MARION COUNTY PUBLIC HEALTH DEPARTMENT

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Home Based Vendor Requirements

In April 2022 the Indiana legislators passed House Enrolled Act (HEA) 1149. This Act excludes Home Based Vendors (HBV) from the definition of Retail Food Service Establishment. HEA 1149 allows for the production and sale of certain foods that do not present a significant public health risk.

410 IAC 7-26 Retail Food Establishment Sanitation Requirements have been in effect since April 16, 2025. The previous food code 410 IAC 7-24 has been repealed. As noted in the Home-based Vendor rule only non-TCS foods can be prepared as a home-based Vendor.

Potentially Hazardous Food (PHF) is now **Time/Temperature Control for Safety food (TCS)** (410 IAC 7-26-125). Cut tomatoes and cut leafy greens are TCS and require temperature control (410 IAC 7-26-125).

When can a person prepare and sell food products as a Home-Based Vendor (HBV)?

A person may prepare and sell food products as a home-based vendor if the person complies with the following requirements. The individual vendor's food product(s) is:

1) prepared at the individual's primary residence.
2) not a Time/Temperature Control for Safety (TCS) food product. See page 3.
3) prepared using proper sanitary procedures including (A) proper hand washing; (B) sanitizing the container or other packaging in which the food product is contained; (C) storing the food product safely; (D) producing the food product in a food preparation or packaging area in which animals are not present; and (E) cleaning and sanitizing of surfaces that have contact with the food product.
4) in a sealed package that allows a consumer to determine if the product has been tampered with.
5) labeled according to requirements. See page 2.
6) prepared by an individual who has a current Certified Food Handler certificate issued by an American National Standards Institute (ANSI) issuer and made available upon request of the consumer or health department.
7) sold in person, by telephone, or through the Internet; **AND**
8) delivered to the end consumer in person, by mail, or by a third-party carrier only within the State of Indiana **AND** documentation of product shipping/mailing address of each end consumer is maintained for at least one year after date of sale by electronic or paper form.

What makes a food TCS and non-TCS?

Foods that may create a public health risk are considered **Time/Temperature Control for Safety** and may NOT be produced and sold under the HBV exemption. A TCS food product includes a food that requires temperature control. In general, any food that has ingredients, packaging, and/or storage conditions that could lead to a human health risk is considered TCS. See page 3.

Sale of Poultry and Rabbits at a Farmer's Market or Roadside Stand

Poultry and rabbit meat sold at a farmer's market or roadside stand must be frozen at the point of sale.

What is a Farmers' Market? A farmers' market is defined as 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.

What is a Roadside Stand? A roadside stand is defined as a structure including a tent, stand, vehicle, or trailer that is:

1. Visible from a road: and
2. Located not more than one hundred (100) feet from the edge of the side of the road; where whole uncut produce, food products that are non-TCS, poultry that is exempt under IC 15-17-5-11, rabbits, or eggs permitted for sale by the state egg board are sold to an end consumer.

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Product Label Requirements

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. NOT FOR RESALE"

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 or volume of final product or numerical count; and must include the date on which the product was processed. Below is a sample label:

Chocolate Chip Cookies

"This product is home produced and processed and the production area has not been inspected by the State Department of Health. NOT FOR RESALE"

Catie's Cookie Company
123 Chocolate Way, Cookieville, IN 73531

Ingredients: enriched flour (wheat flour, malted barley flour, niacin, iron, thiamin mononitrate, riboflavin, folic acid), butter (cream, salt), semi-sweet chocolate (sugar, chocolate, cocoa butter, milkfat, soy lecithin, natural flavors), brown sugar, granulated sugar, eggs, vanilla extract (vanilla bean extract, alcohol, sugar), baking soda, salt (salt, calcium silicate)

Produced on 1/20/2022
NET WT 2 lb. 4 oz. (1.02 kg)

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Home Based Vendor Food Requirements

Review the documents from the Indiana Department of Health for guidance on what products are approved as a Home Based Vendor (HBV).

Guidance documents:

https://www.in.gov/health/food-protection/retail/guidance-documents/#Home_Based_Vendors

Home Based Vendor
Frequently Asked Questions (FAQ's)

Q: Can I sell cakes out of my home?
A: Cakes are considered Non- Time/Temperature Control for Safety food (Non-TCS). The HBV can sell in person, by telephone, or through the internet and can deliver to the end consumer in person, by mail, or by a third-party carrier, to anywhere in the State of Indiana. HBV's must maintain record of shipping or delivery address of each end consumer for at least one year after sale date.

Q: My friend wants me to make them a wedding cake. Am I allowed to do this?
A: Yes, you can bake their cake without being considered a Retail Food Service Establishment. Be aware that many venues do not allow food product(s) brought in unless they are from a licensed food establishment.

Q: Can I advertise and take pre-orders online?
A: Yes. Preordering of product(s) by telephone, internet, in person, through the mail etc., of an HBV food product(s) is acceptable.

Q: Can I provide samples of my product at the farmers' market?
A: Yes. HBV's must use proper sanitary procedures, including proper hand washing, sanitization of utensils and safe storage of the product. Food must be protected during display or service. An example of proper sampling would include single pre-portioned samples for individual consumers.

Q: Can I be both a HBV and a Retail Food Establishment?
A: No. A vendor must be designated as either a home-based vendor or a food establishment—not both. Entrepreneurs who produce food that is non-potentially hazardous AND food that is Time/Temperature Control for Safety must not comingle production activities of these two food types. If a vendor plans to sell food products other than those that are allowed to be produced in a primary residence, that vendor would need to become a retail food establishment and meet all the requirements for that designation.

Q: Can I sell a commercially prepared food product(s) along with my HBV food product(s)?
A: No. Only food products made by the HBV, at the HBV primary residence can be offered for sale.

Q: Where are foods prepared by HBVs allowed to be sold?
A: Foods prepared by HBVs can be sold at

- Sold in person including at farmer's markets, events, by telephone or through the Internet
- Within Marion County zoning and right of way rules.
- Delivered to the end consumer in person, by mail, or by a third-party carrier, inside the State of Indiana

Q: Where can HBVs foods not be sold?
A: HBVs are not allowed to sell foods

- at any retail food establishments (ex: foodservices, restaurants, grocery stores, or gas stations)
- as wholesale (for resale)

Q: Can I rent a space or apartment to make my HBV products?
A: No. HBV's may not use spaces that are located off the property of the HBV"s primary residence to make, grow, or raise food products for sale.

Q: Can I sell micro greens as an HBV?
A: Yes. The greens grow to a couple inches tall and then are harvested by cutting the stems with scissors or a knife. So, microgreens are neither sprouts nor cut leafy greens (unless there is further cutting after harvesting)

Q: Is a food handler certification required for an HBV?
A: Yes. HBV's must obtain a food handler certification from a certificate issuer accredited by the American National Standards Institute (ANSI). The HBV must provide a copy of the certificate upon request to the health department and consumer. An up-to-date list of the approved Certified Food Handler certification providers can be found here https://www.in.gov/health/food-protection/files/Food-Handler-Fact-Sheet-11.17.22.pdf

Q: How can I have my well water tested to ensure I am serving a safe food product?
A: The Marion County Public Health Department provides well water testing. More information can be found here https://marionhealth.org/private-well-program/
or call 317-221-2147.

Q: Do I need contact the county health department as a Home Based Vendor?
A: As a home-based vendor you will need to submit a menu, labels, certified food handler to become registered send these to kwhiting@marionhealth.org

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