

(More) Questions and Answers about 'The Pickle Bill'



On Thursday, February 4, 2010 Governor Doyle signed into law Assembly Bill 229 that has been referred to as the 'Pickle Bill'. Under this bill, a person is not required to obtain a license to sell food products that the person prepares and cans at home 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 at a community or social event 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 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.

How is this different? The Wisconsin Department of Agriculture, Trade and Consumer Protection (WDATCP) licenses and regulates businesses which process food for sale in the state. The license fee ranges from \$60 for a retail food processing license to \$95 for wholesale food processing, with annual production of less than \$25,000. The annual fee covers plan review, facility inspection, and pre-licensing visits for new businesses, and on-going inspections for established businesses. The administrative code which covers food processing plants for the state, ATCP70, mandates the use of a processing facility (kitchen) that is separate from a family kitchen. The food processing facility may be in a family home, but it must be separate from the facility in which the family's meals are prepared. ATCP70 also lists requirements for an acceptable processing facility: cleanable work surfaces, access to a toilet and hand washing facility, a 3-compartment wash sink, etc. As part of the licensing process, individuals who process acidified foods (pickles, salsas, some sauces or

spreads, tomato products) are required to undergo training and to use approved recipes so that the risk of botulism poisoning from this type of foods is avoided.

This **new law changes** the requirements for individuals with annual sales of less than \$5,000 per year selling naturally acid or acidified canned foods (jams, jellies, pickles, salsa) at farmers' markets or community events. Under the new law, a business does not have to be licensed and food can be processed in a home kitchen where family meals are prepared as long as the food is sold only in Wisconsin. Signs must be placed, and each jar must be labeled, alerting customers that the product is produced in an unlicensed facility.

What foods are not covered? The 'pickle bill' exempts 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. Some dessert sauces like lemon curd or flavored sugar syrups are therefore **not** exempt. Pickled meat, eggs or fish are also **not exempt** under the 'pickle bill.' And individuals who sell baked items, repackage foods, sell dried or frozen foods, etc must **still** 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. An individual processing salsa, pickles, jam and sauerkraut would have a total sales limit of \$5,000 under the 'pickle bill' exemption. Further, the exemption applies only to retail sales; wholesale sale of product under the 'pickle bill' exemption is not allowed.

Can products like sauerkraut be canned and sold under the 'pickle bill?' Sauerkraut is a fermented product; fermented fruits and vegetables may be canned and sold under the 'pickle bill' exemption.

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 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, church kitchen, etc must carry their own food processing license.

What counts as a 'community or social event or a farmers' market?' These events include county fairs, town celebrations, and sporadic church or service club bazaars. Events where sales may not take place 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.

What is the potential impact on Extension? The new law states that '[WDATCP], in cooperation with the University of Wisconsin-Extension, shall attempt to maximize the availability of information and technical services and support for persons who wish to home prepare and home can low-acid and acidified food products.' As a clarification, the 'pickle bill' does NOT actually allow the sale of home-canned low-acid foods (vegetables and meat) under any circumstances.

Individuals who contact county offices seeking home canning information should be referred to these web sites:

- Wisconsin Food Preservation Resources www.foodsafety.wisc.edu/preservation.html
- National Center for Home Food Preservation www.uga.edu/nchfp/

Each of these sites contains numerous tested recipes which may be safely canned at home. Individuals may be interested in purchasing copies of the Wisconsin Safe Food Preservation series booklets from UWEX publications: <http://learningstore.uwex.edu/> (stocked by many county offices). County offices may also consider lending out their copy of the *So Easy to Preserve* DVD series as another resource available to unlicensed processors.

While individuals canning items for sale under the 'pickle bill' are not required to attend training, there are **known risks** associated with untested or improper canning practices. Business practices and methods to reduce these risks to the consumer (and processor) are covered in a workshop offered by UWEX and WDATCP - the Wisconsin Acidified Canned Foods Training for Small Businesses: www.foodsafety.wisc.edu/acidifiedcanning.html (there is a fee for this training). Processors canning foods under the 'pickle bill' may choose to attend this workshop. The Master Food Preserver & Food Safety Volunteer 3-day training program is not appropriate training for individuals canning food under the 'pickle bill.'

Based on the potential risks, county-based Extension faculty **should not** feel compelled to serve as a process authority for recipes, to offer information or advice on pH testing, or to consult on recipe development and approval. Questions related to these processes should be addressed to Barb Ingham (UW-Extension Food Scientist) at 608-263-7383 or bingham@wisc.edu.

9 February 2010. Rev. 12 February 2010.

