



The National Agricultural Law Center

nationalaglawcenter.org | nataglaw@uark.edu | [@nataglaw](https://twitter.com/nataglaw)

Cottage Food Law Statutes:

Montana



This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture

A National Agricultural Law Center Research Publication

Cottage Food Laws: Montana

Mont. Code § 50-50-102
Mont. Code § 50-50-116
Mont. Code § 50-50-117
Mont. Code § 50-49 Part 2

Mont. Code Ann. § 50-50-102. Definitions

Unless the context requires otherwise, in this chapter, the following definitions apply:

- ...
- (3) “Cottage food operation” means a person who provides, manufactures, or packages cottage food products only in a kitchen in a registered area of a domestic residence and only for direct sale to a consumer in this state.
- (4) “Cottage food products” means foods that are not potentially hazardous and are processed or packaged in a cottage food operation, including jams, jellies, dried fruit, dry mixes, and baked goods. Other similar foods that are not potentially hazardous may be defined by the department by rule.
- ...
- (6) “Direct sale” means a face-to-face purchase or exchange of the cottage food product between the manufacturer or packager of a cottage food product and a consumer or individual purchasing the cottage food product as a gift. The direct sale may not be by consignment or involve shipping or internet sales.
- (7) “Domestic residence” means a single-family house or a unit in a multiunit residential structure, whether rented, leased, or owned by the person in charge of the cottage food operation.
- ...
- (13)
- (a) “Mobile food establishment” means a retail food establishment that serves or sells food from a motor vehicle, a nonmotorized cart, a boat, or other movable vehicle that periodically or continuously changes location and requires a servicing area to accommodate the unit for cleaning, inspection, and maintenance.
- (b) The term does not include:
- (i) a motor vehicle used solely to transport or deliver food by a motorized carrier regulated by the state or the federal government;
- (ii) a cottage food operation transport vehicle; or
- (iii) a concession stand designed to operate as a temporary food establishment.
- ...



(18) “Registered area” means the portion of a domestic residence that has been registered as provided in 50-50-117 and in which food ingredients intended for cottage food products are transported or stored or the domestic residence kitchen where cottage food products are processed, packaged, or stored.

...

(21)

(a) “Retail food establishment” means an operation, whether mobile or at a temporary or stationary facility or location, that meets one or more of the conditions in subsections (21)(a)(i) and (21)(a)(ii) and that may include a central processing facility that supplies a transportation vehicle or a vending location or satellite feeding location. A retail food establishment:

(i) stores, processes, packages, serves, or vends food directly to the consumer or otherwise provides food for human consumption at a venue that may include:

...

(ii) relinquishes possession of food to a consumer directly or indirectly by using either a delivery service, as is done for grocery or restaurant orders, or a common carrier that provides deliveries.

(b) The term is not dependent on whether consumption is on or off the premises or whether there is a charge for food served to the public.

(c) The term does not include:

...

(iv) a cottage food operation;

...

History: En. Sec. 2, Ch. 17, L. 1967; amd. Sec. 1, Ch. 130, L. 1971; amd. Sec. 1, Ch. 349, L. 1974; R.C.M. 1947, 27-612; amd. Sec. 1, Ch. 199, L. 1987; amd. Sec. 1, Ch. 732, L. 1991; amd. Sec. 1, Ch. 315, L. 1995; amd. Sec. 136, Ch. 418, L. 1995; amd. Sec. 315, Ch. 546, L. 1995; amd. Sec. 1, Ch. 412, L. 1997; amd. Sec. 1, Ch. 428, L. 2001; amd. Sec. 28, Ch. 474, L. 2003; amd. Sec. 1, Ch. 528, L. 2003; amd. Sec. 1, Ch. 357, L. 2011; amd. Sec. 1, Ch. 302, L. 2013; amd. Sec. 1, Ch. 185, L. 2015; amd. Sec. 9, Ch. 239, L. 2015.

Mont. Code Ann. § 50-50-116. Conditions for Cottage Food Operation Exemption from Licensure and Routine Facility Inspection

(1) To acquire the status of not being a retail food establishment, a cottage food operation must meet the conditions in this section and shall register with a local health authority as provided in 50-50-117.

(2) A cottage food operation shall:

(a) follow department food standards as provided in rule, including applicable provisions implementing the 2013 United States food and drug administration food code;



- (b) package cottage food products and label the cottage food products prior to sale, including on the label, at a minimum, the following:
 - (i) the name, address, city, state, and zip code of the cottage food operation;
 - (ii) the name of the cottage food product;
 - (iii) the ingredients of the cottage food product, in descending order of predominance by weight;
 - (iv) the net quantity, weight, count, or volume of the cottage food product;
 - (v) allergen labeling as specified by federal and state labeling requirements;
 - (vi) if a nutritional claim is made, an appropriate label if required by federal law; and
 - (vii) the following statement, printed in at least the equivalent of 11-point font size in a color that provides a clear contrast to the background and is conspicuously placed on the principal label: "Made in a home kitchen that is not subject to retail food establishment regulations or inspections."
- (3) Providing cottage food products by consignment, including at a retail food establishment or through a wholesale establishment, is prohibited.
- (4) Processing or packaging of cottage food products must be in the specific registered area of the domestic residence of the person processing or packaging the cottage food products.
- (5) A cottage food operation may store cottage food products only in the registered area of the primary domestic residence used to produce the cottage food product or temporarily in a motor vehicle used to transport cottage food products.
- (6)
 - (a) A cottage food operation is subject to local health authority or state enforcement action for violations of applicable department regulations.
 - (b) Cottage food products may be subject to other state or federal laws or regulations.
- (7) A cottage food operation that meets the requirements in this section is not a retail food establishment or a wholesale food establishment and is not subject to licensure or inspection requirements under Title 50, chapter 57, or this chapter.

History: En. Sec. 1, Ch. 239, L. 2015.

Mont. Code Ann. § 50-50-117. Registration of Cottage Food Operations – Fee

- (1) A person in charge of a cottage food operation shall register with the local health authority in the county in which the person's domestic residence is located and pay a registration fee as provided in subsection (6).
- (2) A registrant shall provide:
 - (a) the name of the cottage food operation;
 - (b) the physical address of the domestic residence, as defined in 50-50-102, where the ingredients are manufactured or packaged into cottage food products and stored;



- (c) a brief description of expected or known food ingredient sources;
 - (d) a complete list of the cottage food products manufactured or packaged; and
 - (e) a copy of each cottage food product label.
- (3) A local health authority may request additional food safety information, if needed, and shall submit the list of additional information to the department. The additional requested information may not restrain trade through extensive registration requirements.
- (4) The local health authority shall submit a copy of the approved registration to the department, which may maintain a listing of cottage food operations.
- (5) If a local health authority refuses to register a cottage food operation, the provisions of 50-50-215 apply, including the requirement for notification of the cottage food operation in writing.
- (6) The person in charge of the cottage food operation shall pay a nonrefundable registration fee to the county in which the cottage food operation is registered. The department shall set the registration fee by rule. The county shall deposit the registration fee with the county treasurer.
- (7) A tribal government may pursue an agreement with the department pursuant to the authority provided in 50-1-106 to coordinate the registration of cottage food operations subject to tribal regulations. The agreement must include an appeals process if the registration is not approved.
- (8) If there is not a cooperative agreement pursuant to subsection (7), a person in charge of a cottage food operation may register with the department.

History: En. Sec. 2, Ch. 239, L. 2015.

Mont. Code Ann. § 50-49 Part 2. The Montana Local Food Choice Act

§ 50-49-201. Short title – purpose.

- (1) This chapter may be cited as the "Montana Local Food Choice Act".
- (2) The purpose of this act is to allow for the sale and consumption of homemade food and food products and to encourage the expansion of agricultural sales by ranches, farms, and home-based producers and the accessibility of homemade food and food products to informed end consumers by:
- (a) facilitating the purchase and consumption of fresh and local agricultural products;
 - (b) enhancing the agricultural economy; and
 - (c) providing Montana citizens with unimpeded access to healthy food from known sources.

History: En. Sec. 1, Ch. 320, L. 2021

§ 50-49-202. Definitions.

For purposes of this chapter, the following definitions apply:

- (1) "Deliver" means to transfer a product as a result of a transaction between a producer and an informed end consumer. The action may be performed by the producer or the producer's designated agent at a farm, ranch, home, office, traditional community social event, or



another location agreed to between the producer or agent and the informed end consumer.

- (2) "Home consumption" means:
 - (a) the consumption of food or a food product in a private home; or
 - (b) the consumption of food or a food product from a private home.
- (3) "Homemade" means food or a food product that is prepared in a private home and that is not licensed, permitted, certified, packaged, labeled, or inspected per any official regulations.
- (4) "Informed end consumer" means a person who is the last person to purchase a product, does not resell the product, and has been informed that the product is not licensed, permitted, certified, packaged, labeled, or inspected per any official regulations.
- (5)
 - (a) "Producer" means a person who harvests, produces, or prepares a product that may be consumed as homemade food or a homemade food product. The term includes a person operating a small dairy, as defined in 81-21-101.
 - (b) The term does not include the entities listed in [section 3(1)(c)].
- (6) "Small dairy" means a place where no more than 5 lactating cows, 10 lactating goats, or 10 lactating sheep are kept for producing milk.
- (7) "Traditional community social event" means an event at which people gather as part of a community for the benefit of those gathering or for the benefit of the community, including but not limited to a:
 - (a) wedding;
 - (b) funeral;
 - (c) church or religious social;
 - (d) school event;
 - (e) farmer's market;
 - (f) potluck;
 - (g) neighborhood gathering;
 - (h) club meeting or social; or
 - (i) youth or adult outdoor club or sporting event.
- (8) "Transaction" means an exchange of buying and selling, including the transfer of a product by delivery.

History: En. Sec. 2, Ch. 320, L. 2021.

§ 50-49-203. Exemptions from regulations – transactions – information required – exceptions.

- (1)
 - (a) A state agency or an agency of a political subdivision of the state may not require licensure, permitting, certification, packaging, labeling, testing, sampling, or inspection that pertains to the preparation, serving, use, consumption, delivery, or storage of homemade food or a homemade food product under this part.
 - (b) This part does not preclude an agency from providing assistance, consultation, or inspection requested by a producer.
 - (c) A producer is not:



- (i) a retail food establishment, a cottage food operation, or a temporary food establishment, as each term is defined in 50-50-102;
- (ii) a wholesale food manufacturing establishment, as defined in 50-57-102; or
- (iii) a dairy or a manufactured dairy products plant, as defined in 81-22-101.
- (d) A producer is not subject to labeling, licensure, inspection, sanitation, or other requirements or standards of 30-12-301; Title 50, chapter 31; or Title 81, chapters 2, 9, 21, 22, or 23.
- (2) Transactions pursuant to this part:
 - (a) must be directly between the producer and the informed end consumer;
 - (b) must be only for home consumption or consumption at a traditional community social event; and
 - (c) must occur only in this state and may not involve interstate commerce.
- (3) Except as provided in subsection (7), a producer shall inform an end consumer that any homemade food or homemade food product sold through ranch, farm, or home-based sales pursuant to this part has not been licensed, permitted, certified, packaged, labeled, or inspected per any official regulations.
- (4) Except for raw, unprocessed fruit and vegetables, homemade food may not be sold or used in a retail food establishment, as defined in 50-50-102, unless the food has been licensed, permitted, certified, packaged, labeled, and inspected as required by law.
- (5) Except as provided in subsection (6) and pursuant to this part, a producer may donate homemade food or homemade food products to a traditional community social event.
- (6) A producer may not donate milk to a traditional community social event.
- (7)
 - (a) Except for a temporary food establishment subject to 50-50-120, meat or meat products processed at a state-licensed establishment or a federally approved meat establishment, by the producer, or by any third party may not be used in preparation of homemade food that is sold pursuant to a transaction provided for in this part.
 - (b) Subsection (7)(a) does not apply to a producer who slaughters fewer than 1,000 poultry birds a year except that the producer is subject to the requirements of 9 CFR 381.10(c) and the recordkeeping requirements of 9 CFR 381.175. The poultry or poultry products may not be adulterated or misbranded.
- (8) A small dairy shall:
 - (a) sample, test, or retest every 6 months for standard plate count, coliform count, and somatic cell count of milk or cream sold as homemade food pursuant to this part;
 - (b) sample, test, or retest every year for brucellosis for every lactating cow, lactating goat, or lactating sheep that is part of the small dairy; and
 - (c) maintain records for 2 years of all previous samples, tests, or retests, which must be provided to the department of livestock if the department suspects the small dairy is causing a foodborne illness.



History: En. Sec. 3, Ch. 320, L. 2021.

(To read the enacting bill in full, click [here](#)).

