

**DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER
PROTECTION NOTICE OF PROPOSED GUIDANCE DOCUMENTS**

Pursuant to section 227.112 of the Wisconsin Statutes, the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) is hereby accepting comments on the proposed guidance document:

Fundraising Fact Sheet: Sale of Products Containing Meat

LOCATION OF PROPOSED GUIDANCE

Proposed guidance document may be reviewed by accessing:

[https://datcp.wi.gov/Pages/About Us/GuidanceDocuments.aspx](https://datcp.wi.gov/Pages/About%20Us/GuidanceDocuments.aspx)

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance document may be submitted by accessing:

[https://datcp.wi.gov/Pages/About Us/GuidanceDocuments.aspx](https://datcp.wi.gov/Pages/About%20Us/GuidanceDocuments.aspx)

DEADLINE FOR SUBMISSION

The comment period will run no fewer than 21 days after the publication of this document in the Administrative Register.

AGENCY PUBLICATION

The attached guidance document contains statements or interpretations of law under the following applicable provisions of federal law or the applicable state statutory or administrative code provisions: Wis. Stat. section 97.42, Wis. Admin. Code, ch. 55.

CERTIFICATION

Pursuant to the authority delegated to me by the Secretary, I have reviewed the attached guidance document or proposed guidance document and I certify that it complies with sections 227.10 and 227.11 of the Wisconsin Statutes. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or a rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.


Steve Ingham

Administrator
Division of Food and Recreational Safety



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GUIDANCE DOCUMENT

Fundraising Fact Sheet: Sale of Products Containing Meat

This guidance document is based on Wis. Stat. section 97.42 and chapter(s) ATCP 55 Wis. Admin. Code. This document is intended solely as guidance, and does not contain any mandatory requirements except where requirements found in statute or administrative rule are referenced. This guidance does not establish or affect legal rights or obligations, and is not finally determinative of any of the issues addressed.

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Click or tap here to enter text.

Steven Ingham

December 11, 2019

Steven Ingham, Ph.D. - Administrator, Division of Food and Recreational Safety

DATE

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Fundraising Fact Sheet: Sale of Products Containing Meat

The information provided in this fact sheet is from the following document, and also based upon Wisconsin Statutes and Administrative Code:

“FSIS Guideline for Determining Whether a Livestock Slaughter or Processing Firm is Exempt from the Inspection Requirements of the Federal Meat Inspection Act – May 24, 2018.”

Fundraising has become a fundamental part of supporting schools, churches, and other nonprofit organizations in Wisconsin. The definition of fundraising is one or more events, intended to raise money for a particular purpose. The Wisconsin Department of Agriculture, Trade and Consumer Protection (“DATCP”) generally supports this type of community activity.

The Federal Meat Inspection Act and the Poultry Product Inspection Act provide for mandatory inspection of commercial meat and poultry products to ensure that they are wholesome, not adulterated, and properly labeled and packaged. DATCP’s Division of Food and Recreational Safety’s (“DFRS”) Bureau of Meat and Poultry Businesses (“BMPB”) adopted these rules in Wisconsin, on behalf of United States Department of Agriculture’s Food Safety and Inspection Services (“USDA-FSIS”). A “retail exemption” exists allowing, to a limited extent, the preparation of certain meat and poultry products for retail sales without mandatory inspection. The exemption allows licensed retail food establishments including restaurants, not inspected in accordance with USDA-FSIS rules, to sell certain meat products to consumers. To use this exemption, the Division’s Bureau of Food and Recreational Businesses (“BFRB”) or a local health department agent program licenses the retail food establishment.

Meat products used for fundraising must come from an inspected source and meet criteria associated with one of two license types in Wisconsin, thereby assuring food safety issues are addressed. The two license types are either a meat establishment license/federal grant of inspection or a retail food establishment license. Fundraising groups choose to use one of the two types of licensed businesses to supply the products for their event, depending on the event type, as described below.

Fundraising using a meat product produced by a licensed retail food establishment:

Assisting an organization in fundraising may be done by the retail food establishment, so long as the sale of meat products from any retail food establishment is a direct sale to the consumer. Two acceptable models, meeting the criteria for a licensing exemption from the BMPB, allow a retail food establishment to

assist in fundraising events, using the fundraising group as an extension of its business. These methods may also be used in combination.

One method is for the fundraising group to arrange for sale of meat products by the retail food establishment, by recording the names of the consumers and the product ordered, and then provide those orders to the retail food establishment. The retail food establishment produces the meat products per consumer orders and has the fundraising group deliver the product and collect the payments. Those payments are delivered to the retail food establishment operator, who then may make a donation to the fundraising group for work on behalf of the retail food establishment.

A second method for the fundraising group is selling coupons to the consumer to be used at the retail food establishment. The consumer takes the coupon to the retail food establishment to exchange for the finished meat products available. Payments made during the coupon sale process are delivered to the retail food establishment, to complete the sale directly to the consumer as required. The retail food establishment operator may then make a donation to the fundraising group for work on behalf of the retail food establishment.

A licensed retail food establishment may not sell or donate any finished meat products directly to anyone for resale to the consumer. This type of meat product production and distribution is a wholesale transaction and requires an additional meat establishment license issued by the BMPB.

Fundraising using a meat product produced by a licensed meat establishment:

There are fewer restrictions associated with this license type. Anyone may purchase finished meat product directly from the establishment and sell to anyone, including other businesses. The product shall be fully labeled and bear a mark of inspection, allowing it to be sold in commerce as long as the package remains intact. In addition, a meat establishment may create a specialized label for any buyer, by including a “manufactured for” statement, whereas a retail establishment may not.

Fundraising group information: The fundraising group may act as a third party agent in the sale of the retail products. This allows the group to advertise and market the products, store the products at an independent warehouse under appropriate refrigeration if needed, and deliver the orders to the customers. The only restriction is that all payments collected must be given to the retail food establishment to complete the sale. If a check is used for payment, it should be made out to the retail food establishment, not the fundraising group. The sales are then recognized as a retail sale directly to the consumer using a third party agent. The retail food establishment operator may then make a donation to the fundraising group.

IMPORTANT NOTE. If a religious, charitable or nonprofit group obtains food or meat products at wholesale or by donation, to sell at retail, the fundraising group is restricted to selling products 12 days a year and to serving meals 3 days a year, without having to obtain its own retail food establishment license.

Retail Food Establishment including restaurants

- Make the sale to the consumer.
- Maintain records that fully and correctly disclose the sale.
- Use meat in production from an inspected federal or state source.
- Keep records such as invoices, bills of lading and receiving and shipping papers.
- Use presales and vouchers by third parties.
- Fully label meat products.
- Have the fundraising group assist with sales and delivery of product to gain a donation.

Fundraising Group:

- May advertise the event.
- May market the event.
- May store products in commerce at an independent warehouse under refrigeration, as appropriate.
- May deliver the product.
- May collect all payments but all payments collected must go to the retail food establishment.
- Obtain meat products from a licensed meat establishment if reselling.

Questions and Answers:

Q. Where can my fundraising group purchase meat products?

A. Products may be purchased from either a licensed meat establishment or a retail establishment, depending on how you organize and sell the products for the fundraiser.

Q. What is the difference between the two license types?

A. A licensed meat establishment may provide products to sell to anyone within Wisconsin without limits on reselling or amounts. The organization running the fundraiser may order and pay for meat products directly from the meat establishment, sell the products during events or time periods totaling 12 days or less per year without a license, and keep all payments from the sales.

A licensed retail food establishment is restricted to sales directly to the individual consumer, but may use a third party, including fundraising groups to assist with advertising, marketing, collecting payments, product storage, and delivery. The sales are restricted to a pre-sale order or voucher and all payments from the sales going to retail food establishment.

Q. Are meat and poultry products inspected at a grocery store, restaurant, or other retail food establishment?

A. The BFRB, or its local health department agent program, provides inspection at these establishments. Retail food establishments are licensed, pursuant to Wis. Stat. § 97.30(2), authorizing them to sell meat products directly to the individual consumers. Retail food establishments do not require daily inspection but are inspected on a regular basis.