



Plan. Produce. Profit.

Workshops in Arkansas

Food Freedom Act

Jeff Jackson, R.S.

**Retail Food Section-Standardization/QA Officer
Arkansas Department of Health**

History of Homemade Food in AR

- Pre-2009 – Sales of homemade foods prohibited
- 2009 – Cottage Food Act
 - Allowed sales of bakery products, candy, fruit butter, jams and jellies direct to the consumer from the home where the products were produced, a physical farmers market, county fair, or special event.
 - Amended to include uncut chocolate-covered fruits and berries, sales at online farmers markets, and sales at pop-up shops within another established business.
- 2021 – Expanded by Act 306 to allow sales through the internet and delivery by mail. However, this Act was superseded by another Act in the same session that would further expand homemade food sales.

History of Homemade Food in AR

- 2021 – Food Freedom Act (Act 1040)
 - Allows the sale of any Non-Time/Temperature Control for Safety Food (Non-TCS Food) to an informed end consumer and expands on the locations/methods under which these foods can be sold.

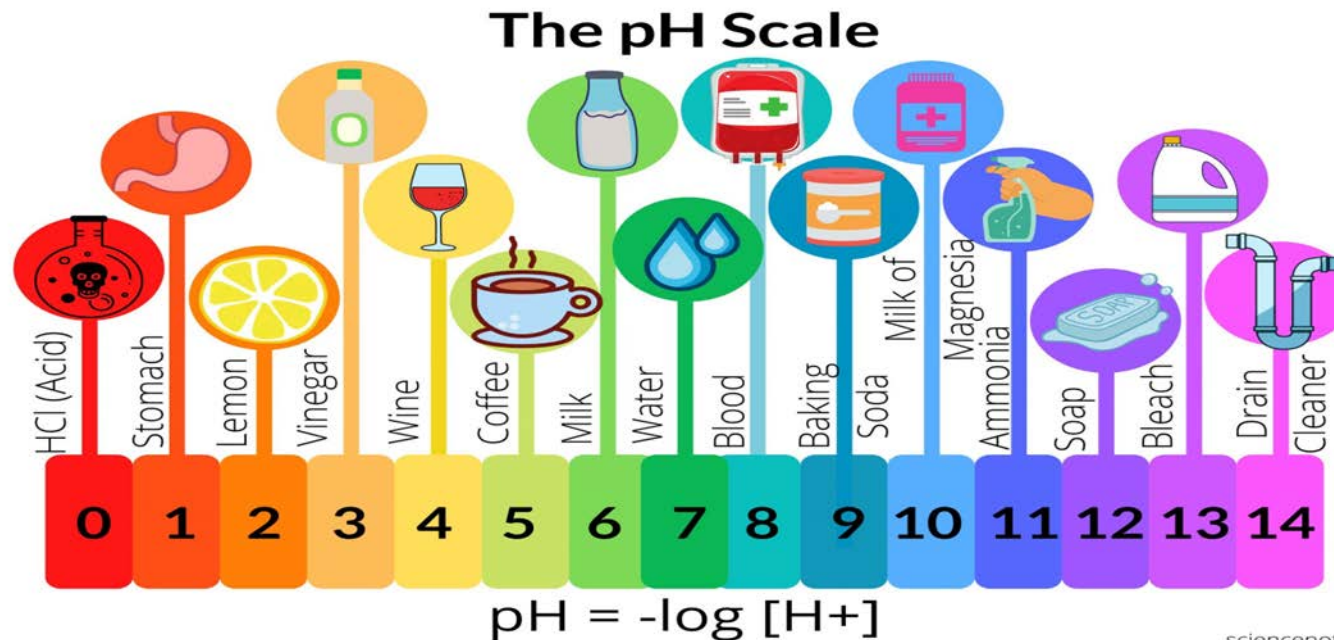
<https://www.arkleg.state.ar.us/Acts/FTPDocument?type=PDF&file=1040&ddBienniumSession=2021%2F2021R>

TCS Food

- Time/temperature control for safety food means a food that requires time/temperature control for safety to limit pathogenic microorganism growth or toxin formation.
- TCS Food includes:
 - An animal food (meat, poultry, seafood, dairy, etc.) that is raw or heat-treated;
 - Food of plant origin that is heat-treated or consists of raw seed sprouts;
 - Cut melons;
 - Cut leafy greens;
 - Cut tomatoes;
 - Garlic-in-oil mixtures, and
 - Any food that because of the interaction of its water activity and pH is designated as Product Assessment Required (PA) in table A or B of this definition.

TCS Food

- Water Activity (a_w) – is a measure of the amount of water that is available for bacteria to use for growth.
 - Range = 0.00 – 1.00
- pH – Is the measure of how acidic or basic a substance is.



TCS Food

Table A. Interaction of pH and A_w for control of spores in FOOD heat-treated to destroy vegetative cells and subsequently PACKAGED

A_w values	pH: 4.6 or less	pH: > 4.6 - 5.6	pH: > 5.6
≤ 0.92	non-TCS FOOD*	non-TCS FOOD	non-TCS FOOD
> 0.92 - 0.95	non-TCS FOOD	non-TCS FOOD	PA**
> 0.95	non-TCS FOOD	PA	PA

* TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD

** PA means Product Assessment required

Table B. Interaction of pH and a_w for control of vegetative cells and spores in FOOD not heat-treated or heat-treated but not PACKAGED

a_w values	pH: < 4.2	pH: 4.2 - 4.6	pH: > 4.6 - 5.0	pH: > 5.0
< 0.88	non-TCS food*	Non-TCS food	non-TCS food	non-TCS food
0.88 - 0.90	non-TCS food	non-TCS food	non-TCS food	PA**
> 0.90 - 0.92	non-TCS food	non-TCS food	PA	PA
> 0.92	non-TCS food	PA	PA	PA

* TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY FOOD

** PA means Product Assessment required

Non-TCS Food

- The Food Freedom Act defines Non-TCS Food as:
 - Food that does not require time or temperature control for safety to limit pathogenic microorganism growth or toxin formation and as defined in the rules of the Department of Health

Informed End Consumer

- An informed end consumer is a person who is the last person to purchase the homemade product, who does not resell the product, and who has been informed that the product is not regulated, inspected, certified or made in a facility that is state licensed, permitted, inspected, or regulated.
- Each product sold under this Act must contain specific labeling and disclosures.

Labeling and Disclosure

- Each packaged product must be labeled with the following information:
 - The name, address, and telephone number of the producer.
 - Alternatively, you may opt to use an ID Number from the Department of Agriculture (501-225-1598) in lieu of this information.
 - The common or usual name of the food
 - The ingredients of the food in descending order of predominance
 - The date of manufacture
 - The disclosure statement: *“This product was produced in a private residence that is exempt from state licensing and inspection. This product may contain allergens.”*

Labeling and Disclosure

- The labeling and disclosure information must be provided on:
 - The package, or
 - The container if the product is offered from a bulk container or display case.
 - A separate document containing all the required labeling information and disclosure statement must also be provided to the consumer at the time of sale.
 - For products sold online, the website must include the labeling and disclosure information in addition to the package itself.



Labeling and Disclosure

J&K Farms
John and Kelly Jones
123 Sesame St.
Hazard, AR 77772
501-555-5555

Grape Jelly

Ingredients: Sugar, Grape Juice, Pectin

This product was produced in a private residence that is exempt from state licensing and inspection. This product may contain allergens.

Manufactured on: 7-28-21

ACT 1040 ID# 123456

Grape Jelly

Ingredients: Sugar, Grape Juice, Pectin

This product was produced in a private residence that is exempt from state licensing and inspection. This product may contain allergens.

Manufactured on 7-28-21

Sales

- Sales must be directly between the seller and the consumer
- Transactions may be in person, by telephone, or online.
- Delivery of the products may be:
 - In person from a retail space at the farm, home, or office where the food is produced.
 - By the producer or an agent of the producer
 - Using a third-party vendor (retail or grocery store)
 - If sold in an ADH licensed facility, homemade foods must be separate from food made in a licensed facility.
 - Food freedom foods may not be used or served in a restaurant but may be sold if the restaurant has a retail space.
 - Using a third-party carrier (mail, parcel post, courier, etc.)
 - Transactions may occur in Arkansas or in another state if the seller complies with applicable Federal laws.

Prohibited Foods

- Products that contain meat, poultry, seafood, or dairy
- Cut tomatoes or cut leafy greens
 - Cut leafy greens does not include greens that have been cut from the root in the field (harvest cut). If leaves are cut, torn, shredded, or otherwise processed post-harvest they are considered "cut leafy greens".
- Garlic-in-oil mixtures
- Any food of plant origin that is heat treated (Exception for pickles and acidified vegetables)
- Seed Sprouts
 - Microgreens consisting of sprouted seeds that are harvested after the emergence of "true leaves" are allowed under Food Freedom provided they are only cut once, during harvest. Sprouted seeds with intact roots, or the cotyledons are still un-or under-developed are considered sprouts.
- Wild Harvested Mushrooms

Prohibited Foods

- Low acid canned foods:
 - Beans (Green, Lima, Pinto, Navy, etc.)
 - Corn
 - Asparagus
 - Cabbage
 - Squash
 - Peas
 - Onions
 - Cauliflower
 - Etc.



Prohibited Foods

- Any food considered to be TCS Food
 - Dairy Products
 - Butter
 - Sour Cream
 - Cheese
 - Deli Salads
 - Potato Salad
 - Coleslaw
 - Pea Salad
 - Pimento Cheese
 - Casseroles and meals
 - Quiche
 - Spaghetti Casserole
 - Squash casserole
 - Foods that require refrigeration
 - Tres Leches Cakes
 - Pumpkin Pie
 - Tiramisu
 - Cream or Custard Pies
 - Cheesecakes

Allowed Foods

- All foods previously allowed by the Cottage Food Act
 - Bakery Products
 - Jams, Jellies, Fruit Butters, Preserves
 - Candy
 - Un-cut, Chocolate-Covered Fruits and Berries
- Dried, Dehydrated, and Roasted Products
 - Baking Mixes
 - Dry Beans
 - Dried Fruit
 - Dried herbs, seasonings, soup mixes, etc.



Allowed Foods

- Icings, Fillings, Frostings, Etc.
 - Buttercream
 - Gumpaste
 - Fondant
 - Glaze
- Acid and Acidified Foods
 - Canned Fruits with a pH below 4.6
 - Canned Salsa, Tomato Sauce, Tomato Juice, etc. with a pH below 4.6
 - Pickled Products (Cucumbers, Beets, Okra, Relish, etc.) with a pH below 4.6
 - Canned Pie Fillings with a pH below 4.6
 - Condiments (Barbeque Sauce, Ketchup, Fruit Salsa, Spaghetti Sauce, etc.) with a pH below 4.6

Allowed Foods

- Acid and Acidified Foods:
 - Must use a recipe that is approved by ADH, or
 - The process must be confirmed by a Process Authority to result in a product with a pH below 4.6, or
 - The producer must test each batch with a calibrated pH meter to confirm the product has a pH value below 4.6.
- Each product must be labeled with a unique number for each batch (Batch Number)



Allowed Foods-Acid/Acidified

- The producer must maintain records that include:
 - The batch number,
 - The recipe used,
 - The source of the recipe or the pH of the batch as measured by the producer, and
 - The date the batch was prepared

Farmer Fred's Acidified Food Log			
Food Name:	Farmer Fred's Spicy Pickles		
Date of Production	Batch Number	Recipe Used and Source	pH of Product
1/15/2023	001	www.mypicklerecipe.com	4.3
1/18/2023	002	www.mypicklerecipe.com	4.4
Food Name:	Farmer Fred's Anaheim Pepper Sauce		
Date of Production	Batch Number	Recipe Used and Source	pH of Product
1/16/2023	001	Homemade Food Guide (https://nchfp.uga.edu/how/can_03/cayenne_peppersauce.html)	NA
1/17/2023	002	Homemade Food Guide (https://nchfp.uga.edu/how/can_03/cayenne_peppersauce.html)	NA

Allowed Foods

- Foods allowed under previous legislation
 - Raw Whole Fruits and Vegetables
 - Maple Syrup
 - Sorghum
 - Honey

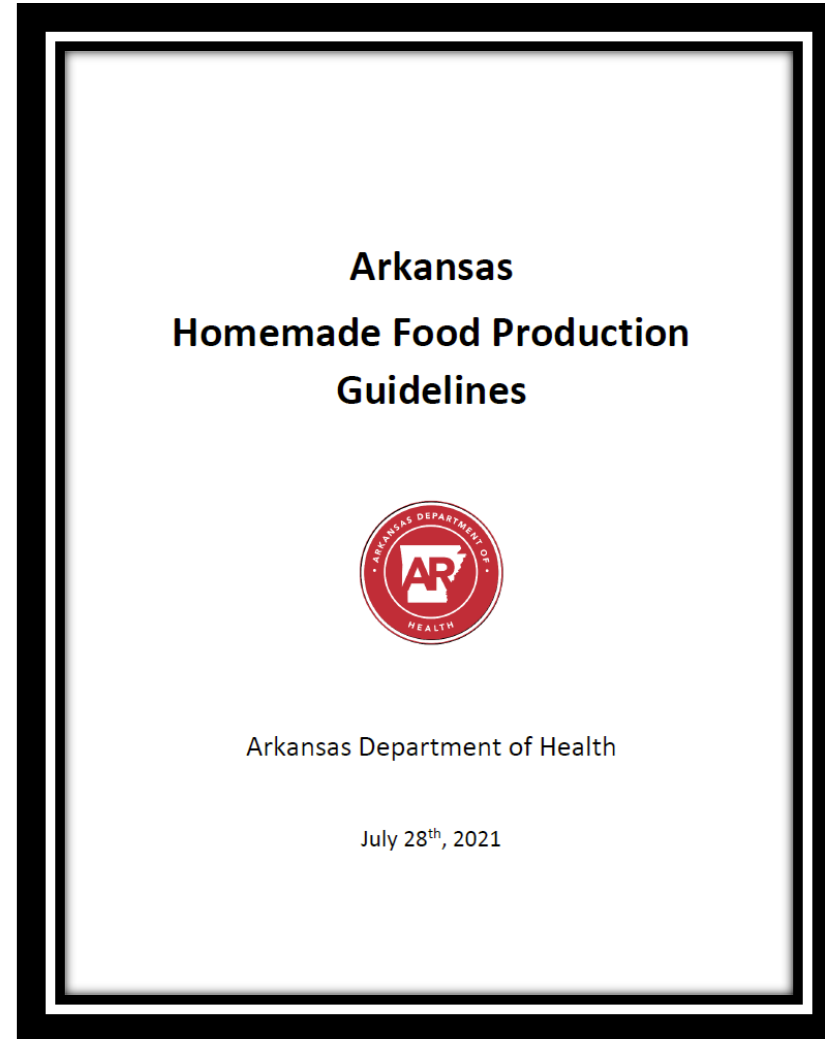


Summary

- Foods produced under the Food Freedom Act
 - Must be:
 - Produced in a home kitchen
 - Labeled with
 - Name, Address, and Telephone Number (or ID number from Dept. of Ag.)
 - Labeled with date produced and ingredients
 - Labeled with the disclosure statement: "This product was produced in a private residence that is exempt from state licensing and inspection. This product may contain allergens."
 - May be:
 - Sold at a Farmers' Market
 - Sold to grocery stores or other retail stores
 - Sold from the home, ranch, or farm where produced
 - Sold via the internet
 - Shipped using a commercial carrier (Mail, Parcel Post, Courier, etc.)
 - May not be:
 - Sold to someone other than the end consumer
 - Used in restaurants

Food Freedom Act Guidelines

https://www.healthy.arkansas.gov/images/uploads/pdf/Homemade_Food_Guide_FINAL.pdf



Contact Information

Jeff Jackson, R.S.

Arkansas Department of Health

Phone: 870-847-7619

Email: jeff.jackson@arkansas.gov

Thank You to our Sponsors!



UNIVERSITY
of ARKANSAS
AT PINE BLUFF
1873



Funding for these workshops is provided by the Arkansas Department of Agriculture through the USDA Specialty Crop Block Grant Program.