

**Montana Code Annotated, Title 50: Health & Safety,
Chapter 50. Retail Food Establishments**

State law defines Farmers' Markets as "a farm premises, a roadside stand owned and operated by a farmer, or an organized market authorized by the appropriate municipal or county authority" [50-50-102(5)], MCA. 50-50-202(3), MCA provides for the exemption from licensure as a Retail Food Establishment for the following:

50-50-202. Establishments exempt from license requirement -- farmers' market records.

- (3) (a) (i) A license is not required of a gardener, farm owner, or farm operator who sells raw and unprocessed farm products or whole shell eggs at a farmers' market.
- (ii) Whole shell eggs sold at a farmers' market by a farm owner or operator must:
- (A) be clean, free of cracks, and stored in clean cartons;
 - (B) be kept at a temperature established by the department; and
 - (C) carry a label indicating the name and address of the farm owner or operator selling the eggs.
- (b) A license is not required of a person:
- (i) selling or offering hot coffee or hot tea at a farmers' market; or
 - (ii) selling baked goods or preserves at a farmers' market or exclusively for a charitable community purpose.
- (c) Coffee or tea exempted under this subsection (3) may not be prepared or served with fresh milk or cream.
- (4) (a) A farmers' market that is an organized market authorized by a municipal or county authority shall keep registration records of all individuals and organizations that sell baked goods or preserves at the market.
- (b) The registration records must include but are not limited to the name of the seller, the seller's address and telephone number, the products sold by the seller, and the date the products were sold.
- (c) The registration records must be made available to the local health officer or the officer's agent.

50-50-102. Definitions.

50-50-102(1) "**Baked goods**" means breads, cakes, candies, cookies, pastries, and pies that are not potentially hazardous foods. "

50-50-102(14) (a) "**Potentially hazardous food**" means a food that is natural or synthetic and is in a form capable of supporting:

- (i) the rapid and progressive growth of infectious or toxigenic microorganisms; or
 - (ii) the growth and toxin production of *Clostridium botulinum*.
- (b) The term includes cut melons, garlic and oil mixtures, a food of animal origin that is raw or heat-treated, and a food of plant origin that is heat-treated or consists of raw seed sprouts.
- (c) The term does not include:
- (i) an air-cooled, hard-boiled egg with intact shell;
 - (ii) a food with a hydrogen ion concentration (pH) level of 4.6 or below when measured at 24 degrees C (75 degrees F);

- (iii) a food with a water activity (aw) value of 0.85 or less;
- (iv) a food in an unopened hermetically sealed container that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution; or
- (v) a food for which laboratory evidence is accepted by the department as demonstrating that rapid and progressive growth of infectious and toxigenic microorganisms or the slower growth of *Clostridium botulinum* cannot occur.

50-50-102(15) “**Preserves**” means processed fruit or berry jams, jellies, compotes, fruit butters, marmalades, chutneys, fruit aspics, fruit syrups, or similar products that have a hydrogen ion concentration (pH) of 4.6 or below when measured at 24 degrees C (75 degrees F) and that are aseptically processed, packaged, and sealed.”

50-50-102(16) “**Raw and unprocessed farm products**” means “fruits, vegetables, and grains sold at a farmers’ market in their natural state that are not packaged and labeled and are not:
(a) cooked;
(b) canned;
(c) preserved, except for drying;
(d) combined with other food products; or
(e) peeled, diced, cut, blanched, or otherwise subjected to value-adding procedures.”

Other food items may be offered at Farmers’ Markets if approved and licensed as a Retail Food Establishment. Contact Lewis & Clark City-County Health Department for more information on the requirements for licensure.

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