



**Missouri Department of Health and Senior Services**

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**TECHNICAL BULLETIN F2-05**

**TO:** Regional Environmental Public Specialists  
Local Public Health Administrators  
Local Environmental Public Health Specialists

**FROM:** Daryel Brock, Chief, Environmental Public Health and Safety  
Section For Environmental Public Health

**SUBJECT:** Exemption from Food Sanitation Inspections

**DATE:** August 23, 2005

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Effective August 28, 2005, there will be a statute change exempting religious, charitable, and non-profit organizations that are selling non-potentially hazardous food items from all state laws and regulations relating to food inspection, pursuant to sections 196.190 to 196.271, RSMo.

This particular statute change occurs in 196.291, RSMo. This new section exempts religious, charitable and non-profit organizations from all sanitation food inspections that are delineated in 196.190, RSMo through 196.271, RSMo as long as the food being sold is not potentially hazardous and it is sold at their religious events or at charitable functions or activities. Items permitted to be sold would include jams, jellies, honey, dry mixes, spices, and dried herbs, dry baked goods, etc. Local public health agencies conducting inspections under their food ordinance may be more stringent than state law, and therefore, may not permit the sale of non-potentially hazardous foods by religious, charitable or non-profit organizations without inspection.

Another statute change that affects how we do business is 261.241, RSMo. This statute has been amended such that those producers of jams, jellies and honey whose annual sales of those items are less than thirty-thousand dollars are not subject to inspection and do not have to meet health standards and regulations for the manufacture of these items pursuant to 196.190 to 196.271, RSMo. The following is a summary of this new statute change:

Producers of jams, jellies and honey whose annual sales are thirty thousand dollars or less are no longer required to construct a separate facility to produce these products. Basically, the home kitchen is acceptable for these processors.

We will not be performing inspections of these operations or regulating them in any way if they meet the following requirements.

1. These food products must be made in the home of the person processing them and sold by the processor directly to the end consumer. For example, Aunt Sally has to make "Aunt Sally's Jelly" in Aunt Sally's Kitchen and sell it to a consumer. These food products must be sold to the consumer directly; there cannot be a middleman. These products should not be available on the shelves of the local grocery store unless the store is owned by the jam, jelly or honey producer.
2. During the sale of such jams, jellies, and honey, a placard shall be displayed in a prominent location stating the following: This product has not been inspected by the Department of Health and Senior Services.
3. Annual gross sales may not exceed thirty thousand dollars. The person manufacturing such jams, jellies and honey shall maintain a record of sales of jams, jellies and honey processed and sold. The record shall be available to the regulatory authority when requested.
4. The jam, jelly or honey containers must bear the following information:
  - Name and address of the producer,
  - Common name of the food,
  - A list of ingredients of the food,
  - A statement that the food has not been inspected by the Missouri Department of Health and Senior Services.
5. Violators of these provisions may be prohibited from selling jams, jellies and honey by the Missouri Department of Health and Senior Services.

Local ordinance can supercede these new statutes.

(31) Food establishment.

(a) "Food establishment" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption:

(i) Such as a restaurant; satellite or central preparation facility; catered feeding location; catering operation if the operation provides food directly to a Consumer or to a conveyance used to transport people; market; vending (location) operation, if the operation provides potentially hazardous foods; conveyance used to transport people; institution; or food bank; and

(ii) That relinquishes possession of food to a Consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

(b) "Food establishment" includes:

(i) An element of the operation such as a transportation vehicle or a central preparation facility that supplies a vending location or satellite feeding location *unless the vending or feeding location is permitted by the regulatory authority* satellite catered feeding location, a vending location or satellite feeding location unless the vending or feeding location is permitted by the regulatory authority; and

(ii) An operation that is conducted in a mobile, stationary, temporary, or permanent facility or location; where consumption is on or off the premises; and regardless of whether there is a charge for the food.

(c) "Food establishment" does not include:

(i) An establishment that offers only prepackaged foods that are not potentially hazardous;

(ii) A produce stand that only offers whole, uncut fresh fruits and vegetables;

(iii) A food processing plant;

(iv) A kitchen in a private home if only food that is not potentially hazardous is prepared for sale or service at a function such as a religious or charitable organization's bake sale if allowed by law and if the Consumer is informed by a clearly visible placard at the sales or service location that the food is prepared in a kitchen that is not subject to regulation and inspection by the regulatory authority;

(v) An area where food that is prepared as specified in Subparagraph (c)(iv) of this definition is sold or offered for human consumption;

(vi) A kitchen in a private home, such as a small family day-care provider; or a bed-and-breakfast operation that prepares and offers food to guests if the home is owner occupied, the number of available guest bedrooms does not exceed 4, breakfast is the only meal offered, the number of guests served does not exceed 12, and the Consumer is informed by statements contained in published advertisements, mailed brochures, and placards posted at the registration area that the food is prepared in a kitchen that is not regulated and

inspected by the regulatory authority; or

(vii) A private home that receives catered or home-delivered food.

(viii) Where local codes allow, individual stands in which only foods meeting the following conditions are sold, sampled or served: (AA) Non-potentially hazardous processed foods, except low acid canned and acidified foods as specified in 21 CFR 113 and 114 respectively, including, but not limited to breads, cookies, fruit pies, jams, jellies, preserves, fruit butters, honey, sorghum, cracked nuts, packaged spices and spice mixes, dry cookie, cake, bread, and soup mixes; (BB) The seller is the individual actually producing the food or an immediate family member residing in the producer's household with extensive knowledge about the food; (CC) The seller only sells, samples or serves the food directly to the end consumer; (DD) All processed packaged foods bear a label stating the name and address of the manufacturer/processor preparing the food, common name of the food, name of all the ingredients in the food and a statement that the product is prepared in a kitchen that is not subject to inspection by the Department of Health and Senior Services. It is recommended that honey manufacturers/processors include this additional statement to its label, "Honey is not recommended for infants less than twelve (12) months of age."; and (EE) The consumer is informed by a clearly visible placard at the sales or service location that the food is prepared in a kitchen that is not subject to inspection by the Department of Health and Senior Services if the foods specified in Subparagraph 1-201.10(B) (31)(c)(viii)(AA) are sold, sampled or served in unpackaged, individual portions. The Department of Health and Senior Services shall have the final authority in determining whether a food is non-potentially hazardous and may enjoin individuals who violate the provisions of this section from selling, sampling or serving these foods.