

Bread and Non-Bread Bakery Products

Last Revision: January 28, 2016

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Background

This policy will provide the needed interpretation in the sale of bakery items to assist inspectors and sealers in the field. A retail fact sheet on the laws will provide inspection staff with a handout that businesses can use to understand their obligations.

 [Wis. Stats. 98.21\(1\) & \(2\)](#)
 [ATCP 90](#)
 [ATCP 91.03\(1\)\(a\)](#)

Policy

Bread and bakery products are consumer commodities that must be sold according to Wisconsin Weights and Measures Law.

Bread is generally defined as a food made from flour or meal mixed with a liquid, usually combined with a leavening agent, and kneaded and shaped into loaves eight ounces or more in weight and baked. This would include but is not limited to the traditional wheat breads, sweet breads (e.g. banana nut bread) and the seasonal breads such as fruit cake. Items that are shaped into a loaf but are less than eight ounces in weight are for the most part considered buns or rolls.

Wisconsin Law, Chapter 98, 98.21(1) and ATCP 91.03(1)(a), requires all bread to be sold by weight. The weight must be on the label of prepackaged bread along with the product identity and declaration of responsibility (name and mailing address of business). Bread sold from bulk (display case) and bagged at time of sale must have a sign or placard indicating the minimum loaf weight. Net weight means the weight of the product, excluding the weight of wrappers, bags, ties, labels, etc. With the 1999 change in State Statute 98 there are no longer restrictions requiring standardized sizing of loaves (i.e. 16 oz, 24 oz, etc.).

There are two methods used to sell non-bread bakery products. They are “prepackaged” or “packaged at the time of sale.”

All non-bread bakery items prepackaged and shipped to other locations for sale must follow ATCP 90 labeling requirements for packaged goods. Specifically, it must be labeled with “Declaration of Product Identity,” “Declaration of Responsibility,” and “Declaration of Net Quantity.” The only exception is that product packaged and sold at the same location is not required to list the declaration of responsibility on the label.

Unpackaged non-bread bakery products sold out of bulk bins or display cases or packaged non-bread bakery items packaged at the place of sale may be sold by count. This is in general practice for these items – donuts, buns, rolls, crescents, bagels, cookies, bars, pies, cakes, cupcakes and like items. Net weight is always acceptable.

“Stale Bread” or “Day Old Bakery” that is conspicuously labeled or signed as “Stale,” Day Old,” “Substandard,” or “Reduced.” Is exempted from labeling and may be sold by any method of sale per Ch. 98.21(2) and ATCP 91.03(1)(a).

Summary

- All bread needs accurate net weights.
- If you sell bread from bulk, placards must be used to disclose the net weight.
- Unpackaged, non-bread bakery items may be sold by count from a display case or bulk bin.
- If non-bread items are packaged at the same location where they are sold, they may be sold by count or net weight.
- Packaged non-bread bakery items allowed to be sold by count, that are in packages of six (6) or fewer units are exempt from having a quantity declaration on the package if the number of units can be easily counted by consumers without opening the package.
- Any bakery item manufactured and packaged for wholesale commerce must follow ATCP 90 labeling requirements.

For questions on nutritional labeling or ingredients contact your food safety inspector or city sanitarian.

*Bread and Non-Bread Bakery Brochure attached (see next page)

Effective Date: May 14, 2003
Revised: January 29, 2015

Bakery Product Sales Brochure – Weights and Measures Law
Department of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive, PO Box 8911
Madison, WI 53708-8911
1-608-224-4942

Bread and bakery products are consumer commodities that must be sold according to Wisconsin Weights and Measures Law.

All bread must be sold by net weight. The definition for bread is flour or meal mixed with water plus possibly a leavening agent, kneaded or shaped into eight ounce or larger loaves and baked. Included in breads would be the traditional wheat breads, sweet breads and seasonal breads. Items less than eight ounces, for the most part, are considered buns or rolls.

Wisconsin Law, Chapter 98, 98.21(1), requires bread to be sold by weight. The weight must be on the label of prepackaged bread along with the product identity and declaration of responsibility (name and mailing address of business). The only exception is that product packaged and sold at the same location is not required to list the declaration of responsibility on the label. Bread sold from a display case and bagged at time of sale must have a sign or placard indicating the minimum loaf weight. Net weight means the weight of the product only, excluding the weight of wrappers, bags, ties, labels, etc. There are no longer restrictions requiring standardized sizing of loaves (i.e. 16 oz, 24 oz, etc.). Accurate weights are required.

There are two methods used to sell non-bread bakery products. They are “prepackaged” or “packaged at time of sale.”

All prepackaged products must follow ATCP 90 labeling requirements for packaged goods. Specifically, it must be labeled with “Declaration of Product Identity,” “Declaration of Responsibility,” and “Declaration of Net Quantity.” The only exception is that product packaged and sold at the same location is not required to list the declaration of responsibility on the label.

Unpackaged, non-bread bakery products sold out of bulk bins or display cases may be sold by count. The following items are considered – donuts, buns, rolls, crescents, bagels, cookies, bars, cupcakes and like items. Pies and cakes displayed for sale unpackaged, packaged and sold at the same location, or as special orders may also be sold by count. Once the item(s) are packaged they must meet ATCP 90 labeling requirements. Net weight is always acceptable.

Summary:

- All bread needs accurate net weights on the package or if bulk, on a placard.
- Unpackaged, non-bread bakery items can be sold by count from a display case or bulk bin.
- Packaged non-bread bakery items allowed to be sold by count, that are in packages of six (6) or fewer units are exempt from having a quantity declaration on the package if the number of units can be easily counted by consumers without opening the package.
- If you package product and ship it to other outlets you must follow ATCP 90 labeling requirements.

If you have questions concerning the sale of bread and bakery items please contact our office or your local city sealer.

Copies of Chapter 98 and ATCP 90 are available upon request. For questions on nutritional labeling or ingredients contact your food safety inspector or sanitarian.