

Simplified Guide for Unlicensed Foods Sold Directly to Consumers

This guide is intended to provide a quick reference to what foods can be sold without licensing. For more details and information, including more details about methods of sale, general food safety guidelines, labeling, and more, please refer to K-State publication MF3138, *Foods Sold Directly to Consumers in Kansas: Regulations and Food Safety Best Practices*.

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 small businesses and allow consumers to purchase healthy local produce and other foods. It is essential that these foods are produced and processed safely according to the relevant governmental rules, regulations, and guidelines. Certain foods are allowed to be sold from home kitchens or gardens, while others are not.

This publication details the foods that can be sold directly to consumers in Kansas without a license. This includes

sales that in other states would be covered under what is often termed “cottage food laws” or “home-based business” regulations. In Kansas, these categories are included in the Kansas Food Law, even though the terms are not officially used.

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. KDA encourages vendors to contact them with any questions regarding food safety or licensing.

Don't See Your Product? Need more information?

Please refer to K-State publication MF3138 *Foods Sold Directly to Consumers in Kansas: Regulations and Food Safety Best Practices*, which goes into much greater detail on a wide range of products and how they may be sold. https://book-store.ksre.ksu.edu/item/foods-sold-directly-to-consumers-in-kansas-regulations-and-food-safety-best-practices_MF3138

Cultivated Mushrooms and Honey

Content from Ch. 12 and 13 of MF3138.

Food product type	Examples	Regulatory requirements
Cultivated mushrooms	Button, oyster mushrooms.	Must not be heat-treated. May be washed and cut.
Honey	Honey, spun honey, some infused honey	Honey infused with items that require temperature control for safety must have a license.

Animal Products, Poultry, Meat, Fish, and Dairy

Table 6 from Ch. 16, p. 17, of MF3138. Foods that are ALLOWED to be sold directly to consumers in Kansas WITHOUT licensing, according to state regulations.

Food product type	Examples	Regulatory requirements
Eggs	Eggs	You must have 50 or fewer hens and only sell ungraded eggs direct to consumer. See MF3138 for larger flocks.
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 (<1,000 birds/year)	Whole chicken, duck, goose, turkey	If you are slaughtering fewer than 1,000 birds per year, you can slaughter and sell at your own facility without registration or inspection. Sales cannot be off the premises.
Rabbit meat		If you are slaughtering fewer than 250 head/year, you can slaughter and sell direct-to-consumer from your own facility without registration or inspection. Sales cannot be off the premises.
Raw milk and other raw dairy products	Raw milk, raw milk yogurt, raw milk cheese	Raw milk and related dairy products may only be sold from the farm. Sales cannot be off the premises.

Baked Goods and Related Grain Products

Table 8, from Ch. 17, p. 18 of MF3138. 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 candies or 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 Ch. 4 Labeling, p. 5, of MF3138.
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 sour-dough 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.

Canned Foods

Table 11, from Ch. 19, p. 21 of MF3138. 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, Ch. 4 Labeling, p. 5, of MF3138. 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.

Processed Foods

Table 14, from Ch. 20, p. 24 of MF3138. Foods that are ALLOWED to be sold directly to consumers in Kansas WITHOUT licensing, according to state regulations

Food product type	Examples	Regulatory requirements
Candy and fudge, home-made	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 sour-dough 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 ($\text{pH} > 4.2$) 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.

Fruits, Vegetables, Herbs, Nuts

Table 1, from Ch. 10, p. 9, of MF3138. Foods that are ALLOWED to be sold directly to consumers in Kansas WITHOUT licensing, according to state regulations.

Food product type	Examples	Regulatory requirements
Cut produce (excluding cut tomatoes, melons, or leafy greens)	Cut berries, cut carrots, zucchini noodles, etc. Can be frozen, fresh, dried, or freeze dried.	No licensing required for non-blanched 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 fruits, vegetables, or herbs (excluding cut tomatoes, melons, or leafy greens).	Dried berries, dried strawberries, dried herbs	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, uncut tomatoes, melons, leafy greens	Tomatoes, melons, lettuce, spinach, etc.	May be home-grown; any pesticide use must comply with label directions. Must not be cut beyond normal harvesting. Note that licensing is not required for buying and re-selling produce direct-to-consumer.
Fresh fruits, vegetables, and herbs	Berries, tree fruit, vegetables, herbs	May be home-grown; any pesticide use must comply with label directions. Note that licensing is not required for buying and re-selling produce direct-to-consumer.
Frozen produce NOT heated before freezing	Whole, uncut tomatoes that have not been blanched before freezing	If the product is maintained frozen to the customer, no license is required. 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.
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. Must not be cut beyond normal harvesting practices. 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	tea bags	Product must be labeled properly, unadulterated, and sold in a sanitary manner.

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