



## Quick Tips: Farmers' Market Vendors in Wisconsin

Wisconsin has a vibrant local foods culture, and you are sure to find customers eager for your products. Be sure to follow the rules that govern preparation and sale to help ensure public health and protect your brand!

### **No License Required\***

- **Apple Cider.** Cider must be pressed and bottled by the vendor. Cider must be fully labeled including approved warning statement if unpasteurized/unheated (raw).
- **Baked Items.** Home-baked, not potentially hazardous bakery items may be sold directly to consumers. Items must be baked, such as cookies and cakes. Items that would not be allowed have cream or custard fillings, butter cream frosting or other things that make them potentially hazardous and requiring refrigeration. Be sure to clearly label all allergens!
- **Field-Dried Vegetables.** No license is required for sale of peppers or dry beans that are dried naturally in the field. Product must be protected from spoilage and contamination during the natural drying process. [Tomatoes are not included in this category.]
- **Fruits and Vegetables (raw, intact).** Share the bounty of your harvest! You may rinse in clean water, remove roots and package in bulk for delivery. Not allowed: cutting, trimming or other processing or packaging for individual sale – these steps require a license.
- **Grain.** Grains may be sold for home milling into flour, roasting, malting, etc. A license is required to process grain.
- **Honey.** No license required for honey sold as beekeeper's own that has no added color, flavors, or ingredients, including air incorporated by whipping. Must be appropriately labeled.
- **Jams and Jellies/Canned Fruit.** Home-canned fruits or jams and jellies made in Wisconsin may be sold at farmers' markets in the state without a license. These items must be low-pH (under 4.6), the items must be made in a home kitchen and sales are limited to \$5,000 per person per year. Canned goods must be properly labeled, including an ingredient statement, and a notice posted at the point of sale letting consumers know the product is homemade and not subject to state inspection.
- **Maple Syrup.** Producers of maple syrup may bottle and sell their product at farmers' markets as long as only exempt products are sold by the producer, e.g. fresh fruits and vegetables, honey, sorghum, cider, and/or maple syrup. Product must be fully labeled.
- **Pickled Vegetables (Canned).** Home-canned pickled vegetables made in Wisconsin may be sold at farmers' markets in the state without a license. These items must be low-pH (under 4.6), the items must be made in a home kitchen and sales are limited to \$5,000 per person per year. Canned goods must be properly labeled, including an ingredient statement, and a notice posted at the point of sale letting consumers know the product is homemade and not subject to state inspection.

A Wisconsin law in 2011, sometimes called the 'pickle bill', allows limited sales of home-canned acid or acidified foods without a license. Product must be produced in a home kitchen, sales are limited to \$5,000 per year, and must be direct to consumers; farmers' markets are one of the approved sales locations. Labeling of the product must include: *"This product was made in a private home not subject to state licensing or inspection."* Information [here](#) or <https://datcp.wi.gov>

\*General summary. Contact Barb Ingham, Food Safety Specialist (608-263-7383, [bhingham@wisc.edu](mailto:bhingham@wisc.edu)) or DATCP Licensing Specialists to find out more: 608-224-4923. Continue reading for more information.



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### License Required

A license will be required either to sell and/or to process many products that may be sold at a farmers' market. Licensing is generally required if 'exempt' sales are over the allowed amount or for out-of-state sales – only



raw, intact fruits and vegetables may generally be sold across state lines without a license. Potentially hazardous items such as eggs, fresh meats, and baked goods that require refrigeration, will generally require a mobile retail license. Other licenses apply to the production or manufacture of a certain types of foods or beverages. Local ordinances may require further licensing. Examples of items where a license of some sort is generally required for farmers' market sales in Wisconsin include:

- **Bakery items** that are potentially hazardous or processed in a commercial kitchen.
- **Beef, pork, lamb, poultry and other meat items** – a mobile retail license will be required. Other licenses may also be required.
- **Candy, confections** – a license is required to make candy and confectionary items for sale. Yum!
- **Dairy products** such as fluid milk, cream, butter, cheese, yogurt and more require a mobile retail license for sales at farmers' markets. Other licenses may also be required.
- **Dehydrated or dried fruits, herbs, vegetables, or meat** (except for field-dried peppers and beans) must be prepared for sale under license.
- **Dry food or beverage mixes or blends** must be manufactured under a license.
- **Eggs** from the farm find eager customers at farmers' markets. A mobile retail license is required for vending. Other rules also apply.
- **Farmed fish and seafood** - fish sold at a farmers' market must come from a licensed retail food establishment or food processing plant. Mobile retail license required.
- **Juice products** produced on-site or sold at a farmers market require licensing.
- **Pet foods** must meet standards similar to human foods and must be manufactured under a license.
- **Processed fruits and vegetables**, including frozen, cut, dried, and packaged items, must be produced under a license for sale at farmers' markets.
- **Refrigerated foods** that are sold at a farmers' market require a license for manufacture and sale.
- **Sauces and condiments** – while items such as apple or tomato sauce may be exempted from licensing under the 'pickle bill', most sauces and condiments require licensing.

NOTE: Vendors from **outside of Wisconsin must comply with Wisconsin regulations to sell in the state.** Call the Licensing Specialists to see if your idea 'fits' with what is allowed.

**Licensing Specialists** at the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) will direct vendors to the licensing requirements for their individual business. Contact DATCP Licensing Specialists at 608-224-4923 or [datcpdfslicensing@wi.gov](mailto:datcpdfslicensing@wi.gov)

To find out more, click on these links or enter these terms in your favorite search engine:

- Direct Marketing of Meat and Poultry (Wisconsin). Web page.
- Wisconsin Local Food Marketing Guide. 109 pages. Chapter 4 (Rules, Regulations and Liability) (2014)
- Licensing Exemption for Home Bakers (Wisconsin). Web page. (2018)
- Selling Home Canned Foods (Wisconsin). Web page. (2011)
- Selling Maple Syrup in Wisconsin. Web page.

**NOTE: In spite of what many web sites say, Wisconsin does not have a cottage food law! Please refer to official documents for accurate, up-to-date information.**



State of Wisconsin

## Department of Agriculture, Trade and Consumer Protection



# Licenses and Homemade Not Potentially Hazardous Foods

The Department has submitted an appeal in Lafayette County Case Number 2021CV000013, [Wisconsin Cottage Food Association, et al. vs. Wisconsin Department of Agriculture, Trade and Consumer Protection, et al.](#) This webpage is up to date and will be updated as needed based on court decisions. For more information about food licenses, please contact a licensing specialist at [datcpdfslicensing@wisconsin.gov](mailto:datcpdfslicensing@wisconsin.gov).

A 2017 Lafayette County Circuit Court decision, and later court clarifications, prohibited enforcement of licensing requirements for home bakers who make baked goods that are not potentially hazardous and sell those items directly to consumers. On December 28, 2022, the Lafayette County Circuit Court extended that ruling to home producers who make any foods that are not potentially hazardous, and who sell those items directly to consumers. The Department has appealed.

Listed below are points of information regarding key parts of the court decisions in effect at this time.

## Home Producers of Not Potentially Hazardous Foods

The court's orders apply only to people producing not potentially hazardous foods in their homes. All commercial kitchen baking businesses must follow the Wisconsin Administrative Code requirements of ATCP 70 ([Wholesale Food Manufacturing](#)), or ATCP 75 ([Retail Food Establishments](#)) and its Appendix ([Wisconsin Food Code](#)). Commercial kitchens must ensure that all food businesses using their facilities are appropriately licensed.

## Not Potentially Hazardous Food

The court's orders apply only to foods that are not "potentially hazardous foods," as that term is defined in Wis. Stat. §§ [97.29\(1\)\(hm\)](#) and [97.30\(1\)\(bm\)](#). Potentially hazardous foods are defined as "time/temperature control for safety food" or "TCS food" at Wis. Admin. Code §§ [ATCP 70.02\(33\)](#) and [ATCP 75.04\(38\)](#), with the meaning given in ch. [ATCP 75 Appendix](#) part 1-201.10 (B). An item made under the court's order might or might not be potentially hazardous before it is produced, but the finished, ready-for-sale product must not be potentially hazardous. Any business producing potentially hazardous foods must be licensed.

## Direct Sales to Consumers

The court's order only applies if the home producer only sells their items that are not potentially hazardous directly to consumers. A business that is wholesaling such goods must be licensed.

**Disclaimer:** *Ongoing litigation may change the applicability or accuracy of the above information. Business operators are advised to practice due diligence in determining whether their practices require them to hold a food business license. For more information, please contact a licensing specialist at (608) 224-4923 or [datcpdfslicensing@wisconsin.gov](mailto:datcpdfslicensing@wisconsin.gov).*

## Contact Us

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