

Quick Guide to Wisconsin Food Licensing Regulations

Licensing

- To process most foods in Wisconsin for sale, you must be **licensed**. Having a license and complying with Wisconsin food safety regulations provide assurance to you, and your customers, that the food you process is safe and wholesome.
- The **type of license** you need for your business generally depends on three things:
 - 1) what you are processing,
 - 2) where you are processing, and
 - 3) who your customers are.
- The **Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP)** – Division of Food & Recreational Safety – issues all meat establishment, dairy plant, and food processing plant (wholesale) licenses in the state. DATCP also issues retail food establishment licenses in some counties, and issues multi-jurisdictional mobile retail food establishment licenses; this license is required to make sales in multiple Wisconsin counties directly to consumers.
- Some **local public health departments** are authorized to issue retail food establishment licenses to businesses within their county or city.
- **Retail food establishment licenses** are issued to businesses where at least 75% of sales are directly to consumers. Retail sales include direct sales, farmers' markets, and online sales.
- There are other licenses that may apply such as '**mobile retail licenses**', if a product is moved from where it is prepped or processed to a direct consumer sale, this applies to many **food cart operations**. Food manufacturers may also need a **food warehouse** license if they wish to hold prepared food for longer than 24 hours at a location other than the processing location.
- **Administrative Code ATCP 75** outlines food safety regulations for retail food establishments https://docs.legis.wisconsin.gov/code/admin_code/atcp/055/75.pdf
- **Administrative Code ATCP 70** outlines food safety regulations for food processing plants https://docs.legis.wisconsin.gov/code/admin_code/atcp/055/70.pdf

The license fee schedule for DATCP and more licensing information is available: <https://datcp.wi.gov/Documents/FoodProLicenseFeeSchedule.pdf>

Not sure which license applies to you? Call or email the licensing specialists:
608-224-4923 or datcpdfslicensing@wi.gov

Before Starting Your Business

- Contact your **local city or county zoning board**. Local regulations may dictate where a business can be located and there may be local ordinances that apply.
 - Consider possible **locations**. Setting up a processing facility can be expensive! Some new business owners rent shared-use facilities or space at entrepreneurial centers as they build their market. Some food businesses rent space in restaurants during hours that the restaurants are not open.
- A license is renewable annually and is issued for a business at a specified location, so spend time considering **where** you will be making the food that you sell. The type of food that you are making may, sometimes, set certain requirements for the processing facility and the equipment that you must use.

Just what is food manufacturing or food processing?

Processing is the manufacture or preparation of food through the process of canning, extracting, fermenting, distilling, pickling, freezing, baking, drying, smoking, grinding, cutting, mixing, coating, stuffing, packing, bottling, packaging, or through any other treatment or preservation process. **Food 'processing' encompasses a lot of things that you might do**



to **food** and most of these activities must be done under a license.

Licensing Exemptions

You may be able to harvest and sell certain foods **without a license in the state of Wisconsin**; some of these foods can even be processed without a license. License-exempt products are:

- **Raw agricultural products.** You don't need a license to grow, harvest and sell raw/uncut fruits and vegetables. Note, once you cut a melon you are processing and need a license.
- **Honey.** You don't need a license if:
 - You extract, package and sell **only your own honey** from **your own bees**, and
 - You **don't process** the honey or you process it only minimally by straining, heating, and/or making spun or creamed honey using starters from your own honey, and
 - You sell your products **directly to your customers** out of your home, over the internet, or from a farmer's market.
- **Maple Syrup.** You don't need a license if:
 - You sell only **exempt products** (fresh fruits and vegetables, honey, cider, sorghum, or maple syrup), and
 - You sell maple syrup that **you produce** directly to consumers, and
 - You sell no more than \$5000 worth of maple syrup or concentrated maple sap to other processors for further processing.
- **Eggs.** You don't need a food processing plant license for egg collection, cleaning and packaging if:
 - You own **150 or fewer birds** and eggs from this flock are sold directly to the consumer at the farm, at farmers' markets, or on egg sales routes. [**Note**, however, that a retail food establishment license will likely still be required for sales at farmers' markets.] **and**
 - Eggs are **stored** under refrigeration (41°F or lower) and packaged in a carton that meets labeling requirements.
 - If you only sell nest-run eggs from your flock to **an egg handler** you won't need a license, but you must register with DATCP (no charge for registration).
- **Apple cider.** You don't need a license to sell fresh-squeezed, untreated apple cider if:
 - You sell **directly** to the consumer, at the farm, or at a farmers' market, and no other food processing activities are done at that location, and
 - The apple cider carries a **warning label**, and →
 - The cider is kept under **refrigeration** (41°F or lower).
- **Poultry.** You don't need a license if:
 - You raise **fewer than 1,000 birds per year**, and
 - You slaughter and sell the birds **directly** to consumers from your farm, and
 - Birds are labeled 'not inspected'; label must also include the name and address of the producer and net weight.
- **Rabbits.** Producers may only slaughter, process and sell rabbit meat directly to consumers **from their farm** if they hold a meat establishment license. If no more than 3,000 rabbits are slaughtered per year, there is no license fee and no slaughter inspection. Basic sanitation and record-keeping requirements apply. There is a license fee of \$25 and an inspection requirement for slaughter of more than 3,000 rabbits annually.
- **Venison.** Game venison may be processed (cut and wrapped) without a license (custom processing). If ingredients such as beef, pork, or spices are added to the venison, the processing operation requires a license. **Game venison may not be sold to the public.**



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.

Contrary to 'popular belief' Wisconsin does **not** have a 'Cottage Food Law.'

- **Bison, alpacas, and llamas.** Producers may raise, slaughter, process, and sell bison, alpaca, or llama meat on **the farm** if the farm has a meat establishment license. If the exotic meat is slaughtered or sold any place other than the farm, the meat must **be inspected and passed at a state or federally inspected facility**. A license is required to sell inspected meat.
- **Home-canned foods** (the Pickle Bill). You don't need a license to manufacture and sell home-canned foods if:
 - You sell home-canned **fruits and vegetables** that are **naturally acidic** or have been **acidified** by pickling or fermentation. Final pH must be 4.6 or below.
 - You process the canned items in your **home kitchen**.
 - You sell directly to consumers at a farmers' market or at a social or community event **in Wisconsin**.
 - Individuals making the product sell **no more than \$5000** per year per person.
 - The product is **labeled** with: name and complete address of the person who did the canning, date of manufacture, and ingredient statement in order of prominence with allergens clearly listed.
 - A **warning statement** is on **each jar**: *This product was made in a private home not subject to state licensing or inspection.*
 - A sign at the **point of sale** stating: *These canned goods are homemade and not subject to state inspection.*
- **Home-baked items.** On February 26, 2018, Lafayette County Circuit Court Judge Duane Jorgenson ruled that home bakers who make non-potentially hazardous baked good are exempt from licensing if:
 - Baking is done in the **home kitchen**.
 - Items are **flour-based 'baked goods'** such as cookies and cakes. [Note: candies and confectionary products are not allowed.]
 - Items are **not potentially hazardous**, this means you **cannot prepare** cream-filled pastries, custard or cream pies, or items with buttercream frosting.
 - You sell **directly to consumers** in the state of Wisconsin.



Licenses are required..... Licenses are required if you process or manufacture:

- Dairy products, including butter and cheese,
- Meat or poultry products, or
- Low-acid canned vegetables or meat, e.g canned corn or beef stew.
- And if you are **processing any food** and you don't meet the requirements for license exemptions, or
- If you are warehousing food.

A license is also required if you prepare and sell meals at locations like a restaurant or bakery.

Manufacture of some foods requires **specialized training** or the implementation of specific **food safety programs**. Farmers and processors should be aware of:

- Meat HACCP (generally all meat / poultry products sold wholesale)
- Seafood HACCP (any seafood sold wholesale; fish processed by smoking, curing, salting, drying, marinating, pickling, or fermenting and sold at retail)
- Juice HACCP (any juice sold wholesale)
- Canned Foods regulations (apply to low-acid or acidified canned foods)
- Produce Safety Rule (requirements may apply to suppliers of produce that is rarely cooked)
- Preventive Controls for Human Foods (non-meat and poultry items sold wholesale)