely already selling food within the informal economy. The demand for MEHKOs is clear – with interest growing countywide across food enterprise technical assistance program participants, particularly those living in immigrant communities. San Diego Volunteer Lawyer Program, International Rescue Committee and the National City Kitchenista Program each have at least 10 participants positioned to become MEHKO entrepreneurs.

What does the homemade food informal economy look like?
- 30% First generation immigrants
- 85% Women
- 48% African, Hispanic, or of Multiracial descent
- 35% Household incomes of less than $45,000 a year

Source: Cook Alliance Poll

Who is responsible for regulation and enforcement?
Once the County of San Diego opts into AB 626/AB 377, County Environmental Health Department will finalize and administer permitting and inspections. As with all small businesses, local jurisdictions will manage business licenses and code enforcement as needed (e.g. advertisement postings, noise ordinances, nuisance, parking or other ordinances).

What do inspections look like?
The following areas will be inspected:
- consumer eating area
- restroom
- janitorial or cleaning facilities
- refuse storage area
- attached rooms within the home that are used for food, utensils, and equipment storage
MEHKOs will uphold standards for sink and washing sanitation, temperature control and separation of food/prep and the living area. Inspections will also include any vehicles used for transporting food to or from a MEHKO.

Who would be able to obtain a MEHKO permit?
MEHKO Permittee must meet the following requirements:
- County Environmental Health Department approved permit application
  - Pass a microenterprise home kitchen operation facilities inspection
  - Complete an approved food manager certification
- Obtain a business license (local jurisdiction)
- Employ up to one full-time equivalent employee (FTE), who must obtain a food handlers certificate

(continued on next page)
What are the limitations to the size of a MEHKO?
- Maximum of 30 meals/day or 60 meals/week
  - Equates to less than 3 meals a day for a family of 4
  - No more than $50,000 in verifiable gross annual sales
- Permitted resident operator, with a maximum of one FTE

What are the meal limitations of a MEHKO?
Food must be prepared the day it is sold; no storage of food for future sales is permitted. MEHKOs may not produce, serve, or use raw milk, serve raw oysters, or any food that would require a HACCP plan that establishes a management system in which food safety is addressed through the analysis and control of biological, chemical, and physical hazards from raw material production, procurement and handling, to manufacturing, distribution and consumption of the finished product.

Noise
MEHKOs must be in compliance with applicable noise ordinances.

Parking and Proper Egress From the Home
Nuisance, parking, and other existing local ordinances can be enforced within the residential areas in which MEHKOs operate. MEHKO’s are permitted to sell only 30 meals on a given day.

Traffic
Delivery to the consumer must be done by an employee of the MEHKO, a family member, or household member of the permit holder
Third-party delivery services are prohibited except to individuals with disabilities

Trash, Grease, Odors and Oil
MEHKOs are subject to inspection as a result of a consumer complaint or upon reasonable notice to ensure compliance with sanitary conditions
Nuisance complaints and ordinances can be enforced by local jurisdictions
MEHKO’s are only permitted to sell 60 meals a week and only 30 of those 60 on a given day. A family of 4 eating 3 home cooked meals a day would consume 84 meals a week. *County Environmental Health Department may decrease meal limits based on the food preparation capacity of the home.

Food Safety Concerns
- MEHKOs are a modified Restricted Food Facility
  - Requirements apply (similar to Cottage Food), with some exceptions. The full list of exemptions can be found in Section 114367.1
  - Handwashing facilities are required, with posted hand washing signage
  - Initial inspection is required and annual inspections are allowed of onsite customer eating area, food storage, utensils and equipment, toilet room, janitorial or cleaning facilities, refuse storage area
  - Inspectors must be allowed back into the MEHKO with reasonable advance notice, or in response to a valid complaint or violation concern

(continued on next page)
Home Kitchen Operators are extensively trained and accountable:
- Food Manager training + certification is required of the owner
- Home kitchen operator must directly serve food to end consumers, encouraging accountability
- Each facility has one permitted operator and up to one FTE handling food - Eliminating turnover of ‘staff’ to track down in the event of an issue
- Operations are limited to lower risk processes
  - Food is prepared, cooked, and served on the same day and delivered in a safe time period

How does the clean up bill (AB 377) affect the AB 626 Homemade Food Operations Act, which legalized MEHKOs?
AB 377, AB 626’s cleanup bill, does not substantively affect the implementation of MEHKO licenses -- It outlines a plan including 3 specific instances for County inspections and what inspectors will review during each inspection. It clarifies that only the County of San Diego is responsible for opting in to authorize MEHKOs.

What are the differences between a Cottage Food Operation and a MEHKO?
AB 626 builds upon the success of the Cottage Food Law, which enabled home cooks to legally sell baked goods and shelf-stable items. But a MEHKO permit is different from that of Cottage Food. Cottage Food permittees are only allowed to sell baked goods and shelf-stable items, while MEHKO permittees are able to sell low risk ready to eat food.

What needs to be done for the implementation of MEHKOs in San Diego County?
1. County must first opt-in to the law.
   a. County Board of Supervisors needs to vote and adopt an ordinance to authorize this type of food facility.
   b. City support is necessary to bolster County confidence in opting in to the law.
2. County Environmental Health Department must finalize the permit and inspection process
3. Once the process is in place, cooks may start submitting applications on the County’s Environmental Health website
4. The application, inspection and permitting process will take approximately 20 days, according to the statewide Cook Alliance and Riverside County (Opted in May 2019)

Please call, email, or write a letter to your County Supervisor urging them to OPT IN to AB 626/377.

To learn more, contact:
San Diego Food System Alliance
policy@sdfsa.org