New “Farmers Market Temporary Food Service Establishment” Explained

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Background: HB 120

- Latest Amendment to KY FD&C Act started out in mid-2006 as a pre-filed bill for 2007 legislative session
- House Bill 120 passed by legislature and signed into law by governor in 2007
- Origin was organized farmers market community and growing discontent with 14/30 day time limits for temporary food service
- No regulation to be issued due to law’s specificity
• “Farmers market temporary food service establishment”
  …means any temporary food service establishment operated by a farmer who is a member of the market which operates within the confines of a farmers market registered with the Kentucky Department of Agriculture for the direct-to-consumer marketing of Kentucky grown farm products from approved sources for a period of time not to exceed two (2) days per week for any consecutive six (6) months period in a calendar year.
An applicant for a permit to operate a farmers market temporary food service establishment must provide **documentation of successful completion of a food safety training program** offered by either **the state**, a **local health department**, or **other entity approved by the cabinet** to conduct food safety training...
• …Each certification of food safety training shall expire after a period of twenty-four (24) months from the date of issuance
Permit Fee for FMTFSE:

Law establishes a Farmers Market Temporary Food Service Establishment Permit Application Fee of $50.00
Revised Application for “Temporary” Permit

DFS-202 (Rev. 4-07)

APPLICATION FOR A PERMIT TO OPERATE A ☐ TEMPORARY ☐ FEE EXEMPT ☐ FARMER’S MARKET TEMPORARY FOOD SERVICE ESTABLISHMENT AS REQUIRED BY KRS 217.005 TO 217.992

☐ COPY OF CERTIFICATE OF TRAINING ATTACHED

Temporary Permit Fee: $__________
☐ Cash ☐ Check ☐ Money Order

County: ________________________________

Date of Application: ____________________

Temporary Dates of Operation: ________________________________

Name: __________________________________________
Owner: __________________________________________
Address: __________________________________________

City State Zip Code

Signature of Applicant: ________________________________

FEE EXEMPT:
If changes since last application indicate:

Previous Name: ________________________________
Previous Owner: ________________________________
Previous Address: ________________________________

The applicant hereby grants the right of inspection to Cabinet for Health Services representatives during normal working hours.

Local Permit Number: __________________________
Date Approved: ________________________________

Date Received: ________________________________

Approved By: ________________________________

Signature and Title

Kentucky UNBRIDLED SPIRIT
DFS-232 (Rev. 4-07)

COMMONWEALTH OF KENTUCKY
CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR PUBLIC HEALTH

PERMIT TO OPERATE

COUNTY: ____________________________ PERMIT NO.: ________________

☐ TEMPORARY FOOD SERVICE ESTABLISHMENT
☐ FARMER’S MARKET TEMPORARY FOOD SERVICE ESTABLISHMENT

This certifies that ____________________________________________________________
Located at _________________________________________________________________
is hereby authorized to operate in compliance with Kentucky’s Food Establishment Act
and State Retail Act, KRS 217.005 to 217.285, 217.992 and the rules and regulations
promulgated pursuant thereto. This permit is not transferable and shall expire on
__________________________ unless suspended or revoked prior to that date.

Given under our hands on this date:

______________________________________________________________
Secretary
Cabinet for Health and Family Services

______________________________________________________________
Health Authority

THIS PERMIT MUST BE POSTED IN A CONSPICUOUS PLACE

Kentucky
UNBRIDLED SPIRIT
Certified “Person in Charge” Requirement

• …Permits issued shall be posted in a conspicuous place in the establishment, and a person who has completed the food safety training for farmers market temporary food service establishments shall be present at all times during the operation of the establishment.
Inspection Intervals

- At least 1 on-site, “opening” inspection at minimum
- Follow-up Inspections where Necessitated
- Given extended time period of operation, recommend additional inspections/monitoring on as-needed basis
- Record inspectional findings on same forms as you would for temporary food service
Law Formally Established Time Limit for “Temporary Food Service”

- Upon expiration of a temporary food service establishment permit, any subsequent permits SHALL NOT be issued to the same operator to operate at the same location until a period of thirty (30) days has elapsed.

- 30-day “waiting period” was previously administrative policy

- HB 120 Amendment to KRS 217 (Ky FD&C Act) made historical administrative policy law.
Prohibition of Dual Permits for Same Location

- Permits shall not be issued to operate a temporary food service establishment and a farmers market temporary food service establishment simultaneously at the same location and by the same owner.

- Language prohibits an applicant from holding both a “farmers market temporary” and a “temporary food service” permit at the same time at the same farmers’ market location.

- Applicant must choose one or the other.
• In all instances of permit issuance for either a temporary food service establishment permit or a farmers market temporary food service establishment permit, any subsequent permits shall not be issued until a period of thirty (30) days has elapsed.

• Language meant to curtail leap-frogging from one permit to another

• Only one (1) FMTFSEP per calendar year

• Means that when the FMTFSEP expires, an individual can then get a TFSEP at the same market, but must wait until after 30-days

• Can then go from TFSEP to TFSEP at the same location, but rules for TFSEP would then apply (i.e. 30-Days in between TFSEP issuance)
Farmers Market Temporary Food Service Permits: A Quick Re-cap:
DO NOT Issue FMTFSE Permit If:

- Location is anywhere other than KDA registered farmers market (fair, festival, etc.)
- Applicant IS NOT a member of the Farmers Market
- Farmers Market IS NOT Registered with Kentucky Department of Agriculture and Listed on its Website
- Applicant CAN NOT produce verification of successful completion of approved Food Safety certification/training
- Require Verification of All the Above

Directory of KDA registered farmers markets can be found at:
http://www.kyagr.com/marketing/farmmarket/directory.htm
FMFTFSE Equipment, Fixture, Sanitation Requirements:

• Same equipment, fixture, sanitation requirements as Temporary Food Service Establishment

• Main difference between the two types of temporary permits is the time limits.
What Are “Approved Source” Foods for FMTFSE Permit?

• “Approved Source” for FMTFSE Permit Means the Same as it does for Temporary Food Service, PLUS

• Vendor May Also Utilize Their Own Products Which are Manufactured in Compliance With Home-based Processor or Home-based Microprocessor rules
What About “Kentucky Grown” Language?

- Language Suggested by CFA to Promote Kentucky-Grown Products
- DPH has Taken Stance that “Kentucky-Grown” versus Grown Out-of-State Not Considered a “Food Safety” Issue
- Inspections of FMTFSE, Just Like TFSE Inspections are to be **Geared Toward Food Safety & Sanitation**
- DPH Food Safety Stance is that We Will Defer to Each Individual Market or KDA to “Police” this Provision
FMTFSE Permit:

- Only 1 FMTFSE permit per applicant, per approved farmers market location, per calendar year
- Law DOES NOT prohibit holding consecutive FMTFSE permits at separate approved farmers’ market locations
- Each FMTFSE permit good for 2 days per week for up to 6 consecutive months in calendar year
- The 2-days of operation can vary by the week
- The “calendar year” clock starts ticking once the permit is issued
Training/Certification Requirement Explained:

Approved Training, at present means:

• ServSafe or other nationally recognized Food Manager training
• Local Health Department Food Manager training
• Other DPH “approved” training

• LHDs are advised to issue FMTFSE permits if, at the time of application, applicant can produce verification of having attended “approved” training program NOT LONGER than two years prior to date of FMTFSE application
THE END

Questions???