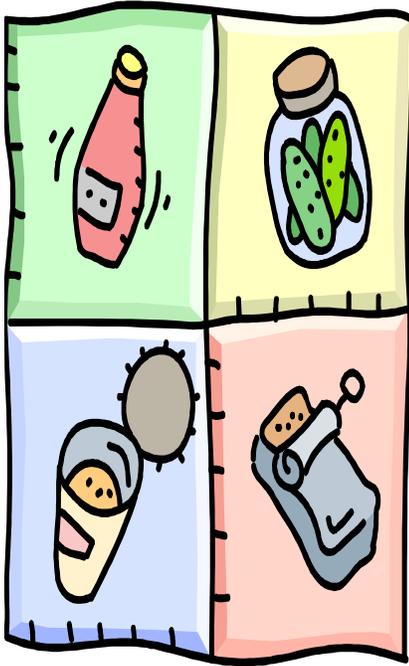


# What is the “Pickle Bill”?

## Frequently Asked Questions –Amended to Include Information in the Emergency Rule

On Thursday, February 4, 2010 Governor Doyle signed into law Assembly Bill 229 that has been referred to as the ‘Pickle Bill’. This Bill was amended by an Emergency Rule. Under this bill, and the accompanying emergency rule, a person is not required to obtain a license to sell food products that the person prepares and cans at home if all of the following apply:



- The food products are pickles or other processed vegetables or fruits with an **equilibrium pH value** of 4.6 or lower (jams, jellies, pickles, and salsa). **The individual must test the first batch of canned product produced according to each separate recipe used by the individual in each license year, to meet this pH requirement. The individual must keep, for at least 2 years, a record of each pH test.**
  - **The person completes a home-canning safety course, or follows a written recipe that reliably ensures the safety of each home-canned product.** (Examples of tested recipes can be found through the UW-Extension, the University of Georgia, or the current Ball Blue Book® of Preserving).
  - The person sells the food products at a community or social event, farm roadside stand, or a farmers’ market **in the state of Wisconsin.**
  - The person receives less **than \$5,000 per year** in total sales (retail) of the food products.
- The person is an individual, not a legal entity such as a corporation.
  - If 2 or more individuals home-can acidic, acidified or fermented vegetable or fruit products at the same home address, none of the individuals qualifies for the license exemption unless their combined gross receipts from the sale of those products totals no more than \$5,000.
  - The person displays a **sign at the place of sale** stating: “These canned goods are homemade and not subject to state inspection.”
  - Each container of food product that is sold is **labeled** with the name and address of the person who prepared and canned the food product, the date on which the food product was canned, the statement “This product was made in a private home not subject to state licensing or inspection”, and a list of ingredients in descending order of prominence. If any ingredient originates from milk, eggs, fish, crustacean shellfish, tree nuts, wheat, peanuts, or soybeans, the list of those ingredients shall include the common name of that ingredient.
  - The individual keeps a complete written record of every batch of canned product for at least 2 years.
  - **The individual registers annually with the Wisconsin Department of Agriculture, Trade and Consumer Protection (WDATCP).** There is no cost to register, and the registrant is not required to obtain a registration certificate from WDATCP.

**How is this different?** The Wisconsin Department of Agriculture, Trade and Consumer Protection (WDATCP) licenses and regulates businesses which process food for sale in the state. The license fee ranges from \$60 for a retail food processing license to \$95 for wholesale food processing, with annual production of less than \$25,000. The annual fee covers plan review, facility inspection, and pre-licensing

visits for new businesses, and on-going inspections for established businesses. The administrative code which covers food processing plants for the state, ATCP70, mandates the use of a processing facility (kitchen) that is separate from a family kitchen. The food processing facility may be in a family home, but it must be separate from the facility in which the family's meals are prepared. ATCP70 also lists requirements for an acceptable processing facility: cleanable work surfaces, access to a toilet and hand washing facility, a 3-compartment wash sink, etc. As part of the licensing process, individuals who process acidified foods (pickles, salsas, some sauces or spreads, tomato products) are required to undergo training and to use approved recipes so that the risk of botulism poisoning from this type of foods is avoided.

This **new law changes** the requirements for individuals with annual retail sales of less than \$5,000 per year selling naturally acid or acidified foods (jams, jellies, pickles, salsa) at farmers' markets or community events. Under the new law, a business does not have to be licensed and food can be processed in a home kitchen where family meals are prepared as long as the food is sold only in Wisconsin. Signs must be placed, and each jar must be labeled, alerting customers that the product is produced in an unlicensed facility.

**What foods are not covered?** The 'pickle bill' exempts only those processors who can naturally acid or acidified foods (jams, jellies, pickles, salsa). Other canned foods, like **pesto**, which contain dairy products or oil, or that are not primarily fruit or vegetable-based, are **not** exempt. Some dessert sauces like lemon curd or flavored sugar syrups are therefore **not exempt**. Picked meat, eggs or fish are also not exempt under the 'pickle bill.' Individuals who sell baked items, repackaged foods, sell dried or frozen foods, etc must **still** be licensed. Licensing information can be obtained from WDATCP at 608-224-4700. The 'pickle bill' does NOT actually allow the sale of home-canned low-acid foods (vegetables and meat) **under any circumstances**.

**Where can a person go to get the pH of their product tested?** It is recommended that the very first pH test on each batch be done by a commercial lab. A list of labs which offer this service (for a fee) can be found at: [http://www.foodsafety.wisc.edu/assets/pdf-files/testing\\_labs\\_0110.pdf](http://www.foodsafety.wisc.edu/assets/pdf-files/testing_labs_0110.pdf). After the initial test results, pH can be tracked with pH paper (if the equilibrium pH is less than 4.0). Individuals may also seek out locations such as high school chemistry labs or community college labs that have a calibrated pH meter for on-going pH tests.

**Does the \$5,000 exemption apply to sales, or profits?** The \$5,000 exemption applies to total sales. An individual processing salsa, pickles, jam and sauerkraut would have a total sales limit of \$5,000 under the 'pickle bill' exemption. Further, the exemption applies only to retail sales; wholesale sale of product under the 'pickle bill' exemption is not allowed. Two or more people may together sell product under the exemption, as long as the combined sales are less than \$5,000.

**Can products like sauerkraut be canned and sold under the 'pickle bill?'** Sauerkraut is a fermented product; fermented fruits and vegetables may be canned and sold under the 'pickle bill' exemption.

**May a person can fruit or acidified vegetables in a shared-use facility, restaurant or church kitchen, or other venue and still claim the exemption under the new law?** No, the law specifically stipulates that a person claiming exemption under the 'pickle bill' must use a home kitchen. Canning fruits or acidified vegetables in a shared-use facility or other inspected facility require that the person be licensed. Each person processing food in a shared-use facility, restaurant, church kitchen, etc must carry their own food processing license.

**What counts as a ‘community or social event, farm roadside stand, or a farmers’ market?’** These events include county fairs, town celebrations, and sporadic church or service club bazaars, farm roadside stands, or regularly scheduled farm markets. Events where sales **may not take place** include for-profit events, “Taste of Madison” type events, craft shows, traveling circuses or carnivals, high school sporting or fund-raising events, and regularly occurring licensed food-sales events such as a church’s Friday night fish fry. Questions about the suitability of a sales venue should be directed to WDATCP at 608-224-4700.

**What needs to be included in the written records for each batch?** Complete written records need to be kept for every batch of canned product. Records must include:

- the name of the product
- the product recipe (including procedures and ingredients)
- the amount of the product batch canned and sold
- the canning and sale dates
- the sale location and gross sales receipts
- results of any pH test conducted on the product
- and the disposition of any product not sold

Records must be kept for 2 years after the individual sells or otherwise disposes of the product and must be made available to WDATCP for inspection.

Home canning information can be found at these web sites. Each contains numerous tested recipes which may be safely canned at home.

- Wisconsin Food Preservation Resources [www.foodsafety.wisc.edu/preservation.html](http://www.foodsafety.wisc.edu/preservation.html)
- National Center for Home Food Preservation [www.uga.edu/nchfp/](http://www.uga.edu/nchfp/)
- UW-Extension Publications on Safe Food Preservation <http://learningstore.uwex.edu/>

There are **known risks** associated with untested or improper canning practices. Business practices and methods to reduce these risks to the consumer (and processor) are covered in a workshop offered by UWEX and WDATCP – the Wisconsin Acidified Canned Foods Training for Small Businesses: [www.foodsafety.wisc.edu/acidifiedcanning.html](http://www.foodsafety.wisc.edu/acidifiedcanning.html) (there is a fee for this training). Processors canning foods under the ‘pickle bill’ may choose to attend this workshop.

For more information, contact Linda Bruce, Douglas County Family Living Educator, at the UW-Extension Office at 715-395-1363, or [linda.bruce@ces.uwex.edu](mailto:linda.bruce@ces.uwex.edu).

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