

Selling Produce in Kansas: Licensing Requirements

K-State Research and Extension Food Safety Fact Sheet

Fruits, vegetables, and herbs are an important part of a healthy diet, but unfortunately can also be the cause of foodborne illness. In order to reduce the risk of foodborne illness from fresh produce, there are state and federal regulations in place to help ensure the safety of produce sold in Kansas. This fact sheet provides information on the regulations specifically for selling produce (fruits, vegetables, and herbs). Sales of other types of food products, particularly those sold direct to consumer, are covered in a separate publication: *Food Safety for Kansas Farmers Markets: Regulations and Best Practices* — www.bookstore.ksre.ksu.edu/pubs/MF3138.pdf

Type/venue of produce sales	License required?
Produce grower selling their own produce at a roadside stand, farmers' market, or other direct-to-consumer method	No licensing is required. However, if you are considered "qualified exempt" from the FSMA PSR (see more info below), you do need to label your produce or have a sign by your produce with your business address.
Produce grower providing produce samples at a farmers' market, roadside stand, or similar	No licensing is required, but samples must be prepared and served in a sanitary manner. More details are available in KSRE/KDA publication MF3311 on "Sampling Safely at Farmers Markets." www.bookstore.ksre.ksu.edu/pubs/MF3311.pdf
Produce grower selling to a food processor	No licensing is required, unless the buyer (processor) asks the grower to have a license or possibly to have a third-party certification.
Produce grower selling to restaurants or schools	No licensing is required, unless the buyer (restaurant or school) asks the grower to have a license or possibly to have a third-party certification.
Produce grower processing their produce	Note that washing, waxing, cooling, shelling nuts, and removing leaves, stems, or husks are NOT considered processing. Cutting produce beyond the normal harvest cut IS considered processing. When selling direct to consumer, chopped/peeled tomatoes, leafy greens, and melons require a KDA license, but any other chopped/peeled produce does not require a KDA license. If selling chopped/peeled produce through any other market type (other than direct to consumer), a KDA license is required.
Distributing produce from multiple growers in a wholesale manner (acting as a wholesaler)	A KDA food processing license is required.
Aggregating produce from multiple growers — holding produce from other growers on your farm for more than 24 hours and selling the produce	A KDA food processing license is required.



Are you covered by the U.S. Food and Drug Administration (FDA) Food Safety Modernization Act (FSMA) Produce Safety Rule (PSR)?

The following are **exempt** from the produce safety rule:

1. produce that is rarely consumed raw
2. produce used for personal consumption
3. food grains
4. produce intended for commercial processing
5. farms that have an average annual value of produce sold during the previous three-year period of \$25,000 or less

To be eligible for a **qualified exemption** from the produce safety rule, a farm must meet two requirements: 1) total food and animal feed sales averaging less than \$500,000 per year during the previous three years, **and** 2) sales to qualified end-users¹ must exceed sales to all others combined during the previous three years.

¹ A qualified end-user is either (a) the consumer of the food or (b) a restaurant or retail food establishment that is located in the same state as the farm or not more than 275 miles away. Sales through a broker are not qualified end-users. The term “consumer” does not apply to a business.

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Review the FDA Flowchart for coverage and exemptions information (www.fda.gov/downloads/food/guidanceregulation/fsma/ucm472499.pdf). For the complete FDA Rule visit <https://www.fda.gov/food/food-safety-modernization-act-fsma/fsma-final-rule-produce-safety>.

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