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## INTRODUCTION:

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The Indiana Legislature passed the House Enrollment Act 1309 in 2009. This was amended with the HEA 1149 in 2022. These acts made it possible for individuals to prepare certain foods out of their homes as a “Home Based Vendor” or an “HBV”. Home Based Vendors are only able to sell certain non-potentially hazardous products, with specific requirements. If an HBV does not meet these specific requirements, they will then be considered a “Retail Food Establishment” and need to become a licensed business.

## DEFINITIONS:

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- 1) **“Home Based Vendor or HBV”**; means a person or persons who produce food products only in the **primary residence**. A home-based vendor operation shall not operate as a retail food establishment, retail food store, or wholesale food manufacturer.
- 2) **“Primary Residence”**; This terms includes any permanent structure that is on the same property as the residence of the HBV. HBV’s may NOT use leased spaces off their property to make, grow or raise food products
- 3) **“Non-potentially hazardous food”**; This would be items such as baked goods, jams, jellies, or goods that do not require refrigeration for safety. There is a specific list of goods that can be produced on pages 2-4 of this document
- 4) **“Potentially Hazardous Food”**; (“time/temperature control for safety food” or “TCS food”) means a FOOD that requires time and temperature control for safety to limit pathogenic microorganism growth or toxin formation.
- 5) **“Hermetically Sealed”**; means food that is packaged or canned in cans or glass jars that do not allow oxygen exchange.
- 6) **“Food Handler’s Certificate”**; Is a certificate obtained from an ANSI approved agency to show basic food knowledge. This certificate must be obtained in order to operate as an BV, and a copy provided to the Health Department of the County in which the HBV resides. For a list of approved ANSI Certificate providers go to this website;  
**<https://anabpd.ansi.org/accreditation/credentialing/certificate-issuers>**
- 7) **“Roadside Stand”**; – A structure, tent, trailer or vehicle that is visible from the road and no more than 100 feet from road edge.
- 8) **“Farmer’s Market”**; – A gathering of two or more produce producers for the purpose of selling home grown produce
- 9) **“Retail Food Establishment”**; – a licensed business meeting all local, state and federal requirements for licensing that operates from a commercially approved licensed kitchen

## **LIMITATIONS:**

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- 1) The HBV cannot co-mingle the activities of HBV food production and those of a food establishment. If an HBV sells food products other than those produced in the home, it becomes a food establishment. One is either an HBV or a food establishment, not both.
- 2) The food product of an HBV may not be resold. The product is subject to the laws of the State of Indiana and the Federal Food, Drug & Cosmetic Act. In order to be able to resell a product, or to wholesale a product one must become a Food Establishment and be inspected by the Indiana Department of Health (IDOH).
- 3) The regulatory authority (which can be a local Health Department or IDOH) may examine the HBV food products and products labeling when being offered for sale, to ensure they are in fact in compliance with the new law to maintain their HBV exemption.
- 4) HBVs are subject to regulatory sample collection, inspection, investigation, and other enforcement activities if there is a complaint, a non-compliance or an imminent health hazard

## **HOME BASED FOOD PRODUCTS:**

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- 1) Some examples of a traditional HBV food products that could be produced are:
  - Baked items, such as cookies, cakes, fruit pies- (no crème pies or pumpkin pies), cupcakes, bars, yeast breads, fruit breads, baguettes
  - Candy and confections, such as caramels, chocolates, fudge, peanut brittle, chocolate covered fruits, bon-bons, buckeyes, chocolate covered nuts
  - Produce, such as unprocessed, uncut fruits and vegetables (i.e cherries, blackberries, cranberries, grapefruit, strawberries, oranges, blueberries, plums, tomatoes)
  - Tree nuts, legumes
  - Pickled cucumbers that are processed in a traditional method (open containers and no vinegar or acidifier added)
  - In-shell chicken eggs (with Farmer's Market license from the Egg Board)
  - Rabbit and poultry (if frozen and processed at the farm)
  - Honey, molasses, sorghum, maple syrup
  - More- consult with your local Health Department for specifics
- 2) The above foods may be refrigerated or frozen for quality purposes only, not because they need to be.

- 3) Mushrooms grown as a product of agriculture are not restricted from sale. Uncultivated (wild) mushrooms must be certified in writing by a person competent to make such a distinction between species. There is a list of acceptable mushroom experts at [www.IN.gov](http://www.IN.gov). Type in "Mushroom Experts" and follow the link on that page to the most current list of experts in the State. These mushroom experts must be contacted in order to sell mushrooms at a Farmer's Market as they will certify them as suitable for human consumption. The HBV will receive an approval certification.
- 4) All HBV products in their final form shall not be a **potentially hazardous food**. HBV food products may not contain ingredients in any form which have a component of:
- Meat,
  - Poultry,
  - Aquatic animal products, (fish etc., unless brought live to the Market)
  - Dairy (including cheese, butter, yogurt). Baked items such as cakes and cookies are acceptable
  - Egg products (except egg in baked items such as cakes and cookies, and dried noodles). Fresh shell eggs are acceptable to be sold with a Farmer's Market Egg license.
  - Heat Treated Plant food, (vegetables that have been baked, cooked or fried are not allowed).
- 5) HBV products sold at the farmers market or roadside stand that are also allowed;
- **Meat**
    - i. **Allowed: Beef, pork, lamb** must be taken to a licensed USDA facility to be processed and packaged. After packaging at the facility, the vendor must sell the meat/ poultry in original packaging with pack date and facility information on label or packaging. Must be kept frozen and sold frozen.
    - ii. **Not allowed:** Any food that has been directly handled or processed in any way by the vendor. For example, an HBV cannot sell jerky. Meat cannot be an ingredient in baked goods.
  - **Poultry:**
    - i. **Allowed:** Up to 1000 birds is considered a Home-Based Vendor, however 1000 or more birds, the HBV must contact Meat and Poultry Division of the Indiana State Board of Animal Health (BOAH). All poultry produced and sold at a farmer's market or roadside stand must be sold FROZEN and labeled correctly. Any poultry delivered to the end consumer must be refrigerated until point-of-sale.
    - ii. **EGGS;** In-shell domestic chicken eggs can also be sold after receiving the Farmer's Market license from the Indiana State Egg Board.

- **Rabbit:**
    - i. **Allowed:** Must be slaughtered and processed on the farm to be sold at a farmer’s market, or at a roadside stand. Rabbit must be sold FROZEN and labeled correctly at a farmers’ market or roadside stand. If delivered rabbit meat must be refrigerated until point-of-sale.
  - **Aquatic Animal Product:**
    - i. **Allowed:** Fish and shrimp must arrive alive at the farmer’s market or roadside stand, and products must be placed immediately on ice.
- 6) HBV food products shall not be:
- A “canned” or “hermetically sealed container” of acidified food
  - A “canned” or “hermetically sealed container” of low-acid food, (i.e. packaged cooked food)
  - Cut melons
  - Raw seed sprouts
  - Non-Modified (pasteurized) garlic-in-oil mixtures
  - Cut tomatoes
- 7) HBV food products shall not be packaged using:
- Packaging considering to be “canned” or hermetically sealed”
  - The “reduced oxygen packaging” method, such as the use of a vacuum packaging machine
- 8) Salsa- Salsa can now be sold if packaged in a container that allows the transfer of oxygen, has a pH under 4.6 and this pH range can be demonstrated to the inspector by a pH meter.

**LABELING:**

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- 1) There are some very specific labeling requirements for the food product of a HBV. Any food product provided by a HBV shall 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 county
  - The date on which the food product was processed
  - The following statement in at least 10 point font, **“The product is home produced and processed and the production area has not been inspected by the State Department of Health. NOT FOR RESALE”** (See example on Page 5)

- 2) The label must be present with and/or on the food at point-of-sale regardless of whether or not the product is packaged. Unpackaged foods would be considered “labeled” when there is an easily readable sign accompanying the food product
- 3) Any food products being shipped or mailed must have tamper-resistant packaging.
- 4) Addresses for any food products being shipped or mailed must be kept on file for a year or more
- 5) Food products being provided to consumers as open samples can be considered to be labeled when there is a nearby container of the same product labeled according to section 29(b)(5)

<b>Chocolate Chip Cookies</b>
Sally’s Cookie Company 123 Home Based Vendor Lane, Anywhere, CA 90XXX
Food Processed: January 3 <sup>rd</sup> , 2022
<b>Ingredients:</b> Enriched flour (wheat flour, niacin, reduced iron, thiamine,-mononitrate, riboflavin and folic acid), butter (milk, salt), chocolate chips (sugar, chocolate liquor, cocoa butter, butterfat, soy lecithin) walnuts, sugar, eggs, salt, artificial vanilla extract, baking soda.
<b>Contains: Wheat, eggs, milk, soy, nuts</b>
<b>“The product is home produced and processed and the production area has not been inspected by the State Department of Health. NOT FOR RESALE”</b>
Net Wt. 3 oz (89 g)

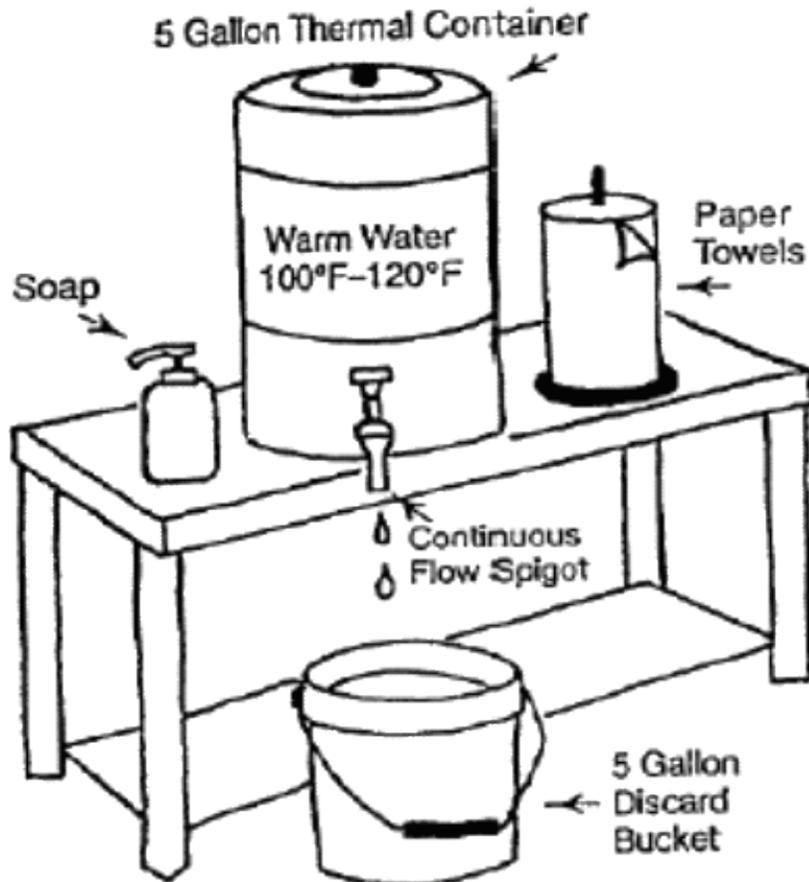
**FOOD SAMPLING:**

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- 1) Sampling of a HBV food product being provided to a consumer is not prohibited. The individual must “practice proper sanitary procedure” as follows:
  - Proper hand washing station and waste bucket for both dirty water and used paper towels.
  - Sanitation of the container or other packaging in which the good product is contained;
  - Safe storage of the food product, which would include protection during display and services, such as single portion service of samples for individual consumers (use of cups, utensils, tongs, and wax paper)
  - Sampling at a roadside market and/or farmer’s market does not include assembling of two (2) or more HBV food products to produce an additional food product. (i.e. HBV food product “strawberries” plus HBV food product “pound

cake” cannot be combined to make another HBV food product, such as a “strawberry shortcake”.

### *Proper Hand Wash Station*



#### **FREQUENTLY ASKED QUESTIONS:**

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**Is there a limit to how much I can sell as a Home-Based Vendor?**

There is not currently a limit on amount of sales.

**What types of Home-Based Vendor products can I produce in my home?**

Specific products are listed in this guidance document, if you have any questions contact your local health department or the Indiana State Health Department Food Protection Division.

**Will I need to meet local zoning or other laws?**

No. This is because the products are sold at a roadside stand or farmer’s market or shipped, and the food production is not from a “retail food establishment”.

**Can I utilize commercial type equipment such as large rotary mixers in my Home-Based Vendor Operation?**

Yes. The equipment for the production of Home Based Vendor products is not limited.

**Does my equipment, stove and/or refrigerator need to be NSF (a food equipment evaluation group) approved?**

No. As a Home Based Vendor, you are not required to meet NSF standards for your equipment used to manufacture HBV products.

**The farmers market where I want to sell my products says I need a food handlers license, even though I am a Home-Based Vendor. Can the market require a license?**

Yes, this license/certificate is required for Home Based Vendors as of 2022 because of the HEA 1149 legislation. A copy should be provided to the Health Department of the County in which you reside.

**Are there any special requirements regarding my home on-site well?**

Well water should be tested annually to ensure there are no harmful bacteria.

**Are there any concerns related to my home on-site wastewater (septic) system?**

Your septic will have an additional challenge in function should you start producing more baked goods that have an oil component such as butter. Please contact your local health department if you would like to have an evaluation on the adequacy of the home septic to handle additional wastewater being produced by your HBV activities. The health department can advise you if modifications to the existing system may be necessary. A grease trap can help but may not prevent septic field failure.

**Why are some products not allowed to be made and sold under the guidance document?**

Home-Based Vendors are not permitted to produce potentially hazardous food products because of the possibility of bacteria growth and health issues. Please refer to the Home-Based Vendor guidance document to identify products that are allowed.

### **Are pet treats allowed to be produced?**

Yes. However, the HBV must obtain a Commercial Feed License for a fee before any product is distributed. This is regulated by the Office of the State Chemist located at Purdue University. Pet food must contain at least 90% vendor-grown/raised/collected products and must not have any growth hormones administered. There are additional charges per item of \$50.

Food must be labeled with the following information:

- Species of pet for which the food is intended
- Net weight
- Guaranteed analysis
- Ingredient statement
- Moisture content
- Name and address of manufacturer

### **Can I sell pet milk?**

There are restrictions on selling milk for pets. It must be adequately labeled with the distributors address, city state and zip, there is a \$50 commercial feed license to the State Chemist's Office, if it is a package under 10 pounds there is an additional \$50 fee per product. It must be prominently labeled "NOT FOR HUMAN CONSUMPTION". Some vendors color the milk pink to prevent mix-ups. A violation of this labeling is a Class A misdemeanor with a fine of up to \$10,000.

### **Can I produce and sell cooked vegetable products, like tomato sauces, spaghetti sauces, or focaccia bread with roasted vegetables?**

No. Food products made with cooked vegetable products do not qualify under the HBV guidance document. Manufacturers of cooked vegetable products such as tomato sauce must meet significant federal and state training and licensing requirements. Cooked vegetables, whether fresh or canned, usually are made from a combination of low acid and acidified foods, and are considered a Potentially Hazardous Food. Cooked vegetables must be held either hot (above 135°F) or cold (below 41°F). They can't be stored at room temperature, which makes them ineligible for production from a Home Based Vendor.

### **Can I roast coffee beans in my home kitchen and sell them?**

Yes. You can roast and sell whole bean coffee or ground coffee, as long as you meet all of the provisions of the HBV guidance document (labeling, storage, etc.); however, since beverages are not allowed under the HBV guidance document, you may not sell ready-made coffee unless you become a Retail Food Establishment.

**Can I bake bread in a wood-fired oven?**

Yes, as long as that oven is in your home kitchen.

**Can I make and sell apple butter, pumpkin butter or other fruit butters?**

Apple butter is acceptable to sell if it has a pH below 4.6. However, other fruit butters are not allowed because they have significantly less sugar than a traditional jam or jelly. It is the combination of acid, sugar, pectin and heat that assures the safety of jams/jellies. In fruit butters, the combination of sugar and pectin is not large enough to assure that the butter is safe. Additionally, with lower sugar and pectin levels, spoilage organisms are more likely to survive the cooking process, which would allow for a micro-environment to develop and allow for the growth of Clostridium botulinum.

**Can I press and sell apple cider?**

No. Apple cider is not a food allowed to be produced by HBV's.

**Are honey and maple syrup covered under the guidance document?**

Yes. Honey and maple syrup are considered HBV foods. However, a warning label should be placed on honey stating "Do not feed honey to infants under one year of age" or some similar warning. This is because honey may contain spores of the bacterium Clostridium botulinum, which infants can absorb easily. Your production facility will fall under State Health Department inspection



**Can I make and sell dehydrated meat or poultry?**

No. Meat and poultry are a potentially hazardous food and are not allowed under the HBV guidance document exemptions.

**I lease space in a retail building where I operate a small antique shop. As a Home Based Vendor, can I sell my own baked goods from my shop?**

No. HBV food products can only be sold at roadside stands or farmer's markets or online via a third party shipper.

**Can I make and sell hard candies or lollipops?**

Yes. Hard candies, lollipops and peppermint candies are allowed under the HBV guidance document, as long as they are labeled correctly and completely, the label includes any allergens the product may contain, and all other rules are complied with.

**Can I make and sell sweet breads, muffins or other baked goods made with fresh fruits and vegetables like zucchini, pumpkin, and strawberries?**

Yes, as long as the fruits or vegetables are incorporated into the batter and properly baked, labeled and packaged. The baked goods may not be decorated or garnished with fresh fruits or vegetables.

**Can I use homegrown fruits and vegetables in baked goods?**

Yes. You should take care to thoroughly wash the homegrown produce and the fruits or vegetables. These must be incorporated into the batter and properly baked, labeled and packaged. The baked goods may not be decorated or garnished with fresh fruits or vegetables.

**Can homegrown produce be canned and used for making baked goods, like sweet breads, at a later date?**

Yes, but the HBV must use their own homegrown produce ONLY. A HBV cannot purchase other homegrown produce from other HBVs or merchants, but commercially-canned products can be used for baked goods, like canned cherry pie filling, etc. However, home-canned products are not allowed for production to sell at a Farmer's Market or Roadside Stand or to be shipped, with the exception of jams and jellies.

**Can I freeze homegrown produce and use it for making baked goods, like sweet breads, at a later date?**

Yes, as long as the frozen fruits or vegetables are incorporated into the batter and properly baked, labeled and packaged. The baked goods may not be decorated or garnished with fresh or frozen fruits or vegetables.

**Can I make and sell dry bread or "instant" bread mixes?**

Yes. Dry bread mixes are an acceptable product to produce and sell under the HBV guidance document, as long as you meet all requirements of the law.

**Does my chocolate fountain business qualify as a Home Based Vendor? I deliver and set up the fountain, and provide chocolate dipping sauce and items to dip (cut up fruit, pretzels, etc.) that I have prepared in my home kitchen.**

The type of business you have described is a catering service or food service business and is not eligible to operate under the HBV guidance document. Home Based Vendor products must be prepackaged and properly labeled prior to sale and only sold at a roadside stand or Farmer's Market.

## Do I have to put a label on my HBV food products?

Yes, you are required to label your HBV Foods. The basic information that must be on the label is as follows:

- There are some very specific labeling requirements for the food product of an HBV. Any food product provided by an HBV shall 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 county
  - The date on which the food product was processed
  - The following statement in at least 10 point font:
    - **“The product is home produced and processed and the production area has not been inspected by the State Department of Health. NOT FOR RESALE”**
- The label must be present with and/or on the food at point-of-sale regardless of whether or not the product is packaged. Unpackaged foods should be considered “labeled” when there is an easily readable sign accompanying the food product.
- Food products being provided to consumers as open samples can be considered to be labeled when there is a nearby container of the same product labeled according to section 29(b)(5)

## Is it necessary to include allergen labeling for Home Based Vendor Food Products?

It is not required but recommended that all allergens in your product are on the label. Allergen labeling means you must identify if any of your ingredients are made from one of the following food groups: milk, eggs, wheat, peanuts, soybeans, fish, shellfish, and tree nuts (such as almonds, pecans or walnuts).

So, if you have an allergen in your product as an ingredient : Include an allergen statement ("Contains:") after the ingredient list. For example, a white bread, with the following ingredients: whole wheat flour, water, sodium caseinate, salt and yeast should state “Contains wheat and milk”.

The "Contains" statement must reflect all the allergens found in the product. In this example, the sodium caseinate comes from milk.

**Are there any special requirements for which tree nuts are used in products?**

No. If HBV food product has tree nuts as an ingredient, it is not mandatory to identify which tree nut you are using, just that the product includes nuts.

**Do I have to include my home address on my product labeling or is a post office box sufficient?**

You must use the physical address of your home kitchen on your product label, not a post office box. The purpose of including an address on product labels is to be able to locate the business in case of a recall or trace back associated with a foodborne illness complaint or outbreak. The HBV guidance document specifies that the name and address of the Home Based Vendor must be included on the label.

**Am I required to send my products to a laboratory to obtain an official ingredient list, or is it something I can put together on my own?**

You are not required to have your product analyzed by a laboratory to obtain an official ingredient list. You should, however, list all ingredients, in descending order of predominance by weight. If you use a prepared item in your recipe, you must list sub-ingredients as well. For example, if you use soy sauce as an ingredient, listing soy sauce is not acceptable; soy sauce (wheat, soybeans, salt) is acceptable.

**If I make and sell wedding cakes, how can I meet the labeling requirements, when I can't stick a label on the cake?**

For wedding cakes, birthday cakes and other specialty cakes that are not easily packaged, you must include all labeling requirements on the invoice and provide the invoice with the cake. Smaller cakes must be boxed, and the label must be included on the box. However, as these cakes cannot be shipped, they must be picked up at a roadside stand (not a residence), or sold from a farmer's market. If you are making wedding cakes as a business in your home and selling from your home, where you deliver cakes, or people come to your house to pick up the cakes, you need a commercial kitchen and you must become a Retail Food Establishment and meet all the requirements.

**Why can't I sell my Home Based Vendor Products to my favorite restaurant or grocery store?**

This is because the kitchen is not routinely inspected, the safe food handling practices are not evaluated by any food safety official. Since the safe food handling practices are not being evaluated, the food is not considered as coming from an **approved source** for use in a restaurant or grocery store. Also, it is not possible for the final consumer to discuss your food safety practices with you, since you are not selling or serving the product to the consumer.

**Can I make and sell products from my motor home kitchen?**

Yes, but only if the motor home is the primary residence of the Home Based Vendor.

**Can I make Home Based Vendor products in an outbuilding on my property, like a shed or a barn?**

Yes. The production area of a HBV is required to be at the vendor’s primary residence, which may include another permanent building or structure on the premises that will not be routinely inspected.

**Where can I store ingredients and finished products for my Home Based Vendor business?**

Ingredients and finished HBV products may be stored at your primary residence. The area should be free of dampness/water, pests or other unsanitary conditions.



**Can nonprofit organizations produce and sell Home Based Vendor food products?**

No. Nonprofits do not have a single family domestic residence and, therefore, do not qualify as a HBV.

**Can I sell my HBV Products over the Internet?**

Yes, as of July 2022, you can advertise your product and take orders on the internet, and you can ship directly to consumers. You must track all the addresses of recipients for a year or more, ship in tamper-resistant packaging that the person receiving will be able to tell if the package was tampered with and label each product according to the labeling requirements.

**Can I sell my Home-Based Vendor food products to a wholesaler, broker or distributor?**

No. Under the HBV guidance document, it is not legal for a producer to sell to a wholesaler, broker or distributor who would then resell the product. These products are NOT FOR RESALE

**Can I advertise my HBV products on my website?**

Yes. You can use your website to advertise your products or market your business.

**Can I advertise my Home Based Vendor business in the newspaper or at trade shows?**

Yes. Advertising is allowed.

**Is it possible to place my Home-Based Vendor Food products in a store or restaurant on consignment?**

No. Home-Based Vendor food products cannot be sold on consignment. The sale must be person-to-person, from the producer to the actual consumer.

**Can I serve free samples of my Home Based Vendor Products?**

Yes. As long as your product meets the requirements of the HBV guidance document and is a non-potentially hazardous food, sampling is allowed. You do not have to label each sample, but you must have properly labeled packages of your product on display alongside the samples so your customer can review the ingredient list. Your product cannot be cooked or prepared in a way that makes it a potentially hazardous food/temperature control for safety food (e.g., you can't add a dried dip mix to sour cream or serve anything that can't be kept safely at room temperature - these examples would require a food license). You must have a handwashing station to sample at a Farmer's Market.



**Can I sell my meat that is packaged at an USDA inspected plant at a Farmer's Market?**

Yes – but Brown County requires that you obtain a Farmer's Market permit for Meat, Dairy or Fish sales. This is not food to be consumed at the Market, this is packaged food that will be purchased at the market. It must be maintained frozen, packaged and labeled at the point of sale.

**Can I bring my Food Truck to the Market?**

Yes, as long as you are licensed either as a Brown County Food Establishment, or as a Temporary Out-of-County Food Establishment. There is a licensing fee to operate a food truck in Brown County.