



# The National Agricultural Law Center

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Cottage Food Law Statutes:

*Indiana*



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# A National Agricultural Law Center Research Publication

## Cottage Food Laws: Indiana

### Ind. Code § 16-42-5.3

#### Ind. Code § 16-42-5.3 – Home Based Food Products

##### Sec. 1.

- (a) As used in this chapter, “end consumer” means a person who is the last person to purchase any food product and who does not resell the food product.
- (b) As used in this chapter, “roadside stand” means 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 not potentially hazardous, 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.

**Sec. 2.** A person may prepare and sell food products as a home based vendor if the person complies with the requirements of this chapter.

**Sec. 3.** The production and sale of food products by a home based vendor in accordance with this chapter are exempt from the requirements of this title that apply to food establishments.

**Sec. 4.** A home based vendor shall prepare and sell only a food product that is:

- (1) made, grown, or raised by an individual at the individual's primary residence, including any permanent structure that is on the same property as the residence;
- (2) not a potentially hazardous food product;
- (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) not resold;
- (5) sold in person, by telephone, or through the Internet; and



(6) delivered to the end consumer in person, by mail, or by a third party carrier.

**Sec. 5.**

- (a) A home based vendor shall include a label for packaged food or a sign for unpackaged food that contains the following information:
  - (1) The name and address of the producer of the food product.
  - (2) The common or usual name of the food product.
  - (3) The ingredients of the food product, in descending order by predominance by weight.
  - (4) The net weight or volume of the food product by standard measure or numerical count.
  - (5) The date on which the food product was processed.
  - (6) 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.”.
- (b) A home based vendor shall post the label of each food product on the vendor's Internet web site.

**Sec. 6.**

- (a) A home based vendor may not ship or deliver a food product to an end consumer who is located outside Indiana.
- (b) A home based vendor shall do the following:
  - (1) Ship or deliver a food product in a sealed package that allows an end consumer to determine whether the product has been tampered with.
  - (2) Maintain a record of the shipping or delivery address of each end consumer the vendor sells a food product to for at least one (1) year after the date of the sale.
  - (3) Upon request, provide a record described in subdivision (2) to the state department.

**Sec. 7.**

- (a) A home based vendor shall obtain a food handler certificate from a certificate issuer that is accredited by the American National Standards Institute.
- (b) Upon request, a home based vendor shall provide a copy of the food handler certificate required by subsection (a) to the state department or an end consumer.
- (c) A home based vendor shall provide a copy of the food handler certificate required by subsection (a) to the local health department in the county where the home based vendor's residence is located.

**Sec. 8.**

- (a) A home based vendor is subject to food sampling and inspection if:



- (1) the state department determines that the home based vendor's food product is:
    - (A) misbranded under IC 16-42-2-3; or
    - (B) adulterated; or
  - (2) a consumer complaint has been received by the state department.
- (b) If the state department has reason to believe that an imminent health hazard exists with respect to a home based vendor's food product, the state department may order cessation of production and sale of the food product until the state department determines that the hazardous situation has been addressed.
- (c) For purposes of this chapter, the state health commissioner or the commissioner's authorized representatives may take samples for analysis and conduct examinations and investigations through any officers or employees under the state health commissioner's supervision. Those officers and employees may enter, at reasonable times, the facilities of a home based vendor and inspect any food products in those places and all pertinent equipment, materials, containers, and labeling.

**Sec. 9.** The state health commissioner may develop guidelines for the requirements described in this chapter, including:

- (1) standards for best safe food handling practices;
- (2) disease control measures; and
- (3) standards for potable water sources.

**Sec. 10.**

- (a) This section applies to the sale of poultry and rabbits by an individual vendor of a farmers' market or roadside stand.
- (b) The following products are exempt from the requirements of this title that apply to food establishments:
  - (1) Poultry products produced under IC 15-17-5-11. Poultry products sold at a farmers' market or roadside stand must be frozen at the point of sale. Poultry products sold on the farm where the product is produced must be kept refrigerated at the point of sale and through delivery by the producer to the end consumer.
  - (2) Rabbits that are slaughtered and processed on a farm for the purpose of conducting limited sales on the farm, at a farmers' market, and at a roadside stand. Rabbit meat sold at a farmers' market or roadside stand must be frozen at the point of sale. Rabbit meat sold on the farm where the product is produced must be kept refrigerated at the point of sale and through delivery by the producer to the end consumer. An individual who sells rabbits under this subsection shall comply with the label requirements set forth in this chapter.



(c) This section does not apply to the distribution of meat from a game animal.

**Sec. 11.**

(a) IC 16-42-11 applies to the sale of eggs under this chapter.

(b) An individual vendor of a farmers' market or roadside stand is exempt from the requirements of this title that apply to a food establishment relating to the sale of eggs, whole uncut produce, or food products that are not potentially hazardous.

**Sec. 12.** Notwithstanding any other law, a local unit of government (as defined in IC 14-22-31.5-1) may not by ordinance or resolution require any licensure, certification, or inspection of foods or food products of a home based vendor or an individual vendor who prepares and sells food products under this chapter.

**Sec. 13.**

(a) For the purpose of enforcing this chapter, the local health officers are food environmental health specialists subordinate to the state department.

(b) To ensure that enforcement of the state laws and rules is uniform throughout the state, the state department shall provide to the local health officers who are food environmental health specialists guidelines concerning the interpretation and of the state department's rules concerning home based vendors. A food environmental health specialist may not enforce the state department's rules concerning home based vendors in a manner that is more strict than the state department's guidelines.

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