

# How To Sell Produce from Backyards, Community Gardens, and Small Farms

## *A Bite-Sized Legal Guide*

**Para Español:** [Cómo: Vender Productos de Patios Traseros, Jardines Comunitarios y Granjas Pequeñas](#)

### Who should use this guide:

*This guide describes the legal requirements for selling produce from backyards, community gardens, and small farms for people who are interested in selling produce or already sell produce.*

### Background

A new law that applies to mostly urban (and some rural) producers of fresh fruits, vegetables, and eggs in California went into effect in 2015. It defines anyone growing those food products on land that is not zoned as agricultural as a “community food producer” and the law requires these producers to follow safe food handling practices and labeling requirements. The law also allows the local environmental health department to require these producers to register with the department in some situations. However, effective in 2016 there are numerous exemptions from the requirement to register with the local department of environmental health, so very few community food producers will need to register. The safety and labeling requirements, however, still apply to all community food producers, regardless of registration exemptions.

### Small Farm Food Safety Guidelines

All “community food producers,” whether exempt from registration or not, must follow the California Small Farm Food Safety Guidelines provided by the California Department of Food and Agriculture (CDFA). CDFA has published a set of guidelines for farmers on how to safely grow, harvest, and handle fresh produce. Regardless of whether your farm falls under any of the laws that specifically require following these guidelines, it is generally advisable that all farmers, gardeners, and food distributors abide by these guidelines to minimize the risk of eaters getting sick. Make sure that all people involved in planting, harvesting, or handling food at your farm, garden, or gleaning organization are familiar with these guidelines.

**Download the Small Farm Food Safety Guidelines here:** <http://www.cdfa.ca.gov/is/i & c/sffsg.html>

*(Note: “Community food producers” selling/donating eggs must also follow these laws. However, additional laws enforced by CDFA apply to selling eggs that are not discussed in this handout.)*



## Registration Exemptions for “community food producers” and gleaners include transactions where:

- a gleaner sells or donates produce from a “community food producer” to consumers and the producer or gleaner keeps records for 30 days of the type of food sold and the date;
- a gleaner donates produce (that was produced by a “community food producer”) to a food bank or food kitchen if the producer or gleaner keeps records for 30 days of the type of food sold and the date;
- a community food producer or gleaner provides produce directly to the public at their farm or garden or some other premises controlled by the “community food producer;”
- a “community food producer” donates produce to a food bank or food kitchen that provides food at no cost to consumers; and
- a “community food producer” sells produce directly to a food facility that is permitted by a health regulatory agency, such as a corner store or grocery store that has a permit to operate from the County Department of Environmental Health.

Because all of the transactions described above are exempt from registration under state law, there are almost no situations in which a community food producer or gleaner would need to register. One type of transaction that is not exempt is where a community food producer wants to set up a produce stand at a festival, other temporary event, or other site that is not at the farm or garden where produce is grown. This could be done lawfully if the community food producer obtains a Temporary Food Facility permit from the local department of environmental health.

You can learn more about how to apply for a permit as a Temporary Food Facility from your local department of environmental health. This is the same type of permit required of many food booths at outdoor events.

## Farms Using Pesticides Must Obtain Permits

We generally recommend that community gardens and urban farms use organic practices as much as possible, but if you decide to use pesticides, the county commission or department of agriculture and the California Department of Pesticide Regulation have helpful information about how to mitigate risks and comply with the law. Numerous registration requirements and pesticide use restrictions apply that are beyond the scope of this guide.

## Standard Container Requirements for Farmers Selling Fresh Produce

Fresh fruits and vegetables must generally be sold in standard sized containers. Specifications for standard container sizes are detailed in the California Code of Regulations Section 1380.19. These so-called “standard pack” requirements are designed for produce that is sold through large distribution supply chains and are not generally convenient for a small farmer selling to a store or restaurant.

However, certain sales known as “direct marketing” in California law are exempt from these standard pack requirements, including:



- sales at certified farmers markets
- sales at or near the site of the farm
- sales or donations to a charitable organization within the state for charitable purposes, and
- certain types of fresh fruits and vegetables do not have standard pack requirements, regardless of the type of sale or delivery involved.

Individual consumers, grocery stores, and restaurateurs alike can purchase fresh produce from farmers at the site of a farmers market, at a farm or at a roadside stand near a farm without the farmer having to sell the produce in standard container sizes. A farmer delivering to a restaurant or store, however, must still comply with standard pack rules. See Food and Agricultural Code Section 47002 and Section 1392.19 of Title 3 of the California Code of Regulations.

**The following fruits and vegetables must be packed and sold in containers of specific dimensions:**

- |               |                     |                     |
|---------------|---------------------|---------------------|
| ● Apples      | ● Celery            | ● Nectarines        |
| ● Apricots    | ● Cherries          | ● Peaches           |
| ● Artichokes  | ● Citrus fruits     | ● Plums             |
| ● Avocados    | ● Grapes            | ● Fresh prunes      |
| ● Cabbage     | ● Lettuce           | ● Sweet potatoes    |
| ● Cantaloupe  | ● Melons            | ● Tomatoes          |
| ● Cauliflower | ● Honey ball melons | ● Baskets of fruits |

The regulations describing the container dimensions are Section 1380.19 of Title 3 of the California Code of Regulations. Other produce does not need to be sold in containers of specific dimensions.

## Labeling Requirements

When selling produce to a *retail food facility*, containers carrying produce must have the following information:

- name, address and ZIP code of the producer,
- name of the produce in the package, and
- quantity of the produce in the package.

When selling or providing produce *directly to consumers*, “community food producers,” need to label produce with their name and address. However, that information may be provided on a sign at the site of a produce stand at the farm or garden and does not need to appear on a label attached to each portion of produce purchased by a consumer when produce is sold or given away at the site of the farm or garden. Special sign requirements apply to farmers selling at any Certified Farmers Market and the market manager can provide more detailed information.

## Selling Produce by Weight

If you sell any food by weight, your business must have a scale approved by the county division of weights and measures. This is required if you have bulk bins of produce, or other foods, and you allow customers to choose their own quantity to purchase at a certain price per unit of weight. For more information contact your local department of agriculture/ weights and measures.

## Keeping Records

Any time a farmer sells produce to a restaurant, store or other food facility, the farmer must also provide a receipt that lists:

1. The date, the identity of the producer,
2. The address of the producer, and
3. The identity and quantity of the produce purchased.

Food facilities (such as restaurants and grocery stores) are also required to keep records of this information for all food coming into their facility in case of an incident of food borne illness, so that the source of the illness may be traced back to its source.

When selling directly to the public (not through a food facility such as a store or restaurant), “community food producers” and gleaners must keep records related to their sales, which include the type of food sold, and the date. These records must be kept for 30 days. For example, if your farm operates a produce stand once per week, you must keep a list of the products you sold at the farm stand for each date you operated the farm stand.

## More Resources

- Find more legal resources for food and farm enterprises on our website at [http://www.theselc.org/food\\_resources](http://www.theselc.org/food_resources)

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