

The Arkansas Food Freedom Act: Making and Selling Homemade Food and Drinks in Arkansas

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Arkansans can sell more types of homemade food and drink products and in more locations after the passage of the Arkansas Food Freedom Act of 2021.

The new law replaces the state's Cottage Food law, which allowed a few specific homemade food products to be sold directly to consumers without being made in a kitchen certified and inspected by the Arkansas Department of Health.

The Food Freedom Act allows direct sales of certain homemade food and drink products that do not require time or temperature controls to remain safe. The law also includes specific product labeling requirements that differ from the previous Cottage Food law.

The following information can help determine whether a homemade product qualifies for sale under the Arkansas Food Freedom Act. Contact your [local health department](#) unit's environmental specialist for more information about specific food or drink products.

What Foods And Drinks Can I Sell Under This Law?

[Act 1040](#) of 2021 allows the sale of homemade "non-time/temperature control for safety food" without it being processed in a certified and inspected kitchen. Harmful bacteria do not grow easily on these kinds of food so they do not need to be kept hot or cold to remain safe for consumers.

People in the food industry often call these shelf-stable products a "Non-TCS" food. Examples of Non-TCS foods include most items that fell under Arkansas' old Cottage Food law: baked goods, candies, jam and jellies.

Additionally, pickles, some salsas and sauces, and acidified or fermented beverages can also be a Non-TCS food depending on their acidity levels (or pH levels). An "acidified" vegetable refers to a low-acid vegetable with acids or ingredients added to reduce the pH to 4.6.

How Do I Determine Whether An Acidified Vegetable-based Product Qualifies As A Non-TCS Product?

Producers wanting to sell homemade food products containing pickles or other acidified vegetables must do one of the following:

- Use a recipe from a source approved by the Arkansas Department of Health.
- Use a recipe that has been tested by a certified laboratory that confirmed the finish product has a pH value of 4.6 or less.
- Test the pH of each batch of their homemade food or drink product if not using a state-approved recipe or certified lab. Each batch or group of food product created at one time must have a pH value of 4.6 or less.



What Recipes Has The Arkansas Department Of Health Approved?

The Arkansas Department of Health created guidelines for producers to follow that include a helpful table on food and drink items that are allowed, prohibited, or require additional information in Fayetteville. The document can be accessed on the department's website at https://www.healthy.arkansas.gov/images/uploads/pdf/Homemade_Food_Guide_FINAL.pdf.

Where Can I Find A Certified Laboratory To Confirm My Ph Values For Products Containing Acidified Vegetables?

The Arkansas Food Innovation Center offers a variety of services including pH testing, facilities and equipment to aid in the commercial production of shelf-stable products in jars and flexible pouches. More information about its services can be found at afic.uada.edu/.

The Food Processing Authorities Directory at afdo.org/directories/fpa/ also has a list of experts that could be consulted. It may also be possible to find a private testing laboratory by searching for them online.

How Do I Measure pH?

Producers wanting to measure the pH of their food items at home can purchase a pH meter or have the pH measured at a certified laboratory. Please review the Additional Resources section of this fact sheet for information on choosing and using pH meters.

What's Not Allowed For Sale Under This Law?

Arkansas Code § 20-57-504 prohibits the sale of meat, poultry, seafood, and "time/temperature control for safety food products" under the Food Freedom Act.

According to the law, TCS food products include an animal food that is raw or heat treated; plant-based foods that are heat treated or include raw seed sprouts; cut leafy greens; cut tomatoes or mixtures of tomatoes and garlic-in-oil mixtures.

This means you cannot sell homemade food or drink products using these items or ingredients (example: chicken noodle or vegetable soup).



Homemade bakery type products that do not require refrigeration and have a final pH of 4.6 or less - such as most cookies, cupcakes, doughnuts, pastries and breads - can be sold direct to consumers or through a third-party under the new Arkansas Food Freedom Act.

Harvested leafy greens can be sold. The phrase "cut leafy greens" refers to fresh leafy greens whose leaves have been cut, shredded, sliced, chopped, torn or otherwise made into smaller pieces.

A different state law governs the sale of raw milk in Arkansas. Sales can be conducted only at the farm where the milk was produced, according to Arkansas Code § 20-59-248. Farmers are limited to selling an average of 500 gallons of raw milk each month.

If you have a question about a specific food item, contact your local health department office. Contact information for local units can be found at healthy.arkansas.gov/local-health-units.

Where Can Homemade Food And Drinks Be Made?

Homemade food and drinks sold under the Arkansas Food Freedom Act must be made at the producer's private residence. This can include a farm or ranch where the producer lives.

The Arkansas Food Freedom Act defines "homemade food or drink product" as a food or drink product that is prepared, produced or processed at a person's private residence. Under the law, "process" includes cooking, baking, drying, mixing, cutting, fermenting, preserving, dehydrating, growing and raising.

Where Can Homemade Food And Drinks Be Sold Under This Law?

The law expands where homemade food and drinks can be sold. Producers can sell the product from their home and through online platforms. Producers can deliver the product to the person directly or through the mail.

They can also allow a third-party vendor, such as a retail shop or grocery store, to sell their homemade food or drink items. A seller who is operating in a retail space or location that also sells food and drink made in a licensed food service establishment must keep the homemade food and drink products separate from the other food and drink items prepared or processed at that establishment.

Arkansas' Food Freedom Act states that food sales may occur in another state if the seller complies with all applicable federal laws. Once food products cross state lines, the U.S. Food and Drug Administration has oversight. It is up to the producer to ensure any out-of-state sales do not violate other state or federal laws.

Can I Sell My Homemade Foods To Restaurants For Them To Use?

No. However, you can sell products to retail stores to resell. This could be a grocery store or a restaurant with a retail sales area.

What Are The Record Keeping Requirements?

Producers selling homemade food or drink products using acidified vegetables are required to label each batch and keep specific records for those groups of products made at the same time, including:

- the batch number and date it was prepared
- the recipe used
- the source of the recipe
- pH testing results

What Are The Disclosure And Labeling Requirements?

Producers of homemade foods and drinks sold under this law are required to provide consumers with

information about the product, including the date the item was made, the common name of the food/drink item, and the ingredients used.

Product information labels are required to have the following statement: *“This product was produced in a private residence that is exempt from state licensing and inspection. This product may contain allergens.”*

Producers are required to list their name, address and phone number on the product. Alternatively, they can obtain an identification number from the Department of Agriculture at <https://tinyurl.com/arfoodfreedom>. The identification number allows the product to be traced back to the producer if there is an issue.

There are several options for meeting the label requirements based on how the food or drink is packaged and sold.

- For individually packaged items, affix or attach the label to the exterior of the package.
- For bulk items in a container, affix or attach a label to the container and provide a separate written document to the consumer upon sale about the homemade food product that meets the label information requirements listed above.
- For items that are neither packaged nor in a bulk container, display a placard with the required labeling information at the point of sale.
- For items sold online, the website on which the product is offered for sale must contain the required labeling information.

What Is An “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.

Other Considerations

The Arkansas Food Freedom Act does not provide the manufacturer with liability protection, so anyone who is injured by consuming the product can still sue the person who made the food item.

Complaints may also be made to the Arkansas Department of Health about the food product. The state health department accepts complaints about food products at adh.ehs@arkansas.gov.

Being exempt from health department permits is not the same thing as being exempt from local business permits. Check with your local city or county clerk on any permitting or licensing requirements.

Arkansas Code Annotated § 14-140-101 prohibits charges or assessments, other than those essential for operations and maintenance, against farmers or producers who sell items grown or produced on their property. However, this law may not apply in all food business situations.

For example, the City of Little Rock exempts farmers market vendors from needing a business license. However, the city requires a license for vendors selling products grown by other farmers at locations other than a farmers market. The city also requires people selling cakes from home to have a business license, which may trigger city zoning requirements.

Farmers markets may also have their own requirements regarding how vendors are supposed to communicate to people whether their items were made in inspected or uninspected kitchens.

Additional References

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