



State Laws Impacting Farmers' Markets in Kansas

State laws can impact what happens to food as it travels from the farm to a consumer shopping at a farmers' market in Kansas. From the State Legislature to the Kansas Department of Agriculture, several state government bodies have a role in creating policy that will impact the ease, affordability, and quality of products eventually reaching the consumers. It may be intimidating to consider how these state laws may impact your farmers' market. Understanding how state laws impact a farmers' market will help ensure that your community farmers' market follows state law and optimizes state programs promoting farmers' markets, while also making your market a safe place for vendors and customers.



What is this?

This resource identifies key Kansas state laws that may impact local farmers' markets. In the following chart, please note that not every state law impacting farmer's markets is included. The left-hand side of the chart summarizes the general content of the specific law listed; the right-hand side provides the legal citation. This document is meant to be used as a companion piece to "Local Government Regulation of Farmers' Markets in Kansas" and "Farmers' Market Vendor and Market Rules."

What to do next?

Review the laws in the chart. For the actual regulatory language, please visit the [Kansas Legislature website](#). The Kansas Department of Agriculture also has several resources addressing different state laws impacting farmers' markets, available at [their website](#).

This fact sheet is part of a series funded by the Kansas Health Foundation to increase the availability of healthy foods in Kansas.



Kansas State Law Impacting Farmers' Markets

FARMERS' MARKET STRUCTURE AND GOVERNANCE

Central farmers' market registry

Farmers' market organizations may register with the Central Registration to receive state assistance in promoting their markets.

K.S.A. 2-3803 "Central registration of farmers' markets; authority of secretary."

Insurance and liability

The legislature has created specific liability protections for farmers' markets participating in the Central Registration.

K.S.A. 2-3804 "Buying or selling at registered farmers' markets' assumption of risk; limitations on liability."

Taxes

- Some non-profit organizations are subject to different tax implications.
- Retail sales tax set at 6.15%.
- Local governments may increase the retail sales tax rate.
- Vendors are responsible for collecting sales tax and liable for payment of the uncollected tax.

K.S.A. 79-3606 "Exempt Sales"; see also I.R.C. 501 "Exemption from tax on corporations, certain trusts, etc."

K.S.A. 79-3603 "Retailers' sales tax imposed; rate."

See "Local Sales Tax Information — Quarterly Updates," Kansas Department of Revenue, <http://ksrevenue.org/salesratechanges.html>.

K.A.R. 92-19-61a "Retailers responsibility to collect sales tax; presumption of taxability."

Administration of food stamp benefits and EBT

Indicates that state of Kansas will assist in implementing federal social welfare programs.

K.S.A. 75-5364 "Electronic funds transfer remittance plan for cash, food stamp and medical assistance; approval; implementation."

Behavior of food handlers and employees

- Food handlers may only eat or use tobacco in designated areas.
- No pets near food processing and consumption.
- Employee health.

K.A.R. 4-28-8 "Adoption of Kansas Food Code" (hereinafter Kansas Food Code).

Kansas Food Code at 2-401.11 "Eating, Drinking, or Using Tobacco."

Kansas Food Code at 2-403.11 "Handling Prohibition"; 6-501.115 "Prohibiting Animals" (exceptions for patrol dogs, service animals, and in the common dining areas of instructional care facilities such as nursing homes, group homes, etc.).

Kansas Food Code at 2-2 "Employee Health."

Kansas Indoor Clean Air Act

- Prohibits smoking in enclosed public places, including food service establishments and public buildings.
- Grants municipalities and employers the power to create more restrictive laws and policies.

K.S.A. 21-6109 through 21-6116

FOOD ESTABLISHMENTS AND FOOD PROCESSORS

Does not include establishments selling whole fruit, vegetables, or nuts

Kansas Food Code at 1-201.10 "Statement of Application and Listing of Terms."

Food establishments are regulated by state Food Code

K.A.R. 4-28-8 "Adoption of Kansas food code."

Food establishments require a license to operate

See Food Safety Licenses, Kansas Department of Agriculture, <http://agriculture.ks.gov/divisions-programs/food-safety-lodging/food-safety-licenses>.

Food establishments are inspected by the KDA

K.S.A. 65-688 "Retail food establishments and food processing plants; inspection fees; rules and regulations;" see also Kansas Food Code at 8-4 "Inspection and Correction of Violations."

FOOD ESTABLISHMENTS AND FOOD PROCESSORS	
<p>Sampling</p> <p>A person who provides food samples, without charge, to promote, advertise or complement the sale of food or associated food preparation equipment does not need a license.</p>	K.S.A. 65-689 "Retail food establishments and food processing plants; License requirements".
<p>Transportation of the food to farmers' market</p>	K.A.R. 4-28-32 "Vehicles used in transportation."
<p>Food storage</p>	Kansas Food Code at 3-302.12 "Food Storage Containers, Identified with Common Name of Food"; 3-305.11 "Food Storage."
<p>Temperatures of food</p>	Kansas Food Code at 3-202.11 "Temperature."
<p>No home-made food goods allowed for sale (except jams and jellies)</p>	Kansas Food Code at 3-201.11 "Compliance with Food Laws;" <i>see also</i> Food Safety for Kansas Farmers Market Vendors: Regulations and Best Practices, http://www.ksre.ksu.edu/bookstore/pubs/MF3138.pdf .
FOOD PRODUCTS FOR SALE TO PUBLIC	
<p>The sale of food and food products</p> <ul style="list-style-type: none"> ■ Labeling and marking. ■ Packaging. ■ Subject to weights and measures law. 	<p>Kansas Food Code at 3-601 "Accurate Representation", 3-602 "Labeling;" 3-604 "Consumer Advisory"; <i>see also</i> 21 C.F.R. 131-169 "Food Standards."</p> <p>Kansas Food Code at 3-302.11 "Packaged and Unpackaged Food — Separation, Packaging, and Segregation."</p> <p><i>See</i> Weights and Measures, Kansas Department of Agriculture, http://agriculture.ks.gov/divisions-programs/weight-measures ("Essentially, all consumer goods are subject, in one way or another, to the weights and measures law").</p>
<p>Display of food</p>	Kansas Food Code at 3-306.11 "Food Display."
<p>Food storage</p>	Kansas Food Code at 3-305.11 "Food storage."
<p>The sale of meat and poultry</p> <ul style="list-style-type: none"> ■ Labeling and marking. ■ Inspections. 	<p>Kansas Food Code at 3-201.11 "Compliance with Food Law;" <i>see also</i> 9 C.F.R. 317.2(1) "Labels," 9 C.F.R. 381.125(b) "Special handling label requirements."</p> <p>K.S.A. 65-6a30 "Meat and poultry inspection program established; personnel; inspection duties; rules and regulations;" <i>see also</i> 21 U.S.C.A. § 606. "Inspection and labeling of meat food products."</p>
<p>The sale of eggs</p> <ul style="list-style-type: none"> ■ A license is required for some larger producers and sellers of eggs. ■ Rules governing the standard size and quality of graded eggs. 	<p>K.S.A. 2-2501 "Kansas Egg Law."</p> <p>K.S.A. 2-2508 "Licensure of place of business, fee, exemptions; record retention;" <i>see also</i> "Egg Fact Sheet for Farmers Market" http://agriculture.uat.ks.gov/docs/default-source/rc-food-safety/egg_factsheet_farmersmarkets2006.pdf?sfvrsn=2; "Application for Egg License," Kansas Department of Agriculture, http://agriculture.uat.ks.gov/docs/default-source/rc-food-safety/egg_factsheet_farmersmarkets2006.pdf?sfvrsn=2.</p>
<p>The sale of wine</p> <p>A license is required and a tax is administered for those interested in selling table wine at farmers' markets.</p>	<p>K.A.R. 14-11-24 "Bona fide farmers' market sales permit."</p> <p>K.S.A. 41-308a "Farm winery license; authority of licensee, percentage of Kansas products."</p> <p>K.A.R. 14-11-29 "Record retention; reporting requirements."</p>

FOOD PRODUCTS FOR SALE TO PUBLIC

License & fees

A city may require a producer or grower engaged in the sale of agricultural, farm, garden, or aquacultural products grown by such growers within Kansas to obtain a peddler's, vendor's, or transient merchant license.

No city may impose a fee.

K.S.A. 12-1617 "Farm and aquaculture products; peddler's license or permit; fee."

FOOD SAFETY AND INSPECTIONS

Food establishments and food processing plants

- A license required.
- Certified kitchens are required.
- KDA is responsible for all licensing, inspection, and enforcement.

Kansas Food Code at 8-301.11 "Prerequisite for Operation."
 Kansas Food Code at 2-101.11 "Assignment;" *see also* "Food Safety Licenses," KDA, <http://agriculture.ks.gov/divisions-programs/food-safety-lodging/food-safety-licenses>.
 Kansas Food Code at 2-102.11 "Demonstration."
 K.S.A. 74-560 "Kansas department of agriculture; creation; appointment of secretary of agriculture; annual public information meeting."

Inspection and enforcement of violations

- Food establishments.
- Meat and poultry.

K.S.A. 65-688 "Retail food establishments and food processing plants; inspection fees; rules and regulations;" *see also* Kansas Food Code at 8-4 "Inspection and Correction of Violations."
 K.S.A. 65-674 "Free access to establishments and vehicles for inspections and samples."
 K.S.A. 65-6a30 "Meat and poultry inspection program established; personnel; inspection duties; rules and regulations;" *see also* 21 U.S.C.A. § 606. "Inspection and labeling of meat food products."

Sanitation and cleanliness

Kansas Food Code at 7-204.12 "Sanitizers, Criteria;" 5-202.12 "Handwashing Sink, Installation."

Exotic game & inspection

Sale of exotic game animals (reindeer, elk, deer, antelope, water buffalo, or bison)

Voluntary inspection administered by USDA.

K.S.A. 47-1832 "Animal health commissioner to establish rules and regulations on farm and exotic animals."
 9 C.F.R. 352 "Exotic Animals and Horses; Voluntary Inspection."

Last updated: May, 2014

The Public Health Law Center thanks research assistants Michelle Hersh and Anna Ayers Looby for their assistance in conducting background research and developing these resources.



This publication was prepared by the Public Health Law Center at William Mitchell College of Law, St. Paul, Minnesota, made possible with funding from the Kansas Health Foundation.

The Public Health Law Center provides information and technical assistance on issues related to public health. The Public Health Law Center does not provide legal representation or advice. This document should not be considered legal advice. For specific legal questions, consult with an attorney.