



# Department of Public Health and Human Services

Public Health & Safety Division ♦ Communicable Disease Control & Prevention Bureau

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## Four Day Exemption Guidance

The purpose of this document is to provide guidance regarding what organizations are exempt from retail food establishment licensure in MCA 50-50-102 (21)(c)(x).

This law states that retail food establishments do not include “private, religious, fraternal, youth, patriotic, or civic organizations that serve or sell food to the public over no more than 4 days in a 12-month period.”

If a situation arises where the safety of the public has been, or may likely be in jeopardy, or an outbreak has occurred, DPHHS recommends working closely with your county health officer to take action to protect public health (see local health authorities in MCA 50-2-118).

DPHHS interprets MCA 50-50-102 (21)(c)(x) to include many non-profit organizations that may qualify for tax-exempt status under the federal tax code (IRS 501 (c)(3)). The table at the end of this document provides examples of such organizations, which may be license exempt, if serving the public.

If it is unclear if an organization meets the exemption, DPHHS recommends using the following definitions to guide your decision as to whether or not the organization should be exempt.

**Private Organizations** – a group which maintains selective members, is operated by the membership, does not provide food or lodging for pay to anyone who is not a member or a member's guest and is not profit oriented.

**Fraternal Organizations** - It must have a fraternal purpose. An organization has a fraternal purpose if membership is based on a common tie or the pursuit of a common goal. The organization must also have a substantial program of fraternal activities. It must operate under the lodge system. Operating under the lodge system requires, at a minimum, two active entities: (i) a parent organization; and (ii) a subordinate organization (called a lodge, branch, or the like) chartered by the parent and largely self-governing. It must devote its net earnings exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes.

You may also ask if they have an IRS exemption for "Fraternal Societies or Organizations".

**Religious Organization** – a group organized and operated exclusively for religious purposes; net earnings may not benefit any private individual or shareholder; no substantial part of its activity may be attempting to influence legislation; the organization may not intervene in political campaigns; and the organization's purposes and activities may not be illegal or violate fundamental public policy.

**Civic Organization** - groups primarily engaged in promoting the civic and social interest of their members.

**Youth Organization** - groups operating for direct benefit of individuals under the age of eighteen. Net earnings may not benefit any private individual or shareholder; no substantial part of its activity may be attempting to influence legislation; the organization may not intervene in political

campaigns; and the organization's purposes and activities may not be illegal or violate fundamental public policy.

**Patriotic Organization** - an organization expressing or inspired by patriotism, operated exclusively for membership. Net earnings may not benefit any private individual or shareholder; no substantial part of its activity may be attempting to influence legislation; the organization may not intervene in political campaigns; and the organization's purposes and activities may not be illegal or violate fundamental public policy.

If, after review of this guidance, a question arises as to whether or not an organization should be granted exemption from licensure please contact DPHHS to discuss the individual case with Food and Consumer Safety staff.

### COMMON ORGANIZATION EXAMPLES

Private	Religious	Fraternal	Youth	Patriotic	Civic
Boy Scouts	Church groups	Eagles Club	4-H Club	American Legion	Fire Department Associations
Chamber of Commerce	Knights of Columbus	Elks Club	Boys' and Girls' Clubs	Daughters of the American Revolution	Kiwanis International
Ducks Unlimited	Synagogue groups	Moose Club	Sports Associations (football, wrestling, baseball, soccer, etc.)	Veterans of Foreign Wars	Police Department Associations
Girl Scouts		Shriners International	School related booster clubs		Parent-Teacher Organizations
National Rifle Association					Hospital Foundations
Prickly Pear Land Trust					Gardening clubs
Business Association					
Tavern League					
Wilderness Society					