

FOOD LICENSING IN WISCONSIN

Most food processing done in Wisconsin requires a **license**. Having a license and complying with Wisconsin food safety regulations provides 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:



WHAT
you are
processing



WHERE
you are
processing



HOW
you are selling
your product

Licensing

- 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 agents of DATCP and 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.
- **Other licenses** may apply:
 - » A **mobile retail license** is required 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** and the Wisconsin Food Code 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: <https://datcp.wi.gov/Documents/FoodProcLicenseFeeSchedule.pdf>

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 set certain requirements for the processing facility and the equipment that you must use.

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.

Not sure which license applies to you?

Call or email the licensing specialists at (608) 224-4923 or datcpdfslicensing@wi.gov.



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. Once you do anything beyond a "harvest cut-up" 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 \$5,000 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 no more than 150 birds and eggs from this flock are sold directly to the consumer at the farm, at farmers' markets, or on egg sales routes. (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).



Contrary to popular belief, Wisconsin does not have a "Cottage Food Law."

- **Apple cider.** You don't need a license to sell fresh-squeezed, untreated apple cider if:
 - » You sell directly to the consumer at the orchard, farm, or at a farmers' market, and no other food processing activities are done at that location, and
 - » The cider is kept under refrigeration (41°F or lower), and
 - » The apple cider carries a **warning label** (example below).



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.

- **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 only from the place the birds were raised, 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.
- **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.

Photo by Jeff Miller/UW-Madison





Licenses are generally required if you process or manufacture:

- Dairy products, including butter and cheese,
- Meat or poultry products, or
- Processed products like sauces, canned vegetables, and cereal.
- 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.

Manufacturing 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 and 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)

Help is available!

- Division of Extension Help Line
bhingham@wisc.edu or 608-263-7383
- Starting a Food Business
<https://fyi.extension.wisc.edu/safefood/starting-a-food-business>
- Food Business Development
<https://foodsystems.extension.wisc.edu/programs/food-business-development>
- Information for Food Entrepreneurs
https://datcp.wi.gov/Pages/Programs_Services/FoodSafetyBusinessInformation.aspx
- Wisconsin's Local Food Marketing Guide
https://datcp.wi.gov/Documents/DAD/LocalMarketingFoodGuide_1_16.pdf
- Food Finance Institute
<https://foodfinanceinstitute.org>

- **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. The 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 \$5,000 per year per person.
 - » The product is labeled with the name and complete address of the person who did the canning, the date of manufacture, and an 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 baked, such as cookies and cakes. Candies and confectionary products are **not** allowed.
 - » Items are not potentially hazardous. Potentially hazardous foods such as buttercream frostings or cream fillings require refrigeration for safety.
 - » Items must be properly labeled.
 - » Items are sold directly to consumers in the state of Wisconsin.

