

Preliminary Information on Wisconsin's "Pickle Bill"

Courtesy of Barb Ingham, UW-Extension Food Scientist

On Thursday, February 4, 2010 Governor Doyle signed into law Assembly Bill 229 that has been referred to as the 'Pickle Bill'. Under this bill, 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.
- The person sells the food products at a community or social event or a farmers' market **in the state of Wisconsin**.
- The person receives less **than \$5,000 per year** from the sale of the food products.
- 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.

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 sales of less than \$5,000 per year selling naturally acid or acidified canned 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 foods or acidified fruits and vegetables (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. Pickled meat, eggs or fish are also **not exempt** under the 'pickle bill.' And 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.

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.

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 fruits 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 requires 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 or a farmers' market?' These events include county fairs, town celebrations, and sporadic church or service club bazaars. 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.