



Tennessee Food Freedom Act

Business Regulations & Risk Management

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SOUTHERN
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United States Department of Agriculture
National Institute of Food and Agriculture



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<https://extension.tennessee.edu/publications/Documents/PB1901.pdf>

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PB 1901

Technical Assistance and Checklist for Starting a Food Manufacturing Business in Tennessee

September 2021

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Starting a Food Manufacturing Business Checklist

The checklist below contains 36 items to help potential food manufacturers evaluate and develop a product and business in Tennessee. Some tasks may not apply to every entrepreneur, and the list may not be inclusive of all necessary tasks. The tasks are listed somewhat in chronological order; however, tasks may be completed simultaneously or in other sequences.

The first column allows users to cross off items that do not apply to their situation or check when completed. The second column describes each task. When available, links to additional resources are provided. The final column lists the technical assistance resource(s) most likely to be able to help with each task (CPA = Center for Profitable Agriculture; FS = UT Department of Food Science; TDA = Tennessee Department of Agriculture; TSBD = Tennessee Small Business Development Center).

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TDA = Tennessee Department of Agriculture TSBD = Tennessee Small Business Development Center

Mark with (X) if not applicable or (C) when completed.	Tasks and Additional Resources	Technical Assistance Resource
N/A COMPLETED	1. Assess your resources and write your mission statement and goals. <ul style="list-style-type: none"> Building a Sustainable Business: www.sare.org/resources/building-a-sustainable-business/ Starting a Small Business Training: www.tsbd.org/ 	CPA TSBD
N/A COMPLETED	2. Conduct market research and identify your target audience. <ul style="list-style-type: none"> Building a Sustainable Business: www.sare.org/resources/building-a-sustainable-business/ Marketing for the Value-Added Agricultural Enterprise (PB 1699): extension.tennessee.edu/publications/Documents/PB1699.pdf 	CPA TSBD
N/A COMPLETED	3. Identify and develop your product(s) – scale-up and test your recipe and test shelf-life.	FS
N/A COMPLETED	4. Investigate food manufacturing regulations. <ul style="list-style-type: none"> Summary of Food Manufacturing Regulations (PB 1899): extension.tennessee.edu/publications/Documents/PB1899.pdf Manufacturing Non-potentially Hazardous Foods for Sale in Tennessee Without a Permit (PB 1881): extension.tennessee.edu/publications/Documents/PB1881.pdf 	TDA FS
N/A COMPLETED	5. Develop a written business plan. <ul style="list-style-type: none"> Building a Sustainable Business: www.sare.org/resources/building-a-sustainable-business AgPlan: agplan.umn.edu/ 	CPA TSBD
N/A COMPLETED	6. Identify where your product will be produced (co-packer, home kitchen, leased commercial kitchen, new commercial kitchen, etc.). Contact the county planning or city zoning department to determine any zoning restrictions that may apply. <ul style="list-style-type: none"> Summary of Food Manufacturing Regulations (PB 1899): extension.tennessee.edu/publications/Documents/PB1899.pdf 	TDA FS
N/A COMPLETED	7. Seek out professional advice (legal and accounting) to choose the best business structure for your situation. <ul style="list-style-type: none"> Farmers' Guide to Business Structures: www.sare.org/resources/farmers-guide-to-business-structures/ Are you Ready to Start a CSA? The Choice of Legal Structure for Community-Supported Agriculture (CSA) Operations in Tennessee (SP 787-C): extension.tennessee.edu/publications/Documents/SP787-C.pdf 	CPA TSBD

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In this session...

- Business licenses & taxes
- Sales tax
- Risk management methods



Business Licenses

- Legal document provided by government that allows a business to operate in a specific geographic location
- Required in all 95 counties and many cities
- Separate licenses required for county/city of each location where sales are made

Who needs a Business License?

- Any person in business for profit or gain who has gross annual sales of **non-raised** products of **more than \$3,000** in a city/county needs a business license.

Business License Exemptions



- A farmer selling only the farm products raised on his/her farm does **not** need a business license of any kind.
- Value-added products with only products raised on the farm and salt, water, sugar, pectin and preservatives exempt.

Two Levels of Licenses

- Minimal Activity License
 - Gross annual sales of non-raised products of \$3,000 to \$9,999 in a city/county
 - Cost = \$15 per year
 - Not subject to business tax
- Business License
 - Gross annual sales of \$10,000 or more in a city/county
 - Initial fee = \$15
 - Subject to business tax
 - Renewed annually at no charge when business tax return(s) filed

How to Get a Business License

- Visit County Clerk/City Tax Collector for forms required for that jurisdiction
- Pay the license fee (\$15)
- Exhibit license in place of business

Sales Tax

- Privilege tax that permits you to
 - Sell tangible personal property at retail
 - Render certain services at retail
 - Charge admission to events



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Sales Tax for Value-Added Products

- When a farmer adds value to farm-raised products by processing or packaging them, **the sales of the value-added products are exempt from sales tax as long as the only non-raised ingredients added are salt, water, sugar, pectin or preservatives.**



Threshold for Sales Tax

- You may have total sales up to \$4,800 per year of non-raised products and you do not have to charge sales tax as long as you have paid sales tax to suppliers.
- For example, you could sell up to \$4,800 of your baked bread at the farmers market and you do not have to charge sales tax as long as you have paid sales tax on the ingredients.

Retail Exemption

- If selling to others who have intent to resell that item
 - Grocery stores, restaurants, etc.
- Obtain and retain a copy of their resale certificate



Register to Pay Sales Tax

- Register with the Tennessee Department of Revenue
<https://www.tn.gov/revenue/taxes/sales-and-use-tax/registration.html>
- Business will receive
 - Certificate of Registration
 - Blanket Certificate of Resale
 - If qualified to make purchases for resale



Remitting Sales Tax

- File State and Local Sales and Use Tax Return on TNTAP
- Due monthly on the 20th day of the month following the end of the reporting period



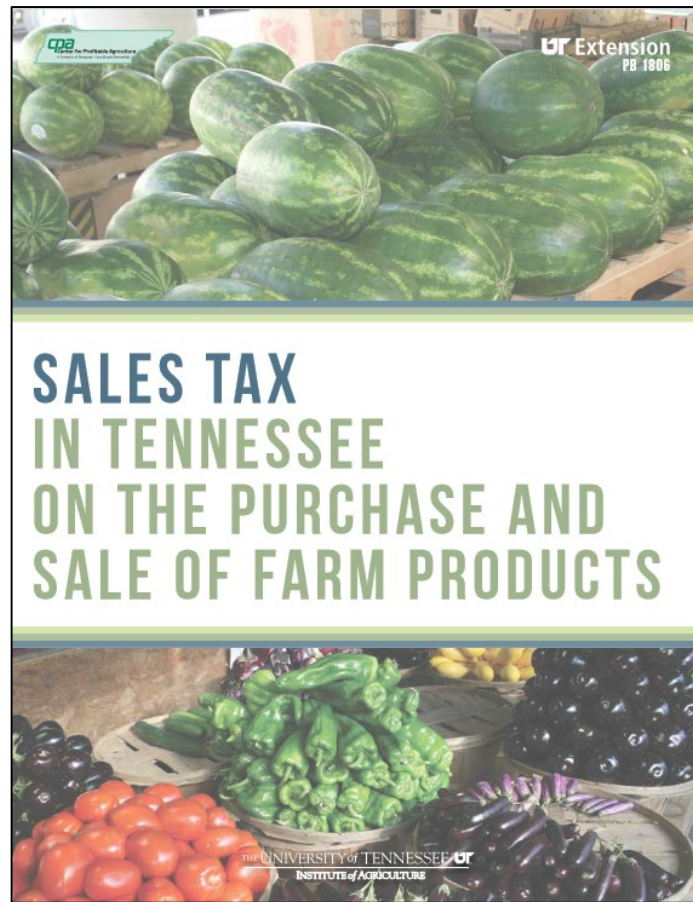
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Sales Tax Rates

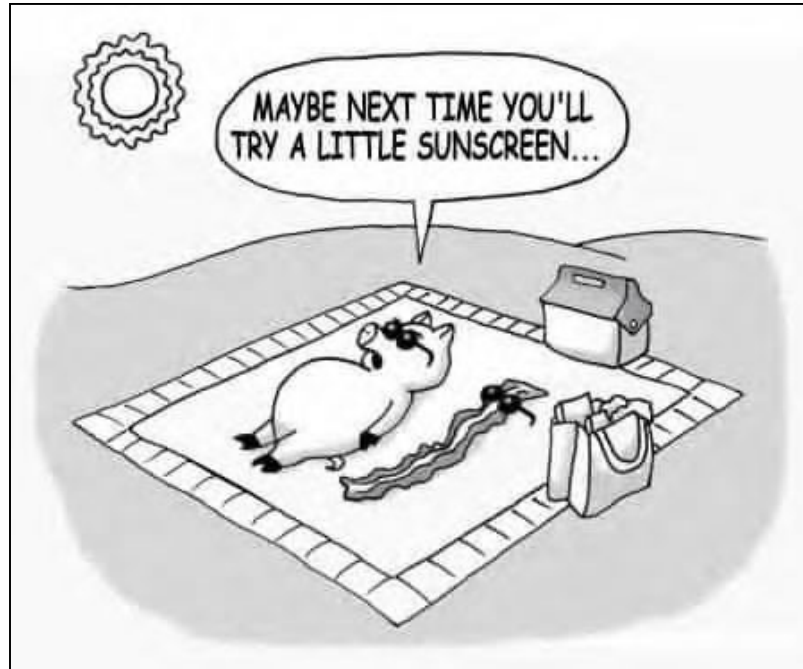
- State tax rate of food and food ingredients is 4.0%
- Local tax rates
 - <https://www.tn.gov/revenue/taxes/sales-and-use-tax/local-sales-tax-and-single-article.html>



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Risk Assessment and Management



Types of Risk

Legal

- Laws/regulations
- Injury to customer or employee

Human Resources

- Death, divorce, disability, disagreement
- Employee turnover

Business Interruption

- Weather, natural disaster, road construction, other

Production

- Weather, disease, pests, errors

Financial

- Cash flow, cost or availability of credit
- Damage or loss of personal property

Marketing

- Ability to attract customers
- Competition

Risk Management Methods



Managing Risk In Food Businesses

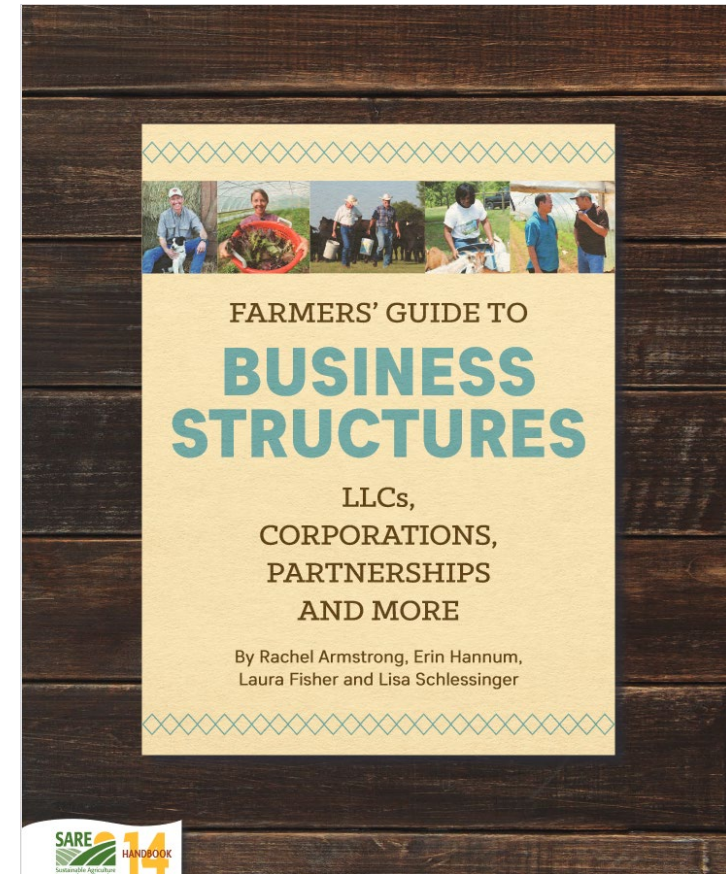
- Strict Food Safety
 - Good Agricultural Practices/Good Handling Practices (GAPs/GHPs)
 - Current Good Manufacturing Practices (cGMPs)
 - Hazard Analysis Critical Control Points (HACCP)
 - Allergen Containment/Notification
- Proactive Recall Plan



Managing Risk

- Business Structure

<https://www.sare.org/resources/farmers-guide-to-business-structures/>



Managing Risk - Trademark

- A trademark is any word, name, symbol, device or combination thereof used by a person to identify goods made or sold and to distinguish them from the goods made or sold by another person.
- Brand names and logos used on goods and services
- State Trademark Registration
 - Protection within the state for 5 years, can be renewed
 - TN Secretary of State, Division of Business Services
 - <https://sos.tn.gov/business-services/trademarks>
 - \$20.00 fee per class

Managing Risk

Register Your Domain Name

- Use a Domain Name Registrar
 - Examples: GoDaddy, Namecheap
 - Consider doing separately from web site host so the registration is under your name
- Select a name and suffix
- Pay annual fee
- Renew on time!



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Food Business Insurance

- General Farm Liability
- Commercial Business Liability
- Product Liability Insurance
- Additional Types
 - Product Recall Insurance
 - Accidental or Product Contamination Insurance
 - Malicious Tampering Insurance



- Understand what is and is not covered
- Learn and follow insurance requirements and claim procedures

Product Liability Insurance

- **Coverage varies from company to company.**
- Raw products produced by the farmer/seller (fruits, vegetables, etc.) **may** be covered under farm owner insurance policy
- Processed products (jam, bakery items, etc.) **may** need a commercial liability policy
- In some cases, if processed product made solely from your farm products, farm owner policy **may** cover
- Products not produced by the farmer/seller not covered under farm policy – commercial coverage needed

Product Liability Insurance

- One insurance provider recommended at least enough to cover the value of your assets
- Normal limits of coverage are \$100k, \$300k, \$500k and \$1 million, etc.
- Umbrella policy can provide excess/additional coverage in \$1,000,000 increments
- Some buyers such as grocery stores may require a minimum amount of product liability insurance

Product Liability Insurance Tips

- ✓ Find an agent who understands your business and industry
- ✓ Discuss your particular situation in detail with your insurance agent to verify your coverage and needs
- ✓ Review coverage annually or anytime you add or change products/services
- ✓ Read and understand policies



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Business Tax Resources

Tennessee Business Tax Information

<https://www.tn.gov/revenue/taxes/business-tax.html>

Tennessee Business Tax Guide

<https://www.tn.gov/content/dam/tn/revenue/documents/taxguides/bustaxguide.pdf>

Tennessee Department of Revenue

<https://www.tn.gov/revenue.html>

(800) 342-1003

TN.revenue@TN.gov

Sales Tax Resources

- Tennessee Sales and Use Tax Guide
 - <https://www.tn.gov/content/dam/tn/revenue/documents/taxguides/salesanduse.pdf>
- Tennessee Agricultural Sales and Use Tax Guide
 - <https://www.tn.gov/content/dam/tn/revenue/documents/taxguides/agricultural.pdf>

Additional Resource

- Tennessee Department of Revenue
 - Revenue Help Desk
 - <https://www.tn.gov/revenue/about-us/contact-us/revenue-help.html>
 - (800) 342-1003
 - TN.revenue@tn.gov