



# JOY GOEBEN

STATE REPRESENTATIVE • 5<sup>th</sup> ASSEMBLY DISTRICT

January 17, 2024

## Testimony on Assembly Bill 851 Assembly Committee on Regulatory and Licensing Reform

Good Afternoon Chairman Sortwell and members of the Committee. Thank you for hearing testimony on AB 851.

Cotton Candy is not hazardous, it is a sweet treat that is a staple food product at Wisconsin fairs, festivals, and community events.

This idea for this bill came from a constituent who was struggling with regulations on her cotton candy business. To manufacture cotton candy, she needs three pieces of equipment, a sugar scoop, a bowl, and a tub machine.

Depending upon which county she set up shop, she could easily set up a table for her equipment and hand the fresh spun cotton candy across the table to a customer.

In other counties, and depending upon which governmental department she asked, for her three pieces of equipment, she was told to obtain transient, or mobile and service based licenses, and purchase an enclosed food truck or a mobile trailer.

Another option was a push cart with a two or three compartment sink with pressurized hot water. A catering license was also suggested, which required her to rent a commercial kitchen staffed by a certified food manager, and it limited how many customers she could serve. Then the commercial kitchen needed to be inspected by the county before and after she used the kitchen for her three pieces of equipment.

My office reached out to DATCP for clarification and the answer my office was given was different from the answer she received from her home county.

In order to address the inconsistencies in how DATCP regulations are interpreted across Wisconsin, this legislation models cotton candy after the same exceptions enjoyed by the popcorn industry.

*Joy Goeben*



# ROBERT L. COWLES

Wisconsin State Senator, 2nd Senate District

**STANDING COMMITTEES:**

Natural Resources & Energy, Chair

Transportation & Local Government, Vice-Chair

Economic Development & Technical Colleges

## Testimony on 2023 Assembly Bill 851

Senator Robert Cowles

Assembly Committee on Regulatory Licensing Reform

January 17, 2024

Thank you, Chairman Sortwell, for allowing me to submit testimony on Assembly Bill 851. This bill would ease the regulatory burden and standardize rules for small businesses that sell cotton candy.

Under current rules, retail food establishments must hold a license from DATCP to sell their food products, but some establishments may receive waivers from this requirement. Exemptions are often granted to smaller, mom-and-pop outlets that might be operated more as a recreational side business than as the owner's main source of income. Shops selling items such as fresh produce, honey, maple syrup, and freshly-popped popcorn are included under these guidelines.

Rules regarding other sources of food distribution, such as cotton candy, differ from county to county. One county might require entirely distinct preparation standards from another, and another might require the seller to outsource their labor to a certified food manager, thereby significantly increasing the cost on the producer's end. These varying sets of regulations make it difficult for someone who might operate across county lines.

This issue was brought to our attention by a constituent who was experiencing just these issues. Assembly Bill 851 would rewrite the administrative rules and allow for cotton candy to be freshly prepared by an operator *without* an annual DATCP license. This bill offers a standardized set of guidelines for all of Wisconsin's 72 counties, and at the same time treats cotton candy in a manner similar to other freshly-made snacks sold by local mom-and-pop outlets. Lessening this administrative burden on Wisconsin's small business, and allowing the production and selling of cotton candy without a DATCP license, has the potential to be a sweet treat for our economy.

Wednesday, January 17, 2024

Testimony of Rhonda Richlen

**IN SUPPORT of Assembly Bill 851 & Senate Bill 814** relating to: license requirement exemption for retail food establishments that sell or process cotton candy.

Thank you Chairman Sortwell and members of the committee.

My name is Rhonda Richlen. I, along with my son Braedon Richlen who is also present today, own Cottontail Candy, LLC based out of the Village of Ashwaubenon in Brown County. We specialize in making affordable, freshly spun cotton candy made on-site for people of all ages. We opened our business in April 2023. I am testifying in support of Assembly Bill 851 and Senate Bill 814 and I ask for your support.

Last year, I created Cottontail Candy thinking it was a simple business idea which would require minimal equipment and ingredients, space to create, and what I thought would be *no* licensing requirements. However, my business journey quickly became a frustrating licensing fiasco.

Cotton candy is made on a machine with three parts - a base with a heating element, a stainless steel tub (which is much larger than any commercial sink), and a dome to cover the tub to contain the cotton candy and to prevent debris from falling in. Cotton candy is made from one ingredient, sugar, with a little food coloring and flavoring. To create fluffy cotton candy we place a scoopful of sugar into the spinning heating element. The heated sugar turns to liquid strands that instantly cool into fluffy strands when it hits the air.

When we formed our business I was sure I did not need to be licensed due to the nature of the product and how it is created. After working at a public event, one event coordinator questioned my licensing with the Brown County Public Health Department. In turn, a sanitarian called me to tell me that I needed licensing. I questioned this licensing because my product is considered a "non-potentially hazardous" food product. As you know already from storing sugar in your own homes, sugar does not need "time/temperature control" for food safety. Sugar can safely remain unrefrigerated and will not support the rapid growth of bacteria.

I have had multiple conversations with various health sanitarians from the Brown County Public Health Department and the City of DePere, and a representative from the Division of Food and Recreational Safety from the Department of Agriculture, Trade and Consumer Protection to get a definite answer of where cotton candy falls under legislation. Each of these governmental agencies has interpreted what is required to sell cotton candy in various venues or set-ups differently.

Regulations and laws should be consistent and equitable when it comes to food and food safety. I see no difference between our product and popcorn, for example. Popcorn can be made on site at both public and private events without obtaining a catering license, food management certification, and spending thousands of dollars on renting or building a commercial kitchen to warewash their equipment. Our business would need all of these things. To operate out of a mobile trailer, I would need to purchase a mobile license, service base license, and pay for

inspections. With our product, the service base is needed just for a commercial sink to wash two large pieces of equipment - the stainless steel tub and the dome. We do not use a stove, oven, or refrigerator to create or store our product.

There are many inconsistencies in the current law when it comes to selling cotton candy. Currently, I operate our business under a canopy tent on tables with a transient license where I am required to have a handwashing station, and a warewashing station for my equipment. However, there really isn't anything to wash during events. The cotton candy tub and dome stay intact until the end of the event. If I drop the sugar scoop, I would just grab another. If I wanted to cater at a wedding, a private birthday party, or other special event I would need a catering license, a licensed service base equipped with a three compartment commercial sink, and obtain my food management certification (which I already did). I am not sure why serving a small party has more licensing requirements compared to serving hundreds of people at a public event. What if I would like to pre-package cotton candy in containers or make cotton candy "cakes" at home and bring them to an event? I can't under current law. I can, however, package cotton candy under a canopy with my transient license. How can cotton candy be mandated to such strict licensing requirements being a non-potentially hazardous food product, yet making and baking a cookie or cake with multiple ingredients including butter and eggs can be sold from homes and at events with no licensing requirements?

One of my business goals to operate a cotton candy cart on wheels with or without an umbrella is shattered. I would need to operate under the mobile push cart rules which are required to have "a handwashing sink with hot water under pressure, soap and paper towels, and water tanks." I would also need to return to a service base where I would need a license for at the minimum: waste water disposal, product storage and equipment cleaning in a three compartment commercial sink". Again, for cleaning equipment that touches only one non-TCS ingredient: sugar.

Our immediate business goals are to serve cotton candy to customers both publicly and privately as we see fit for the venue and amount of people: under a canopy on tables, on a push-cart, or in a mobile trailer without spending thousands of unnecessary dollars purchasing a transient license, a catering license, mobile and service base licenses, as well as food management certifications.

On behalf of our business, and people of all ages who enjoy eating cotton candy, please support Assembly Bill 851 and Senate Bill 814.

Thank you,



Rhonda Richlen  
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