

Memorandum

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*Date:* September 2010

*To:* Authorized Representatives for School Nutrition Programs in Wisconsin

*From:* June Paul, Director, School Nutrition Team, Wisconsin Department of Public Instruction

Tom Leitzke, Director, Bureau of Food Safety and Inspection, Wisconsin Department of Agriculture, Trade and Consumer Protection

James Kaplanek, Section Chief, Food Safety and Recreational Licensing, Wisconsin Department of Health Services

*Subject:* Locally Grown, Fresh, Raw, Whole Fruits and Vegetables

Public or private schools are permitted to purchase locally grown fresh, whole, raw fruits and vegetables and/or accept donations of such items. Specific examples of locally grown produce include:

- Intact fruits and vegetables, such as strawberries, whole carrots, radishes, and fresh market tomatoes.
- Vegetables cut during harvesting, such as lettuce, celery, broccoli, and cauliflower when it involves rough field dressing only (such as removing the uneatable outer leaves).

Sources of locally grown fresh produce include farms, farmer's markets, produce auctions, community gardens, school gardens and home gardens.

Farms and other establishments that supply prepared or processed products are required to have licenses. For fruits and vegetables, preparing would include: peeling, cutting, dicing, or cooking. Licensing is also required for the manufacture or preparation of food for sale through the process of canning, extracting, fermenting, distilling, pickling, freezing, baking, drying, smoking, grinding, cutting, mixing, coating, stuffing, packing, bottling or packaging, or through any other treatment or preservation process.

Please note that a new law, Wisconsin Act 101 (pickle bill), allows home-canned fruits and vegetables to be sold without a license under certain circumstances. School agencies participating in the school nutrition programs (National School Lunch Program, School Breakfast Program) must comply with all sanitation and health standards as required by applicable state agency and/or local laws and codes. The Wisconsin Food Code states that food prepared in a private home may not be used or offered for human consumption in a food establishment. Home-canned fruits and vegetables made under the Home Canning/Pickle Bill ARE NOT AN APPROVED SOURCE for any school food service operation.

Department of Agriculture, Trade and Consumer Protection licensing exclusions from the state statutes and administrative rules are provided in the attachment.

## **Attachment: Department of Agriculture, Trade and Consumer Protection Licensing Exclusions from the State Statutes and Administrative Rules – Produce**

### Chapter 97: Food Regulation

**97.29 Food processing plants. (1) DEFINITIONS** (g) “Food processing” means the manufacture or preparation of food for sale through the process of canning, extracting, fermenting, distilling, pickling, freezing, baking, drying, smoking, grinding, cutting, mixing, coating, stuffing, packing, bottling or packaging, or through any other treatment or preservation process.

“Food processing” includes the activities of a bakery, confectionary or bottling establishment, and also includes the receipt and salvaging of distressed food for sale or use as food does not include any of the following:

6. The washing and packaging of fresh fruits and vegetables if the fruits and vegetables are not otherwise processed at the packaging establishment.
8. Any other activity exempted by the department by rule.

**97.30 Retail food establishments. (2) LICENSE. (b) Exemptions.** 1. A license is not required under this section for any of the following:

- a. A retail food establishment that sells only packaged foods or fresh fruits and vegetables, if the establishment does not sell potentially hazardous food and does not engage in food processing.
- b. A retail food establishment which is primarily engaged in selling fresh fruits and vegetables, honey, cider or maple syrup produced by the operator of the retail food establishment, if that retail food establishment is not engaged in other food processing activities.

### **ATCP 70: FOOD PROCESSING PLANTS**

“Food processing” does not include any of the following:

- (f) The washing and packaging of fresh fruits and vegetables if the fruits and vegetables are not otherwise processed at the packaging establishment.

### **Chapter ATCP 75: RETAIL FOOD ESTABLISHMENTS**

**(9) LICENSE EXEMPTIONS.** A retail food establishment license is not required under s. 97.30, Stats., or this section for any of the following:

- (a) A retail food establishment that sells only packaged foods or fresh fruits and vegetables, provided the establishment does not sell potentially hazardous food and does not engage in food processing.
- (g) A retail food establishment primarily engaged in selling fresh fruits and vegetables, honey, cider, sorghum or maple syrup produced by the operator of the retail food establishment if no other food processing activities are conducted at that retail food establishment.