



The National Agricultural Law Center

nationalaglawcenter.org | nataglaw@uark.edu | [@nataglaw](https://twitter.com/nataglaw)

Cottage Food Law Statutes:

Tennessee



This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture

A National Agricultural Law Center Research Publication

Cottage Food Laws: Tennessee

TN Code § 53-1-102(19), (28), (33)
TN Code § 53-1-118
TN Code § 53-1-204

TN Code § 53-1-102. Chapter Definitions.

As used in this chapter, unless the context otherwise requires:

- (1) “Advertisement” means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or that are likely to induce directly or indirectly, the purchase of food, drug, devices or cosmetics;
- (2) “Alcohol” means:
 - (A) Rubbing alcohol compound;
 - (B) Isopropyl alcohol; or
 - (C) Any product manufactured with any specially denaturing properties, and represented to be a rubbing alcohol compound, or a rubbing alcohol, or an alcohol made especially for massaging or toilet purposes;
- (3) “Antiseptic.” The representation of a drug, in its labeling or advertisement, as an “antiseptic” shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use that involves prolonged contact with the body;
- (4) “Catfish” means any species within the family Ictaluridae or the family Anarchichadidae;
- (5) “Catfish product” means any product capable of use as human food that is made wholly or in part from any catfish or portion of catfish, except products that contain catfish only in small proportions or historically have not been, in the judgment of the commissioner, considered by consumers as products of the United States commercial catfish industry and that are exempted from definition as a catfish product by the commissioner under conditions that the commissioner may prescribe to assure that the catfish or portions of catfish contained in the product are not adulterated and that the products are not represented as catfish products;
- (6) “Certificate of free sale” means a certificate issued by the department that certifies that the manufacturer of the food,



nonprescription drugs, or cosmetics listed in the document is duly authorized to manufacture the products and either that:

(A) The products may be sold freely to the public in the United States, and the manufacturer is in substantial compliance with this chapter as determined by an inspection conducted by the department; or

(B) The manufacturer has provided the department with a complete copy of the report of the most recent inspection conducted by the United States food and drug administration for each Tennessee location where the foods, nonprescription drugs or cosmetic products for which the certificate is being sought are manufactured; and that, based on the inspection report or reports, it is evident that the manufacturer is authorized to sell the products freely in the United States;

(7)

(A)

(i) “Color additive” means a material that:

(a) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral or other source; and

(b) When added or applied to a food, drug or cosmetic, or to the human body or any part of the human body, is capable, alone or through reaction with other substances, of imparting color to the food, drug or cosmetic, or to the human body or any part of the human body;

(ii) “Color additive” does not include any material that the commissioner, by regulation, determines is used, or intended to be used, solely for a purpose or purposes other than coloring;

(B) “Color” includes black, white and intermediate grays;

(C) Nothing in this subdivision (7) shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding or otherwise affecting, directly or indirectly, the growth or other natural physiological processes of produce of the soil and thereby affecting its color, whether before or after harvest;

(8) “Commissioner” means the commissioner of agriculture;

(9) “Contaminated with filth” applies to any food, drug, device or cosmetic not securely protected from dust, dirt, and, as far as possible, from all foreign or injurious contamination;



(10) “Cosmetic” means:

(A) Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part of the human body for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(B) Articles intended for use as a component of the articles listed in subdivision (10)(A), except that “cosmetic” does not include soap;

(11) “Delivered” means transferred to the consumer, either immediately upon sale or at a time thereafter;

(12) “Department” means the department of agriculture;

(13) “Device,” except when used in subdivision (26) and in §§ 53-1-103(a)(7), 53-1-105(a)(6), 53-1-109(a)(3), and 53-1-112(3), means instruments, apparatus and contrivances, including their components, parts and accessories, intended:

(A) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals; or

(B) To affect the structure or any function of the body of humans or other animals;

(14)

(A) “Drug” means articles, not including devices or their components, parts or accessories, that are:

(i) Recognized in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, Official National Formulary, or any supplement to any of them;

(ii) Intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals;

(iii) Intended, other than food, to affect the structure or any function of the body of humans or other animals; and

(iv) Intended for use as a component of any article specified in subdivisions (14)(i)-(iii); and

(B) “Drug” also means food that contains a vaccine or vaccine material;

(15) “Farm to consumer distribution point” means a temporary or permanent location, that is not open to the general public, where a farmer or the farmer's agent delivers food, produced by the farmer and previously sold under an agreement entered into between the farmer and the consumer, directly to the consumer or the consumer's agent;



(16) “Federal act” means the federal Food, Drug and Cosmetic Act (21 U.S.C. § 301 et seq.), as amended;

(17) “Food” means:

- (A) Articles used for food or drink for humans or other animals;
- (B) Chewing gum; and
- (C) Articles used for components of any article listed in subdivisions (17)(A) and (B);

(18) “Food additive” means any substance, the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting or holding food; and including any source of radiation intended for any such use, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures to be safe under the conditions of its intended use; except that “food additive” does not include:

- (A) A pesticide chemical in or on an agricultural commodity;
- (B) A pesticide chemical to the extent that it is intended for use or is used in the production, storage or transportation of any raw agricultural commodity;
- (C) A color additive;
- (D) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal Food, Drug and Cosmetic Act; or
- (E) Any substance used in food prior to January 1, 1958, that has been shown through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use;

(19) “Homemade food item” means a food item, including a non-alcoholic beverage, which is produced and, if packaged, packaged at the private residence of the producer;

(20) “Immediate container” does not include package liners;

(21) “Imported catfish” means catfish that is produced in a nation other than the United States, either according to the usual and customary techniques of aquaculture or in the freshwater lakes, rivers or streams or the marine or estuarine waters of the foreign nation;



(22) “Imported catfish product” means any product capable of use as human food that is made, wholly or in part, from any imported catfish or portion of catfish;

(23) “Intrastate commerce” means any and all commerce within the state and subject to the jurisdiction of the state, and includes the operation of any business or service establishment;

(24) “Label” means a display of written, printed, or graphic matters upon the immediate container of any article, and a requirement made by or under authority of this chapter, that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement or other information also appears on the outside container;

(25) “Labeling” means all labels and other written, printed or graphic matter:

(A) Upon any article or any of its containers or wrappers; or

(B) Accompanying the article;

(26) “Misleading.” If an article is alleged to be misbranded because the labeling is “misleading,” or if an advertisement is alleged to be false because it is “misleading,” then in determining whether the labeling or advertisement is “misleading,” there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination of statement, word, design, device, sound, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of the representation or material with respect to consequences that may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement of the article or under conditions of use that are customary or usual;

(27) “New drug” means:

(A) Any drug the composition of which is such that the drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended or suggested in the labeling of the drug; or

(B) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under the conditions described in subdivision (27)(A), has become so recognized, but that has not, otherwise than in those investigations, been used to a material extent or for a material time under those conditions;

(28) “Non-time/temperature control for safety food” means food that does not require time or temperature control for safety to limit the rapid and progressive growth of infectious or toxigenic microorganisms, including categories of foods in Rules of Tennessee Department of Agriculture, Rule 0080-04-09-.01(116);



- (29) “Official compendium” means the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, Official National Formulary, or any supplement to any of them;
- (30) “Person” includes an individual, partnership, corporation and association;
- (31) “Pesticide chemical” means:
- (A) Any substance or mixture of substances, including disinfectants, intended for preventing, destroying, repelling or mitigating any insects, rodents, nematodes, fungi, bacteria, weeds or other forms of plant or animal life or viruses, except viruses on or in living humans or other animals, that the commissioner declares to be a pest; and
 - (B) Any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant;
- (32) “Produce” means to prepare a food item by cooking, baking, drying, mixing, cutting, fermenting, preserving, dehydrating, growing, raising, or other process;
- (33) “Producer” means a person who produces a homemade food item;
- (34) “Raw agricultural commodity” means any food in its raw or natural state, including all fruits that are washed, colored or otherwise treated in their unpeeled natural form prior to marketing;
- (35) “Salvageable merchandise” means any food, drug, cosmetic, device or other item listed in this chapter or any regulations promulgated under this chapter that can be reconditioned, labeled, relabeled, repackaged, recoopered, sorted, cleaned, culled or by any other means be salvaged to meet the requirements of this chapter or those regulations;
- (36) “Seller” means a person who sells a homemade food item to a consumer;
- (37) “Selling.” This chapter regarding the “selling” of food, drugs, devices or cosmetics shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of those articles for sale, and the supplying or applying of those articles in the conduct of any food, drug or cosmetic establishment. “Selling” does not include infrequent casual sales of honey or the selling or packing of less than one hundred fifty gallons (150 gals.) of honey per year;
- (38) “State” means the state of Tennessee and its political subdivisions; and
- (39) “Vaccine or vaccine material” means a substance intended for use in humans to stimulate the production of antibodies and provide immunity against disease, prepared from the causative agent of a disease, its products, or a synthetic substitute, treated to act as an antigen without inducing the disease, that is authorized or approved by the United States food and drug administration.



Tenn. Code § 53-1-118. Exemption for production and sale of homemade food items.

(a) Notwithstanding part 2 of this chapter, or another law to the contrary, except as provided in this section, the production and sale of homemade food items under this chapter are exempt from all licensing, permitting, inspecting, packaging, and labeling laws of this state, except when the department of health is investigating a reported foodborne illness.

(b) The exemption under subsection (a) only applies if the following conditions are satisfied:

(1) Non-time/temperature control for safety food homemade food items must be sold either by:

(A) The producer to the consumer, whether in person or remotely, including, but not limited to, a sale by telephone or internet; or

(B) An agent of the producer or a third-party vendor, such as a retail shop or grocery store, to the consumer;

(2) Non-time/temperature control for safety food homemade food items must be delivered either by:

(A) The producer to the consumer; or

(B) An agent of the producer, a third-party vendor, or a third-party carrier to the consumer;

(3) The following information must be provided to the consumer, in the format required by subdivision (b)(4):

(A) The name, home address, and telephone number of the producer of the homemade food item;

(B) The common or usual name of the homemade food item;

(C) The ingredients of the homemade food item in descending order of predominance; and

(D) The following statement: “This product was produced at a private residence that is exempt from state licensing and inspection. This product may contain allergens.”; and

(4)

(A) The information required by subdivision (b)(3) must be provided:

(i) On a label affixed to the package, if the homemade food item is packaged;



- (ii) On a label affixed to the container, if the homemade food item is offered for sale from a bulk container;
- (iii) On a placard displayed at the point of sale, if the homemade food item is neither packaged nor offered for sale from a bulk container; or
- (iv) On the webpage on which the homemade food item is offered for sale, if the homemade food item is offered only for sale on the internet; and

(B) If the homemade food item is sold by telephone or custom order, the seller need not display the information required by subdivision (b)(3), but the seller shall disclose to the consumer that the homemade food item is produced at a private residence that is exempt from state licensing and inspection, and may contain allergens. The seller shall have the information required by subdivisions (b)(3)(A)-(C) readily available and provide it to the consumer upon request.

(c) This section does not:

- (1) Impede the department of health in an investigation of a reported foodborne illness;
- (2) Preclude the production or sale of food items otherwise authorized by law;
- (3) Change the regulation of other goods and services where homemade food items are also produced or sold;
- (4) Exempt producers or sellers of homemade food items from any applicable tax law; or
- (5) Apply to sales other than intrastate sales made within this state.

(d) This section preempts county, municipal, and other political jurisdictions from prohibiting and regulating the production and sale of homemade food items.

Tenn. Code § 53-1-204. License Requirements.

(a)

(1) Except as provided in § 53-1-118, a person shall not manufacture, process, pack, or hold food for introduction into commerce unless the person holds a valid license issued by the commissioner.

(2)

(A) Applicants for licensure shall apply for the license on forms provided by the commissioner.



(B) The commissioner may issue a license to an applicant only upon receipt of the proper license fee and an inspection of the applicant's facility that indicates the applicant is in compliance with the requirements of this chapter and the rules promulgated thereunder.

(C) Licenses issued under this section expire on July 1 of each year, or as the commissioner may otherwise provide by rule.

(D) The commissioner shall set annual fees for licenses issued under this section by rule pursuant to § 43-1-703.

(b) The commissioner shall set, by rule under § 43-1-703, a fee for a certificate of free sale.

(c) [Deleted by 2022 amendment.]

(d) [Deleted by 2022 amendment.]

