

PICKLE BILL

Wisconsin Governor Doyle signed the 'Pickle Bill' (Assembly Bill 229) into law in February 2010. This new law, along with an emergency rule which clarifies points of the bill, exempts a person from having to obtain a license to sell home-canned fruits, pickles, salsa and other naturally acid and acidified products if all of the following apply:

- * The food products are pickles or other processed vegetables or fruits with an equilibrium pH value of 4.6 or lower.
- * The person sells the food products only at a community or social event, farm roadside stand, or a farmers' market in the state of Wisconsin.
- * The person receives less than \$5,000 per year from the sale of the food products.
- * The person completes a home-canning safety course or follows an approved recipe.
- * The person displays a sign at the place of sale stating: "These canned goods are homemade and not subject to state inspection."
- * Each container of food product that is sold is labeled with the name and address of the person who prepared and canned the food product, the date on which the food product was canned, the statement "This product was made in a private home not subject to state Licensing or inspection", and a list of ingredients in descending order of prominence. If any ingredient originates from milk, eggs, fish, crustacean shellfish, tree nuts, wheat, peanuts, or soybeans, the list of those ingredients shall include the common name of that ingredient.

In addition, the person must also:

- * Annually register (at no cost) with the Wisconsin Department of Agriculture, Trade and Consumer Protection (WDATCP).
- * Test the first batch of canned product for

http://www.foodsafety.wisc.edu/assets/pdf_Files/Testing_Labs_0110.pdf

each recipe used in each year to verify that the canned products meet the pH requirement. A list of commercial labs which offer pH testing can be found here:

- * Keep complete written records of every batch of canned product for 2 years including:
 - o Name of the product
 - o Product recipe (including procedures and ingredients)
 - o Amount of the batch canned and sold
 - o Canning and sale dates, sales location and gross sales receipts
 - o Annual pH test results for each batch (and other results, if collected)
 - o Disposition of any product not sold

How does operating under the 'Pickle Bill' compare with obtaining a license? WDATCP licenses and regulates businesses which process food for sale in Wisconsin.

The following comparison generally applies to persons processing and selling acidified canned foods under the 'Pickle Bill' as opposed to those operating under a license from WDATCP.

CATEGORY

LICENSED PROCESSOR

'Pickle Bill' Processor

LICENSE FEE

\$60.00*/year - retail

\$95.00*/year - wholesale

*assumes annual sales less than \$25,000

NO LICENSE REQUIRED

Gross sales limited to \$5,000, or less, per year.

FOOD PRODUCTS

License fee covers processing and sale of acid and acidified canned foods (e.g. jams, jellies, applesauce, pie filling, salsa, pickles), as well as bakery items, milled grains, dried foods, cut/packed produce, frozen foods, mixed foods, etc. Low- acid canning is generally not allowed.

Limited to canned fruits, jams & jellies, and pickled fruits and vegetables. Low-acid canning is not allowed.

FACILITY REQUIREMENT

Approved facility, always separate from the family kitchen. May be a separate home kitchen or in a restaurant, church, shared-use facility, etc.

In-home family kitchen.

SALES VENUE

Any retail or wholesale environment (depending on license); may include interstate or internet sales. [Local regulations and/or mobile food vendor or warehouse licenses may apply.]

Farm market, roadside stand, community or social event in Wisconsin only. [See below for venues not allowed.]

pH TESTING

Applies to acidified foods only: pickles, salsas, some sauces, etc. Commercial pH test results are required for 2 batches of each acidified product at the time of licensing only, and as recipes are added. \$5-\$20 per sample. On site monitoring thereafter.

[Equipment costs for on-site pH monitoring ranges from \$50 to \$500 for a pH meter, to \$20 for pH paper (100 tests).]

Annual pH test results are required for each recipe produced under the exemption (jams, jellies, fruits, pickles, salsa, etc); one annual test per recipe. \$5-\$20 per sample annual cost.

TRAINING

A certificate of training is required www.foodsafety.wisc.edu/acidifiedcanning.html. There is a fee for this training.] only for processors of acidified canned foods (not for those canning naturally acid foods, e.g. fruits, jams & jellies). [See Wisconsin Acidified Canned Foods Training]

Attendance at a home canning safety course or use of an approved recipe is required. [May attend Wisconsin Acidified Canned Foods training. There is a fee for this training.]

REGISTRATION

Annual registration is included as part of the licensing process.
Annual registration required (no fee). Call 608-224-4700 to register.

RECIPE APPROVAL

A university-based processing authority, or other qualified individual, assists in recipe development and process approval. Processors are urged to contact Barbara Ingham at 608-263-7383 or by email bhingham@wisc.edu

PRE-APPROVED RECIPES ARE AVAILABLE:

- www.foodsafety.wisc.edu
- www.uga.edu/nchfp/
- Ball Blue Book (2010 edition)

PRODUCT LABELING

Each jar must be labeled:

- Name of the product
- Name and address of the producer
- Ingredient statement (most to least)*
- Net weight
- Date or lot code

*If any ingredient originates from milk, eggs, fish, crustacean shellfish, tree nuts, wheat, peanuts, or soybeans, the list of those ingredients shall include the common name of that ingredient.

Same except that a net weight is not required and a lot code can not be used. In addition, the following statement must appear on each jar label:

"This product was made in a private home not subject to state licensing or inspection."

SIGNAGE

None required.

A sign must be displayed at the place of sale stating: "These canned goods are homemade and not subject to state inspection."

What foods are not covered?

The 'pickle bill' exempts from licensing only those processors who can naturally acid foods or acidified fruits and vegetables (jams, jellies, pickles, salsa). Other canned foods, like pesto, which contain dairy products or oil, or that are not primarily fruit or vegetable-based, are not exempt and must be processed under a license. Some dessert sauces, like lemon curd or flavored sugar syrups, and pickled meat, eggs or fish must be processed under a license. Individuals who sell baked items, repackaged foods, sell dried or frozen foods, etc. must be licensed. Licensing information can be obtained from WDATCP at 608-224-4700.

Does the \$5,000 exemption apply to sales, or profits? The \$5,000 exemption applies to total sales (retail only) for a single household. Two or more people may together sell product under the exemption, as long as the combined sales are less than \$5,000.

May a person can fruits or acidified vegetables in a shared-use facility, restaurant or church kitchen, or other venue and still claim the exemption under the new law? No, the law specifically Stipulates that a person claiming exemption from licensing under the 'pickle bill' must use a home kitchen.

Canning fruits or acidified vegetables in a shared-use facility or other inspected facility requires that the person be licensed. Each person processing food in a shared-use facility, restaurant, the person be licensed. Each person processing food in a shared-use facility, restaurant, church kitchen, etc. must carry their own food processing license.

What counts as a 'community or social event, farm roadside stand, or a farmers' market?' These events include county fairs, town celebrations, and sporadic church or service club bazaars, farm roadside stands, or regularly scheduled farm markets. Events where unlicensed and uninspected products may not be sold include for-profit events, "Taste of Madison" type events, craft shows, traveling circuses or carnivals, high school sporting or fund-raising events, and regularly Occurring licensed food-sales events such as a church's Friday night fish fry.

Questions about the suitability of a sales venue should be directed to WDATCP at 608-224-4700.

Who should I call if I have questions? Questions related to licensing fees, facility requirements and state regulations should be addressed to WDATCP at 608-224-4700. Questions related to types of products that are exempt, training, sources of approved recipes, and pH testing should be addressed to Barb Ingham (UW-Extension Food Scientist) at 608-263-7383 or bhingham@wisc.edu.

Dr. Ingham also serves as a process authority for licensed processors.

Web-based information to assist licensed processors of acidified canned foods can be found online: www.foodsafety.wisc.edu/acidifiedcanning.html. Approved recipes that are part of the Wisconsin Safe Food Preservation Series and general food safety and food preservation information can also be found online: www.foodsafety.wisc.edu

Good luck!

B. Ingham. April 11, 2010.