



Food Safety Licenses: Transient, Mobile, and Sampling

Division of Food and Recreation Safety – Licensing Team

WISCONSIN DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION (DATCP)

2025

WHO DO I WORK FOR?

- FDA – Federal
- USDA – Federal
- DATCP – State
- Agent Health Dept. – County/Local



FOOD SCIENTIST LICENSING SPECIALISTS

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MISSION/VISION



- DATCP Mission – We partner with all the citizens of Wisconsin to grow the economy by promoting quality food, healthy plants and animals, sound use of land and water resources, and a fair marketplace.
- DATCP Vision – We will deliver efficient and effective programs and services to Wisconsin agriculture, consumers, and businesses to provide market confidence and to enhance competitiveness and profitability.



MISSION/VISION



- DFRS Mission – Ensuring safe food, lodging, and recreation by educating and regulating businesses in a fair, effective, and efficient manner.
- DFRS Vision – Wisconsin is a national leader in supporting the growth and safe operation of diverse food, lodging, and recreational businesses.



WISCONSIN STATUTES IMPACTING FOOD PROGRAM

Ch. 97: Food, Lodging, and Recreation

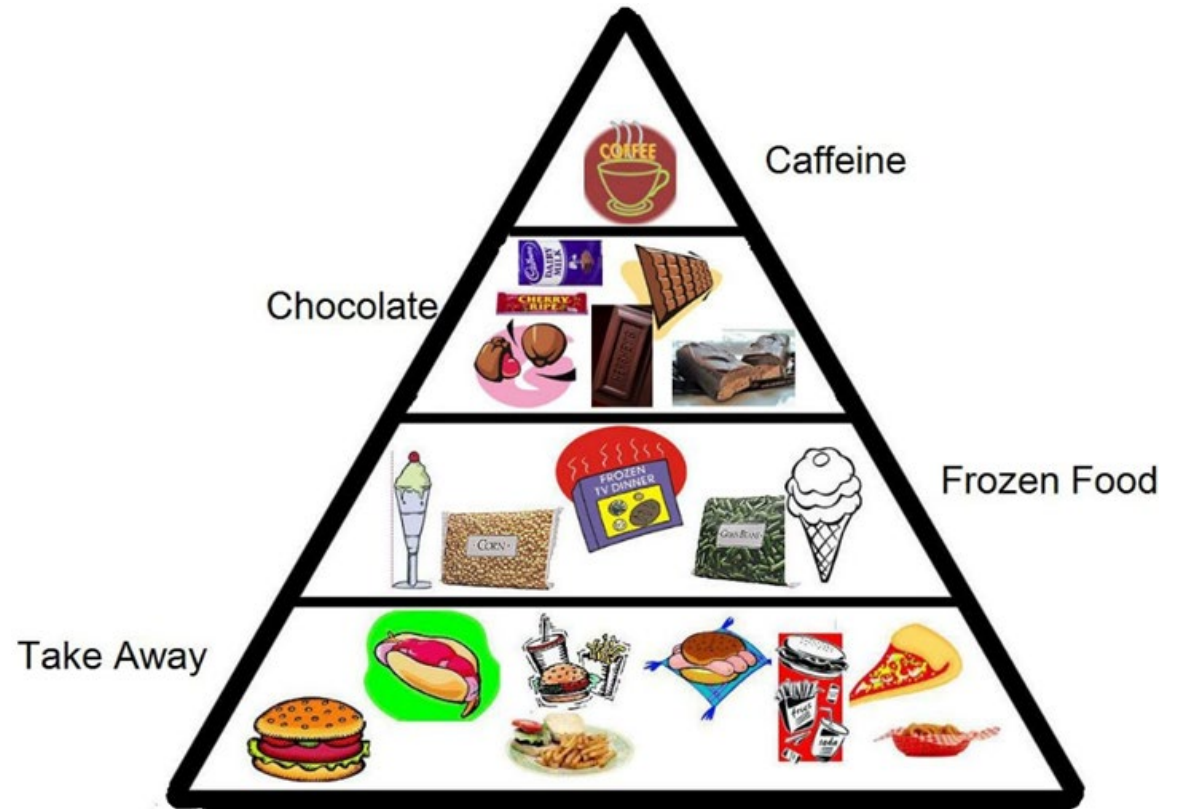
Establishes authority to license, inspect:

- Dairy (97.17-97.26)
- Warehouses (97.27)
- Direct sale of eggs (97.28)
- Food processing plants (97.29)
- Retail food (97.30)



ADMINISTRATIVE RULES IMPACTING THE FOOD PROGRAM

- ATCP 55: Meat and Meat Food Products
- ATCP 65: Milk and Milk Products
- ATCP 70: Food Processing Plants
- ATCP 71: Food Warehouses
- ATCP 75: Retail Food Establishments
- ATCP 87: Honey and Maple Syrup
- ATCP 88: Eggs



FEDERAL REGULATION IMPACTING THE FOOD PROGRAM

- 21 CFR 108: Acidified foods
- 21 CFR 113: Low acid canned foods (jams, jellies, produce)
- 21 CFR 129: Bottling
- 21 CFR 133, 135: Cheese spreads, frozen dessert



ATCP 75



Retail Food



RETAIL EXEMPT – TWO CRITERIA

1. Everything prepackaged from an approved source – no processing
2. Nothing is potentially hazardous – nothing needs refrigeration or to be kept frozen for food safety



RETAIL EXEMPT



**Statement
of Identity/
Name of
Food**



**Net Weight
or Volume**



**Nutrition
Facts**



Ingredients



Allergen



**Name
and
Address**

INGREDIENTS: CERTIFIED ORGANIC CRANBERRIES, CERTIFIED ORGANIC CANE JUICE, CERTIFIED ORGANIC SUNFLOWER OIL.
Allergy Alert: Packaged in a facility that also handles milk, tree nuts, peanuts, wheat and soybeans.
QUALITY GUARANTEED: If you have any questions or comments, e-mail us at: paradise@decascranberry.com
Distributed by:
Decas Cranberry Products Inc., Carver, MA 01930
www.decascranberry.com
Certified organic by Stellar Certification
Made in the USA with North American Cranberries

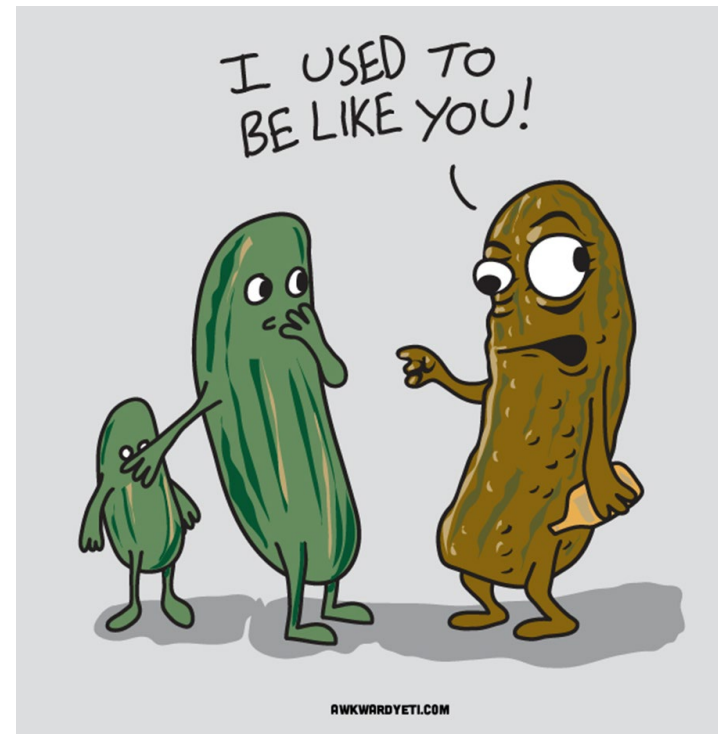
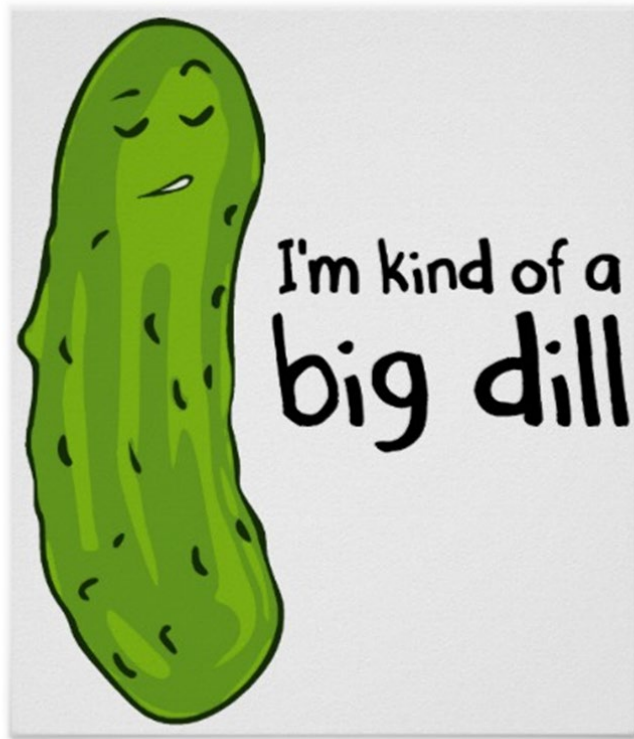


RAW AGRICULTURAL PRODUCE



HOME CANNING EXEMPTION (PICKLE BILL)

STAT 97.29(2)(B)(2)



Types of Products:

- Pickled fruits and vegetables (pH 4.6 or less)
- Sauerkraut
- Salsas
- Chutneys
- Jams and jellies
- Applesauce

Sales Requirements:

- Only at community or social events, such as bazaars, or at farmers markets.
- No more than \$5,000 in sales per year.



Label Must Include:

- “This product was made in a private home not subject to state licensing or inspection.”
- Name and address of the person who did the canning and date of canning.
- All ingredients in descending order of prominence, including the common name for any ingredient that originates from milk, eggs, fish, shellfish, tree nuts, peanuts, wheat or soybeans.



“PICKLE BILL” – WHAT’S NOT ALLOWED?

Products not permitted:

- Fish, meat, eggs, lemon curd, pesto, juice, dressings, or condiments
- Bakery items, dried or packaged foods, or other processed foods
- Low-acid vegetables



Sales not permitted:

- Out of your home
- Wholesale (resale by someone else)
- On consignment
- Via the internet or out of state
- “Pickle bill” sold with licensed foods



CANNED FOOD – WHERE IS IT BEING SOLD?

Producer's Home:

- Processing license at point of production
- Stand would be retail-exempt



Farmers Market:

- No license if operating under the Pickle Bill

OR

- Processing license at point of production
- Stand would be retail-exempt



EGGS – SCALE PRODUCERS EXEMPTION

- Exempt from a food processing license for sales at farm, egg sales route, and farm markets
- Need a food processing license to wholesale eggs
- Does not exempt from a retail license at farm markets



POULTRY (LESS THAN 1,000 BIRDS/YEAR)



Producer's Premises

- Can slaughter and sell birds without inspection or license
- Birds sold directly to consumer
- Labeled “not inspected”
- Name, address, and net weight

Farmers Market

- Transient retail food license
- Slaughter and processed at licensed meat facility
- Labeled “not inspected”
- Name, address, and net weight

Sold to a Retail Establishment

- Slaughter and processed at a licensed meat establishment
- Bird-by-bird inspection is required
- Birds as fully labeled
- Producer must be registered as a meat distributor
- Birds must be warehoused at a licensed facility



LIVESTOCK (CATTLE, SWINE, SHEEP...)



- Animal-by-animal inspection at state or federal meat plant
- Full labeling, sold by weight
- Meat slaughtered by farmer or mobile slaughterer cannot be sold

Producer's Premises

- Retail food license

Farmers Market

- Transient retail food license
- Storage at farm must hold a retail or a warehouse license.

Wholesale from Farm

- Registration as a distributor
- Meat must be warehoused at a licensed facility.



APPLE CIDER RETAIL SALES - LICENSE EXEMPT

- At producing farm, and direct-to-customer at community events
- Warning statement, if packaged and not pasteurized
- Cannot wholesale
- Do not produce other products that require a license



97.20(2)(b)(1). 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.



MAPLE SYRUP

- Sale directly to consumers
- Sale to a food processing plant
 - No more than \$5,000 in sales



97.29(1)(h)12. A place used solely for producing and packaging maple syrup or concentrated maple sap for **sale directly to consumers** or **to a food processing plant licensed under this section** if those sales do not exceed **\$5,000** in any 12-month period.



MAPLE SYRUP

License Exempt:

- No license from production farm or farmers markets
- No license to sell to food processor up to \$5,000



Food Processing Plant License:

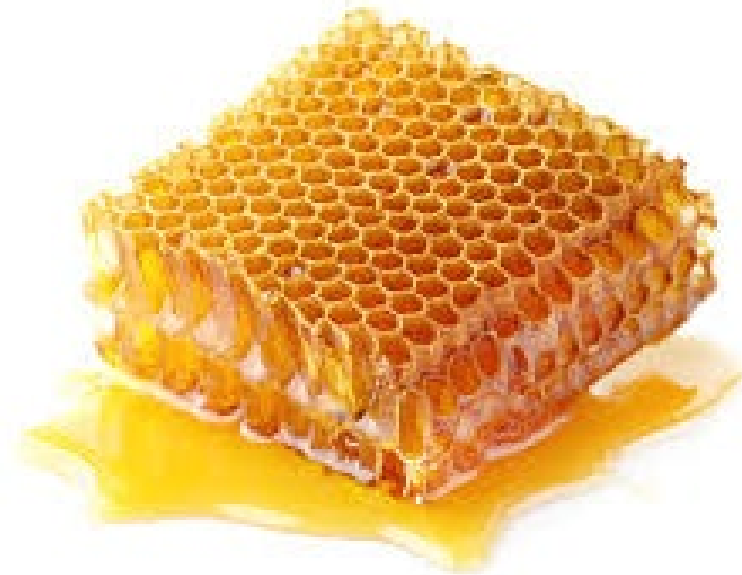
- Wholesale
- Add ingredients
- Mix in others' syrup
- Exceeds \$5,000 threshold to other processors



HONEY

97.29(1)(h)(8). A place used by a beekeeper solely for extracting honey from the comb or producing and selling raw honey or raw bee products.

- No license for wholesale or retail



HONEY: A FEW THINGS WE ASK...

Do you buy honey from other apiaries?



Do you add flavors, colors, or other ingredients?



HONEY: A FEW THINGS WE ASK...

Do you buy honey from other apiaries?

No

Do you add flavors, colors, or other ingredients?

No

AND

NO LICENSE NEEDED

You can sell from home, farmers markets, retail, wholesale, and as an ingredient to food processors.



HONEY: A FEW THINGS WE ASK...

Do you buy honey from other apiaries?



Yes

OR

Do you add flavors, colors, or other ingredients?



Yes

- Retail license required if **less** than 25% of sales are wholesale.
- Processing license required if **more** than 25% of sales are wholesale.



RETAIL NON-PROFIT EXEMPTIONS

Retail non-meals — bakery, drinks, confections

- No license if sales are 12 or fewer days in a licensing year
- Recommend you follow transient event stand fact sheet rules to protect the public
- ATCP 75.063(6) Non-meals 12 days

A retail food establishment-not serving meals, operated occasionally by a religious, charitable, or nonprofit organization as defined under 26 USC 501(c).



RETAIL NON-PROFIT EXEMPTION CONTINUED

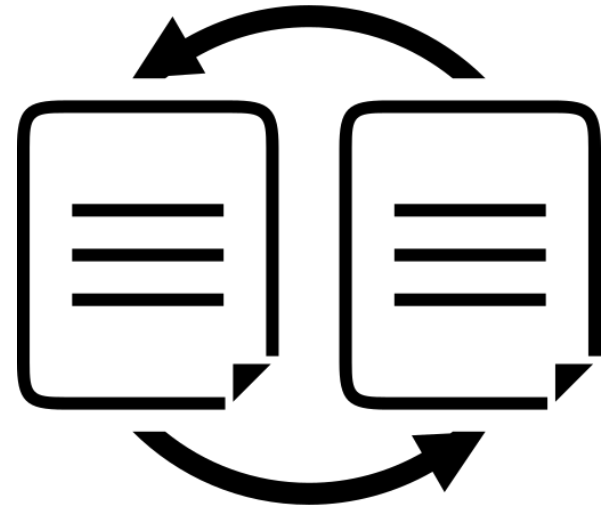
- No license if service is three or less days in a calendar year
- Recommend you follow transient event stand fact sheet rules to protect the public
- ATCP 75.063(7) - A retail food establishment-serving meals operated by a church; religious, fraternal, youth, or patriotic organization; service club; or civic organization as defined under 26 USC 501 (c), that occasionally prepares, serves, or sells meals to transients or the public



WHAT IF I PROCESS A PRODUCT THAT REQUIRES A LICENSE?

Two parts to every license

- Operator/licensee
- Facility
- Licenses are not transferable – if one of these two things change, a new license is required



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TYPES OF RETAIL FOOD ESTABLISHMENTS

Retail food establishment –
serving meals

- Fast food restaurant
- Supper club
- Diner

Retail food establishment –
not serving meals

- Grocery store
- Retail meat shop
- Bakery



TYPE OF RETAIL FOOD ESTABLISHMENTS (CONTINUED)

Mobile retail food establishment –
serving meals

- BBQ food truck
- Hot dog pushcart
- Sandwich truck

Mobile retail food establishment –
not serving meals

- Ice cream pushcart
- Coffee cart/trailer
- Cotton candy pushcart





PUSHCART

- Pushcarts that serve or prepare non-TCS (time temperature control for safety) foods are not limited.
- Pushcarts that serve TCS foods are limited to activities using preformed meats only.



MOBILE RETAIL FACILITIES – SERVICE BASE

- Appropriate service bases; required to have a base unless a variance is issued.
- Locations may include:
 - ▣ Retail Base license – should be a meals or no meals matching the truck license
 - ▣ Retail License in same ownership and a license level sufficient to support truck – no additional license needed
 - ▣ Food processor in same ownership – no additional license needed
 - ▣ Food warehouse – if only storage and cleaning



VARIANCE – FOR NO SERVICE BASE

- We do not offer the variance during initial contact
- Operators responsibility to complete the paperwork
- Send variance and supporting information to the Retail Food Scientists mailbox:

- datcpdfrsretail@wi.gov

- They have up to 30 days to evaluate



WATER AND WASTEWATER TANK REQUIREMENTS

There must be a single gravity or pressurized storage tank on the MFE, and it shall have a gauge to read water volume in gallons or liters.

- **Five-gallon** tank capacity for pushcarts for handwashing.
- **10-gallon** tank capacity for MFEs that require handwashing, and only serve beverages or prepared food or reheats prepared foods.
- **40-gallon** tank capacity for MFEs that require handwashing, food preparation and/or utensil washing.
- **Wastewater tank** must be at least 15% larger than water tank.





TRANSIENT RETAIL



TRANSIENT RETAIL PROCESSING – TIME TEMPERATURE CONTROL FOR SAFETY VS. NON TIME TEMPERATURE CONTROL FOR SAFETY

Transients are licenses based on the final food product.

- If final product requires refrigeration, then TCS license
- If final product does not require refrigeration, then NON TCS



TRANSIENT RETAIL - PREPACKAGED



TRANSIENT LICENSE ONLY VALID AT SPECIAL EVENTS



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LIMITS OF TRANSIENT LICENSE

- Cannot operate as a street vendor
- Cannot operate in parking lots, street corners, private property



TEMPORARY FOOD SERVICE GUIDELINES

Wisconsin Food Code FACT SHEET

Temporary Food Service Guidelines

Use this guide as a checklist for stand construction and operation. The following is a summary of requirements as required by the Wisconsin Food Code, Chapter 10. A copy of the food code can be obtained from the [State of Wisconsin Legislature](#) or the [DATCP website](#).

Demonstration of Knowledge

The person in charge or the employee (volunteer) must be able to demonstrate the knowledge outlined in this document through food safety practices and/or answering food safety questions as they relate to their particular food operation. Demonstration of Knowledge includes having the appropriate testing materials if sanitizers are used.



not prepared to eliminate pathogens in a ready-to-eat form. The notice should include a warning of the hazard and an advisory on appropriate handling. The notice must be posted at a visible location on the food stand or printed on the menu.

SOURCE: All food prepared, sold or served to the general public must come from an approved source as defined in the Food Code. Food must be prepared at the temporary food service booth or at a licensed facility approved by the department or agent health

department. Documentation as to where food is purchased must be available at all times. The sale of foods prepared in a private home is not allowed.

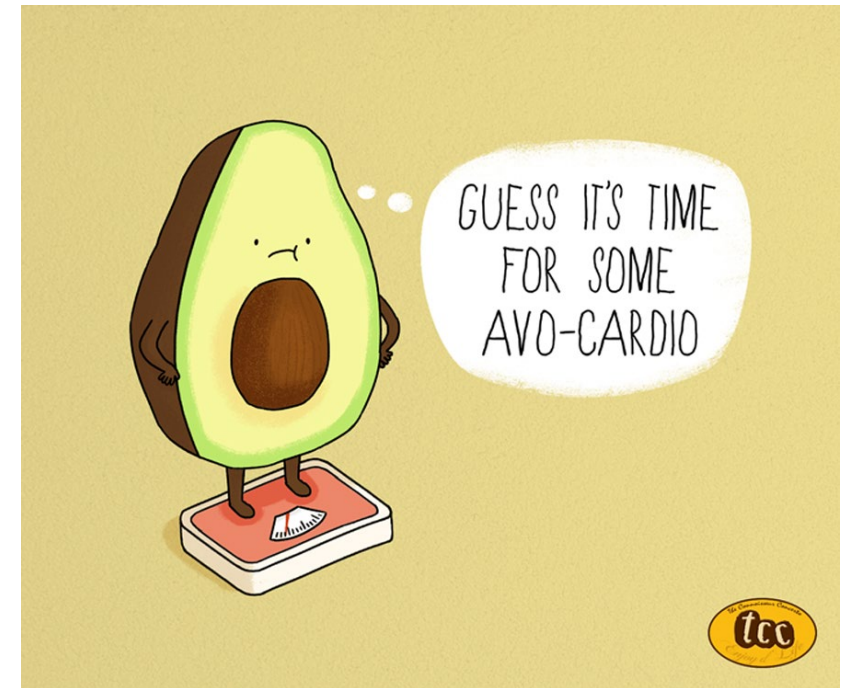
Employee Health

HEALTH: Food service employees must not have any open cuts or sores, or diseases transmittable by food. Specifically, employees with a fever, diarrhea, vomiting, jaundice, sore throat with fever or with a



SAMPLING

- ATP 75:
- (21) “Meal” means food that is ordered by, prepared for, or served to a customer with or without a beverage and is obtained from the retail food establishment in a ready-to-eat form with the expectation of immediate consumption, although consumption may occur at another location. “Meal” does not include single-bite sized free food samples or an equivalent portion given away to demonstrate the characteristics of the food.



WHO ISSUES THE LICENSE?

- Wisconsin has a multi-jurisdiction program for retail food establishment licensing.
- All retail food establishment transient and mobile licenses are accepted by all jurisdictions in the state.
- Some local health departments charge inspection fees.
- Food processing plant, warehouse, dairy plant, meat establishment, etc., are regulated by DATCP.



Complimentary snacks and beverages.



LICENSING PROCESS

1. Transient retail – the location determines licensing agency
2. This license is honored throughout the state; local health departments may charge an inspection fee
3. Licensing specialist provides application and information on the facility requirements in addition to required training, certifications, etc.
4. Completed application returned with license fee
5. Inspector receives application and schedules licensing inspection
6. Facility is officially licensed or issued a conditional license



- Contact DATCP early in the process
- Understand and stay updated on the rules and regulations that apply to you
- Ask questions!



CONTACT US!

General inquiries:

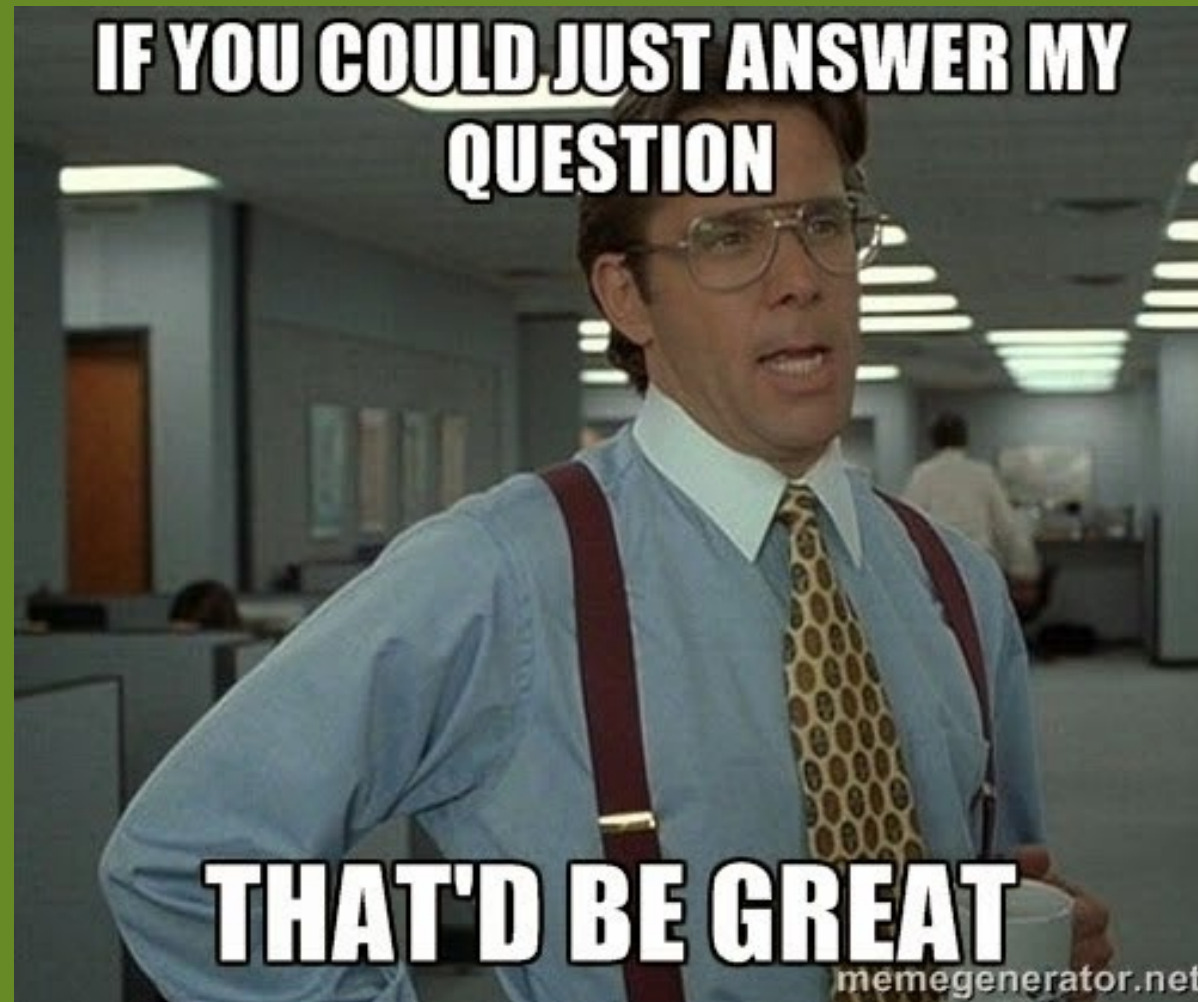
(608) 224-4923

DATCPDFSLicensing@wisconsin.gov

Renewal or billing inquiries:

DATCPFRBSupport@wisconsin.gov







Licensing Team

Department of Food and Recreational Business

(608) 224-4923 or datcpdfslicensing@wi.gov

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