

# State of Tennessee

## PUBLIC CHAPTER NO. 475

### SENATE BILL NO. 1049

By Yarbrow, Crowe, Campbell, White

Substituted for: House Bill No. 1077

By Thompson, Grills, Brock Martin, Faison, Jernigan, Clemmons, Eldridge, Reedy, Hale

AN ACT to amend Tennessee Code Annotated, Title 4; Title 43; Title 53; Title 67 and Title 68, relative to food that is available for consumption at farmers markets.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-14-703, is amended by adding the following as new subdivisions:

( ) "Farmers market":

(A) Means a public market with the purpose of connecting and mutually benefiting farmers, communities, and shoppers while promoting and selling products grown and raised by participating farmers, and that:

(i) Has set hours of operation and operates on a regular schedule; and

(ii) Has, and follows, a set of rules that:

(a) Governs the operation of the farmers market; and

(b) Assures the primary purpose of the farmers market as providing a direct marketing opportunity for farmers, foresters, fisheries, food businesses, and other producers;

(B) Includes other businesses that serve the public or make the market more convenient, efficient, profitable, or successful, including food service, baked goods, and non-food retail;

( ) "Farmers market food unit" means a stationary food service establishment that:

(A) Prepares, sells, or services unpackaged time/temperature control for safety food in conjunction with one (1) or more farmers markets; and

(B) Has improvised, rather than permanent, facilities or equipment for accomplishing functions, such as handwashing, food preparation and protection, food temperature control, warewashing, providing drinking water, waste retention and disposal, and insect and rodent control;

( ) "Public market":

(A) Means a building, structure, or place, operated on a not-for-profit basis in the public interest for the buying, selling, or keeping for sale farm and food products at retail or wholesale; and

(B) Includes a farmers market;

SECTION 2. Tennessee Code Annotated, Title 68, Chapter 14, Part 7, is amended by adding the following as new sections:

68-14-727.

Notwithstanding this part to the contrary, a vendor at a farmers market is not required to obtain a license or permit to offer samples for consumption on the premises of the farmers market. Samples may include fresh produce; value-added products; foods prepared in a licensed and inspected kitchen; foods produced pursuant to §§ 53-1-102, 53-1-118, and 53-1-204; and hot food prepared on site by a farmers market food unit, if the vendor complies with the following requirements:

- (1) Samples must be prepared on clean surfaces;
- (2) Food must be in good, sound condition, free from spoilage, filth, or other contamination;
- (3) Food must be honestly presented and safe for human consumption;
- (4) Cut produce should be discarded after two (2) hours;
- (5) Persons preparing or dispensing samples must wash their hands frequently or have and use disposable gloves;
- (6) A barrier must be maintained between hands and food, such as gloves, tongs, toothpicks, or napkins; and
- (7) Sneeze guards or plastic or glass coverings are required to protect open food products from contamination, such as insects, dirt, and customers.

68-14-728.

(a) The department shall issue, or cause to be issued, a farmers market food unit permit to a qualified applicant who pays the permit fee and successfully completes a pre-operational inspection to determine compliance with the applicable rules of the department for food service establishments. A pre-operational inspection for a farmers market food unit permit applicant must be conducted at a local health department at a pre-scheduled time and date. When an inspection is complete, compliance is verified, and the permit fee paid, the department shall issue a permit.

(b) Subject to the following and subsection (d), this part, and rules promulgated pursuant to this part concerning permitting and regulation of a temporary food service establishment, apply to a farmers market food unit:

(1) A farmers market food unit shall not operate in conjunction with an organized temporary event, unless the permittee obtains a temporary food service establishment permit for the temporary event;

(2) Section 68-14-706 applies to a farmers market food unit permit, and there is no limit on the number of days that a farmers market food unit may operate during the period that the permit is valid;

(3) Suspension of permits, as described in § 68-14-708(b)(1) and (2), applies to a farmers market food unit;

(4) The time period for correction of violations in § 68-14-716(b)(4) does not apply to a farmers market food unit; however, § 68-14-716(b)(1), (3), and (5) do apply to a farmers market food unit; and

(5) This chapter, or a rule of the department, does not require the operator of a farmers market food unit to disassemble or remove the equipment used in the operation of the farmers market food unit from the premises of a farmers market at the conclusion of an operational day. This subdivision (b)(5) does not prohibit a farmers market operator from establishing rules for the removal of equipment from the premises of a farmers market.

(c) If a person operates more than one (1) farmers market food unit simultaneously, then the person must possess a separate permit for each farmers market food unit.

(d) This part does not prohibit a person from applying for, and being issued, a farmers market food unit permit and a temporary food service establishment permit for the same food service establishment; however, if the person operates as a temporary food service at a temporary event, then subsection (b) does not apply and the person shall comply with all

requirements of this part, and the rules promulgated pursuant to this part, concerning permitting and regulation of a temporary food service establishment.

(e) A physical copy of a farmers market food unit permit must be present in the physical space occupied by the farmers market food unit at all times the farmers market food unit is in operation.

(f) A municipal or county legislative body, or local health department, by ordinance or otherwise, shall not impose a regulation or requirement for the permitting and operation of a farmers market food unit that is more stringent than the requirements of this part.

SECTION 3. Tennessee Code Annotated, Section 68-14-713(a), is amended by adding the following as a new subdivision:

(6) Farmers market food units shall pay a permit fee of three hundred dollars (\$300). The permit fee is due once an inspection has been conducted and compliance established pursuant to § 68-14-728(a);

SECTION 4. Tennessee Code Annotated, Section 68-14-716(b), is amended by adding the following as a new subdivision:

(5) In the case of farmers market food units, all violations of priority items must be corrected immediately whenever possible, and in any event within twenty-four (24) hours.

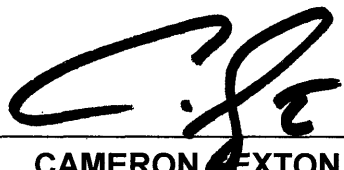
SECTION 5. The commissioner of health is authorized to promulgate rules to effectuate this act, which may be promulgated as emergency rules pursuant to Tennessee Code Annotated, Section 4-5-208(a)(5). The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 6. For the purpose of promulgating rules, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect January 1, 2024, the public welfare requiring it.


SENATE BILL NO. 1049

PASSED: April 20, 2023

  
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RANDY McNALLY  
SPEAKER OF THE SENATE

  
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CAMERON SEXTON, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 17<sup>th</sup> day of May 2023

  
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BILL LEE, GOVERNOR