

New “Farmers Market Temporary Food Service Establishment” Explained

By:

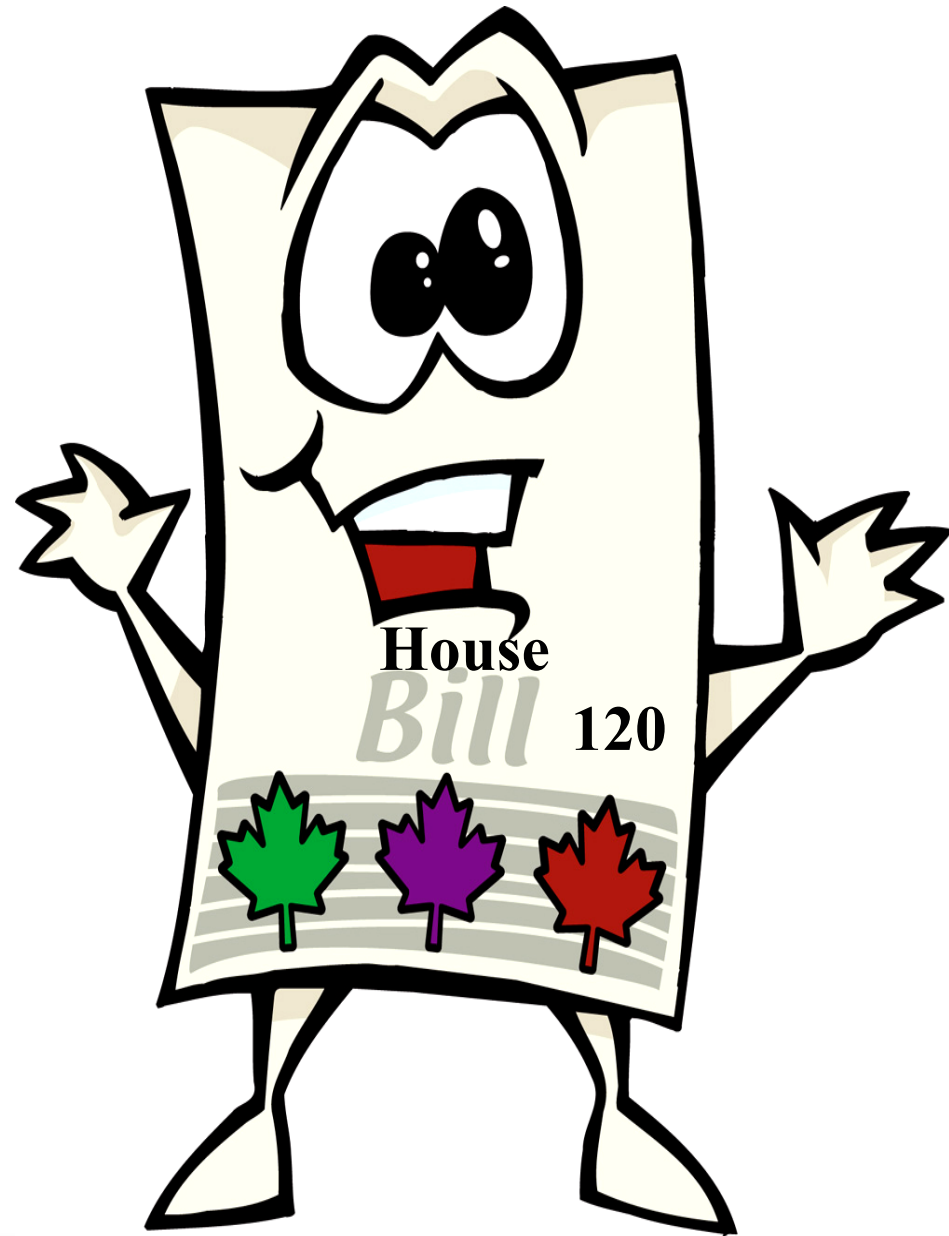
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**2007 Retail Food Seminar
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Background: HB 120

- 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



New Definition=New Entity

- **“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**.*



Requirement For Food Safety Training

*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...*

Time Limits Regarding Food Safety Training Certification Requirement

- ...*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 _____

FEE EXEMPT:

If changes since last application indicate:

Previous Name: _____

Previous Owner: _____

Previous Address: _____

City _____ State _____ Zip Code _____

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

Signature of Applicant: _____

Local Permit Number: _____

Date Received: _____

Date Approved: _____

Approved By: _____

Signature and Title



Revised “Temporary” Permit to Operate

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

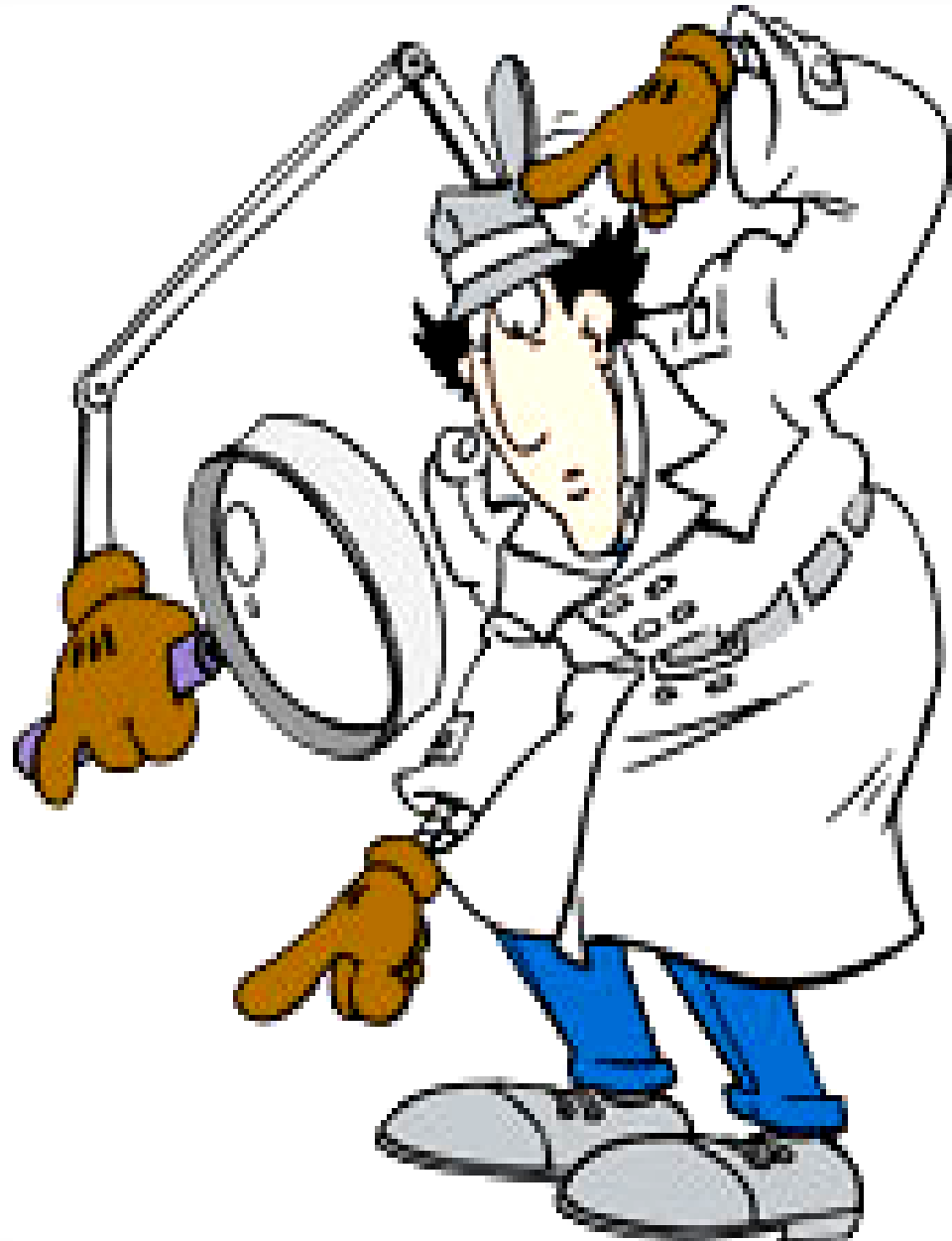


Certified “Person in Charge” Requirement

- ...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.

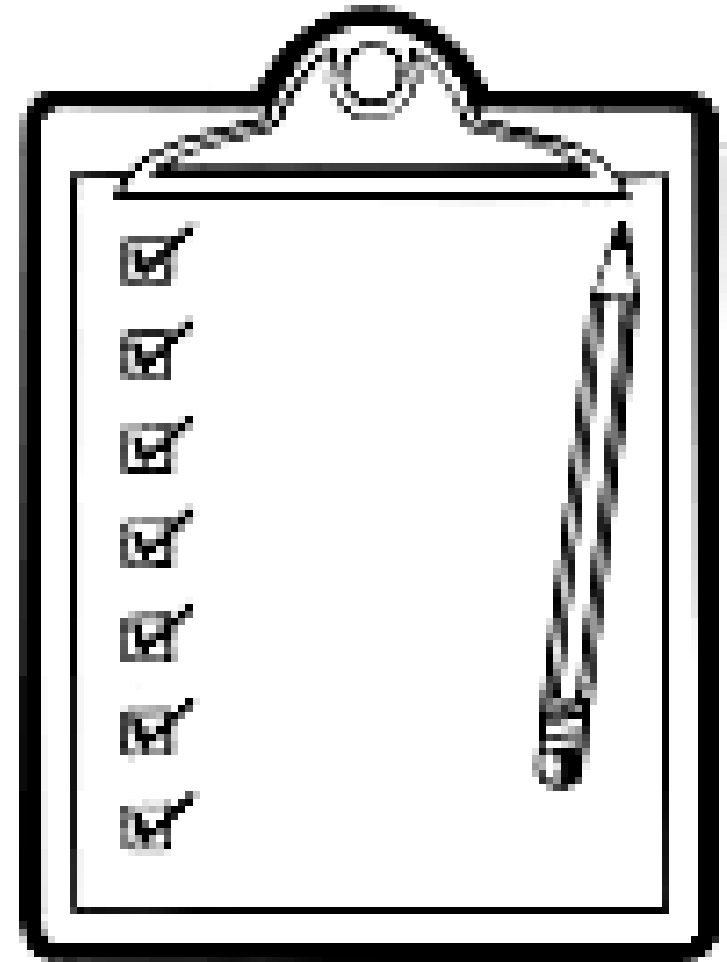
Prohibition of Dual Permits for Same Location

- *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

30-Day Period Between Permits

- *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:



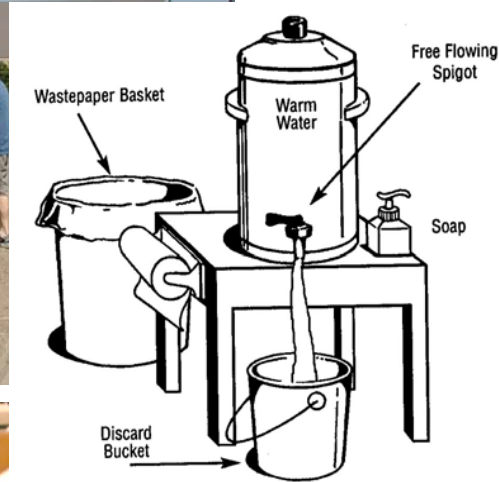
DO NOT Issue FMTFSE Permit If:

- 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>



FMTFSE 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 class
 - 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???

