

Registering Your Business

All businesses need to comply with local, state, and federal registration procedures in order to legally operate. Food-processing businesses are no exception. In Pennsylvania, wide variations exist in the amount of authority given to township, borough, and city governments, which can make the task of determining just what regulations apply to your business difficult. However, since the regulations and jurisdictions seldom change, identifying the applicable requirements is usually a “once and done” situation.



Local Requirements

Your first step is to contact your township, borough, or city office to determine which local regulations are applicable to new businesses in your area. Some local governments assume responsibility for inspecting and licensing food businesses and others may require additional costs such as business privilege licenses. Some collect special taxes to cover costs related to refuse collection and sewer or water usage.

Most local governments have regulations in place with respect to zoning and property-related issues. Contact the local government office in your municipality to determine if commercial food establishments are allowed in the location where you might want to operate your business. Obtain written verification of permission to operate your business since you will need to show this to the Pennsylvania Department of Agriculture inspector during his/her initial inspection. If local ordinances do not permit you to operate your business at the address you provide, you may file for a variance from the regulations, which will take some time and money, or you may need to pick an alternate location.

Pennsylvania Requirements

General business requirements. Most small businesses in Pennsylvania start up as a sole proprietorship or partnership since very little paperwork is needed to set up this form of enterprise. If you wish to register in another business category, it is best to consult an attorney who specializes in business law.

Department of State

To set up a sole proprietorship in Pennsylvania, you need to register your business name with the Department of State’s Corporation Bureau (PCB). An exception to this is when you—as the owner—do business using your name (e.g., Susan Jefferson or Jefferson’s Bakery). Any other name for your business is considered an assumed or “fictitious name” (e.g., ABC Bakery) and must be registered. The PCB will determine if anyone else in the state is using the name you have chosen. If your name is unique, you may then complete the registration process with PCB. The whole process usually costs no more than \$150 to \$200. Once your business is officially registered, you must then notify your county courthouse and post a notice in your local newspaper of your intent to start a new business. You are required to reregister every 10 years.

Department of Revenue

The Pennsylvania Department of Revenue is responsible for collecting state taxes earnings for the Commonwealth. All food businesses that sell products intended for consumption at the place of purchase must collect state sales tax. Contact your regional Department of Revenue office to find out which taxes are required for your type of business. Contact the Department of Revenue for information on how to apply for a tax license. Businesses who do not need to collect sales tax often apply for this license since this exempts them from paying tax on supplies and materials directly used in their business.

Department of Agriculture

In addition to the general state requirements mentioned, all commercial food establishments must register with the Pennsylvania Department of Agriculture (PDA) and pay a small fee. To register, contact your regional PDA office and ask to speak with a food inspector known as a "sanitarian." They are trained in food safety and sanitation and can provide valuable information on regulations and what you need to do to prepare for a future inspection. Be prepared to describe your product, how you plan to make it, and how it will be packaged. After you have completed and submitted the registration form, a sanitarian will make an appointment to visit your establishment. Once you pass this initial inspection, you are officially registered and may begin to manufacture your food products for commercial sale. Each year, the state will send you a notice requiring you to reregister.

Department of Labor and Industry (DLI)

The DLI regulates issues related to wages and employee safety. If you plan to hire people to work at your establishment, you must notify the DLI either by mail or online.

Federal Requirements

Food and Drug Administration

Under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, commercial businesses that manufacture/process, pack, or hold food are subject to registering their business with the Food and Drug Administration (FDA). This regulation applies to virtually all types of food processing businesses, including those making animal and pet foods, and is required regardless of size or whether that business sells across state lines. Registration is free and may be completed by mail, fax, or online. Home-based food businesses are exempt from this general registration requirement; they may be subject, however, to registration as a Food Canning Establishment if they make certain types of canned foods, as noted below.

Manufacturers of low-acid or acidified foods that do not require refrigeration (e.g., canned fruits or vegetables, barbeque sauce, salsa) must also register with the FDA as a *Food Canning Establishment*. According to the law, if you use ingredients that you obtain from other states or if you sell your product to people who live in other states, you are required to register your business with the FDA. If you are unsure of federal regulations that apply to your situation, contact the Central Region FDA Small Business Representative.

Internal Revenue Service

Every employer subject to employment taxes is required to have a federal Employer Identification Number (EIN) to identify his or her business with the Internal Revenue Service (IRS) and the Social Security Administration. Some businesses, such as corporations, partnerships, and enterprises that have a qualified retirement plan (such as Keogh) or pay federal excise tax, are required to have an EIN even if they do not have any employees. You can apply to the IRS for an EIN by telephone, fax, or mail depending on how soon you need to use the EIN. Under the Tele-TIN program, an authorized officer or business owner can obtain an EIN by telephone.

As was initially stated, many of the requirements to operate a food product business are once and done, as long as you don't change your business or product line substantially. The time spent learning what you must do to get started legally is well worth the effort.

For more information, contact your regional PDA office or the cooperative extension office in your county or visit www.PaFoodVentures.psu.edu.

"Get your ducks in a row."
—Pa. food entrepreneur

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Visit Penn State's College of Agricultural Sciences on the Web: www.cas.psu.edu

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