

## Meat Sales from Other Business Locations: Implications for Farm-Based Retail Meat Permit Holders and Retail Food Store Permit Holders<sup>1</sup>

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### Introduction

There are two permits issued by the Tennessee Department of Agriculture (TDA) under which local livestock producers and meat marketers often sell meat products direct to consumers:

1. Farm-based retail meat permit
2. Retail food store permit

The farm-based retail meat permit allows for the sale of meat products direct to consumers. Only meat products that are processed, packaged, and labeled in a United States Department of Agriculture (USDA) inspected harvesting and processing facility may be sold under this permit. The retail food store permit enables producers to receive bulk meat cuts from a USDA-inspected facility to further process, package, and market products direct to consumers in the food store.<sup>2</sup>

Producers using these two permits to market meat often have questions regarding the regulations of sales from a farmers market stand or a third-party retail store booth. This publication aims to address some of the more common regulatory issues that are encountered when farm-based retail meat permit holders and retail food store permit holders consider marketing meat products from third-party locations.

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<sup>1</sup> Extensive investigation and discussion has been invested in the development of the information contained in this document and it is deemed correct and accurate to the best abilities of the authors as of the date of release. Special thanks is extended to colleagues in the Tennessee Department of Agriculture and the USDA FSIS, Office of Investigation, Enforcement and Audit for their input, discussions and review of this information.

<sup>2</sup> Additional information regarding the farm-based retail meat permit and the retail food store permit is available in UT Extension publication *Basic Regulatory Considerations for Retail and Non-retail Meat Sales in Tennessee* (PB 1829).

### **Meat Sales from Other Locations: Farm-Based Retail Meat Permit**

Assuming that the meat products originate from a USDA-inspected harvesting and processing facility and are properly packaged and labeled (including the official USDA mark of inspection), the farm-based retail meat permit allows the livestock producer (the permit holder) and their official sales representatives to market meat direct to consumers. The farm-based retail meat permit is most often used to sell meat products at the farm or farmers market. However, some producers also wish to use their permit to market meat products direct to consumers at third-party locations such as a local hardware store, food hub or local convenience store.

For sales in a local hardware store, for example, the permit holder remains responsible for the meat products sold even though the transaction occurs under the roof of the hardware store using the store's employees to facilitate the sales transactions. The final sale is still between the end-consumer and the permit holder. To help facilitate sales and transparency in this scenario, the permit holder and the hardware store management should consider developing a written agreement that clearly specifies:

- ✓ The lease conditions for freezer space and/or floor space between the third-party store and the permit holder.
- ✓ The store's owners and employees will serve as sales representatives for the permit holder and will facilitate meat sales transactions with customers.
- ✓ The permit holder is the responsible owner and marketer of the meat products until the products are sold to the consumer.
- ✓ The sales of the meat will be transacted and recorded directly between the permit holder and the end-consumer.
- ✓ The proceeds from the sale of the meat are accounted for as income by the permit holder and are not registered as sales for the third-party store.
- ✓ The third-party store is not purchasing the meat for re-sale, wholesale, or consignment.

When a farm-based retail meat permit holder sells meat from multiple locations, a copy of their TDA-issued permit should be displayed at each location.

### **Meat Sales from Other Locations: Retail Food Store Permit**

Individuals marketing meat using the retail food store permit must acquire meat cuts for further processing from a USDA-inspected harvesting and processing facility. This is the same permit under which most grocery stores and supermarkets operate. Meat products sold under the retail food store permit will not contain the official USDA mark of inspection and may not be sold to other retail stores. Non-retail meat sales to hotels, restaurants and other institutions may account for 25 percent of total annual meat sales.<sup>3</sup> Meat products prepared for sale under the retail food store permit are typically sold to end-consumers at the retail food store, though transactions can also be conducted from a farmers market stand or a third-party store location that is operated by the permit holder.

When a retail food store permit holder sells meat products to consumers at a farmers market, the stand should be clearly operated and staffed by employees of the permit holder. Only employees of the

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<sup>3</sup> See UT Extension publication *Basic Regulatory Considerations for Retail and Non-retail Meat Sales in Tennessee* (PB 1829) for details regarding the 25 percent rule.

permit holder may facilitate transactions with consumers. Shared employees with other market vendors is not permitted. All sales transactions must be made with the end-consumer and all income from sales should be directed to the retail food store.

For meat sales at a third-party store location, the retail food store permit holder must maintain at all times an employee in the store who works independently of the third-party store's employees. The permit holder's products should be clearly differentiated from the third-party store's products. Sales of meat products can only be conducted by the retail food store permit holder's on-site employee(s) and should be receipted directly to the permit holder's sales account. The third-party store's employees cannot serve as sales representatives for the retail food store permit holder. The third-party store cannot purchase the meat for re-sale, wholesale, or consignment. Additionally, the permit holder's meat products and the third-party store's products may not be comingled for sale. When a retail food store permit holder sells meat from multiple locations, a copy of their TDA-issued permit should be displayed at each location.

### **Summary**

There are two common permits under which Tennessee value-added meat producers market their products to consumers: farm-based retail meat permit and retail food store permit. Because the meat products sold by farm-based retail meat permit holders is processed, packaged and labeled in a USDA-inspected facility, and contains the USDA mark of inspection, it is not subject to the same marketing restrictions as meat products that are processed in retail-exempt facilities, such as a retail food store operation. Therefore, under the farm-based retail meat permit, sales at third-party store locations can be conducted using the third-party's employees as sales representatives to help facilitate transactions between end-consumers and the permit holder. It is recommended that permit holders and the third-party store management develop a written agreement that outlines the details of their sales arrangement.

Meat products from a retail food store can legally be sold from a booth outside of the food store as long as the sale occurs directly between the retail food store and the end-consumer, and the transaction is made by an official employee of the food store. If an employee of a retail food store has a stand at a farmers market or has rented freezer space in a third-party store location to sell meat products directly to customers, the permit holder and his or her employees should be the only vendors of the meat products marketed. The permit holder's meat sale transactions cannot be made by a farmers market, food hub or other third-party store representative or employee. The permit holder selling the meat products should have an on-site employee working independently from all other booths or cash registers. Finally, retail food store permit holders cannot market their meat products for re-sale, wholesale or consignment to another retail food store.

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