

Latest 2024 edition

# Home Based Vendors Guidance Document



Brown County Health Department



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## **INTRODUCTION:**

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The increase in the popularity of roadside stands and farmer's market has led to an exponential increase in vendors supporting local foods. The Indiana Legislature continued to encourage this increase by passing the House Enrollment Act 1309 in 2009 making it possible for individuals to prepare certain foods out of their homes as a Home Based Vendor (HBV). This goal of this act was to allow certain foods safe food production in the home and also sales of home-produced foods that do not present a health risk. This Act was also designed to give individual home vendors less restrictions. This act was amended in 2022 with the HEA 1149 act. This paper includes all current regulations.

## **DEFINITIONS:**

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- 1) "Home Based Vendors (HBV)" means a person who produces food products only in the home kitchen of that person's primary domestic residence and only for sale directly to the consumer at Farmer's Market or Roadside Stand. A home-based vendor operation shall not operate as a food service establishment, retail food store, or wholesale food manufacturer, and cannot produce food in a commercial kitchen.
- 2) An HBV can produce non-potentially hazardous baked goods, jams, jellies, and other non-potentially hazardous foods.
- 3) A Home Based Vendor can now produce food in their residence, or any permanent structure on the property.
- 4) A HBV can now sell their products online with certain shipping restrictions, or at an event other than a Farmer's Market or Roadside Stand.
- 5) Potentially hazardous food (sometimes referred to as "TCS" or time/temperature control for safety food)" means a FOOD that is held at a specific temperature range that limits pathogenic microorganism growth or toxin formation from that growth.
- 6) "Hermetically sealed" means food that is packaged in cans or glass jars and has no oxygen exchange with the atmosphere. (not allowed for HBV's)

## **LIMITATIONS:**

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- 1) The HBV cannot co-mingle the activities of HBV food production and activities of a food establishment. If a 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 a HBV may not be resold and is subject to the laws of the state and the Federal Food, Drug & Cosmetic Act and legally cannot be sold in Indiana.
- 3) The regulatory authority may examine 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 exemption.
- 4) HBV are subject to regulatory sample collection, inspection, investigation, and other enforcement activities as required by law.
- 5) Shipping of products is restricted to being sent to addresses in Indiana, labeling required and sealed packaging that can show tampering, addresses tracked for a year.

## **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, cupcakes, bars, yeast breads, fruit breads, baguettes (no crème pies, no pumpkin pies)
  - Candy and confections, such as caramels, chocolates, fudge, peanut brittle, chocolate covered fruits, bon bons, buckeyes, chocolate covered nuts
  - Produce, such as unprocessed fruits and vegetables (i.e) cherries, blackberries, cranberries, grapefruit, strawberries, oranges, blueberries, plums, tomatoes
  - Tree nuts, legumes
  - Pickled cucumbers processed in a traditional method (no vinegar or acidifier added and open containers)
  - In-shell chicken eggs (with Egg Board license and labeling)
  - Some rabbit and poultry (with restrictions)
  - Honey, molasses, sorghum, maple syrup
- 2) Mushrooms grown as a product of agriculture are not restricted from sale. Uncultivated (wild) mushrooms must be certified in writing by a "Mushroom Expert" as registered with the State of Indiana (see [www.in.gov](http://www.in.gov))
- 3) 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, (rabbit is permitted with restrictions)
  - Poultry, (permitted with restrictions)

- Aquatic animal products, (permitted with restrictions)
- Dairy (including cheese, butter, yogurt, in a product that needs refrigeration. This does not include baked items such as cakes and cookies)

4) HBV products sold at the farmers market or roadside stand can include the following products, if specific procedures are taken:

- **Meat**
  - i. **Allowed:** Animals 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. The meat must be kept frozen and sold frozen. NO SHIPPING
  - ii. **Not allowed:** Any meat product that has been directly handled or processed in any way by the vendor. For example, a HBV cannot sell jerky.
- **Poultry:**
  - i. **Allowed:** Up to 1000 birds for a Home-Based Vendor, however over 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. In-shell chicken eggs can also be sold after receiving the approval and Farmer's Market license from the Indiana State Egg Board. NO SHIPPING
- **Rabbit:**
  - i. **Allowed:** Must be slaughtered and processed on the farm, and sold only at a farmer's market, or at a roadside stand. Rabbit must be sold FROZEN at a farmer's market or roadside stand
- **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.

5) HBV food products shall not be:

- A "canned" or "hermetically sealed container" of acidified food (i.e, chutney, chow-chow)
- A "canned" or "hermetically sealed container" of low-acid food, (i.e. packaged cooked)
- Cut melons
- Raw seed sprouts
- Non-Modified (not pasteurized) garlic-in-oil mixtures
- Cut tomatoes

6) HBV food products shall not be packaged using:

- Packaging considering to be "canned" or hermetically sealed"
- The "reduced oxygen packaging" or ROP method, such as the use of a vacuum packaging machine

**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 count
  - 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.”** (See example on Page 5) **NOT FOR RESALE**
  - **Labels are to be posted on the Seller’s Website.**
- 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 should be considered “labeled” when there is an easily readable sign in at least 10 point type accompanying the food product
- 3) 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)

## **Chocolate Chip Cookies**

Sally's Cookie Company 123 Home Based Vendor Lane Anywhere, IN 46xxx

Food Processed: January 3<sup>rd</sup>, 2018

**Ingredients:** 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.

**Contains: Wheat, eggs, milk, soy, walnuts**

**“The product is home produced and processed and the production area has not been inspected by the State Department of Health.”**

**NOT FOR RESALE**

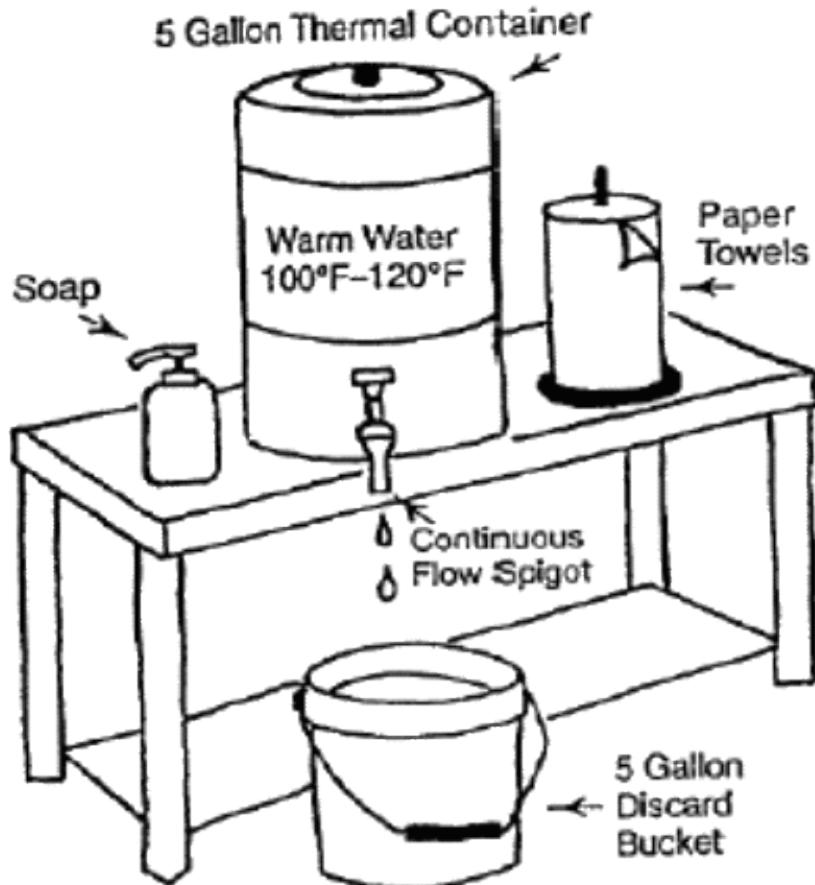
**Net Wt. 3 oz (89 g)**

## **FOOD SAMPLING:**

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- 1) Sampling of a HBV food product being provided to a consumer is not prohibited. The individual offering samples 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 food 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 or 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 and where I can sell as a Home-Based Vendor?**

There is not currently a limit on amount of sales. You can sell through a Farmer's Market or at a roadside stand on your property. You can sell directly from your home within Indiana and other restrictions.

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

Specific products are listed in the guidance document.

### **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, and you are not operating as not a "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 license, even though I am a Home-Based Vendor. Can the market require a license?**

Yes, you will need to have a Food Handler License. These can be obtained from a course online or your local Health Department. A Farmer's Market may have their own licensing.

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

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

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

Safe wastewater (septic) systems are advised. Please contact your local health department if you would have an evaluation on the adequacy of the home to handle additional wastewater.

The health department can advise you if modifications to the existing system may be necessary. There is concern of increased grease in the wastewater that may affect home septic systems.

**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 (TCS foods) because of the possibility of bacteria growth and detrimental health issues to consumers. Please refer to this Home-Based Vendor guidance document to identify products that are allowed.

**Are pet treats allowed to be sold by HBV's ?**

Yes. However, the HBV must obtain a **Commercial Feed License** for a fee per item, 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.

Pet 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 produce and sell cooked vegetable products, such as 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 like tomato sauces 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 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.

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

Yes, as long as that oven is in your home kitchen or on your property, either owned or rented.

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

Apple butter is acceptable to sell as an HBV if it has a pH of below 4.6. However, other fruit **butters** are not allowed because they have significantly less sugar and often a lower pH than a traditional jam or jelly. It is the combination of acid, sugar, pectin and heat that assures the safety of jams/jellies.

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

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

### **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 stating "Do not feed honey to infants under one year of age" or some similar warning on honey labels. This is because honey may contain spores of the bacterium Clostridium botulinum. If Honey or Maple syrup is produced there are restrictions on the "honey house" or the building used to make the maple syrup.



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

No. Dehydrated Meat and poultry are 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, events, farmer's markets or shipped. You also cannot buy HBV products to sell in your shop.

### **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 provisions of the guidance 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. Vegetable pies are not permitted.

**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 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 pumpkin, cherry pie filling, etc. Most home-canned products are not approved for production under the Home-Based Vendor Act, 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. It is a food establishment and needs to be licensed as such.

## **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 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 count
  - 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 a 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). These samples should be protected from contamination.

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

No. It is not a requirement. However, it is strongly encouraged. 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 (including shellfish, crab, lobster or shrimp) and tree nuts (such as almonds, pecans or walnuts) and now SESAME. For Bread, there are two options in labeling it:

- Include the allergen in the ingredient list. For example, a white bread with the following ingredient listing: whole wheat flour, water, salt and yeast. In this example, the statement "whole wheat flour", meets the requirements of federal law.
- 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 should reflect all the allergens found in the product. In this example, the sodium caseinate comes from milk.

**Are there any special requirements for tree nuts labeling for allergens?**

No. If HBV food product has tree nuts as an ingredient, it is not mandatory to identify which tree nut you are using. However, it is recommended to include the following label if tree nuts are used:

For example, if you made Nut Bread, an acceptable ingredient list would be:

*Ingredients: wheat flour, water, almonds, salt, yeast.*

**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 acceptable HBV products analyzed by a laboratory to obtain an official ingredient list. You must, 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 include the invoice with the cake. Smaller cakes must be boxed, and the label must be included on the box. However, these cakes **cannot be delivered**, they must be picked up at a roadside stand (not a house or residence) or at a farmer's market or event or shipped within Indiana, with correctly labeling and packaging.. They must not require refrigeration for safety, such as one with a cream cheese base frosting. They can be sold at events such as church bake sales, festivals etc.

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

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 an approved source for use in a restaurant or grocery store. You must be a licensed Food establishment to sell to a restaurant or grocery store.

## **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 products in a rented kitchen and sell them?**

No. The HBV food products must be made in the producer's kitchen in their residence or a permanent structure on the property. If you use a commercial kitchen to make your products you are then operating as a Food Business and need to be licensed as a Food Establishment.

## **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 in the vendors primary residence, which may include another 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 in your single family domestic residence where the HBV products are made. This includes your kitchen, a spare room or a basement that is free of dampness/water, pests or other unsanitary conditions.



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

Nonprofits do not qualify as a HBV, but Nonprofits are not regulated and can sell any food product anywhere they choose. Food Safety should be exercised though.

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

Yes. You can advertise your product and take orders on the internet, and you can ship directly to consumer if they are in Indiana. You must label all food as required and maintain a record of sales and addresses for a year, that can be shown to the Health Department upon demand. The packaging should be able to show the recipient if there is any tampering. The Statement NOT FOR RESALE must be included on the labeling.

**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 HBV producer to sell to a wholesaler, broker or distributor who would then resell the product. You must become a Retail Food Establishment.

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

Yes. You can use your website to sell, 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. Although you do not need an individual label for each sample, you must have properly labeled packages of your product on display with 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 provide a hand-washing station at your booth if you are offering sampling at a Farmer's Market



**Can I sell Salsa as a Home Based Vendor?**

Yes, as long as the container allows for oxygen transfer. You can put a hole in the lid, or be able to show a letter from the container manufacturer that the container allows oxygen transfer. You must also be able to show that the salsa has a pH under 4.6 with a professional pH meter, not a test strip.

**What is a Roadside Stand?**

A roadside stand is a structure- tent, stand, vehicle, trailer, that is located not more than 500 ft from a road.

**Can the Health Department inspect my facility?**

If you are non-compliant, (i.e. found to be selling HBV product illegally) or if there is a complaint, or if an imminent health hazard is found, the Health Department can inspect your residence.

**Can I lease my neighbor's garage to make my product?**

No, you must operate from your own property. If you live on the property and you are renting the property as your residence, this is acceptable to then produce HBV products.

Document updated February 2014