

Homemade Food Freedom Act Guidance

09/14/2021

This guidance document is intended to help provide answers to questions from consumers and operators, it is not all inclusive. The Department of Agriculture (ODAFF) is the primary regulatory authority for the majority of the contents of this Act.

General Prohibitions/Limits	Citation
No Cannabis products	2 O.S. § 5-4.2 (3)
No use of Unpasteurized Milk	2 O.S. § 5-4.2 (3)
No seafood (fish and other aquatics), meat, or poultry, or their byproducts	3 O.S. § 5-4.3 (A)(8)
No Alcohol	2 O.S. § 5-4.2 (3)
Max \$75,000 gross sales	2 O.S. § 5-4.2 (1)
Production in a residence only	2 O.S. § 5-4.2 (1, 3, 7)
Complaints on home produced food or unlicensed food production from home, referred to ODAFF.	2 O.S. § 5-4.4
Food Borne Illness complaints on home produced food or unlicensed food production from home, referred to OSDH.	2 O.S. § 5-4.4
Placard wording: <i>"This product was produced in a private residence that is exempt from government licensing and inspection. This product may contain allergens. "</i>	2 O.S. § 5-4.3 (B)(3)
Label Req: These requirements should be on the label if packaged, on the container if bulk dispensed, on a placard if served and not packaged, or on the website if sold via internet or telephone. Name, Physical address, & PH# of producer. Description (ex. Hot Relish), Ingredients in descending order, Presence of allergens statement, legible print and 10-point font stating, <i>"This product was produced in a private residence that is exempt from government licensing and inspection."</i>	2 O.S. § 5-4.3 (B)(4)
Resale of any product requires licensure. Incidental sales definition applies.	63 O.S. 1-1118 63 O.S 1-1119 OAC 310:257-1-2

Food	Sold By	Sold To	Sales Location	Sales/Delivery Method	Public Notice	ODAFF approved food safety trainings
Non-TCS	Producer	Directly to the consumer	In person or by remote means such as phone or internet.	Any	Label or webpage	N
Non-TCS	Agent or 3rd party	Directly to the consumer	Retail sales venue. All marginal sales considerations of Chapter 257 apply.	Any	Labels and Placard	N
TCS	Producer	Directly to the consumer	In person or by remote means such as phone or internet.	By Producer directly to customer. No 3rd party sale or delivery,	Label or Webpage	Y

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Consumer Complaints: <https://forms.office.com/g/atPnD7eQ4Q>

What foods can I sell Under the Act?

- **Examples of typical Non-TCS products:** Honey, jams, jellies, breads, cookies, cakes, spice mixes, tea mixes, and other low moisture items.
- **Examples of possibly Non-TCS products:** Pies, pickled vegetables, salsas, and other acidified products.
 - **Note:** Factors such as what ingredients, the proportions of ingredients, how a vegetable is cut, etc. can drastically alter the safety and quality of a product.
- **Examples of typical TCS products permitted by the Act:** Cheesecake, cooked vegetables, cooked noodles, etc.

What methods and venues can I sell my product through?

- **Sale of Non-TCS food:** Direct to consumer, by internet, and in retail venues like grocery stores and restaurants.
 - **Note:** Resellers will almost always require a foodservice license to sell food regardless of source. They must have a placard where products are displayed for sale that states *"This product was produced in a private residence that is exempt from government licensing and inspection. This product may contain allergens."*
- **Sale of TCS food:** Direct to consumer (this would include a farmers' market as long as producer is the one selling). The producer must have food safety training that is approved by ODAFF.
- **Resale of Non-TCS food sales:** Direct to consumer, by internet, and in retail venues.
 - **Note:** Resellers will almost always require a foodservice license to sell food regardless of source. They must have a placard where products are displayed for sale that states *"This product was produced in a private residence that is exempt from government licensing and inspection. This product may contain allergens."*
- **Resale of TCS food sales:** Not allowed via 3rd party.

What are the label and consumer advisory requirements?

- **Labeling (Producer):** The items listed in the section below under "Product Label requirements" on the package, on the bulk container (if applicable), on a placard if not packaged (if served like a pie in a diner), or on a webpage if sold online.
- **Labeling (Reseller):** Placard at point of sale or as a consumer advisory on a menu if used as ingredient that states: *"This product was produced in a private residence that is exempt from government licensing and inspection."*

Product Label requirements:

- Name and phone number of the producer,
- Physical address where the product was produced,
- Description of the product (ex. Joe's Salsa),
- Ingredients in descending order of proportion,
- Weight in standard and metric units (specific to honey),
- A statement indicating the presence of any of the eight most common allergens, including milk, eggs, peanuts, tree nuts, soy and wheat, and
- Legible print stating, *"This product was produced in a private residence that is exempt from government licensing and inspection."*

What happens if I do not follow the Act?

Penalties:

- ODAFF may issue fines up to \$300 fines for non-compliance. Continued non-compliance may result in referral to OSDH as an unlicensed Food Establishment.