

Disclaimer:

This publication is for educational purposes only and does not constitute legal advice nor is it intended to be a substitute for the services of a competent legal professional or regulatory oversight.

From 53-1-102: Chapter Definitions:

(20) “Homemade food item” means a food item, including a non-alcoholic beverage, which is produced and, if packaged, packaged at the private residence of the producer;

Tenn. Code Ann. § 53-1-118

Copy Citation

Current through the 2025 Regular Session.

- [Tennessee Code Table of Contents PAW- ET TABLE OF CONTENTS](#)
- [Title 53 Food, Drugs And Cosmetics](#)
- [Chapter 1 Tennessee Food, Drug and Cosmetic Act](#)
- [Part 1 General Provisions](#)

53-1-118. Exemption for production and sale of homemade food items.

-
- (a) Notwithstanding part 2 of this chapter, or another law to the contrary, except as provided in this section, the production and sale of homemade food items under this chapter are exempt from all licensing, permitting, inspecting, packaging, and labeling laws of this state, except when the department of health is investigating a reported foodborne illness.
- (b) The exemption under subsection (a) only applies if the following conditions are satisfied:
- (1) Non-time/temperature control for safety food homemade food items must be sold either by:
 - (A) The producer to the consumer, whether in person or remotely, including, but not limited to, a sale by telephone or internet; or
 - (B) An agent of the producer or a third-party vendor, such as a retail shop or grocery store, to the consumer;
 - (2) Non-time/temperature control for safety food homemade food items must be delivered either by:
 - (A) The producer to the consumer; or
 - (B) An agent of the producer, a third-party vendor, or a third-party carrier to the consumer;
 - (3) Time/temperature control for safety food homemade food items must:
 - (A) Not include unpasteurized milk or foods that are, or that contain, alcoholic beverages, fish, shellfish products, meat, meat byproducts, or meat food products;
 - (B) Be sold only to the extent permissible by federal law, including, but not limited to, poultry, poultry byproducts, or poultry food products, which are permitted if:
 - (i) The home-based food business operates as a poultry producer in compliance with the 1,000-poultry exemption under 9 CFR 381.10(c) and uses only exempted poultry products, byproducts, or food products; or
 - (ii) The home-based food business complies with 9 CFR 381.10(d), uses only federally or state-inspected and passed poultry products bearing the official mark of inspection, and meets all other applicable exemption requirements under 9 CFR 381.10(d); and
 - (C) Be sold either by:
 - (i) The producer to the consumer, in person; or
 - (ii) An agent of the producer, in person, such as a farm stand located on the property where the food was prepared;

(4) The following information must be provided to the consumer, in the format required by subdivision (b)(5):

- (A) The name, home address, and telephone number of the producer of the homemade food item;
- (B) The common or usual name of the homemade food item;
- (C) The ingredients of the homemade food item in descending order of predominance; and
- (D) The following statement: "This product was produced at a private residence that is exempt from state licensing and inspection. This product may contain allergens."; and

(5)

(A) The information required by subdivision (b)(4) must be provided:

- (i) On a label affixed to the package, if the homemade food item is packaged;
- (ii) On a label affixed to the container, if the homemade food item is offered for sale from a bulk container;
- (iii) On a placard displayed at the point of sale, if the homemade food item is neither packaged nor offered for sale from a bulk container; or
- (iv) On the webpage on which the homemade food item is offered for sale, if the homemade food item is offered only for sale on the internet; and

(B) If the homemade food item is sold by telephone or custom order, the seller need not display the information required by subdivision (b)(4), but the seller shall disclose to the consumer that the homemade food item is produced at a private residence that is exempt from state licensing and inspection, and may contain allergens. The seller shall have the information required by subdivisions (b)(4)(A)-(C) readily available and provide it to the consumer upon request.

(c) This section does not:

- (1) Impede the department of health in an investigation of a reported foodborne illness;
 - (2) Preclude the production or sale of food items otherwise authorized by law;
 - (3) Change the regulation of other goods and services where homemade food items are also produced or sold;
 - (4) Exempt producers or sellers of homemade food items from any applicable tax law; or
 - (5) Apply to sales other than intrastate sales made within this state.
- (d) This section preempts county, municipal, and other political jurisdictions from prohibiting and regulating the production and sale of homemade food items.

Interpretation of first sentence:

Complex Legal Phrase	Plain English Meaning
Notwithstanding part 2 of this chapter, or another law to the contrary,	Forget about other conflicting rules in this part of the book, or any other state law that says something different.
except as provided in this section,	The exceptions listed right here (in this section) are still in effect.
the production and sale of homemade food items under this chapter	Making and selling food made at home according to the rules of this specific law.
are exempt from all licensing, permitting, inspecting, packaging, and labeling laws of this state,	Don't need to follow the state rules for getting a license, getting a permit, inspections, special packaging, or specific labels.
except when the department of health is investigating a reported foodborne illness.	The only time they <i>do</i> have to comply or can be investigated/regulated is if someone reports a case of food poisoning.

Interpretation of Poultry Exemption:

The Poultry Exception (Rule B)

The second rule focuses on **poultry** (like chicken and turkey) and says it **can** be sold, but **only** if the home business strictly follows one of two complex **Federal USDA poultry exemptions**:

1. The Small Producer/Grower Exemption (Option i)

You can sell poultry products (which you raised and slaughtered yourself) if your home business operates under the federal "**1,000-poultry exemption**" (found in **9 CFR 381.10(c)**).

- **What this means:** You are a farmer/producer who **slaughters no more than 1,000 birds of your own raising** in a calendar year on your own premises. You are exempt from the daily federal inspection requirements but still must follow basic sanitary standards.

2. The Retail/Restaurant Exemption (Option ii)

Alternatively, you can sell poultry products if your home business operates under the federal **Retail/Restaurant Exemption** (found in **9 CFR 381.10(d)**).

- **What this means:** You are **not** slaughtering the birds yourself. Instead, you must **only use poultry products that have already been inspected and "passed"** by the federal or state government (meaning they bear the official mark of inspection). You are then cutting up or processing the inspected meat in a manner similar to a small retail store or restaurant, and must meet all other federal requirements for that exemption.

USDA Retail/Restaurant Poultry Exemption (9 CFR 381.10(d))

The main purpose is to exempt certain small, local operations from the full federal inspection process, but only if they stick to a specific set of limits and rules.

1. Source Material is Key (The Requirement in the Tennessee Law)

- **Rule:** The poultry used in your products **must already be federally or state-inspected and passed** (it must have the official USDA or State inspection mark).
- **Plain Term:** You are **not allowed to slaughter the bird yourself** under this exemption. You must buy pre-inspected, safe poultry from a certified supplier. You are simply preparing, cutting, or processing that safe, inspected product.

2. Limited Types of Processing

- **Rule:** The processing operations must be the **"types traditionally and usually conducted at retail stores and restaurants."**
- **Plain Term:** This means things like cutting, slicing, trimming, grinding (to make ground chicken), stuffing, or cooking (to make a ready-to-eat item). It **excludes major industrial processes like canning**.

3. Limits on Who You Sell To (The "Retail" Focus) This exemption is designed for businesses primarily serving the end consumer.

- **Primary Sales:** At least **75% of your total dollar sales** must be to "household consumers" (the general public buying for their home).

4. Quantity Limits

- **Rule:** Sales cannot be made in excess of a **"normal retail quantity."**
- **Plain Term:** You generally cannot sell massive, wholesale quantities to a single customer. The limits are typically:
 - **Household Consumers:** Generally limited to **75 pounds** in a single sale.

In the context of the Tennessee Code: By choosing this option, a home food producer is essentially saying: "I am only using pre-inspected meat, and I am operating my home kitchen like a small deli or restaurant kitchen, staying within the volume and sales limits defined by federal law."