

**AUBURN FARMERS' MARKET  
OPERATING RULES**

1. **Market Day, Time and Site:** The Market will be operated during the months of May, June, July, August, September, and October. The days of the market will be every Wednesday and Saturday during these months except where noted.\* The Market hours will be 7:00 a.m. to 1:00 p.m. Selling will not begin before 6:30 a.m. and will end promptly at 1:30p.m. each market day. On Wednesdays the market is located on East 9<sup>th</sup> street between South Main Street and South Cedar Street in downtown Auburn. On Saturdays the market is located in the city/county parking lots on East 7<sup>th</sup> street. Selling is to be done from the rear of vehicles in established parking places. Portable 10 ft. awnings may be used. Awnings must be weighted. Awnings may be extended from the vehicle but cannot encroach into parking spot next to yours. All personal and business signage must be in your allotted vendor space. No signage is to be in the right of way of walking patrons. Combined length of awning and vehicle is not to exceed 18 feet from the curb. No product is to be displayed on the courthouse lawn. All vehicles and display stands must vacate the market site no later than 2:00 p.m.  
**\* The Market will be open on Wednesday leading up to the ACD Festival but it will not be open on Friday or Saturday during the ACD Festival weekend. The market will also not be open during the week of the DeKalb Co. Fair.**
2. **Fees:** \$40.00 per seasonal pass. One parking space per pass. **Market Passes must be displayed to the public and market officials with vendor number visible.**
3. **Who is eligible to participate?:** The market is open to any produce farmer/vendor that grows and/or purchases their product. The recognition of locally grown, fresh produce can be used as a central part of a marketing program. Your selling space/booth space may potentially be visited by a representative of the Auburn Farmer's Market and/or a representative of the DeKalb County Health Department. **If you are a vendor that is a buying agent purchasing product wholesale and reselling that product to the public then you must disclose this information to the public and representatives of the market. You must also disclose to the public and market officials the name and physical address of origin of said product.**
4. **Products That May Be Sold:** Fresh, high-quality fruits, vegetables, herbs, cut flowers, bedding plants, and potted plants (**provided these plants are not listed on the attached Indiana Invasive Plant List**) may be sold at the Auburn Farmers' Market. Value-added products may be admitted at the discretion of market management. These are the products and rules regarding Indiana House Enrolled Act 1309 (HEA 1309) which enables a Home Based Vendor (HBV) to produce foods that are not potentially hazardous at their home and sell these products at a farmers' market and/or roadside stand. **Home Based Vendors (HBV's) must obtain a food handler certificate from the American National Standards Institute (ANSI) and provide a copy to the local health department as well as have it available upon request from a regulatory agency.** A general list of the products that can be sold includes (and this list could change over time):
  - Baked items such as cookies, cakes, fruit pies, yeast breads, fruit breads, bars, and baguettes. No Pies containing cream, pumpkin, sweet potato, or squash are allowed.
  - Candies and confections such as caramels, chocolates, fudge, peanut brittle, chocolate covered fruits and nuts, bon bons, and buckeyes
  - Produce, such as unprocessed fruits and vegetables
  - Tree nuts and legumes (e.g. peanuts, cashews, almonds)
  - Pure honey, molasses, sorghum, maple syrup (No added ingredients)**
  - Traditional high sugar and acid fruit content jams, jellies, and preserves. (low or no sugar jam and jelly recipes and fruit butters will not be allowed unless they can be shown to have a pH less than 4.6. Also, adding tomatoes, peppers, and other ingredients to jams, jellies, and preserves makes the Health Department require testing and process analysis of the product to insure that the pH and water activity are not affected and the product is safe for the public).**
  - Mushrooms (it is recommended that wild mushrooms be certified in writing as to their species by a person competent to make such a certification)
  - Dried noodlesSome of the above products may be refrigerated or frozen for quality purposes.

PLEASE NOTE BELOW IN YELLOW....CANNOT BE SOLD AT THE MARKET

(If caught selling any unauthorized home canned items...you will be asked to leave the market immediately and not allowed to return)

Home "canned" acidified foods such as salsas and pickled beets, or home "canned" low acid products such as green beans, carrots, or corn cannot be sold by HBVs. Raw eggs, natural cheese, meat, and poultry CANNOT be sold by HBV's without proper certification and/or license. Cut produce, such as cut melons, fruits, and tomatoes, are considered potentially hazardous and cannot be sold. Use of hot and mild peppers and tomatoes in products is not allowed due to increased health risk. The pH of many varieties of peppers and tomatoes are too high and can support bacterial growth. Pickles and sauerkraut cannot be sold by a HBV since these products are either potentially hazardous and/or cannot have a lid on them.

All of the manufactured food products must be labeled very specifically. Any food product provided by a HBV shall be labeled with the following information:

- The name and address of the producer of the food product
- The common or usual name of the food product
- The ingredients of the food product, in descending order of predominance by weight
- The net weight or volume of the food product by standard measure or numerical count
- The date on which the food product was processed
- The following statement must be provided in at least 10 point type: **"This product is home produced and processed and the production area has not been inspected by the State Department of Health."**

This labeling must be present with and/or on the food at point of sale regardless of whether or not the product is packaged. Labeling or signage is not required for whole, uncut produce. A HBV food product which is not labeled with the above information is misbranded and may not be sold until the label is provided and corrected.

Sampling of a HBV food product being provided to consumers is not prohibited. The individual providing samples must "practice proper sanitary procedures". These procedures should include at least:

- Proper hand washing with a hand washing station that must be provided; a hand washing station can be as simple as an adequately sized (2 gallons) thermos, coffee dispenser or other container with a nozzle that can be flipped open or closed containing potable water of at least 100<sup>0</sup>F, hand soap, paper towels, a waste basket, and a bucket (> 2 gallons) to catch the wash water
- Sanitation of the container or other packaging which contains the food using a sanitizing solution
- Safe storage of the food product, which would include protection during display and service, such as single portion service of samples for individual consumers (use of cups, tongs, and wax papers)
- Craft items *may* be sold at the market if the item is pre-approved by the market chairman. Products purchased and not hand made by vendor for resale **MUST** be approved by market chairman.
- Any other item or product that is sold at the market that is not considered produce (as defined in city ordinance #116.03) or that meet the above criteria must be pre-approved by the market chairman.

5. **No fresh meat may be sold at the market.** Processed meat products may be sold at the market only if the following conditions are met: a) the product must be professionally canned and sealed from a processing facility b) the product must have an ingredient label affixed on the product and c) the product must have the vendor's name and address on the label.

6. **Commitment to Market:** Farmer/vendors should commit to specific dates and participate on a regular basis. Product availability may limit participants' beginning and ending dates; therefore, a schedule may be developed prior to the start of the market season documenting the farmer/vendor commitment to the Auburn Farmers' Market.
7. **Space:** One vehicle will be permitted per vendor; all other vehicles must be removed from the immediate market premises unless a second market pass is purchased.
8. **Signage:** Farmers/vendors should display the name of their farm/business and post prices for all items being sold.
9. **Clean-up:** Farmers/vendors are responsible for cleaning all trash and waste within and around their allotted space during market hours and at closing times. No garbage facilities are provided.
10. **Applications:** All new and returning farmers/vendors must complete an application each year listing the types of products to be sold during the season. This helps to correct any changes to a farm/business in the past year and also helps to ensure a good product mix will be offered at the Market.
11. **Noncompliance:** The Auburn Farmers' Market reserves the right to refuse acceptance of any vendor or item that is not in keeping with the rules or quality of this farmers' market criteria and guidelines.
12. Once approved on your application for product(s) you are selling, you will not be allowed to add products or items to sell without prior market approval.



**Indiana  
Department  
of  
Health**



Eric J. Holcomb  
Governor

Kristina M. Box, MD, FACOG  
State Health Commissioner

**DATE:** June 16, 2022  
**TO:** All Local Health Officers  
**FROM:** Vivien McCurdy, RDN, MPA  
Director, Food Protection Division  
**SUBJECT:** Guidance for Uniform Use of House Enrolled Act 1149

### PURPOSE

This document is intended to assist Local Health Departments (LHD) and other Indiana food regulatory agencies in the uniform use of House Enrolled Act (HEA) 1149. This guidance document takes precedence over any guidance document previously released by Indiana Department of Health (IDOH) relating to home based vendors (HBV).

[HEA 1149](#), effective July 1, 2022, specifies requirements for the preparation and sale of food products by a HBV. It also reorganizes provisions concerning the sale of certain food products by an individual vendor at a farmers' market or roadside stand. It also requires an individual who sells poultry, rabbits, or eggs and intends to be exempt from the food safety requirements of a food establishment to comply with certain requirements.

### BACKGROUND

Indiana Code 16-42-5-29 was passed into law in 2009. HEA 1149 repealed IC 16-42-5-29 and added IC 16-42-5.3 as a new chapter. Prior to the passage of HEA 1149, individuals selling products made from their home could only sell these products at farmers' markets or roadside stands. The most pertinent changes made in HEA 1149 include the expansion of where HBVs may sell their products and the requirement of obtaining a food handler certificate for all HBVs.

A copy of HEA 1149 is attached.

### DEFINITIONS

- a) "End consumer" means a person who is the last person to purchase any food products and who does not resell the food product.
- b) "Farmers' Market" means a common facility where two or more farmers or growers gather on a regular basis to sell a variety of fruits, vegetables, and other food products directly to consumers.
- c) "Home based vendor" (HBV) means an individual who complies with IC 16-42-5.3.

To **promote**, **protect**, and **improve** the health and safety of all Hoosiers.



- d) "Potentially Hazardous Food Product", also referenced as Time/temperature control food, means
- (a) a food that is natural or synthetic and requires temperature control because it is in a form capable of supporting any of the following:
    - (1) The rapid and progressive growth of infectious or toxigenic microorganisms.
    - (2) The growth and toxin production of *Clostridium botulinum*.
    - (3) In raw shell eggs, the growth of *Salmonella enteritidis*.
  - (b) The term includes the following:
    - (1) A food of animal origin that is raw or heat-treated.
    - (2) A food of plant origin that is heat-treated or consists of raw seed sprouts.
    - (3) Cut melons.
    - (4) Garlic-in-oil mixtures that are not modified in a way that results in mixtures that do not support growth as specified under subsection (a).
  - (c) The term does not include any of the following:
    - (1) An air-cooled hard-boiled egg with shell intact.
    - (2) A food with an water activity (aw) value of eighty-five hundredths (0.85) or less.
    - (3) A food with a pH level of four and six-tenths (4.6) or below when measured at seventy-five (75) degrees Fahrenheit.
    - (4) 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.
    - (5) A food for which laboratory evidence demonstrates that the rapid and progressive growth of infectious or toxigenic microorganisms or the growth of *Salmonella enteritidis* in eggs or *Clostridium botulinum* cannot occur, such as a food that:
      - (A) has an aw and a pH that are above the levels specified under subdivisions (2) and (3); and
      - (B) may contain a preservative, other barrier to the growth of microorganisms, or a combination of barriers that inhibit the growth of microorganisms.
    - (6) A food that may contain an infectious or toxigenic microorganism or chemical or physical contaminant at a level sufficient to cause illness, but that does not support the growth of microorganisms as specified under subsection (a).
- e) "Poultry" means poultry products produced under [IC 15-17-5-11](#).
- f) "Rabbit" means a rabbit that is slaughtered and processed on the farm for the purpose of conducting limited sales on the farm, at a farmers' market, and at a roadside stand.



- g) "Roadside Stand" means a structure including a tent, stand, vehicle, or trailer that is:
- (1) Visible from a road; and
  - (2) Located not more than one hundred (100) feet from the edge of the side of the road; where whole uncut produce, food products that are not potentially hazardous, poultry that is exempt under IC 15-17-5-11, rabbits, or eggs permitted for sale by the state egg board are sold to an end consumer.
- h) "Third Party Carrier" means an individual or business that is not the HBV but delivers products to end consumers for the sole purpose of transporting the food products on behalf of the HBV.

## DISCUSSION

HBVs or individual vendors who solely sell certain poultry, eggs, or rabbits and meet certain requirements are exempt from food establishment requirements. See IC 16-42-5.3-3, 10-11. Accordingly, vendors that comply with IC 16-42-5.3 are not subject to regular inspection by Indiana regulatory authorities and are not required to comply with LHD's permitting and licensing requirements.

This guidance document focuses on the conditions that must be met to be considered exempt from the Indiana food establishment requirements for a HBV or an individual vendor who solely sells certain poultry, eggs, or rabbits.

Each local jurisdiction should carefully review the business model and the food products of each operation to determine if the operation meets one of the exemptions to food establishment requirements.

### I. Home Based Vendors

#### **Home Based Vendor Defined IC 16-42-5.3-4**

- Using proper sanitary procedures, a HBV must prepare and sell a food product that is not potentially hazardous that is made, grown, or raised by the individual at their primary residence. HBVs may sell the food product anywhere directly to end consumers in person, by mail, or shipping by a third party carrier inside the state of Indiana.
  - "Primary residence" includes any permanent structure that is on the same property as the residence. Notably, HBVs may not use leased spaces that are located off the property of a HBV's primary residence to make, grow, or raise food products.



- The required sanitary procedures are detailed in IC 16-42-5.3-4(3).
- For additional guidance on what is considered a potentially hazardous food product, see IDOH's memorandum dated August 23, 2018.

#### Examples of HBV Products

- Baked items – cakes, fruit pies, cookies, brownies, dry noodles
- Candy and confections – caramels, chocolates, fudge, hard candy
- Whole, uncut produce
- Tree nuts and legumes
- Honey, molasses, sorghum, maple syrup
- Jams, jellies, preserves – only high acid fruit in sugar
- Wild mushrooms (IDOH strongly advises the mushrooms be identified by an IDOH-recognized mushroom expert)

#### Labeling IC 16-42-5.3-5

- IC 16-42-5.3-5 lists specific labeling requirements that must be present with and/or on the food at the point of sale regardless of whether the product is packaged. Unpackaged foods should be considered "labeled" when there is easily readable signage accompanying the food product stating all the listed items in section 5.
- These labeling requirements have essentially stayed the same as the previous HBV law, except the label/sign must state either the net weight **or** volume instead of net weight **and** volume. Further, the warning statement remains required on the package and must state, "This product is home produced and processed and the production area has not been inspected by the state department of health. **NOT FOR RESALE.**"
- HBVs must post the label information of each product on their online marketing platform.

#### Shipping IC 16-42-5.3-6

- HBVs must maintain an electronic or paper record of the shipping or delivery address of each end consumer the vendor sells a food product to for at least one (1) year after the date of sale. Such records may be requested at any time by IDOH, specifically for food complaints and outbreak investigations.
- All products must be protected by tamper resistant packaging to allow end consumers to visually determine if the products were tampered with.



### **Food Handler Certificate IC 16-42-5.3-7**

- HBVs must obtain a food handler certificate from a certificate issuer accredited by the American National Standards Institute (ANSI). A HBV must provide a copy of the certificate to the local health department in the county where the HBV's residence is located. Further, upon request, the HBV must provide a copy of the certificate to the regulatory agency or an end consumer.
  - Information regarding ANSI certified courses can be found at <https://anabpd.ansi.org/accreditation/credentialing/certificate-issuers/AllDirectoryListing?prgID=212,238&statusID=4>
  - HBVs must keep the food handler certificate current, and not let it expire.
  - A Food Protection Manager Certificate that is accredited by ANSI meets this requirement.

### **Regulatory Authority IC 16-42-5.3-8**

- HBVs remain subject to inspection and/or laboratory sampling if:
  - The HBV is non-compliant with IC 16-42-5.3
  - The HBV's food product is misbranded or adulterated
  - A consumer complaint is received
  - There is an imminent health hazard

#### ***II. Individual vendors who solely sell certain poultry, rabbits, or chicken eggs***

- Vendors who solely sell certain poultry, rabbits, or chicken eggs and meet certain requirements are not considered HBVs but are exempt from food establishment requirements.
- Because vendors who solely sell poultry, rabbits or chicken eggs are not HBVs, they are exempt from the Food Handler Certificate requirement.

### **Vendors who Sell Poultry and Rabbits IC 16-42-5.3-10**

- Poultry and rabbits are permitted to be sold only at roadside stands, producing farms, and/or farmers' markets.
- Poultry and rabbits sold on the farm where the product is produced must be kept refrigerated at the point of sale and through delivery by the producer to the end consumer.
- All poultry and rabbits sold at farmers' markets and roadside stands must be frozen at the point of sale.





- Rabbits must be labeled according to the same label requirements as in IC 16-42-5.3-5. Poultry must be labeled according to IC 15-17-5-11.
- BOAH regulates the slaughter and processing of poultry and poultry products. A vendor selling poultry should contact BOAH regarding additional requirements and abide by IC 15-17-5-11.

#### **Vendors who Sell Chicken Eggs IC 16-42-5.3-11**

- In-shell chicken eggs can be sold if the vendor is registered under and follows the guidelines of the Indiana State Egg Board.
- Vendors selling chicken eggs must follow IC 16-42-11, including the label requirements for eggs.

#### **CONCLUSION**

HEA 1149 allows HBVs who meet the requirements in the new law to sell food products anywhere in Indiana. With this less restrictive law comes a few additional requirements. Most notably, HBVs must obtain a food handler certificate from a certificate issuer that is accredited by ANSI. Until this requirement becomes more widely known and understood by vendors and potential vendors, Indiana food regulatory authorities should emphasize education on the new requirements over enforcement action. It is also encouraged to connect a HBV with their local Purdue Extension office for more ANSI training information.

It is the intent of the IDOH leadership to encourage local health officials to promote and educate the HBV, venue organizers, and community stakeholders of the certificate requirement to prevent any unforeseen circumstances. IDOH Food Protection Division representatives are available to assist with any questions or concerns.

## What is the Rule?

This rule makes it illegal to sell, gift, barter, exchange, distribute, transport, or introduce plants on the enclosed list in the State of Indiana.

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## When Did the Rule Go Into Effect?

Signed by Governor Eric Holcomb, this rule went into effect in two stages. It became fully enforceable on April 18, 2020.

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## What Happens If Found Selling Material Listed on the Terrestrial Plant Rule?

If you are found to be selling material listed on the Terrestrial Plant Rule, a Notice of Stop Sale will be issued for that material, and a Notice of Violation can be issued. If a Notice of Violation is issued, a fine could be levied at \$500 per day per plant and Nursery licenses can be revoked.

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## What If I Have Questions About the Rule?

You can contact the Division of Entomology & Plant Pathology at

**Phone: 317-232-4120**

**or 866-NO-EXOTIC**

**Fax: 317-232-2649**

**Email: [DEPP@dnr.IN.gov](mailto:DEPP@dnr.IN.gov)**

Or find the local nursery inspector at

[dnr.IN.gov/entomolo/2899.htm](http://dnr.IN.gov/entomolo/2899.htm)

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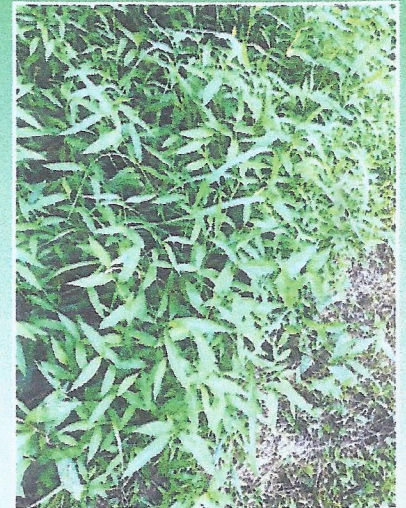


@INdnrinvasive on Twitter

## Indiana Terrestrial Plant Rule

312 IAC 18-3-25

What *You* Need to Know



**DNR** Indiana Department  
of Natural Resources

Indiana Department of Natural Resources  
Division of Entomology & Plant Pathology  
[on.IN.gov/depp](http://on.IN.gov/depp)

5/2020

## What Plants Are on the List?

<i>Achyranthes japonica</i> .....	Japanese chaff flower
<i>Ailanthus altissima</i> .....	Tree of heaven
<i>Alliaria petiolata</i> .....	Garlic mustard
<i>Alnus glutinosa</i> .....	Black alder
<i>Artemisia vulgaris</i> .....	Mugwort
<i>Arthraxon hispidus</i> .....	Small carpgrass
<i>Berberis thunbergii</i> .....	Japanese barberry
<i>Carduus acanthoides</i> .....	Spiny plumeless thistle
<i>Carduus nutans</i> .....	Musk thistle
<i>Celastrus orbiculatus</i> .....	Asian bittersweet
<i>Centaurea stoebe</i> .....	Spotted knapweed
<i>Cirsium vulgare</i> .....	Bull thistle
<i>Conium maculatum</i> .....	Poison hemlock
<i>Convolvulus arvensis</i> .....	Field bindweed
<i>Coronilla varia</i> .....	Crown vetch
<i>Dioscorea polystachya (oppositifolia)</i> .....	Chinese yam
<i>Dipsacus fullonum</i> .....	Common teasel
<i>Dipsacus laciniatus</i> .....	Cut-leaved teasel
<i>Elaeagnus umbellata</i> .....	Autumn olive
<i>Euonymus fortunei</i> .....	Wintercreeper
<i>Euphorbia virgata</i> .....	Leafy spurge
<i>Frangula alnus</i> .....	Glossy buckthorn
<i>Humulus japonicus</i> .....	Japanese hops
<i>Hesperis matronalis</i> .....	Dame's rocket
<i>Lespedeza cuneata</i> .....	Sericea lespedeza
<i>Lepidium latifolium</i> .....	Pepperweed
<i>Ligustrum obtusifolium</i> .....	Blunt leaved privet
<i>Lonicera japonica</i> .....	Japanese honeysuckle
<i>Lonicera maackii</i> .....	Amur honeysuckle
<i>Lonicera morrowii</i> .....	Morrow's honeysuckle
<i>Lonicera tatarica</i> .....	Tatarian honeysuckle
<i>Lonicera x bella</i> .....	Bell's honeysuckle
<i>Microstegium vimineum</i> .....	Japanese stiltgrass
<i>Morus alba</i> .....	White mulberry
<i>Phalaris arundinacea</i> .....	Reed canarygrass
<i>Phellodendron amurense</i> .....	Amur cork tree
<i>Phragmites australis subspecies australis</i> .....	Common reed
<i>Polygonum perfoliatum</i> .....	Mile-a-minute vine
<i>Reynoutria japonica (syn. Fallopia japonica)</i> .....	Japanese knotweed
<i>Reynoutria sachalinensis</i> .....	Giant knotweed
<i>Reynoutria x bohemica</i> .....	Bohemian knotweed
<i>Rhamnus cathartica</i> .....	Common buckthorn
<i>Vincetoxicum nigrum</i> .....	Black swallow-wort
<i>Vincetoxicum rossicum</i> .....	Pale swallow-wort

## Why Are These Plants Being Regulated?

Millions of dollars are spent annually to control invasive species. To qualify as an invasive species a plant must be alien and cause harm either to the environment or to human health. Unfortunately, many invasive plants started out in the horticultural industry and escaped cultivation invading our natural areas. Invasive species are responsible for habitat destruction and a decrease in biodiversity.

## Why This List of Plants?

Extensive research has been conducted by the Indiana Invasive Species Council (IISC). The IISC was established by state legislature to enhance the ability of government agencies to detect, prevent, monitor, and manage new and long established invasions, as well as increase public awareness about invasive species. You can learn more about the IISC by going to [www.entm.purdue.edu/iisc/](http://www.entm.purdue.edu/iisc/)

## What Other Plants Are Regulated in Indiana?

Several other species of plants are regulated under Indiana Code. They include multiflora rose, purple loosestrife, Canada thistle and a number of aquatic invasive species. More details can be found at [www.IN.gov/dnr/entomolo/2894.htm](http://www.IN.gov/dnr/entomolo/2894.htm)