Creating Community Owned Food Systems Through Homemade Food Policy

How to Prevent the Uberization of Food

A Proposal By the Sustainable Economies Law Center
Supported by the Own Our Food Coalition

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Background

Momentum has been building to further legalize sales of homemade food in California and Assembly Bill 626 was introduced in February 2017 to do just that. At this critical time in the development of the homemade food industry, we propose a policy to prevent the 'Uberization' of the homemade food economy, and instead to ensure that control and profits in this industry remain in the hands of cooks, eaters, and local organizations - not absentee shareholders and tech company executives. The state of California should further legalize sales of homemade food, however, management of third-party intermediaries (such as web apps) in this market should be operated as cook or eater - owned cooperatives, nonprofits, or local government agencies. This policy is partially inspired by longstanding California certified farmers' market regulations.

Numerous technology start-ups have developed web-based platforms that advertise home cooked meals for sale. Some offer consumers the chance to dine at the cook’s home, while others invite consumers to pick up a take-out meal from the cook’s home. Some tech platforms are focused on providing deliveries of food -- whether homemade or not. These platforms are often called “Airbnb of food” or “Uber for food.”

In spring 2016, home cooks using one such web platform (Josephine.com) received cease and desist letters from local health regulators as did Josephine the tech enterprise. Many stakeholders have identified the need to rethink the law around homemade food in California with an eye for legalizing and regulating homemade food, not criminalizing it.

The Sustainable Economies Law Center supports the growth of small-scale enterprises, including homemade food enterprises, as a means for providing localized economic empowerment and increasing the availability of locally produced, fresh foods from diverse sources. Yet, many examples of technology-based approaches to scaling up “peer to peer” economic activity do not achieve these goals. The service models of online platforms such as Airbnb, Uber, and Lyft have raised concerns about exploitation of service providers, evasion of safety, tax, and employment laws, and inadequate safety mechanisms to protect users and the community.

But we have a different vision for homemade food policy in California. The proposal detailed below would expand opportunities for home cooks to operate lawful businesses, while curbing the powers of Big Tech in the food system.
Certified Farmers’ Markets in California: A Model for Building Transparent and Community-Serving Food Systems

The policy proposal below was inspired in part by the recent flourishing of farmers’ markets. In California, farmers’ markets are regulated to ensure food safety and to ensure transparent and direct, farmer-to-consumer transactions. Among numerous rules in California, a certified farmers’ market may only be operated by farmers, by a nonprofit organization, or by a local government (see California Code of Regulations Title 3 §1392.2 (a)). In other words, the central organization or enterprise that manages a certified farmers’ market must be a government agency, a nonprofit, a farmer, or a group of farmers. No other entities are allowed to operate a certified farmers’ market in California.

Policy Proposal For Legalizing Sales of Homemade Food in California

Part A: At Home Kitchens

Like under the existing “cottage food law,” local environmental health departments would inspect kitchens, verify home cooks have undergone safe food handling training, and provide permits. This regulatory oversight would ensure the following. This new class of home food preparation would allow any foods to be prepared, with just a few exceptions. Certain especially risky foods and processing practices, such as whole animal butchering, canning, and serving of raw fish, would be prohibited.

Selling through web platforms: If a home cook sells meals through a third-party web platform, it must be one that is permitted and described in the following Part B.

Part B: Regulating Web Platforms

Require that the ownership and governance of the web platforms designed to facilitate sales of homemade food lie within a community of stakeholders, not absentee investors. Each web platform would be organized as one of the following:

Worker cooperative
Nonprofit mutual benefit corporation
Nonprofit public benefit corporation

Regular shareholder-owned corporations would not be permitted to operate web platforms dedicated to selling homemade food. These restrictions would apply to web platforms designed specifically for the promotion, payment processing, or other facilitation of sales of homemade foods. This section would not apply to home cooks using generic communication (i.e. word of mouth, email) to spread the word about their food offerings.

Why prohibit web platforms from operating as regular for-profit enterprises?

In the tech economy, third party web intermediaries tend to hold a large amount of power over both workers and consumers, particularly because the dominant business model of tech companies is to grow rapidly to control the lion’s share of their market. This keeps competition at bay and provides lucrative return to shareholders. Gig economy tech companies classify service providers (e.g. Uber drivers, task rabbits, etc.) as independent contractors, not employees, so these gig workers lack protections afforded to normal California workers such as minimum wage, overtime, workers’ compensation insurance, and workplace safety rules. These workplace protections have been hard fought for by the labor movement for centuries and the gig economy is rapidly chipping away at them.

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