



Department of Public Health and Human Services

Public Health & Safety Division ♦ Communicable Disease Control & Prevention Bureau
Food & Consumer Safety ♦ PO Box 202951 ♦ 1400 Broadway ♦ Helena, MT 59620-2951
Phone: (406) 444-2837 ♦ Fax: (406) 444-5055

Greg Gianforte, Governor

Adam Meier, Director

Montana Local Food Choice Act Guidance

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PURPOSE

The purpose of this document is to provide guidance to local health authorities and other interested parties about the Montana Local Food Choice Act (MLFCA).

BACKGROUND

The Montana Local Food Choice Act is a law which exempts producers who sell specific homemade food products from licensing, certification, packaging, labeling, and inspection. These exemptions only apply to producers who sell homemade food products in conformance with the law. These requirements include the following:

- Transactions of homemade foods between a producer and an informed end consumer only.
- Transactions within the state of Montana, sales across state lines are prohibited.
- Transactions must only be for home consumption or consumption at a traditional community event (weddings, funerals, potlucks, etc.).

Food entrepreneurs often have goals to maximize marketing opportunities and revenue for their business, obtaining a retail food license, wholesale food license or both will highly increase access to local, national, and international markets.

DEFINITIONS

"Homemade" means food or a food product that is prepared in a private home that is not licensed, permitted, certified, packaged, labeled, or inspected per any official regulations.

"Informed End Consumer" means a person who is the last person to purchase a product, does not resell the product and has been informed that the product is not licensed, permitted, certified, packaged, labeled, or inspected per any official regulations.

"Traditional Community Event" means an event at which people gather as part of a community for the benefit of those gathering or for the benefit of the community, including but not limited to a wedding, funeral, church or religious social, school event, farmer's market, potluck, neighborhood gathering or club meeting or social; or youth or adult outdoor club or sporting event.

Frequently Asked Questions

Ingredients

Q. Are some food ingredients riskier than others in possibly making people ill or causing death?

- A. *Yes, ingredients that require refrigeration or cooking pose a greater risk of causing illness. Improper storage and packaging may also pose a risk for illness.*

Q. Who will be held financially liable if there is a public health issue with food being sold under MLFCA?

A. *The person or producer making the food products will be liable.*

Q. What meat products are allowed under MLFCA; how is meat defined?

A. *We recommend following [Montana Department of Livestock's MLFCA guidance document](#).*

Q. Does MLFCA allow for homemade alcohol products, alcohol infused products (rum filled candies), and THC infused products, etc.?

A. *MLFCA does not modify laws regulating alcohol and marijuana. The sale of rum-filled candy is prohibited under liquor control statutes and DOR regulations, so MLFCA does not allow a person to circumvent these laws. The same analysis applies for home production of beer or wine in that MLFCA does not alter the application of existing alcohol control laws.*

A similar analysis applies with THC. Montana law requires a person who produces marijuana infused products to be licensed under the Medical Marijuana Act or the recently enacted recreational marijuana laws.

Q. Does MLFCA allow for the sale of dietary supplements?

A. *MLFCA applies only to the sale of homemade food and homemade food products sold by producers in conformance with the requirements of the bill. If an item is marketed as a drug, it will continue to be regulated as a drug.*

Q. Are products allowed to make health claims (cold and flu remedy, cancer treatment, immunity boost, etc.)?

A. *No, health claims cannot be made on labels, advertisements, social media, etc.*

Rules and Regulations

Q. How does MLFCA effect Farmer's Markets?

A. *Existing law generally restricts a person from selling potentially hazardous food at a farmer's market without a retail food establishment license. MCA § 50-50-121. MLFCA allows the sale of homemade food and homemade food products by producers at any traditional community event.*

Farmer's Market managers are allowed to make more stringent rules. Therefore, Farmer's Markets can require producers and vendors to obtain a license, registration, or permit from the local health authority.

MLFCA provides that persons who meet the definition of a producer and sell homemade food or products in conformance with the requirements of the bill are by definition not a retail food establishment or subject to food licensure requirements. If a person seeking to sell homemade food or products at a farmer's market does so in conformance with the requirements of MLFCA, they are exempt from having to obtain a retail food license, even if the homemade food constitutes as potentially hazardous.

Persons who do not meet the definition of a producer or otherwise fail to conform with the requirements of MLFCA are not exempt from licensure and must follow the requirements of section 50-50-121, MCA.

Q. What qualifies as informing the consumer?

A. Producers are required to inform the end consumer that the homemade food products have not been licensed, permitted, certified, packaged, labeled, or inspected under any official regulations.

Q. Can producers set up a stand or vehicle on the side of the road to sell their products?

A. No, in order to sell products outside of their home, the producer must be tied to a traditional community event.

Q. What should I do if someone is selling products that are not in compliance with this law?

A. It may depend on the type of products being sold. For products containing meat and poultry, contact the local county sanitarian or [Montana Department of Livestock](#). For products containing alcohol and/or drugs, contact [Montana Department of Revenue](#). Please contact the local county sanitarian for all other products, you may find each county's contact information [here](#).