

Home Based Vendors Basics

Lisa Harrison, Training Specialist
Indiana State Department of Health
Food Protection Program



Indiana State
Department of Health

What is a Food Establishment?

- Food Establishment (FE) is defined in IC 16-18-2-137 and regulated under IC 16-42-5
 - Selling whole uncut produce, pre-packaged non-potentially hazardous food
- Retail Food Establishment (RFE), regulated under 410 IAC 7-24
 - Restaurants, schools, hospitals, grocery stores
- Wholesale Food Establishment (WFE), regulated under 410 IAC 7-21
 - Manufacturers, warehouses

What is Not a Food Establishment?

- Private residences and bed and breakfasts under 410 IAC 7-15.5
- Private gatherings such as weddings, family reunions, etc.
- Vehicles transporting food to the needy
- Some not-for-profits organizations, some schools, and some churches

What is Not a FE Continued...

- “Home Based Vendor” (HBV), aka “Section 29 Vendor” when they comply with IC 16-42-5-29
- Holder of a winery/brewery permit (Indiana Alcohol and Tobacco Commission) at a temporary event regulated under IC 7.1
- Sellers of some poultry, eggs, rabbits (further discussed in this presentation)

ISDH Terms

- A “**Farmers Market**” is a common facility where two or more farmers or growers gather on a regular basis to sell a variety of fruits, vegetables and other farm products directly to consumers
 - Could be simultaneous with other events
 - This is NOT an individual food establishment, such as a store that buys and sells local grown produce

ISDH Terms

- A **“Home-Based Vendor”** is an individual who:
 - Has made, grown, or raised a food product at their primary residence, property owned or leased by them
 - Is selling the food product they made, grew or raised **only** at a roadside stand or farmers market; poultry, rabbit and eggs may be sold from the farm
 - Complies with IC 16-42-5-29
- A **“Roadside Stand”** is:
 - A place, building, or structure along, or near, a road, street, lane, avenue, boulevard, or highway where a HBV sells food product(s) to the public.

Statutory Term

- **Potentially hazardous food products (PHF)**
 - PHF are natural or synthetic foods that require temperature control because of capability to support:
 - Rapid and progressive growth of infectious/toxigenic microorganisms
 - Growth and toxin production of *Clostridium botulinum*
 - In raw shell eggs, the growth of *Salmonella enteritidis*
 - pH (acidity), water activity (A_w) and other intrinsic factors are considered when making a determination
 - The term includes: meat, dairy, cut melons, cooked produce, raw seed sprouts, and garlic-in-oil mixture that are not modified in a way that results in mixtures that do not support growth

Statutory Term

- An “**End Consumer**” is a person who is the last person to purchase any food product and who does not resell the food product
- As found in IC 16-42-5-29(b)

Examples of PHF

- Meat, poultry, aquatic animal products
- Dairy
- Egg products
 - Excluding some baked items and dried noodles; raw shell eggs are able to be sold through the Indiana State Egg Board

Examples of PHF

- Use of “reduced oxygen packaging” (ROP) methods
- Canned or hermetically sealed containers of acidified or low-acid foods; produce items in an oxygen sealed container
- Cut melons, raw seed sprouts
- Jerky
- Non-modified garlic-in-oil mixtures
- Cut tomatoes and cut leafy greens
 - FDA says these products require Time/Temperature Control for Food Safety (TCS) which equals a potentially hazardous food

Examples of HBV Products

- Baked goods – cakes, fruit pies, cookies, brownies, dry noodles
- Candy and confections – caramels, chocolates, fudge, hard candy
- Whole, uncut produce
- Tree nuts and legumes
- Honey, molasses, sorghum, maple syrup
- Jams, jellies, preserves – only high acid fruit in sugar
- May be temperature controlled only for quality
- Some rabbit, poultry and in-shell chicken eggs
- Fermented produce “traditionally pickling”... when not in an oxygen sealed container

Can't be Done as a HBV

- Pickles, made by acidification or fermentation, cannot be sold by a HBV if the product is sold in an oxygen sealed container
- “Low acid” and “acidified foods” cannot be done by HBV
- Examples:
 - Green beans, pickled beets, salsa, etc.
- Shell eggs not from a domestic chicken (duck, quail, turkey)

HBV Poultry

- Up to 1000 birds not a FE
 - Can be sold to the end consumer at a Farmers Market, roadside stand, from the farm
- Over 1000 birds contact Meat and Poultry Division of the Indiana State Board of Animal Health (BOAH)
- 1-20,000 BOAH “limited permit” to sell to RFEs
- All poultry produced and sold at a farmers market or roadside stand must be sold frozen
- All poultry sold on the farm must be sold refrigerated at the point of sale

HBV Rabbit

- IC 16-42-5-29(i) says: rabbits that are slaughtered and processed on the farm to be sold on the farm, at a farmers market, or at a roadside stand:
 - Is not a “food establishment”
 - Must sell rabbits frozen at a farmers market or roadside stand
 - Must sell rabbits refrigerated from the farm at the point of sale and through delivery
 - Only to end consumers

Types of Vendors at Farmers Market

- A Farmers Market must have at least 2 farmers present, but there may also be other types of vendors
- Market organizer may choose which types of vendors may be present at the Farmers Market, including:
 - Food establishments selling prepackaged, non-PHF from commercial sources
 - Whole, uncut produce
 - Retail food establishments (RFEs)
 - Some not-for-profit organizations
 - Wholesalers
 - Farmers of live fish and shrimp

Labeling

- HBV food products must be labeled according to IC 16-42-5-29(c)(5)
 - Producer's name and address
 - Common or usual name of food product
 - Ingredients of food product
 - Net weight and volume or numerical count
 - Date food product was processed
 - The following statement in 10 point type: **“This product is home produced and processed and the production area has not been inspected by the State Department of Health.”**

Labeling

- In place of labeling on the product, a placard may be used in some situations:
 - When the product sold is not packaged (i.e. produce)
 - Must contain all the required labeling information in IC 16-42-5-29(c)(5)

Labeling

- Labeling exceptions to IC 16-42-5-29(c)
 - Poultry see BOAH
 - Labeling will include the name & address of the producer, common or usual name of the food product, net weight or volume, ingredient list, date the food product was produced and the statement:
 - “Exempt P.L. 90-492” or similar statement notifying the consumer that the product was produced and processed at a facility that is exempt from inspection under IC 15-17-5-11, or
 - “Limited Permit – Retail HRI” if produced in an establishment operated under a limited permit described at IC 15-17-5-11(f)
 - Chicken eggs see Indiana State Egg Board

Giving Samples of HBV Products

- IC 16-42-5-29(c)(3) says, “practices proper sanitary procedures”
 - Sampling does not include the assembling of 2 or more HBV food products at point of sale
 - Sampling must be discontinued if not conducted in a sanitary manner
 - Practicing proper sanitary procedures include:
 - Hand washing
 - Sanitation of container packaging
 - Safe storage of food product
 - Protection from contamination

Additional Points for HBVs

- May not sell other commercially prepared products (prepackaged items)
- Shall not deliver to any location other than a farmers market or roadside stand (pre-ordering is acceptable)
- May not sell products in another state at a farmers market or roadside stand without meeting the requirements of that state

Regulatory Authority

- A HBV is subject to inspection and/or laboratory sampling **if**:
 - The HBV is non-compliant with IC 16-42-5-29(d) or (e)
 - The HBV's food product is misbranded or adulterated
 - A consumer complaint is received
 - There is an imminent health hazard

Regulatory Authority

- Why would the regulatory authority be at the farmers market?
 - May be at a farmers market inspecting the RFEs and other general sanitary conditions of the market
 - May be ensuring that HBV products are not PHF, labeled, and sanitary requirements are met
 - Educate market masters and vendors

HBV Review

- A HBV becomes a food establishment and is subject to applicable food safety laws if they do any of the following:
 - sells a PHF (except poultry/rabbits under IC 16-42-5-29(h) & eggs under (j))
 - Sells food products other than those produced in the home
 - Sells wholesale (not to the end consumer)
 - Fails to meet the specified requirements in IC 16-42-5-29

Contacts

- **BOAH** – Poultry production as an HBV
 - animalhealth@boah.in.gov
 - 317-544-2400 or 877-747-3038
- **Indiana State Egg Board** – Eggs and egg regulations
 - straw@purdue.edu
 - 765-494-8510
- **Purdue Product Testing**
 - 765-494-7997
- **ISDH Main Office**
 - 317-234-8569

Questions

Lisa Harrison, ISDH Training Specialist

100 N. Senate Ave. Room N855

Indianapolis, IN 46204

317-234-8569

lharriso@isdh.in.gov