

# **Foods Sold Directly to Consumers in Kansas: *Regulations and Food Safety Best Practices***

**Revised January 2025; Updated February 2025; Updated April 2025**



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# 1. Key Contacts

Questions on?	Who to contact	Website	Email/phone
Food safety licensing and inspection	KDA Food Safety and Lodging program	<a href="https://www.agriculture.ks.gov/divisions-programs/food-safety-and-lodging">https://www.agriculture.ks.gov/divisions-programs/food-safety-and-lodging</a>	<a href="mailto:KDA.FSL@ks.gov">KDA.FSL@ks.gov</a> 785-564-6767
Value added product process authority recipe approval, product development, Better Process Control School, HACCP, etc.	Kansas State University Value-Added/Product Development Lab	<a href="http://www.ksre.ksu.edu/kvafl">www.ksre.ksu.edu/kvafl</a>	<a href="mailto:kvafl@ksu.edu">kvafl@ksu.edu</a> 785-532-1294
Sales tax information and alcohol regulations	Kansas Department of Revenue	<a href="http://www.ksrevenue.org/">www.ksrevenue.org/</a>	<a href="mailto:kdor_tac@ks.gov">kdor_tac@ks.gov</a> 785-368-8222
Filing as a business entity	Kansas Secretary of State	<a href="https://www.sos.ks.gov/businesses/businesses.html">https://www.sos.ks.gov/businesses/businesses.html</a>	<a href="mailto:kssos@ks.gov">kssos@ks.gov</a> 785-296-4564
Farmers markets general information, registering a farmers market	From the Land of Kansas program	<a href="https://www.fromtheland-ofkansas.com/page/farmers-market-resources">https://www.fromtheland-ofkansas.com/page/farmers-market-resources</a>	<a href="mailto:farmersmarkets@kda.ks.gov">farmersmarkets@kda.ks.gov</a> 785-564-6755
Farmers market food safety best practices questions; produce safety	Kansas State University Extension Food Safety Program	<a href="http://www.ksre.ksu.edu/foodsafety">www.ksre.ksu.edu/foodsafety</a>	
Dairy processing, licensing, and product labeling	KDA Dairy Inspection program	<a href="https://www.agriculture.ks.gov/divisions-programs/dairy-and-feed-safety/dairy-industry">https://www.agriculture.ks.gov/divisions-programs/dairy-and-feed-safety/dairy-industry</a>	785-564-6700
Meat and poultry inspection and registering of label claims	KDA Meat and Poultry program	<a href="https://www.agriculture.ks.gov/divisions-programs/meat-poultry-inspection">https://www.agriculture.ks.gov/divisions-programs/meat-poultry-inspection</a>	785-564-6776
Scale testing, method of selling produce	KDA Weights and Measures	<a href="https://www.agriculture.ks.gov/divisions-programs/weights-and-measures">https://www.agriculture.ks.gov/divisions-programs/weights-and-measures</a>	785-564-6700
Business consulting for small businesses	Kansas Small Business Development Center	<a href="https://www.kansasbdc.net/">https://www.kansasbdc.net/</a>	<a href="mailto:info@ksbdc.net">info@ksbdc.net</a> English: 800-949-7661 Spanish: 800-707-0580
Start or maintain a Kansas business, personal assistance	Kansas Business One Stop	<a href="https://ksbiz.kansas.gov">https://ksbiz.kansas.gov</a>	<a href="mailto:ks-helpcenter@egov.com">ks-helpcenter@egov.com</a> 800-4-KANSAS or 785-296-5059
Small business development assistance	Kansas Department of Commerce	<a href="https://www.kansascommerce.gov/">https://www.kansascommerce.gov/</a>	785-296-3481
Food Business Technical Assistance, start-up, funding	Heartland Regional Food Business Center, K-State Research and Extension	<a href="https://heartlandfoodbusiness.org/">https://heartlandfoodbusiness.org/</a>	
Funding opportunities for rural food businesses	USDA Rural Development	<a href="https://www.rd.usda.gov/ks">https://www.rd.usda.gov/ks</a>	785-271-2700
Local Food System resources and assistance	K-State Research and Extension Local Food Systems	<a href="https://www.ksre.k-state.edu/kansaslocalfoods/">https://www.ksre.k-state.edu/kansaslocalfoods/</a>	<a href="mailto:Kansaslocalfoods@ksu.edu">Kansaslocalfoods@ksu.edu</a>
Specialty crop production	Kansas Specialty Crop Growers Association	<a href="https://www.kscga.org/">https://www.kscga.org/</a>	

Questions on?	Who to contact	Website	Email/phone
Sustainable agriculture, resources and information	Kansas Center for Sustainable Agriculture and Alternative Crops	<a href="http://kansassustainableag.org/">kansassustainableag.org/</a>	<a href="mailto:kebert@k-state.edu">kebert@k-state.edu</a> 913-856-2335, ext. 102
Fruits, vegetables, and live plant production	Kansas State University Extension Horticulture Program	<a href="https://hnr.k-state.edu/extension/">https://hnr.k-state.edu/extension/</a>	785-532-6173
Live plants	KDA Plant Protection and Weed Control Program	<a href="https://www.agriculture.ks.gov/divisions-programs/plant-protection-weed-control/selling-plants-in-kansas">https://www.agriculture.ks.gov/divisions-programs/plant-protection-weed-control/selling-plants-in-kansas</a>	785-564-6698
Pet Food Program	Júlia Guazzelli Pezzali, DVM, MSc, PhD	<a href="https://www.k-state.edu/pet-food/">https://www.k-state.edu/pet-food/</a>	<a href="mailto:jpezzali@ksu.edu">jpezzali@ksu.edu</a> or <a href="mailto:petfood@ksu.edu">petfood@ksu.edu</a> 515-204-3232
Accepting Senior Farmers Market Nutrition Program (SFMNP) coupons	Kansas Department of Health and Environment	<a href="https://www.kdhe.ks.gov/1041/Kansas-Senior-Farmers-Market-Nutrition-P">https://www.kdhe.ks.gov/1041/Kansas-Senior-Farmers-Market-Nutrition-P</a>	785-291-3742
Accepting SNAP (Benefits Cards) from customers	USDA Supplemental Nutrition Assistance Program (SNAP)	<a href="https://www.fns.usda.gov/snap/">https://www.fns.usda.gov/snap/</a> <a href="https://www.fns.usda.gov/snap/farmer-producer">https://www.fns.usda.gov/snap/farmer-producer</a>	<a href="mailto:SM.FN.ROB-WC1RETR@usda.gov">SM.FN.ROB-WC1RETR@usda.gov</a>

## 2. Introduction

Direct-to-consumer sales of food, including at farmers markets, are growing in popularity across the United States and Kansas. These sales provide a valuable market outlet for local farmers and allow consumers to purchase healthy local produce and other foods. It is essential that these foods sold are produced and processed safely according to the relevant governmental rules, regulations, and guidelines. Not only will this produce products that are as safe as possible, but it will assure your customers that your business has product quality and safety in mind.

### Regulatory authority

Retail food sales (including at farmers markets) in Kansas are regulated for food safety by the Kansas Department of Agriculture (KDA) Food Safety and Lodging program. Therefore, if you are selling products directly to consumers in Kansas, the state requirements listed in this document are what you need to follow. KDA encourages vendors to contact them with any questions regarding food safety or licensing.

Vendors should also check with the market where they are selling, as their requirements may be more strict than state governmental regulations.

### Enforcement of regulations

The Kansas Department of Agriculture Food Safety and Lodging Program local inspectors and KDA Meat and Poultry compliance officers conduct random inspections of vendors at farmers markets to check for food safety.

Farmers market managers, K-State Research and Extension personnel, and other related individuals should only provide information on regulations and could make suggestions on how vendors can comply with regulations. However, they are not regulators or enforcers of government regulations. Farmers market managers should enforce any requirements specific to their market.

### Direct-to-consumer sales

These requirements apply to all **direct-to-consumer sales** of food, including festivals, bazaars, craft shows, and similar events where people making the products sell their own products. The listed licensing exemptions would also apply to exempt foods sold online and shipped to the customer's home or delivered by the producer directly to the end consumer.



Foods sold under the direct-to-consumer licensing exemption may be sold in bulk and the customer can bring their own clean container to transport the foods. If a food does NOT require licensing to be sold directly to consumers, it can be made in the producer's home kitchen, if the kitchen provides a clean and sanitary environment for preparation of that food. KDA also encourages people producing and selling products direct-to-consumer that do not require licensing to use suitable shared-kitchen spaces to make their products.

### **Community Supported Agriculture (CSA)**

The regulations for each type of product would be similar to those for selling at a farmers market as it is generally considered a direct-to-consumer sale. Contact the KDA Food Safety and Lodging program for more information.

### **Resale or wholesale distribution**

Any food sales (other than fresh, whole fruits, vegetables, cultivated mushrooms, and herbs) to another business entity for use, resale, or further distribution requires food safety licensing (generally a KDA food processing license). Examples include: selling to a restaurant, grocery store, variety store, or convenience store. Consignment sales are also not subject to the direct-to-consumer exemptions. Contact KDA for more information about wholesale licenses.

## **3. Licensing Information**

**A KDA Food Processing license** allows for distribution to other business entities, often called wholesale sales, such as to grocery stores, restaurants, through a co-op, consignment sales etc.

**A KDA Food Establishment license** only allows for direct-to-consumer sales.

For questions and more information on food safety licenses and the forms needed to apply for the license is available from the Kansas Department of Agriculture website: <https://agriculture.ks.gov/foodlicense> or by contacting KDA Food Safety and Lodging program: [KDA.FSL@ks.gov](mailto:KDA.FSL@ks.gov) or 785-564-6767. After the appropriate application form is completed, send the form with your payment to KDA. They will contact you to conduct an initial inspection.

## **4. Product Labeling**

### **Requirements for packaged food products**

1. Common name of the product (e.g. apple pie).
2. Name and physical address of the person that made or is selling the product.
3. Product ingredients listed in descending order by weight. This is particularly important for customers that have food allergies.
4. Quantity (net weight, volume, or count, depending on product).

More information on food labeling is available in the publication *Food Labeling for Kansas Food Producers and Processors*: <https://bookstore.ksre.ksu.edu/pubs/MF3385.pdf>; or by contacting KDA Food Safety and Lodging: [KDA.FSL@ks.gov](mailto:KDA.FSL@ks.gov) or 785-564-6767.

### **Labeling products as “organic”**

To label a product as “organic,” it must meet the USDA organic certification requirements. If products are labeled as certified organic, proof of that certification must be on file with the relevant state office regulating the labeling of that product.

## **5. General Business Regulations**

**Sales tax:** Every vendor must obtain a Retail Sales Tax certificate; vendors should file their tax liability individually. More information is available from the Kansas Department of Revenue: <https://www.ksrevenue.gov/bustaxtypesales.html> or 785-368-8222.

**Filing as a business entity:** The Office of the Secretary of State (SOS) has more information, and the appropriate forms available from: <https://sos.ks.gov/businesses/register-a-business.html> or 785-296-4564. Sole proprietorships do NOT file with the SOS. General partnerships may file if desired, but it is not required.

### **Registration of farmers market or roadside**

**stand:** Farmers markets (as a whole, rather than individual vendors) and roadside stands are encouraged to register in the Central Registry of Kansas Farmers Markets: <https://www.fromthelandofkansas.com/page/register-your-market>. Registration is voluntary but will provide advertising and limited liability coverage for farmers markets and roadside stands.

**Scale testing:** Farmers market vendors using a scale to sell products by weight must have a licensed service company test their scales once annually. More information, including a list of public scale service companies, is available from the KDA Weights and Measures website: <https://www.agriculture.ks.gov/divisions-programs/weights-and-measures/scales> or 785-564-6700.

## 6. General Food Safety Practices

### Regulatory requirements

- Vendors selling perishable foods must have a suitable thermometer with them at the market.
  - Hot prepared foods must be held at 135°F or higher.
  - Cold perishable foods (such as potato salad or most dairy products) must be 41°F or colder.
  - Frozen foods such as frozen meats and ice cream must be stored and sold frozen (below 0°F is the best practice).
  - Ensure that raw meat or poultry does not contact ready-to-eat food or fresh produce.
  - Wash, rinse, and sanitize food contact surfaces, equipment, and utensils between uses (unless using disposable equipment and utensils).
  - Wash hands as needed and do not touch prepared foods and baked goods with your bare hands (use gloves or tongs or other method).
  - Ensure that any ingredients you use to prepare food for sale are from safe sources.
    - For example, use inspected meat, pasteurized milk from a licensed producer, and ingredients from reputable suppliers. Ensure that produce or other products have not been contaminated with flood waters, etc.
  - The following is required to be in your farmers market stand when selling foods ready for immediate consumption:
    - Hand washing facilities.
    - Ability to control temperature of perishable foods.
    - Potable water (drinking water) supply.
    - Sewage storage tank and ability to transport for proper disposal in a sanitary sewer (not a storm sewer).
- Please refer to Kansas Section 4-28-33 – Sanitation and hygiene requirements for exempt food establishments: <https://casetext.com/regulation/kansas-administrative-code/agency-4-department-of-agriculture/article-28-food-safety/section-4-28-33-sanitation-and-hygiene-requirements-for-exempt-food-establishments>

### Recommended food safety practices

- Transport and store foods at proper temperatures to prevent rapid bacterial growth.
  - Foods to be sold at room temperature (whole produce, canned goods, baked goods) should be kept cooler than 80°F as much as possible.
  - Coolers and ice packs or ice surrounding the product can be used to transport and hold cold foods. Check the temperature occasionally (about once/hour) with a stem food thermometer. Stem food thermometers and refrigerator thermometers can be purchased at most grocery and hardware stores. Be sure the stem food thermometer can be calibrated.
- Reduce possible cross-contamination that can transfer bacteria from one food to another.
  - If re-using bags for selling products, they must be clean and not previously used for meat.
- Practice good personal hygiene (clean clothes, clean hands) to prevent transferring bacteria to your food.
  - Shaking hands, touching money, animals, soiled produce, or utensils can transfer bacteria to your hands.
  - Hand sanitizer is not a substitute for handwashing; however, it can be used after washing your hands.
- Food vendors are not allowed to have dogs (or other animals), except for service animals, in or near their booths (where food is displayed).
  - The common areas of the farmers market outside of the vendor's booth are governed by the market and local rules related to pets being present (there are no state rules in this regard).
  - Dispose of any food that might have been contaminated by a dog or other pet.
- More specific information on good food safety practices and requirements for various types of food are included in the relevant section of this document.

## 7. Thermometers

### Regulatory requirements

- Thermometers must be used to measure the temperature of food that is sold or provided as samples if that food requires temperature control for safety.
- That thermometer must be properly calibrated before each day's use to ensure accuracy.

### Other food safety recommendations

- Be sure that your thermometer is designed for the temperature range in which it will be used.
- Hot foods: 135°F to at least 165°F
- Cold foods: at least 0°F to 41°F
- Thermometers designed only for hot foods are discouraged because the ice water temperature check is not possible.
- Temperatures should be taken once per hour to ensure the foods are the proper temperature.
- For information on calibrating a digital thermometer, please see: [https://bookstore.ksre.ksu.edu/item/using-a-digital-thermometer-for-food-products\\_MF3673](https://bookstore.ksre.ksu.edu/item/using-a-digital-thermometer-for-food-products_MF3673)

## 8. Samples and Demonstrations

### Regulatory requirements

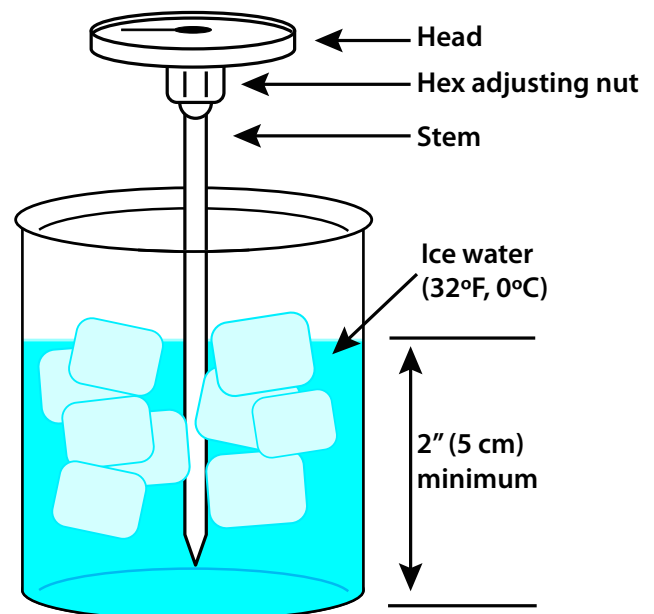
- Even if not licensed, the chef must still follow the “Sanitation and hygiene requirements for exempt food establishments” listed in Kansas Administrative Regulation 4-28-33. This is similar to the provisions for licensing for a Food Establishment (including a Mobile Unit) (see section on Baked Goods on page 17).
- If a person sells the results of a chef demonstration more than six times per year, a Food Establishment License is required.

### Other guidelines and recommendations

- Foods prepared at chef demonstrations can be offered as small samples at no cost. There is no limit to the number of times/year that such samples can be offered.
- If the resulting food does NOT meet the sample definition (offered at a cost or larger portions), that individual can do six or less such demonstrations per calendar year without a license.
- It is recommended that a chef do the majority of preparation work at a licensed facility.
- Contact KDA's Food Safety and Lodging program for more information: [KDA.FSL@ks.gov](mailto:KDA.FSL@ks.gov) or 785-564-6767.

### Procedure for calibrating an analog thermometer

1. Fill a cup with ice.
2. Add enough water so that there is at least 2 inches of liquid in the bottom of the cup.
3. Leave the thermometer in the cup for at least 2 minutes to equilibrate.
4. Read the thermometer. If it does not read 32°F, adjust the thermometer reading according to the thermometer instructions — often by turning (with pliers) the hex adjusting nut immediately below the thermometer head. Digital thermometers may not be adjustable and should be replaced if inaccurate.
5. If adjustments were made, recheck the temperature reading in ice water.



## Offering Product Samples

Providing samples at a farmers market is allowed if certain conditions are met. The fact sheet *Sampling Safely at Kansas Farmers Markets, Farm Stands, and Related Events* contains detailed information on sampling: <https://bookstore.ksre.ksu.edu/pubs/MF3311.pdf>

- There is NO limit to the number of times per year that samples can be offered.
- Any food product legal to sell can be sampled.
- Wine sampling and sales should follow guidelines on page 24.

## 9. Fundraising Sales

### ***Selling prepared foods (ready-for-immediate-consumption foods that require temperature control for safety)***

For more information on the licensing requirements for selling prepared foods for immediate consumption, please refer to the publication *Food Handling Guidelines for Exempt Food Vendors*: <https://bookstore.ksre.ksu.edu/pubs/MF3472.pdf>.

Food and beverages sold for fundraising purposes are allowed to be sold directly to consumers in Kansas WITHOUT licensing; however, they must follow “Sanitation and hygiene requirements for exempt food establishments.” See the guidelines in Section 6, page 5, for more information.

Examples of foods sold for fundraising purposes include: sandwiches, pizza, or burritos prepared and sold by 4-H groups, church groups, schools, etc. (with no staff paid by the proceeds of the food sales). Fundraising for community or humanitarian purposes and educational or youth activities is exempt from licensing with no restriction on number of times done per year.

## 10. Fruits, Vegetables, Nuts, and Herbs

### ***Regulatory requirements***

- All foods on sale or display (even if no licensing is required) must be protected from contamination and sold in a sanitary manner. Produce must be stored and displayed so it is protected from contamination.
  - Store off the ground and protect from rain, dust, or other environmental contaminants.
- Uninspected food products made in Kansas do NOT need to be labeled as “homemade” or other indication that they are not inspected. However, homemade food products can be labeled as such.
- Ensure that raw meat or poultry does not contact ready-to-eat food or fresh produce.
- Wash, rinse, and sanitize food contact surfaces, equipment, and utensils between uses (unless using disposable equipment and utensils).
- Vendors must follow the KDA Weights and Measures Division regulations for the method of selling produce (by weight, count, head or bunch, or by dry measure). The list of allowed methods of retail sale by commodity is available in Tables 3a and 3b, page 10.
- Vendors using a scale to sell products by weight must have a licensed service company certify their scales annually. Learn more and find a list of public scale service companies: <https://www.agriculture.ks.gov/divisions-programs/weights-and-measures/scales>. Report a violation and file a complaint at the same link.
- To sell **fresh, whole produce**, you may be impacted by the Food Safety Modernization Act (FSMA) regardless if you are only selling in-state or across state lines. More information available from: [www.ksre.k-state.edu/foodsafety/produce/index.html](http://www.ksre.k-state.edu/foodsafety/produce/index.html)



## Recommended practices

- Transport and store foods at proper temperatures to prevent rapid bacterial growth
  - Foods to be sold at room temperature (whole produce) should be kept cooler than 80°F as much as possible.
- Reduce possible cross-contamination that can transfer bacteria from one food to another.
  - If re-using bags for selling products, they must be clean and not previously used for meat.
- Unprocessed whole fruits and vegetables, nuts, and other whole agricultural products do not require inspection for sale, unless they would be covered by the FDA Food Safety Modernization Act (FSMA) Produce Safety Rule. Inspections under the Produce Safety Rule are pre-announced. More information on FSMA is available from: [www.ksre.k-state.edu/foodsafety/produce](http://www.ksre.k-state.edu/foodsafety/produce)
- Produce growers selling at markets are encouraged to know, understand, and apply the principles of the FSMA Produce Safety Rule, even if they are exempt from FSMA coverage.

**Table 1. Foods that are *ALLOWED* to be sold directly to consumers in Kansas *WITHOUT* licensing, according to state regulations** (Note: If your product is not listed in this section, please refer to Table 2, *Licensing Required*, on page 9.)

Food product type	Examples	Regulatory requirements
Cut produce (excluding cut tomatoes, melons, or leafy greens; see Table 2.)	Cut berries, cut carrots, zucchini noodles, etc. Can be frozen, fresh, dried, or freeze dried.	No licensing required for non-blanching product. If product is blanched before freezing and has a pH above 4.2, a KDA Food Establishment License is required for frozen foods. If produce is heated before selling, a license is required. Produce purchased from other sources is included in this category.
Dried or freeze-dried uncut fruits, vegetables, or herbs	Berries dried whole	Not cut beyond normal harvesting. If they are not heat treated before drying, a license is not required. If products are heat treated before drying, a KDA Food Establishment License is required.
Fresh, <b>uncut</b> fruits, vegetables	Tomatoes, melons, okra, apples, basil, garlic scapes	May be home-grown; any pesticide use must comply with label directions. <b>Must not be cut beyond normal harvesting.</b> Note that licensing is not required for buying and re-selling produce direct-to-consumer.
Frozen, uncut fruits or vegetables NOT heated before freezing	Whole, uncut tomatoes that have not been blanched before freezing	If intact and the product is maintained frozen to the customer, no license is required.
Fruit leathers	Apricot leather, mixed fruit leather	Standard hygiene and sanitation requirements, as with all food sold.
Herbs	Fresh cut or uncut herbs	Herbs do not require a license to be sold even if cut.
Nuts and nut butters	Walnuts, pecans, peanut butter	May be sold shelled or in-shell. Peanut and other nut butters can also be sold direct-to-consumer without licensing. Nuts may also be roasted/smoked without a license.
Salad greens, intact	Mixed greens with only intact leaves, includes microgreens and shoots	Follow weights and measures requirements. <b>Must not be cut beyond normal harvesting practices.</b> All sprouts and any leafy greens cut beyond normal harvesting cuts require a KDA Food Establishment License.
Spices and herbs — bulk or small quantities	Cinnamon, cloves, etc.	Product must be labeled properly and sold in a sanitary manner. Herb and spice blends are acceptable. If you are selling a singular ingredient, it should not have any additives.
Tea, loose leaf		Product must be labeled properly, unadulterated, and sold in a sanitary manner.



- Before buying a new scale, ensure that the scale can be certified. Scales can be purchased through any of the scale service companies licensed in Kansas. Information on buying scales is available from: <https://cdn.ncwm.com/userfiles/files/Resources/Consumer%20Information/Buying%20Scales%20Online-%20Council.pdf>
- Offer clean produce. If appropriate, wash produce with potable water before selling. Remove visible dirt from potatoes, onions, and other products where washing would reduce quality or increase spoilage.
- Water used to “freshen” produce at market must be potable (suitable for drinking).
- Transport produce to market in clean boxes or containers.

### ***Why is licensing required for some foods and not others?***

Licensing is required for foods that require temperature control to ensure safety or that require a specialized process.

Products that require licensing can NOT be made in a regular home kitchen unless otherwise noted. Freeze drying any foods in Table 2 would still require the indicated license. For foods requiring licensing, the producer must package the food in a suitable container (the customer cannot provide their own container).

**Table 2. Foods that *REQUIRE* proper licensing**

<b>Food product type</b>	<b>Examples</b>	<b>Regulatory requirements</b>	<b>Sales ALLOWED without licensing if sold 6 or fewer days per year</b>
Cut leafy greens (fresh dried, or freeze-dried)	Cut or torn lettuce (cut beyond normal harvesting)	KDA Food establishment License required at production facility and point of sale. Must be sold at or below 41°F. This does NOT include cut herbs.	Yes
Cut melons, cut tomatoes (fresh, dried, or freeze-dried)	Cut melons, cut tomatoes	KDA Food establishment License required at production facility and point of sale. Must be sold at or below 41°F.	Yes
Dried produce that is heat treated before drying	Vegetables that are blanched before drying (including freeze drying)	KDA Food Establishment license required at production facility.	Yes
Roasted vegetables	Roasted garlic, black garlic, roasted corn	License required at production facility and point of sale. If you are selling raw produce and providing roasting services on-site, a license is required. Wash produce before roasting.	Yes
Sprouts	Alfalfa sprouts, bean sprouts	KDA Food Establishment license required at production facility and point of sale.	No

**Table 3a. Method of retail sale for fresh fruits and vegetables specific commodity**

Commodity	Weight	Count	Head or bunch	Dry measure	
				Any size	1 dry qt or larger
Artichokes	X	X			
Asparagus	X		X		
Avocados		X			
Bananas	X	X			
Beans (green, yellow, etc.)	X				X
Brussels Sprouts (loose)	X				
Brussels Sprouts (on stalk)			X		
Cherries	X			X	X
Coconuts	X	X			
Corn on the Cob		X			X
Dates	X				
Eggplant	X	X			
Figs	X				
Grapes	X				
Melons (cut in pieces)	X				
Okra	X				
Peas	X				X
Peppers (bell and other varieties)	X	X			X
Pineapples	X	X			
Rhubarb	X		X		
Tomatoes (except cherry/grape)	X	X			X

**Table 3b. Method of retail sale for fresh fruits and vegetables general commodity groups**

Commodity	Weight	Count	Head or bunch	Dry measure	
				Any size	1 dry qt or larger
Berries and Cherry/Grape Tomatoes	X			X	
Citrus Fruits (oranges, grapefruits, lemons, etc.)	X	X			X
Edible Bulbs (onions [spring or green], garlic, leeks, etc.)	X	X	X		X
Edible Tubers (Irish potatoes, sweet potatoes, ginger, horseradish, etc.)	X				X
Flower Vegetables (broccoli, cauliflower, brussels sprouts, etc.)	X		X		
Gourd Vegetables (cucumbers, squash, melons, etc.)	X	X			X
Leaf Vegetables (lettuce, cabbage, celery, etc.)*	X		X		
Leaf Vegetables (parsley, herbs, loose greens)*	X		X	X	
Pitted Fruits (peaches, plums, prunes, etc.)	X	X			X
Pome Fruits (apples, pears, mangoes, etc.)	X	X			X
Root Vegetables (turnips, carrots, radishes, etc.)	X		X		

\*Gallon bags are NOT considered a dry measure, so leafy greens cannot be sold by the gallon. They would need to be sold by a 4-quart dry measure container (or other dry measure, or by the head/bunch, or by weight.) The product must be measured by an acceptable measurement and then could be transferred to a re-closeable plastic bag for transportation home.

## 11. Live Plants and Other Agricultural Products

### ***Selling live plants at a farmers market***

- Any entity or person that grows live plants for sale or distribution, buys or obtain live plants for selling or distribution, establishes or moves live plants within Kansas to establish such live plants for others for compensation (such as landscapers and sod installers), or gives live plants as a premium or for advertising purposes is required to have a live plant dealer license. See K.S.A. 2-2113 and K.S.A. 2-2120 for actual statutory language.
- Live plants include any living plant, cultivated or wild, or any part thereof, that can be propagated, EXCEPT for the following:
  - field and forage crops;
  - seeds of any kind;
  - cut flowers and cut greenery not used for propagation; and
  - fruits and vegetables used for food or feed.
- Live Plant Dealer License information and applications are available here: <https://www.agriculture.ks.gov/home/showpublisheddocument/10732/638715045805800000>.
- More information and an application are available from the KDA Plant Protection and Weed Control Program: <https://www.agriculture.ks.gov/divisions-programs/plant-protection-weed-control/selling-plants-in-kansas> or by calling 785-564-6698.

### ***Selling unique agricultural products***

There are currently no official state requirements for selling agricultural products such as live chickens, manure, worms, compost, etc. at farmers markets. Vendors should check with the market where they are selling, as well as to see if there are any local policies restricting the sale of these products. Contact KDA with any additional questions: [KDA.FSL@ks.gov](mailto:KDA.FSL@ks.gov) or 785-564-6700 or <https://www.agriculture.ks.gov/about-us/contact-us>.

## 12. Mushrooms

### ***Wild mushrooms***

- Mushrooms picked in the wild must be individually inspected for safety by a KDA-registered mushroom identifier.
  - Contact KDA for more information or for a list of registered mushroom identifiers: [KDA.FSL@ks.gov](mailto:KDA.FSL@ks.gov) or 785-564-6767.
  - To become a registered mushroom identifier, a statement of qualification in mushroom identification must be submitted to KDA's Food Safety and Lodging program via email: [KDA.FSL@ks.gov](mailto:KDA.FSL@ks.gov); fax: 785-564-6779; or in person.
  - Completion of a certification workshop or course is encouraged to become a registered identifier, though not required to be added to the registry.
  - Once the identifier is registered by KDA, the identifier must individually identify each mushroom sold.
- Mushrooms may not be harvested for sale without prior approval from the landowner, either public or private.
- It is recommended to have a tracking system that includes date, location, and species harvested. When collecting, keep different species separated and keep mushrooms collected from different locations and on different dates separate.
- Label suggestions include:
  - Name of mushroom
  - Weight
  - Recommended storage temperature
  - Tracking code for traceability
  - Contact information of seller
- Freeze drying any foods in the list in Table 4 would still require the indicated license.

### ***Cultivated mushrooms***

- Cultivated mushrooms may be sold without a license if not processed beyond cleaning and not heat-treated.
- Mushrooms must be grown in protected environments and kept free from contaminants.

- Following the Mushroom Good Agricultural Practices is recommended: <https://www.ams.usda.gov/services/auditing/gap-ghp/mushroom-gap>.
- Mushrooms should not be packaged to be sealed from normal atmosphere (such as vacuum packing or heat-shrink plastic).
- Any plastic film used to package fresh mushrooms should be visibly perforated to allow air circulation to the mushrooms.
  - Studies have shown that this can be accomplished with a minimum of two 3.0 mm (approximately 1/8 inch) holes situated over the top of the tray.
  - Alternatively, lines of perforations which provide an air exchange equivalent to the 3.0 mm holes are acceptable.
- Additional information is available from: [www.americanmushroom.org/food-safety/food-safety-training-kit/](http://www.americanmushroom.org/food-safety/food-safety-training-kit/)

**Table 4. Method of retail sale**

Commodity	Weight	Count	Dry measure	
			Any size	1 dry qt or larger
Mushrooms (small)	X		X	X
Mushrooms (portobello, large)	X	X		

## 13. Honey

Honey can be sold direct-to-consumer without licensing. This includes spun honey and honey infused with items that do not require temperature control for safety (such as flavored honey sticks, whipped honey, honeycomb, etc.).

### Regulatory requirements

- Infusing honey with items that require temperature control for safety, such as garlic, would require appropriate licensing.
- Sales of packaged honey to grocery stores and other businesses (including consignment sales or similar model where physical control of the product is relinquished by the owner) for resale requires a KDA Food Processing License.

- ALL foods on sale or display (even if no licensing is required) must be effectively protected from contamination and sold in a sanitary manner.
- Uninspected food products in Kansas do NOT need to be labeled as “homemade” or other indication that they are not inspected. However, homemade food products can be labeled as such.

## 14. Eggs

### General guidelines

Regardless of flock size, the items listed below (which are requirements for vendors with 51 or more hens) are strongly recommended best practices to reduce the risk of illness. Although it is not required for vendors with 50 or fewer hens, it is strongly recommended to keep eggs at temperatures below 45°F for safety. ALL foods on sale or display (even if no licensing is required) must be effectively protected from contamination and sold in a sanitary manner.

**Eggs other than chicken eggs:** Can be sold and must meet the same requirements as listed above for each flock size but can only be sold ungraded.

**Egg fact sheets:** <https://www.agriculture.ks.gov/divisions-programs/food-safety-and-lodging/educational-materials-food-safety>

**Baluts:** (Fertilized eggs incubated for a period shorter than required for hatching) can be sold but must follow certain requirements. More information on selling baluts is available in the KDA *Licensed Egg Distributor or Last Handler Fact Sheet*: <https://www.agriculture.ks.gov/home/showpublisheddocument/596/638444869128730000>

### Regulatory requirements by flock size

**If you have 50 or fewer hens and all sales are direct to consumers:**

- You can choose to sell ungraded or graded eggs.
- You are exempt from all requirements for selling eggs unless you choose to grade your eggs or sell them for resale or use in a food establishment.
- Selling graded eggs requires obtaining a Kansas Egg License and paying inspection fees.



**If you have 51 to 249 hens**, the following requirements must be met to sell eggs at a farmers market or similar location:

- Eggs must be kept at or below 45°F when transporting, storing and displaying.
  - This requires that eggs are in a cooler or similar temperature-controlled container.
  - If you want to display an open egg carton on your table, you should hard boil then air cool those eggs and mark the display with a sign stating “For display only. Not for sale.”
- If re-using egg cartons, make sure they are clean and free of any foreign materials, to prevent the transfer of bacteria to the eggs.
  - Mark out all incorrect information, such as the previous producer’s name and address, grade and previous pack and expiration dates.
- Eggs must be washed and cleaned before sale.
- All egg cartons must be labeled with the following:
  - Name and address of the producer
  - Quantity of eggs
  - Identity if other than chicken eggs (for example, duck, goose, etc.)
  - Note that eggs sold graded have additional labeling requirements and require a Kansas egg license and inspection fees.
- If all sales are direct to consumers, you can choose to sell graded or ungraded eggs (selling graded eggs requires a Kansas egg license and inspection fees).
- If you are selling ungraded eggs, you must label the carton as being ungraded.
- Any sales for resale or use in a food establishment require a Kansas Egg License. Sales under the small and very small flock exemptions are allowed concurrently with the licensed sales. Only graded eggs may be sold wholesale and the inspection fees must be paid. To get your egg license and for further details on selling eggs can be found at: <https://www.agriculture.ks.gov/licenses/egg-applications-and-licenses>

**If you have 250 or more hens:**

- You are required to obtain a Kansas Egg License, sell only graded eggs, and pay inspection fees. To get your egg license and for further details on selling eggs can be found at: <https://www.agriculture.ks.gov/licenses/egg-applications-and-licenses>

## 15. Dairy Products

### **Regulatory requirements**

- All dairy products sold at a farmers market must be produced in a KDA-inspected dairy processing plant.
- ALL foods on sale or display (even if no licensing is required) must be effectively protected from contamination and sold in a sanitary manner.
- Labeling and label claims for dairy products must be approved by the KDA Dairy Inspection program. Contact information: <https://www.agriculture.ks.gov/divisions-programs/dairy-and-feed-safety/dairy-consumers>
- Vendors selling directly to the consumer must have a KDA Food Establishment license for the point of sale (at the farmers market).
- Milk, cheese, and other non-frozen dairy products must be maintained at < 45°F at all times for safety.
- Frozen dairy products such as ice cream must be solidly frozen and < 0°F at all times.
- Coolers, refrigerated vehicles, and freezers must all be equipped with properly calibrated thermometers.
- All fluid milk sold at a farmers market in Kansas must be pasteurized.
- Raw milk and other raw dairy products can only be sold on the farm.

### **Recommended practices**

- Milk, cheese, and other non-frozen dairy products should be maintained at < 40°F for product quality.
- Coolers, refrigerated vehicles, or freezers may be used to maintain safe temperatures.

## Dairy processing plants and inspections

- KDA Dairy Inspectors are available to help in planning stages of a facility.
- Dairy processing plants are inspected about six times per year, with frequent testing of pasteurization equipment and sample testing.

## Why is licensing required for dairy products?

Licensing is required for dairy products because they require both temperature control and specialized processes to ensure safety.

- Products that require licensing can NOT be made in a regular home kitchen unless otherwise noted below.
- Freeze drying any foods in Table 5 would still require the indicated license.
- For foods requiring licensing, the producer must provide the food container. The customer cannot provide their own.

**Table 5. Foods that REQUIRE proper licensing (temperature control for safety or specialized process foods and beverages)**

Food product type	Examples	Regulatory requirements
Dairy products; milk	Milk, cheese, yogurt, kefir, etc. from cows, goats, other mammals	Pasteurized and processed at KDA licensed Dairy Manufacturing Plant; KDA Food Establishment license required at point of sale. If a vendor can provide information about a vacuum packaged cheese to show that it does not require refrigeration for safety (typically low water activity and low pH values), a Food Establishment license would NOT be required for the point of sale. These regulations apply to products that start with a raw milk product and is then pasteurized. If a producer purchases pasteurized milk to include in a product, the product would fall under the appropriate category for the final product. Freeze drying milk and milk products requires proper licensing.
Vacuum-packaged foods requiring temperature control for safety	Vacuum-packaged cheese requiring refrigeration for safety	Must follow the requirements of dairy products above.

## 16. Meat, Poultry, Rabbits, and Fish

### Regulatory requirements

#### Processing of meat (raw or processed products)

- When selling meat either wholesale or direct-to-consumer, product must be slaughtered and processed under USDA or KDA inspection at a KDA or USDA fully inspected facility.

ALL foods on sale or display (even if no licensing is required) must be effectively protected from contamination and sold in a sanitary manner.

#### Processing of poultry

- **Fewer than 1,000 birds/year:** Poultry growers raising fewer than 1,000 birds/year can slaughter and sell these birds direct-to-consumer at their own facility without registration or inspection.
- **Up to 20,000 birds/year:** Growers selling up to 20,000 birds/year selling from their own facility and certain other locations must register their exemption from inspection with the KDA Meat & Poultry Inspection Program by obtaining a KDA Poultry Wholesaler license with a poultry exemption. Registration form and more details available at: <https://www.agriculture.ks.gov/home/showpublisheddocument/932/638518895608100000>
- **More than 20,000 birds/year:** Poultry growers raising more than 20,000 birds/year must only sell product that has been slaughtered and processed at an inspected facility.

## Processing of rabbits

- Rabbit growers raising fewer than 250 head/year can slaughter and sell these animals direct-to-consumer at their own facility without registration or inspection. Rabbit growers raising more than 250 head/year for slaughter will require inspection. More details available at: <https://www.agriculture.ks.gov/home/showpublisheddocument/8272/638526746943930000>

## Labeling

- Meat packaging labels must be approved by the KDA Meat and Poultry program or USDA, and all labels must be applied by the inspected facility. Only a farm label, with business name and contact information only, may be applied by the business.
- Label claims such as grain or grass fed and raised without antibiotics must be registered (at no cost) with KDA, including provision of appropriate documentation for approval. Contact the KDA Meat and Poultry program for more information on registering label claims and label requirements.
- Information on the meanings of meat label claims is available from: <https://bookstore.ksre.ksu.edu/pubs/MF3209.pdf>
- Meat labeled as “Custom – Not for Sale” cannot be used for retail sales.
- Label the product with “Safe Handling Instructions.” These instructions are available from: [https://www.fsis.usda.gov/sites/default/files/media\\_file/2021-08/Safe\\_Handling2.pdf](https://www.fsis.usda.gov/sites/default/files/media_file/2021-08/Safe_Handling2.pdf)

## Wholesale and direct-to-consumer sales

- **Point of sale requirements:** If a vendor only sells products bearing the mark of inspection in the original packaging, they must have a KDA Meat & Poultry Wholesaler License, renewed annually, for the point of sale.
- **Distribution requirements:** Any person engaged in the distribution of inspected and passed meat, meat products, poultry, or poultry products within the state of Kansas must obtain a KDA Meat & Poultry Wholesaler license, renewed annually, through the KDA Meat & Poultry Inspection Program. This includes selling both direct-to-consumer and to wholesale accounts (i.e. restaurants, retail stores).

## Storage and transportation

- Meat products must be held, stored, and transported in a clean and sanitary environment to keep products wholesome. This includes having a proper rodent and insect control program.
- Raw product must be transported and sold solidly frozen (0°F or below) or fresh (36°F or below) in freezers or coolers equipped with properly calibrated thermometers.
- Ensure that raw meat or poultry does not contact ready-to-eat food or fresh produce.
- In storage and display, ensure that the juices of one species (for example, beef, chicken, pork, etc.) do not drip onto and contaminate another species, or any other type of product, with bacteria.
- Wash, rinse, and sanitize food contact surfaces, equipment, and utensils between uses (unless using disposable equipment and utensils).
- Vendors must have a properly calibrated thermometer.

## Selling across state lines

- You must **meet Federal requirements**, as well as the retail regulations for Kansas and the state in which you are selling.
- To sell a **meat** product across state lines, you must be licensed with the USDA FSIS as a federally inspected facility. A facility licensed with KDA Meat & Poultry Inspection only cannot sell products across state lines.

## Recommended practices

- Coolers and ice packs or ice surrounding the product can be used to transport and hold cold foods. Check the temperature occasionally (about once/hour) with a stem food thermometer. Stem food thermometers and refrigerator thermometers can be purchased at most grocery and hardware stores. Be sure the stem food thermometer can be calibrated and check its calibration occasionally to ensure accuracy.
- Bag meat separately from any other products (particularly fresh produce, ready-to-eat foods, baked goods) to prevent cross-contamination.
- Understand safe handling practices so that you can explain them to customers to increase the likelihood that the customer will handle the product safely.

**Table 6. Foods that are *ALLOWED* to be sold directly to consumers in Kansas *WITHOUT* licensing, according to state regulations** (Note: If your product is not listed in this section, please refer to the Licensing Required table below.)

Food product type	Examples	Regulatory requirements
Fish and seafood — sold whole on ice (does NOT include catfish and other Siluriformes)	Whole tilapia, shrimp	No HACCP plan or food processing license required. Wild-caught fish sales are illegal without a commercial fishing permit from the Kansas Department of Wildlife, Parks and Tourism. See K.S.A. 115-17-10 and 115-17-13 for more information.
Poultry (< 20,000 birds/year)	Chicken, duck, goose, turkey, etc.	See list above for more details or refer to: <a href="https://www.agriculture.ks.gov/divisions-programs/meat-poultry-inspection/general-information">https://www.agriculture.ks.gov/divisions-programs/meat-poultry-inspection/general-information</a>

**Table 7. Foods that *REQUIRE* proper licensing (temperature control for safety or specialized process foods and beverages)** Freeze drying any foods in the list below would still require the indicated license.

Food product type	Examples	Regulatory requirements
Broths (includes less than 2% meat or poultry after cooking)	Bone broth or stock	KDA Food Establishment license required for direct-to-consumer sales and selling wholesale. If canned and sold shelf stable, follow acidified or low-acid canned food requirements.
Fish and seafood — cleaned (other than catfish, see below)	Degutted tilapia	KDA Food Establishment or Food Processing license at preparation facility, and Food Establishment license at the point of sale. A Seafood HACCP plan is also needed if any hazards are identified. Wild-caught fish sales are illegal without a commercial fishing permit from the Kansas Department of Wildlife, Parks and Tourism.
Lard and tallow		Food Establishment license or Meat and Poultry inspection required if produced for sale direct-to-consumer. Wholesale/business-to-business sales require producing under Meat & Poultry Inspection.
Meat, poultry (>20,000 birds/year), and catfish — <b>raw</b> <b>Note:</b> products containing 2% or more cooked meat or poultry or more than 3% raw meat by weight are considered meat products.	Steaks, ground beef, fresh sausages, turkey, chicken, catfish	Product must be processed at a fully inspected facility, pre-packaged, and properly labeled. A KDA Meat & Poultry Wholesale license must be obtained before any product is sold, regardless if the target buyer is the end consumer or a wholesale account. Product may be sold refrigerated or frozen.
Meat, poultry, and catfish — <b>ready-to-eat</b>	Jerky, summer sausage, and similar products, freeze-dried meat	Product must be inspected by KDA or USDA and sold at the appropriate temperature. Meat products cured with nitrites require proper licensing.
Vacuum-packaged foods requiring temperature control for safety	Vacuum-packaged meats requiring refrigeration for safety	Requires food safety licensing. Must follow the requirements listed above for meat or other appropriate category.

## 17. Animal Feed and Pet Treats

A food safety license is not required, and products may be made in a home kitchen.

### Regulatory requirements

- Animal feed, including pet food and treats, regardless of the type of ingredients in the product or the method of preparation, require a Kansas

commercial feed license and small pet product application. More information available from: <https://www.agriculture.ks.gov/divisions-programs/dairy-and-feed-safety/feed-safety/feed-licenses>.

- Guaranteed analysis for protein, fat, and fiber, and ingredient statement is required on the label.
- For more assistance with pet foods, contact the K-State Pet Food Program at: <https://www.k-state.edu/pet-food/>



## 18. Baked Goods and Related Grain Products

### General guidelines

- All foods on sale or display (even if no licensing is required) must be protected from contamination and sold in a sanitary manner.
- Uninspected food products made in Kansas do NOT need to be labeled as “homemade” or other indication that they are not inspected. However, homemade food products can be labeled as such.
- Products considered specialized processing include beef jerky, vacuum-packaged temperature control for safety foods, acidifying and/or pickling, curing using nitrites, fermenting, and sprouting. All of these products require food safety licensing regardless of the number of days they are sold.
  - Products should be portioned and pre-packaged in clean packaging.

- Packages should be sealed and not be opened to sell part of the contents.
- If a vendor displays products in bulk and then pulls out individual orders for customers onsite, the vendor must have handwashing facilities in their booth.
- For more information regarding frosting review this guide: <https://bookstore.ksre.ksu.edu/item/food-safety-of-frostings-and-fillings-MF3544>

### Licensing requirements

**Why is licensing required for some foods and not others?** Licensing is required for foods that require temperature control to ensure safety or that require a specialized process. Licensing is not required for products made in a home kitchen that are shelf-stable and do not require a specialized process.

**Table 8. Foods that are *ALLOWED* to be sold directly to consumers in Kansas *WITHOUT* licensing, according to state regulations**

Food product type	Examples	Regulatory requirements
Baked goods (home kitchen)	Cookies, breads, cakes, cinnamon rolls, fruit pies, fruit cobbler	Breads, such as zucchini bread or banana bread, must have vegetables or fruits completely incorporated into the batter and be properly baked. Follow labeling requirements as listed in labeling section. Note that breads with cheese and/or vegetables (e.g. jalapenos) baked in/on them require testing to determine their category
Chocolate dipped products not requiring refrigeration for safety, dipped in or decorated with melting chocolate	Chocolate-covered pretzels, strawberries, nuts, etc.	Melting homemade or commercially prepared chocolates for decorating or dipping does not require testing or a license.
Dough	Refrigerated, frozen, or freeze-dried cookie dough, pizza dough	Follow labeling requirements as listed in labeling section.
Dry baking mixes	Cookie mix, brownie mix	Follow labeling requirements as listed in labeling section.
Dry snacks seasoned with oil and spices	Dry pretzels mixed with oil and spices	Standard hygiene and sanitation requirements
Grain products	Home-ground flour, cornmeal, popcorn, intact grain, dehydrated sourdough starter	Standard hygiene and sanitation requirements
Icing/frosting, including cream cheese-based, with >65% sugar by weight	Icing on cinnamon rolls	If the icing is known to contain >65% sugar by weight, testing and licensing is not needed. Otherwise, testing is required to determine if licensing is required or not.

### **Foods requiring proper licensing**

Products sold wholesale require proper licensing. Wholesale includes any product sold to another business entity that will be resold.

Products that require licensing can NOT be made in a regular home kitchen unless otherwise noted below. Freeze drying any foods in Tables 8 and 9 would still require the indicated license. For foods requiring licensing, the producer must package the food in a suitable container (the customer cannot provide their own container.)

These products could be sold under refrigeration without the requirement for BPCS or a scheduled process (by a Process Authority), but they would still require a Food Establishment license for direct-to-consumer sales.

### **How do I get my products tested?**

Producers can send their products to the Kansas Value Added Foods Lab: [www.ksre.ksu.edu/kvafll](http://www.ksre.ksu.edu/kvafll) or another accredited lab for testing. Test results documents must be kept by the operator and made available upon request.

**Table 9. Foods that *REQUIRE* proper licensing**

<b>Food product type</b>	<b>Examples</b>	<b>Regulatory requirements</b>	<b>Sales <i>ALLOWED</i> without licensing if sold 6 or fewer days per year</b>
Baked products with potentially hazardous dairy and egg products	Cheesecake, cream filled cupcakes or donuts, cream cheese-based frostings or fillings (unless >65% sugar content), cream or meringue pies, custards, pumpkin pie, quiche	KDA Food Establishment license required at production facility and point of sale. Freeze drying requires the same license.	Yes
Sprouted grains (fresh or dried)	Sprouted buckwheat	KDA Food Establishment license required for production facility and for the point of sale.	No

**Table 10. Foods that must be tested to determine if a license is required or not**

Even if considered exempt, the producer should check the pH periodically to ensure the product pH (primarily the tomatoes) does not have large variations. These pH records should also be kept by the producer.

<b>Food product type</b>	<b>Nature of test</b>	<b>Notes</b>
Bread with cheese and/or vegetables (e.g. jalapenos) baked in/on top	Water activity and product formulation	If the product is determined to have low water activity and thus not require refrigeration for safety, product can be sold without a license. Otherwise, KDA Food Establishment license required.
Chocolate candies; meringue cookies	Water Activity and product formulation	If the product is determined to require temperature control for safety in a product assessment, KDA Food Establishment license is required. Otherwise, no license is required.
Icing (powdered sugar and milk)	Water activity of the icing	Often used on cinnamon rolls and similar products. If product is determined to have low water activity, product can be sold without a license. Otherwise, KDA Food Establishment license required. <b>If the icing is known to contain &gt;65% sugar by weight, testing and licensing is not needed.</b>
Pecan pie	Water activity of the filling	If the filling is determined to require temperature control based on its water activity, KDA Food Establishment license is required. Otherwise, no license is required.

## 19. Canned Foods

- All foods on sale or display (even if no licensing is required) must be protected from contamination and sold in a sanitary manner.
- Uninspected food products made in Kansas do NOT need to be labeled as “homemade” or other indication that they are not inspected. However, homemade food products can be labeled as such.
- For more information about canned goods and processing methods, see the publication *Selling Safe Canned Foods in Kansas*: <https://bookstore.ksre.ksu.edu/pubs/MF3555.pdf>
- To understand about high and low acid foods, refer to *The Importance of Food pH in Commercial-Canning Operations*: <https://extension.okstate.edu/fact-sheets/print-publications/fapc-food-and-agricultural-products-center/the-importance-of-food-ph-in-commercial-canning-operations-fapc-118.pdf>
- Canned tomatoes must have added acid (2 tablespoons of bottled lemon juice, ½ teaspoon citric acid, OR 4 tablespoons of 5% acidity vinegar per quart of tomatoes. For pints, use half the amounts.) Otherwise, a pH test (by the Kansas Value Added Foods Lab or other) must ensure it is below pH 4.6.

### Testing to determine licensing requirements

Producers can send their products to the Kansas Value Added Foods Lab: [www.ksre.ksu.edu/kvafll](http://www.ksre.ksu.edu/kvafll) or another accredited lab for testing. Test result documents must be kept by the operator and made available upon request.

Even if considered exempt, the producer should check the pH periodically to ensure the product pH (primarily the tomatoes) does not have large variations. These pH records should also be kept by the producer.

## 20. Processed Foods

### Regulatory requirements

- ALL foods on sale or display (even if no licensing is required) must be effectively protected from contamination and sold in a sanitary manner.

**Table 11. Canned foods that are *ALLOWED* to be sold directly to consumers in Kansas *WITHOUT* licensing, according to state regulations**

Food product type	Examples	Regulatory requirements
Fruit jams and jellies; jams and jellies flavored with pepper-flavored vinegar or small amounts of pepper powder	Fruit jams and jellies, apple butter (note that reduced or no-sugar jams or jellies require a product assessment)	Must follow labeling requirements (see page 8). Products with low-acid fruits such as mangoes require product evaluation.
Fruit, naturally high in acid	applesauce, most fruits, pie filling	Must follow labeling requirements. May be canned in a home kitchen without a license for direct-to-consumer sales.
Soda/pop-based jelly	Lemon-lime soda jelly	Must follow labeling requirements. May be canned in a home kitchen without a license for direct-to-consumer sales.

**Table 12. Canned foods *that REQUIRE* proper licensing (temperature control for safety or specialized process foods and beverages)**

These products could be sold under refrigeration without the requirement for BPCS or a scheduled process (by a Process Authority), but they would still require a Food Establishment license for direct-to-consumer sales.

Food product type	Examples	Regulatory requirements	Sales <b>ALLOWED</b> without licensing if sold 6 or fewer days per year.
Acidified shelf-stable foods	Pickles (includes pickled cucumbers, okra, and other vegetables and pickled eggs), hot sauces, lemon curd, tomatoes	KDA Food Establishment License or Food Processing License required for production facility. Requires Process Authority review and recipe approval; Better Process Control School (BPCS) required. KDA Meat and Poultry inspection required if canned meat is sold wholesale. Contact Kansas State University Value-Added Foods Lab for more information on recipe approval and BPCS: <a href="http://www.ksre.ksu.edu/kvaf1">www.ksre.ksu.edu/kvaf1</a>	No
Fermented foods	Sauerkraut, kimchi, kombucha, naturally fermented pickles	KDA Food Establishment License required for production facility.	No
Low-acid shelf-stable foods	Vegetables, vegetable broth, pumpkin pie filling, vegetable juice, shelf-stable cold-brew coffee, meats, cake/bread baked in a jar	KDA Food Establishment License or Food Processing License required for production facility. Requires Process Authority review and recipe approval; Better Process Control School (BPCS) required. KDA Meat and Poultry inspection required if canned meat is sold wholesale. Contact Kansas State University Value-Added Foods Lab for more information on recipe approval and BPCS: <a href="http://www.ksre.ksu.edu/kvaf1">www.ksre.ksu.edu/kvaf1</a>	No



**Table 13. Canned foods that must be tested to determine licensing requirements**

<b>Food product type</b>	<b>Nature of test</b>	<b>Notes</b>
Flower jellies	pH and/or water activity, product formulation	If product is determined to be an acid food, formulated acid, or low water activity food, no license is required. Otherwise, a KDA Food Establishment license is required.
“Formulated acid food”: salsa, barbecue sauce and similar foods (shelf-stable). This category also includes purchased pickles repacked with sugar and hot sauce.	pH and product formulation	Depending on the pH of the final product and the main product ingredients, the product may be exempt from licensing <sup>†</sup> or may be considered an acidified canned food that requires a Food Establishment license (see information on acidified foods in table above).
Low-sugar fruit jams and jellies (shelf-stable)	pH and/or water activity, product formulation	If product is determined to be an acid food, formulated acid, or low water activity food, no license is required. Otherwise, a KDA Food Establishment license is required.
Mustard	pH and product formulation	If the product is determined to have pH below 4.6 and that it can be safely stored at room temperature, product can be sold direct-to-consumer without a license. Otherwise, KDA Food Establishment license is required.
Pepper jams and jellies (shelf-stable, other than those described above as exempt). Includes jellies made with pepper juice.	pH and/or water activity, product formulation	If product is determined to have low water activity or is a formulated acid food, product can be sold without a license. Otherwise, a KDA Food Establishment license is required.
Pumpkin butter, squash butter	Water activity, pH, product formulation	If product is determined to be a low water activity food and/or below 4.6 pH, no license is required. Otherwise, KDA Food Establishment license is required.
Tomato juice	pH	If the product is determined to have pH below 4.6, packaged product can be sold direct-to-consumer without a license. Otherwise, KDA Food Establishment license is required.

- Uninspected food products in Kansas do NOT need to be labeled as “homemade” or other indication that they are not inspected. However, homemade food products can be labeled as such.
- For refrigerated or frozen processed foods, proper temperature (<41°F for refrigerated, <0°F for frozen) must be maintained at the market.
- Product must be labeled according to the food labeling requirements listed in Section 4, p. 4.
- Producer must have the appropriate KDA Food Safety License (likely a Food Establishment License).
  - The facility must be suitable for the process to obtain a license.
  - The license is for the **producer** in a specific facility. You **cannot** operate under someone else’s license unless they are willing to take on the liability.
- If a licensed restaurant is selling products such as salsa at a farmers market, the restaurant would not need an additional license if the salsa formulation has been confirmed as an acid food and it is packaged at the restaurant. If not, then the restaurant would need an additional mobile food establishment license for the point of sale, if done more than 6 times in a year at any location other than the licensed location (the restaurant).
- Products considered specialized processing include beef jerky, vacuum-packaged temperature control for safety foods, acidifying and/or pickling, curing using nitrites, fermenting, and sprouting. All of these products require food safety licensing regardless of the number of days they are sold, as listed in Table 7 on page 16.
- To sell a **processed (non-meat) product**, you will need to initially register (at no cost) your processing facility online with the FDA, and then re-register it every 2 years (October–December of the even numbered years (2026, 2028, etc.)), at: [www.fda.gov/Food/GuidanceRegulation/FoodFacilityRegistration/default.htm](http://www.fda.gov/Food/GuidanceRegulation/FoodFacilityRegistration/default.htm). FDA may then come inspect your facility, and verify you are meeting their current Good Manufacturing Practices.
  - A fact sheet on GMPs is available from: [bookstore.ksre.ksu.edu/pubs/MF3201.pdf](http://bookstore.ksre.ksu.edu/pubs/MF3201.pdf).
  - GMPs – Code of Federal Regulations (CFR) Title 21 Part 11: [www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?CFRPart=110](http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?CFRPart=110) and any other applicable regulations such as Acidified Foods or Low Acid Canned Foods regulations.
  - Such products may also need to follow the requirements of the Federal Food Safety Modernization Act (FSMA) Preventive Controls Rule: [www.fda.gov/fsma](http://www.fda.gov/fsma) (depending on the volume of product sold).

### ***Selling across state lines***

- You must **meet Federal requirements**, as well as the retail regulations for Kansas and the state in which you are selling.

**Table 14. Foods that are *ALLOWED* to be sold directly to consumers in Kansas *WITHOUT* licensing, according to state regulations** (Note: If your product is not listed in this section, please refer to Table 15 on pages 24-25.)

<b>Food product type</b>	<b>Examples</b>	<b>Regulatory requirements</b>
Candy and fudge, homemade	Cinnamon hard candy; caramels, toffee, fudge	Standard hygiene and sanitation requirements, as with all food sold
Candy, freeze dried, shelf-stable	Freeze dried purchased or homemade shelf-stable candies	If the candy requires refrigeration for safety before it is freeze-dried, it will require a Food Establishment License to freeze dry it to sell.
Chocolate dipped products not requiring refrigeration for safety, dipped in or decorated with commercially prepared melting chocolate	Chocolate-covered pretzels, strawberries, nuts, etc.	Melting homemade or commercially prepared chocolates for decorating or dipping does not require testing or a license.
Dry snacks seasoned with oil and spices	Dry pretzels mixed with oil and spices	Standard hygiene and sanitation requirements, as with all food sold
Fruit leathers	Apricot leather, other fruits	Standard hygiene and sanitation requirements, as with all food sold
Grain products	Home-ground flour, cornmeal, popcorn, intact grain, dehydrated sourdough starter	Standard hygiene and sanitation requirements, as with all food sold
Juice and cider, high-acid or formulated acid	Apple juice, apple cider	May be sold under the direct-to-consumer exemption without a license if sold packaged (served by the glass requires license.) If not pasteurized, must include the following statement on the label: "WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems."
Nuts and nut butters	Walnuts, pecans, peanut butter	May be sold shelled or in-shell. Peanut and other nut butters can also be sold direct-to-consumer without licensing. Nuts may also be roasted/smoked without a license.
Pasta, homemade dried	Dried egg noodles	Directions on package to thoroughly boil the noodles is recommended.
Spices and herbs, bulk or small quantities	Cinnamon, cloves, etc.	Product must be labeled properly, unadulterated, and sold in a sanitary manner.
Tea, loose leaf or bagged		Product must be labeled properly, unadulterated, and sold in a sanitary manner.
Vanilla extract		No license required if the product meets the standard of identity in 21 CFR 169.175 to ensure it is vanilla extract and not a flavored alcohol.
Vinegar, herb-flavored or infused	Commercial Vinegar poured over fresh tarragon, fresh garlic, fresh basil, fire cider, shrubs	A license and product evaluation are NOT required unless using low-acid vinegar (pH>4.2) or more than 10% low-acid ingredients, like herbs, which would raise the equilibrium pH above 4.2
Vinegar, pepper-flavored or infused		RAW peppers or commercially pickled peppers must be used in making pepper vinegar to sell direct-to-consumer without a license

**Freeze drying any foods in Table 15 would still require the indicated license.** For foods requiring licensing, the producer must package the food in a suitable container (the customer cannot provide their own container).

These products could be sold under refrigeration without the requirement for BPCS or a scheduled process (by a Process Authority), but they would still

require a Food Establishment license for direct-to-consumer sales.

Even if considered exempt, the producer should check the pH periodically to make sure the product pH (primarily the tomatoes) does not have large variations. These pH records should also be kept by the producer.

**Table 15. Foods that *REQUIRE* proper licensing (temperature control for safety or specialized process foods and beverages)**

Food product type	Examples	Regulatory requirements	Sales <b>ALLOWED</b> without licensing if sold 6 or fewer days per year.
Alcoholic beverages	Beer, wine, possibly kombucha drinks	Kansas Dept. of Revenue alcohol licensing requirements must be met: <a href="https://www.ksrevenue.gov/abcstatutes.html">https://www.ksrevenue.gov/abcstatutes.html</a> . Farm wineries must obtain a Farmers' Market Sales Permit to sell unopened bottles that are consumed off premises. To sell wine by the glass at a farmers' market you can apply for a caterer's permit or a temporary permit. A caterer's permit costs more but allows you to sell wine by the glass at every market. A temporary permit cost less and can only be used for four events. The temporary permit allows you to sell wine by the glass and/or sample wine on the date you hold the permit.	No
Broths (contain less than 2% meat or poultry after cooking)	Bone broth	KDA Food Establishment license required for direct-to-consumer sales. KDA Food Processing license required if selling wholesale. If canned and sold shelf stable, follow acidified or low-acid canned food requirements (see Table 12 on page 19).	No
Candy containing >1% alcohol by volume	Bourbon balls	KDOR manufacturer license would be required for producer. If only selling product, a retailer license is required. More information: <a href="https://www.ksrevenue.gov/abcnonbevuser.html">https://www.ksrevenue.gov/abcnonbevuser.html</a>	No
Juice, low-acid (NOT heat treated/ filled/ sealed)	Celery, beet, tomato, carrot, leafy greens, wheat grass juice, etc.	A license is required unless the low-acid juice is sold refrigerated and NOT heat treated and sealed in its preparation. If it is sold more than 6 days a year, licensing is required. Tomato juice requires a product evaluation to determine its category. Can be put into bottles or jugs, but not sealed or hot-filled to be exempt. A Food Establishment License is required if sold by the cup/glass. If not pasteurized, all juice must include the following statement on the label: "WARNING: This product has not been pasteurized and, therefore, may contain harmful bacteria that can cause serious illness in children, the elderly, and persons with weakened immune systems."	Yes

*continued*



**Table 15. Foods that REQUIRE proper licensing (temperature control for safety or specialized process foods and beverages)** *continued from previous page*

<b>Food product type</b>	<b>Examples</b>	<b>Regulatory requirements</b>	<b>Sales ALLOWED without licensing if sold 6 or fewer days per year.</b>
Juice, low acid vegetable juices that have been heat treated and sealed	Juice from kale or other leafy greens, carrot, celery, beet juice that has been heat treated and sealed	KDA Food Establishment license required at production facility and point of sale. A license is also required if juice is sold by the cup/glass.	No
Kombucha and Symbiotic culture of bacteria and yeast (SCOBY)	Kombucha, SCOBY (used for production of kombucha)	KDA Food Establishment License required for production facility.	No
Processed food, non-specialized (Intended for people to purchase and consume at home.)	Sandwiches, noodles, pesto, refrigerator pickles, refrigerated salsa, refrigerated elderberry syrup, refrigerated cold brew coffee, etc.	A Food Establishment license is required. A Food Processing license is required for any wholesale sales. KDA inspection is required for any meat or poultry wholesale sales. See cooked foods with meat section (page 26 and Table 17, page 27) for processed products containing meat.	Yes (The calculation of 6 days includes the day the product is made and each day they are sold.)
Oil, Infused	Infused cooking olive oils; garlic-in-oil mixtures	KDA Food Establishment License or Food Processing License required for production facility. If finished product is not shelf stable, Food Establishment license also required for point-of-sale.	No
Roasted vegetables	Roasted garlic, black garlic, roasted corn	Temperature control is required for safety; therefore, KDA Food Establishment license is required. If you are selling raw produce and providing roasting services on-site, a license is required. Wash produce before roasting.	Yes
Sprouted grains (fresh or dried/dehydrated)	Sprouted buckwheat	KDA Food Establishment license required for production facility and for the point of sale.	No

**Table 16. Foods that must be tested to determine licensing requirements**

Producers can send their products to the Kansas Value Added Foods Lab, [www.ksre.ksu.edu/kvafl](http://www.ksre.ksu.edu/kvafl), or another accredited lab for testing. Contact [kvafl@ksu.edu](mailto:kvafl@ksu.edu) or 785-532-1294 for more information. Test results documents must be kept by the operator and made available upon request.

Food Product Type	Nature of test	Notes
Bread with cheese and/or vegetables (e.g. jalapenos) baked in/on top	Water activity and product formulation	If product is determined to have low water activity and thus not require refrigeration for safety, product can be sold without a license. Otherwise, KDA Food Establishment license required.
Candy containing <1% alcohol by volume	Bourbon balls	If the product water activity is <0.85, no license is required. If product water activity is >0.85, KDA Food Establishment license is required.
Meringue cookies	Water Activity and product formulation	If product is determined to require temperature control for safety in a product assessment, KDA Food Establishment license is required. Otherwise, no license is required.
Mustard	pH and product formulation	If the product is determined to have pH below 4.6 and that it can be safely stored at room temperature, product can be sold direct-to-consumer without a license. Otherwise, KDA Food Establishment license is required.
Pecan pie	Water activity of the filling	If the filling is determined to require temperature control based on its water activity, KDA Food Establishment license is required. Otherwise, no license is required.
Simple syrups, herb-infused, elderberry and other fruit syrups, shagbark hickory syrup (sold shelf-stable)	Water activity, product formulation	If product is determined to be a low water activity food, no license is required. Otherwise, KDA Food Establishment license is required. If the ratio of sugar-to-water in the syrup is at least 2:1, a license is not required and no testing is required.

## 21. Cooked Foods with Meat

### Regulatory requirements

- ALL foods on sale or display (even if no licensing is required) must be effectively protected from contamination and sold in a sanitary manner.
- Uninspected food products in Kansas do NOT need to be labeled as “homemade” or other indication that they are not inspected. However, homemade food products can be labeled as such.
- For refrigerated or frozen processed foods, proper temperature (<41°F for refrigerated, <0°F for frozen) must be maintained at the market.
- Product must be labeled according to the food labeling requirements listed in the Labeling section.
- The producer must have the appropriate KDA Food License (likely a Food Establishment License).
- The facility must be suitable for the process to obtain a license.
- The license is for the **producer** in a specific facility. You **cannot** operate under someone else’s license unless they are willing to take on the responsibility and liability.
- Processed food containing 2% or more cooked meat or cooked poultry by weight or more than 3% raw meat by weight that is sold wholesale (not direct-to-consumer) must be processed at a USDA or KDA meat inspected facility and kept in the manufacturer’s original packaging with the mark of inspection.
- Note that these products could be sold under refrigeration without the requirement for BPCS or a scheduled process (by a Process Authority), but they would still require a Food Establishment license for direct-to-consumer sales.

**Table 17. Foods that REQUIRE proper licensing (temperature control for safety or specialized process foods and beverages)**

Food product type	Examples	Regulatory requirements	Sales <b>ALLOWED</b> without licensing if sold 6 or fewer days per year.
Processed food containing 2% or more cooked meat or cooked poultry by weight or more than 3% raw meat by weight that is <b>sold wholesale</b> .	Frozen bierocks, pizzas, pork rinds, empanadas, tamales, samosa, etc.	Must be processed at a USDA or KDA meat inspected facility.	No
Processed food containing 2% or more cooked meat or cooked poultry by weight or more than 3% raw meat by weight that is <b>sold direct-to-consumer</b> .	Frozen bierocks, pizzas, pork rinds, empanadas, tamales, samosas, etc.	KDA Food Establishment license required for direct-to-consumer sales.	Yes – unless cured, vacuum-packed, etc.
Broths (contain less than 2% meat or poultry after cooking)	Bone broth	KDA Food Establishment license required for direct-to-consumer sales. KDA Food Processing license required if selling wholesale. If canned and sold shelf stable, follow acidified or low-acid canned food requirements (see above).	No
Meat, poultry, and catfish — <b>ready-to-eat specialized processing</b>	Jerky, summer sausage and similar products, freeze-dried meat	Product must be inspected by KDA or USDA and sold at the appropriate temperature. Meat products cured with nitrites require proper licensing.	No
Vacuum-packaged foods requiring temperature control for safety	Vacuum-packaged cheese or meats requiring refrigeration for safety	Must follow the requirements listed above for cheese, meat or other appropriate product category.	No

## Selling Across State Lines

- To sell products across state lines, you need to **meet Federal requirements**, as well as the retail regulations for Kansas and the state in which you are selling.
- You must produce under federal inspection by the USDA FSIS. Products produced under KDA Meat & Poultry Inspection may not be sold outside of Kansas.

## 22. References and Other Resources

*Buying Guide for Kansas-Grown Fresh Fruits and Vegetables.* K-State Research and Extension. December 2024. <http://bookstore.ksre.ksu.edu/pubs/mf2647.pdf>

Kansas Department of Agriculture Food Safety and Lodging Program website: <https://www.agriculture.ks.gov/divisions-programs/food-safety-and-lodging>

Kansas Department of Agriculture Meat & Poultry Inspection Program website: <https://www.agriculture.ks.gov/divisions-programs/meat-poultry-inspection>

*Kansas Farmers Market Resources* and resources for consumers, producers, and organizers of farmers markets: <https://www.fromthelandofkansas.com/page/farmers-market-resources>

Kansas Food Code 2022: <https://www.agriculture.ks.gov/home/showpublisheddocument/912/638444897243330000>

*Kansas Garden Guide.* K-State Research and Extension. March 2023. [https://bookstore.ksre.ksu.edu/item/kansas-garden-guide\\_S51](https://bookstore.ksre.ksu.edu/item/kansas-garden-guide_S51)

Kansas Meat and Poultry Inspection Act: <https://www.agriculture.ks.gov/home/showpublisheddocument/2032/638519078854230000>

Kansas State University Extension Food Safety website, including numerous publications and resources related to farmers market vendors and produce safety: [www.ksre.ksu.edu/foodsafety](http://www.ksre.ksu.edu/foodsafety)

*Nebraska Farmers Market Handbook.* Nebraska Extension. 2023 <https://cms.unl.edu/ianr/extension/food/buy-fresh/nebraska-farmers-market-manager-handbook/>

*Sampling Safely at Kansas Farmers Markets, Farm Stands, and Related Events.* K-State Research and Extension. January 2024. [https://bookstore.ksre.ksu.edu/pubs/sampling-safely-at-kansas-farmers-markets-farm-stands-and-related-events\\_MF3311.pdf](https://bookstore.ksre.ksu.edu/pubs/sampling-safely-at-kansas-farmers-markets-farm-stands-and-related-events_MF3311.pdf)

*Using a Digital Thermometer for Food Products.* K-State Research and Extension. September 2024. [https://bookstore.ksre.ksu.edu/item/using-a-digital-thermometer-for-food-products\\_MF3673](https://bookstore.ksre.ksu.edu/item/using-a-digital-thermometer-for-food-products_MF3673)

*Vegetable Garden Planting Guide.* K-State Research and Extension. February 2023. <https://bookstore.ksre.ksu.edu/pubs/mf315.pdf>

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**Kansas State University Agricultural Experiment Station and Cooperative Extension Service**

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