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 (Aw) 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
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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