TEXAS A&M AGRILIFE EXTENSION

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2/20

Selling Foods Made at Home: Texas Cottage Food Law

Rebecca Dittmar and Julie Prouse*

Texas Cottage Food Law allows the sale of foods that are prepared in residential homes as long as gross sales do not exceed $50,000 annually. This type of business is not regulated by a local or state health department, which means that your kitchen will not be inspected by a health inspector, unless there is concern about the public's health. If you want to start a cottage food business, the information below may be helpful.

Allowed foods:

- Any foods that are not considered time/temperature control for safety (TCS) foods
- Pickled fruits or vegetables, including beets and carrots, with a finished equilibrium pH value of 4.6 or less
- Plant-based acidified canned goods with a finished equilibrium pH value of 4.6 or less. This includes salsa, barbeque sauce, spaghetti sauce with no meat, and ketchup.
- Fermented vegetable products with a finished equilibrium pH value of 4.6 or less
- Frozen, raw, and uncut fruits or vegetables
- Baked goods that are not TCS food and do not require refrigeration, such as cookies, cakes, breads, biscuits, pies, muffins, pastries, donuts, rolls, etc.
- Dehydrated fruits and vegetables, including dried beans

Candy
Coated and uncoated nuts
Cereal (including granola)
Unroasted nut butters
Popcorn and popcorn snacks
High-acid fruit butters
Canned jams and jellies
Dried herbs and herb mixes
Fruit pies
Roasted coffee or dry tea
Dry mixes
Pickles
Vinegar
Mustard
Hot chocolate or similar beverages (not TCS)

*Not a comprehensive list

The products mentioned above are not TCS foods because they do not have to be held at specific temperatures to prevent foodborne illness. Foods that are not TCS have low water activity and a low pH value. TCS foods can be used to prepare other food, but if the final product requires time or temperature control to prevent the growth of pathogens or toxins, it cannot be sold under the Cottage Food Law.

*Extension Program Specialist for Food Safety Education, and Extension Associate–Food Safety Education, The Texas A&M University System

TCS foods that are not allowed can include:

- Fresh or dried meat or meat products, including jerky
- Kolache with meat
- Fish or shellfish products
- Raw seed sprouts
- Bakery goods that require any type of refrigeration, such as cream, custard, or meringue pies and cakes or pastries with cream cheese icings or fillings
- Milk and dairy products including hard, soft, and cottage cheeses and yogurt
- Fresh-cut fruits and vegetables (including fresh juices made from fresh fruits and vegetables)
- Ice or ice products
- Focaccia-style breads with vegetables or cheeses
- Lemonade (refer to Lemonade Stand Bill) and juices
- Foods that require refrigeration

*Not a comprehensive list

Selling your foods

Foods sold under the Cottage Food Law can be sold almost anywhere, as long as the product is sold directly and delivered to the consumer at the point of sale or another designated location. These products cannot be sold at wholesale or in a retail food establishment.

A consumer can purchase the product through the internet or by mail order, but the product must be delivered to the consumer by the cottage food operator, person-to-person. Before the operator accepts payment, they provide labeling information, excluding their address, by posting on a website, publishing in a catalog, or otherwise communicating information to the consumer. After payment is received, the operator will provide the address of the operation. Products cannot be shipped or mailed to consumers when purchased in this manner.

Advertising media of cottage food products for health, disease, or other claims must be consistent with those allowed by the Code of Federal Regulations.

Labeling and packaging

Foods must be packaged to prevent contamination. Bulky items (e.g., wedding cakes) are exempt from being packaged; however, common sense should be used to keep them safe.

Foods sold under the Cottage Food Law must be labeled with the following information:

- The name and physical address of the operation,
- The common or usual name of the product,
- Any major food allergens that are present in the food (e.g., eggs, nuts, soy, peanuts, milk, wheat, fish, or shellfish), and
- The following statement: *This food is made in a home kitchen and is not inspected by the Department of State Health Services or a local health department.*

Food labels must be attached to the package unless the item is too large or bulky to be packaged—otherwise, the label should be added to the sales receipt.

In addition, if the operator sells pickled fruits or vegetables, fermented vegetable products, or plant-based acidified canned goods, the label must have a unique batch number.

Figure 1a. Food label example.

Figure 1b. Food label example.

Frozen fruits and vegetables: Selling and labeling

Frozen fruits and vegetables intended for sale should be raw and uncut, taking care to store and deliver them at an ambient air temperature of not more than 32°F. It is essential that frozen fruits and vegetables are labeled correctly. In addition to the regular cottage food product labeling, frozen fruits and vegetables must also be labeled with the following information in 12-point font on a label, receipt, or invoice:

- SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria, keep this food frozen until preparing for consumption.

Labeling when purchased by internet or mail order

Consumers can purchase cottage food products by mail order or the internet. The cottage food operator provides labeling information of the products without the address before payment is taken. This can be done by posting a legible statement on their website, publishing in a catalog, or otherwise communicating the information to the consumer. However, after payment is received, the operator will be provided the address.

Pickling, canning, and fermenting recipes

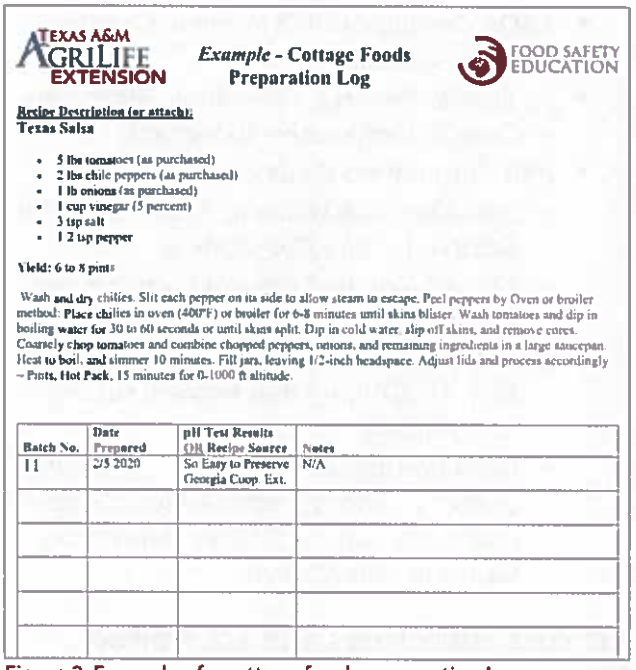
A cottage food operator that sells pickled fruits or vegetables, fermented vegetable products, or plant-based acidified canned goods will:

- Use a recipe from an approved source by the Texas Department of State Health Services (DSHS),
- Has been tested by an appropriately certified laboratory that confirms finished product or good has an equilibrium pH value of 4.6 or less, or
- Use a recipe approved by a qualified process authority.

If the operator chooses not to use a recipe discussed above, then they must test each batch of the recipe with a calibrated pH meter to confirm the finished fruit or vegetable, product, or good has an equilibrium pH value of 4.6 or less.

The operator must label each batch of pickled fruits or vegetables, fermented vegetable products, or plant-based acidified canned good with a unique number and for 12 months keep a record that includes:

- The batch number,
- The recipe used by the producer,
- Source of the recipe or testing results, and
- The date the batch was prepared.



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Example - Cottage Foods Preparation Log

FOOD SAFETY EDUCATION

Recipe Description (or attach):
Texas Salsa

- 5 lbs tomatoes (as purchased)
- 2 lbs chile peppers (as purchased)
- 1 lb onions (as purchased)
- 1 cup vinegar (5 percent)
- 3 tsp salt
- 1 2 tsp pepper

Yield: 6 to 8 pints

Wash and dry chilies. Slit each pepper on its side to allow steam to escape. Peel peppers by Oven or broiler method: Place chilies in oven (400°F) or broiler for 6-8 minutes until skins blister. Wash tomatoes and dip in boiling water for 30 to 60 seconds or until skins split. Dip in cold water, slip off skins, and remove cores. Coarsely chop tomatoes and combine chopped peppers, onions, and remaining ingredients in a large saucepan. Heat to boil, and simmer 10 minutes. Fill jars, leaving 1/2-inch headspace. Adjust lids and process accordingly – Pints, Hot Pack, 15 minutes for 0-1000 ft altitude.

Batch No.	Date Prepared	pH Test Results OR Recipe Source	Notes
11	2/5 2020	So Easy to Preserve Georgia Coop. Ext.	N/A

Figure 2. Example of a cottage foods preparation log.

The DSHS will approve sources for recipes used to produce pickled fruits or vegetables, fermented products, or plant-based acidified canned goods. They will semiannually post these sources on the DSHS website, along with appropriately certified laboratories, and qualified process authorities.

The DSHS will have a process that allows an individual to request that the DSHS approve additional sources for recipes by allowing an individual to submit documentation supporting the request.

Source requisites

The source for recipes approved by the DSHS must be scientifically validated and may be from a government entity, academic institution, state Extension service, or another qualified source with expert knowledge of processing requirements for pickled fruits and vegetables, fermented vegetable products, or acidified canned goods and adequate facilities for scientifically validating those recipes.

Pickled cucumbers preserved in vinegar, brine, or a similar solution does not apply to the recipe requirements mentioned previously.

Sources of tested recipes:

- *USDA Complete Guide to Home Canning* (current version)
- *So Easy to Preserve, 6th edition*, University of Georgia Cooperative Extension
- Ball Corporation guides:
  - *Ball Blue Book Guide to Preserving, 37th Edition*, by Ball Corporation
  - *The All New Ball Book of Canning and Preserving: Over 350 of the Best Canned, Jammed, Pickled, and Preserved Recipes*, May 31, 2016, by Ball Home Canning Test Kitchen
  - *Ball Canning Back to Basics: A Foolproof Guide to Canning Jams, Jellies, Pickles, and More*, July 4, 2017, by Ball Home Canning Test Kitchen

Process authorities and accredited laboratories

A process authority is a person who has expert knowledge that was acquired through appropriate training and experience in the pickling, fermenting, or acidification and processing of pickled, fermented, or acidified foods. The Association for Food and Drug Officials (AFDO) has a list of process authorities on its website at http://www.afdo.org/foodprocessing.

A list of accredited laboratories that can test for pH, water activity (AW), or other information can be found on the DSHS website at https://dshs.texas.gov/foodestablishments/cottagefood/default.aspx.

Use safe food handling practices when preparing your cottage foods

Each year, nearly 1 in 6 people get sick from foodborne illnesses. Everyone is at risk for a foodborne illness; however, pregnant women, young children, older adults, and individuals with chronic diseases or compromised immune systems have a higher risk than others do. Reduce the risk of foodborne illness by:

- Practicing good personal hygiene,
- Preventing germs from spreading from one surface or food to another (cross-contamination),
- Cooking food to a proper temperature, and
- Storing food properly.

If you are making shelf-stable food products (e.g., jams, jellies, pickled fruits and vegetables, plant-based acidified canned products, and fermented vegetable products), be sure to use tested recipes and process them correctly in a boiling-water bath canner. If not processed, these products should be refrigerated.

A food handler card is required

As of January 1, 2014, the owner of a cottage food business is required to have a food handler card from a state-accredited program.

Earn your food handler card through Texas A&M AgriLife Extension. Our course is accredited by the Texas Department of State Health Services and will help you learn basic food safety practices that can help assure the food you prepare and sell is safe. Check with your local county Extension agent or complete the course online at https://agrilifelearn.tamu.edu/.

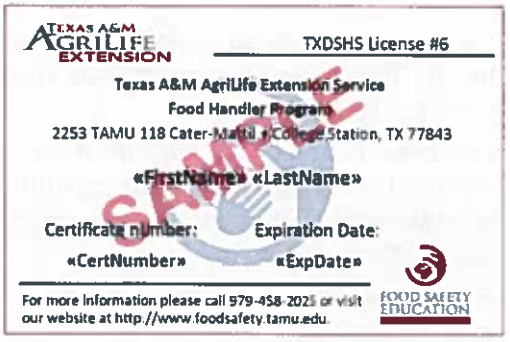

Figure 3. Sample food handler certificate.

For more information about the Cottage Food Law or earning your food handler card, contact your county Extension agent or visit our website at http://foodsafety.tamu.edu.

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