



# Department of Public Health and Human Services

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## Montana Local Food Choice Act (MLFCA) Guidance

### PURPOSE

Senate Bill 199 also known as the Montana Local Food Choice Act (MLFCA) is a new law which exempts producers who sell specific homemade food products from licensing, certification, packaging, labeling, and inspection. These exemptions only apply to producers who sell homemade food products in conformance with the bill. These requirements include the following:

- Transactions of homemade foods between a producer and an informed end consumer only.
- Transactions within the state of Montana, sales across state lines are prohibited.
- Transactions must only be for home consumption or consumption at a traditional community event (weddings, funerals, potlucks, etc.).

Food entrepreneurs often have goals to maximize marketing opportunities and revenue for their business, obtaining a retail food license, wholesale food license or both will highly increase access to local, national, and international markets.

### DEFINITIONS

TCS/Potentially hazardous

## Frequently Asked Questions

### Ingredients

**Q. Are some food ingredients riskier than others in possibly making people ill or causing death?**

A. *Yes, in addition to the ingredient itself, packaging and storage conditions also factor into risk assessment.*

**Q. Who will be held financially liable if there is a public health issue with food being sold under MLFCA?**

A. *Legal liability can be complicated and is generally assessed on a case by case basis.*

**Q. What meat products are allowed under MLFCA; how is meat defined?**

A. *We recommend following [Montana Department of Livestock's MLFCA guidance document](#).*

**Q. Does MLFCA allow for homemade alcohol products, alcohol infused products (rum filled candies), and THC infused products, etc.?**

A. *MLFCA does not modify laws regulating alcohol and marijuana. The sale of rum-filled candy is prohibited under liquor control statutes and DOR regulations, so MLFCA does not allow a person*

*to circumvent these laws. The same analysis applies for home production of beer or wine in that MLFCA does not alter the application of existing alcohol control laws.*

*A similar analysis applies with THC. Montana law requires a person who produces marijuana infused products to be licensed under the Medical Marijuana Act or the recently enacted recreational marijuana laws.*

**Q. Does MLFCA allow for the sale of dietary supplements? How will we regulate unallowed additives and/or unallowed health claims (cures cancer, cold and flu remedy, etc.)?**

- A. *MLFCA applies only to the sale of homemade food and homemade food products sold by producers in conformance with the requirements of the bill. If an item is marketed as a drug, it will continue to be regulated as a drug.*

*In terms of the best method of enforcement, we will want to consider that on a case-by-case basis depending upon the specific issue of concern.*

**Rules and Regulations**

**Q. How does MLFCA effect Farmer's Markets?**

- A. *Existing law generally restricts a person from selling potentially hazardous food at a farmer's market without a retail food establishment license. MCA § 50-50-121. MLFCA allows the sale of homemade food and homemade food products by producers at any "traditional community social event." The term "traditional community social event" is defined within the bill and includes farmer's markets.*

*Farmer's Markets are allowed to make more stringent rules. Therefore, Farmer's Markets can require producers and vendors to obtain a license, registration, or permit from the local health authority.*

*MLFCA provides that persons who meet the definition of a producer and sell homemade food or products in conformance with the requirements of the bill are by definition not a retail food establishment or subject to food licensure requirements. If a person seeking to sell homemade food or products at a farmer's market does so in conformance with the requirements of MLFCA, they are exempt from having to obtain a retail food license, even if the homemade food constitutes as potentially hazardous.*

*Persons who do not meet the definition of a producer or otherwise fail to conform with the requirements of MLFCA are not exempt from licensure and must follow the requirements of section 50-50-121, MCA.*

**Q. Who is an informed end consumer; what qualifies as informing the consumer?**

- A. *The informed end consumer is the last person to purchase the product and does not resell the product.*

*Producers are required to inform the end consumer that the homemade food products have not been licensed, permitted, certified, packaged, labeled, or inspected under any official regulations.*

**Q. Can producers set up a stand or vehicle on the side of the road to sell their products?**

- A. *No, in order to sell products outside of their home, the producer must be tied to a traditional community event.*

*A traditional community event is an event at which people gather as part of a community. For example, weddings, funerals, potlucks, neighborhood gatherings, farmer's markets, etc.*