

Will I ever have to be inspected?

An individual vendor meeting the definition of an HBV is subject to food testing and/or inspection if: 1) the state department determines that the individual vendor's food product is misbranded or adulterated; or 2) a consumer complaint has been received by the state department. If the state department has reason to believe that an imminent health hazard exists with respect to an individual vendor's food product, the state department may order cessation of production and sale of the food product until the state department determines that the hazardous situation has been addressed. In order to determine if a hazardous situation exists, the state health commissioner or the commissioner's authorized representatives may take samples for analysis and conduct examinations and investigations through any officers or employees under the state health commissioner's supervision. Those officers and employees may enter, at reasonable times, the facilities of an individual vendor and inspect any food products in those places and all pertinent equipment, materials, containers, and labeling.

What is my Product Liability for Foods Produced by HBVs?

Product liability is an important question for foods produced by HBVs. Since these foods are not inspected by regulatory agencies, liability insurance may be difficult to obtain.

HBVs are advised to contact their legal counsel and/or insurance provider for advice on product liability issues.



Contact Resources for HBVs

There are four important resources that can provide help for questions related to HBV produced foods.

- 1.) The first point of contact should be your local health department. They should be able to answer most questions that you have. A list of local health departments is available at https://www.in.gov/isdh/reports/FoodProtection/FoodProctContacts_by_county.html Elkhart County can be reached at 574-971-4600.
- 2.) If your question goes unanswered, your second point of contact should be the ISDH Food Protection Program at 317-233-8569, food@isdh.in.gov.
- 3.) Purdue University may also be able to provide some assistance. A directory of Extension county offices is provided at www.ag.purdue.edu/extension/Pages/Counties.aspx.
- 4.) A special link has been created (<http://www.ag.purdue.edu/foodsci/Pages/IN-HEA-1309-info.aspx>) on the Purdue Food Science website. Here you will find a listing of frequently asked questions (updated periodically), the guidance document prepared by ISDH for HEA 1309, and a copy of HEA 1309.



4230 Elkhart Road
Goshen, IN 46526

Phone: 574-971-4600
Fax: 574-971-4599
elkhartcountyhealth.org

Promoting a Healthful Life and Environment

Home Based Vendor Guidelines



Brief

Overview

In May 2009 the Indiana legislators passed House Enrolled Act (HEA) 1309. This new Act excludes Home Based Vendors (HBV) from the definition of Retail Food Service Establishment and exempts them from the regulations of retail food establishments such as registration, licensing, and health inspections. HEA 1309 allows for the production and sale of certain foods that do not present an appreciable public health risk but does not allow the production and sale of foods that may create a public health risk, also called "potentially hazardous foods" (PHFs).

Whom or What is Considered a Home Based Vendor (HBV)?

A home based vendor is defined as: An individual vendor of a farmer's market or roadside stand if the individual vendor's food product:

1. is made by an individual in the Individual's primary residence;
2. is not a potentially hazardous food product;
3. is prepared by an individual who practices proper sanitary procedures including: proper hand washing, sanitization of the container or other packaging in which the food product is contained; and safe storage of the food product.

Examples of Foods that Can Be and Cannot Be Sold by HBVs

An important aspect of HEA 1309 is that PHFs are not to be sold by HBVs. The definition of a PHF is a food that is natural or synthetic and requires temperature control because it is in a form



capable of supporting any of the following:

- 1) the rapid and progressive growth of infectious or toxigenic microorganisms,
- 2) the growth and toxin production of *Clostridium botulinum*,
- 3) in raw shell eggs, the growth of *Salmonella enteritidis*;

and the term includes the following:

1. a food of animal origin that is raw or heat treated,
2. a food of plant origin that is heat treated or consists of raw seed sprouts,
3. cut melons, or
4. garlic in oil mixtures.

Table 1 (right) provides some examples of foods that can be sold and foods that may NOT be sold by HBVs. This list is by no means comprehensive of all of the products that we may find at farmers markets and roadside stands. If you have specific questions about your product, you should contact your local health department.


Where can foods prepared by HBVs be sold?

Foods prepared by HBVs may only be sold at farmers' markets and roadside stands. HBV foods may not be sold at any other venue including retail food establishments (ex: foodservices, restaurants, grocery stores, or gas stations), festivals, fairs, carnivals, or any other event and may not be delivered.

What are the Labeling Requirements of Foods Produced by HBVs?

All foods produced by HBVs must be labeled with the following statement in at least 10 point type: **“This product is home produced and processed and the production area has not been inspected by the State Department of Health.”** Labels must also contain other information to include: the name and address of the producer of the food product; the name of the food product; the ingredients in the food product in descending order by weight; net weight and volume of final product or numerical count; and date on which the product was processed.

Table 1. Examples of Foods that May and May Not Be Sold by HBVs

Food Type	Foods that May Be Sold	Foods that May Not be Sold
Baked Goods	Cookies, cakes, fruit pies, cupcakes, bars, yeast breads, fruit breads, baguettes	Foods that contain meat, poultry, aquatic animals, non-baked dairy (cheese, butter, yogurt), non-baked egg containing products and whole eggs, cheesecakes, and other foods requiring refrigeration
Candies and Confections	Caramels, chocolate, fudge, peanut brittle, chocolate covered fruits, bon bons, buckeyes, chocolate covered nuts	
Fruit and Vegetables 	Unprocessed, whole and uncut items such as cherries, blackberries, cranberries, grapefruit, strawberries, oranges, blueberries, plums, tomatoes, corn, lettuce, green beans, peppers, etc. Fruit –based jams and jellies (made from strawberries, blueberries, grapes, raspberries, blackberries, etc.) Fermented pickles that do not require acidification and do not require refrigeration.	Canned products that are shelf-stable in an hermetically sealed containers such as salsas, chutney, chow-chow, and canned vegetables. Pickled vegetables (beets, pickles) that are shelf-stable Cut tomatoes and cut melons Garlic in oil mixtures, herb and oil mixtures Raw seed sprouts Fruit butters (i.e. pear, pumpkin)
Meat, Poultry, and Seafood	None identified.	Canned products that are shelf-stable in an hermetically sealed containers such as canned vegetables, canned meats, and canned seafood.
Tree nuts and legumes	Peanuts, almonds, cashews, walnuts, pistachios, etc.	
Syrups	Honey, molasses, sorghum, maple syrup	