

Jay COUNTY HEALTH DEPARTMENT

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REQUIREMENTS FOR HOME BASED VENDORS

Based on House Enrolled Act 1309

On May 6th, 2009, Governor Mitch Daniels signed into effect HB 1309, making it possible for businesses to prepare food out of their home as a Home Based Vendor. One of the important goals of HEA 1309 is to allow for the safe production and sale of certain foods that do not present an appreciable public health risk and to not allow for the production and sale of foods that may create a public health risk, also called “potentially hazardous foods”. Home Based Vendors may participate in Farmers Markets or selling from Roadside Stands.

HEA 1309 excludes Home Based Vendors offering food at Farmers Markets and Roadside Stands from the definition of “food establishment”; therefore, they are not subject to permitting, inspection, and registration requirements imposed on food establishments by the Jay County Health Department, Indiana State Department of Health, or other Indiana food regulatory authorities. The Jay County Health Department may, at any time, inspect food products and/or labeling to ensure that the Home Based Vendor is maintaining their exemption status. Samples may be taken for testing to confirm that food is non-potentially hazardous. **A Home Based Vendor failing to meet the requirements of HEA 1309 will be considered a food establishment, and will be subject to all food safety requirements of a food establishment (such as a grocery store, restaurant, or café).**

Home Based Vendor Overview

- To comply with HEA 1309, a Home Based Vendor may only sell their food in two places:

1. Farmers’ Market
2. Roadside Stand

These products may NOT be sold at any other venue, such as grocery stores, restaurants, fairs/festivals, and may not be sold to another food establishment for resale. Preordering by telephone, internet, in person, mail order, etc. of a Home Based Vendor food product is acceptable. However, the consumer must take possession of the Home Based Vendor food product at the Farmers’ Market and/or Roadside Stand.

- The production area of a Home Based Vendor is required to be in the vendor’s primary residence and will not be routinely inspected. **The production area may include another building or structure on the Home Based Vendor premises.** The Home Based Vendor cannot comingle the activities of a Home Based Vendor and those of a food establishment. **One is either a Home Based Vendor, or a food establishment – not both.**
- Any food product provided by a Home Based Vendor MUST include a label which contains the following:
 - The name and address of the producer of the food product
 - The common or usual name of the food product
 - The ingredients of the food product, in descending order by predominance by weight
 - The net weight and volume of the food product by standard measure or numerical count
 - The date on which the food product was processed
 - 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.”**

This labeling MUST be present with and/or on the food at the point of sale regardless of whether or not the food is packaged. There are no exceptions! Unpackaged food will be considered labeled when there is easily readable signage accompanying the food product stating all of the above listed items. A Home Based Vendor product which is not labeled according to HEA 1309 is misbranded and may not be sold until the label is provided or corrected.

- A Home Based vendor is not permitted to sell potentially hazardous food products (food that requires hot or cold holding to prevent the growth of bacteria, such as dairy products, meat, cooked noodles, soups, etc.).

Examples of Foods that May Be and May Not Be Sold by Home Based Vendors 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 fresh whole eggs, cheesecake, cream pies
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 an in 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 that have been harvested Fruit butters (i.e. pear, pumpkin)
Meat, Poultry, and Seafood	None identified.	Canned products that are shelf-stable an in 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	

- If the Home Based Vendor is considering product sampling, please contact the Jay County Health Department for direction. Home Based Vendors must practice proper sanitation procedures, including proper hand washing, sanitation of food contact surfaces and packaging, and safe storage of the product, including protection during display and service. Because these foods are not inspected by regulatory agencies, liability insurance may be difficult to obtain. Home Based Vendors are advised to contact their legal counsel and/or insurance provider for advice on product liability issues.

Contact Resources for Foods Produced by Home Based Vendors

1. The Jay County Health Department. Business hours are 8:30am-4:30pm Monday-Friday. HEA 1309 can be acquired at our office.
2. ISDH Food Protection Program at 317-233-7360. www.in.gov/isdh
3. 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.