



## *Home Based Vendors Basics*

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# 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
- Wild mushrooms (risk with this product therefore ISDH strongly advises the mushrooms be identified by an ISDH recognized mushroom expert)

# **Can't Be Done as a HBV**

- Heat treated vegetables
- Fermented vegetables in sealed containers
- “Low acid” or “acidified” canned foods
- 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 16-24-5-29(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](mailto:animalhealth@boah.in.gov)
  - 317-544-2400 or 877-747-3038
- **Indiana State Egg Board** – Eggs and egg regulations
  - [straw@purdue.edu](mailto:straw@purdue.edu)
  - 765-494-8510
- **Purdue Product Testing**
  - 765-494-7997
- **ISDH Main Office**
  - 317-234-8569



# Questions

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