



Elkhart County Health Department

## Environmental Health Services

4230 Elkhart Road Goshen, IN 46526  
Phone 574-971-4600 Fax 574-971-4599  
elkhartcountyhealth.org

### 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 (next page) 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.

**What is my Product Liability for Foods Produced by HBVs?**

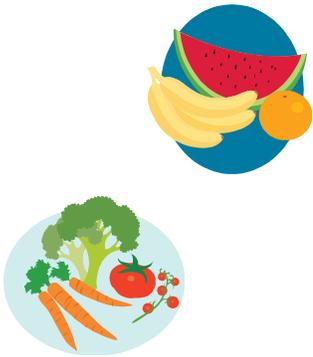
Product liability is an important question for foods produced by HBVs. Since these foods are not inspected by regulatory agencies, liability insurance may be difficult to obtain. HBVs are advised to contact their legal counsel and/or insurance provider for advice on product liability issues.

**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.



**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
<b>Baked Goods</b>	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
<b>Candies and Confections</b>	Caramels, chocolate, fudge, peanut brittle, chocolate covered fruits, bon bons, buckeyes, chocolate covered nuts	
<b>Fruit and Vegetables</b> 	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)
<b>Meat, Poultry, and Seafood</b>	None identified.	Canned products that are shelf-stable in an hermetically sealed containers such as canned vegetables, canned meats, and canned seafood.
<b>Tree nuts and legumes</b>	Peanuts, almonds, cashews, walnuts, pistachios, etc.	
<b>Syrups</b>	Honey, molasses, sorghum, maple syrup	