

**Minnesota Department of Agriculture
Food Safety and Defense Task Force
Food Innovation Team Subcommittee**

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Data Privacy Tennessee Warning:

The Food Innovation Team (FIT) regularly requests data from food business owners (FBOs) interested in participating or gaining food business licensing guidance from FIT through the Pre-Screening Intake Form (PSIF), during FIT meeting proceedings, and as part of the regular processes of FIT. The information provided for these FIT activities will be used before, during, and after FIT meetings to answer licensing questions from FBOs. Information provided is public information and will be discussed at a meeting that is open to the public. If you have information that you want protected, please contact the Food and Feed Safety Division Director, Katherine Simon (Katherine.simon@state.mn.us or (651) 201-6596) before filling out this form and submitting it to FIT.

FIT Website Notification:

Please note that all information contained in this form is subject to public information requests. This form will be published on the FSDTF website.

Date of FIT Meeting: 01/12/2021

Meeting Participants:

- FIT Members:
 - Jodie Burke
 - Blake Nordin
 - Noelle Harden
 - Lolly Occhino
 - Jane Knott
 - Jane Jewett
- Ad-Hoc Experts:
 - Nicole Baysal
 - Jeff Luedeman
 - Kip Fondrick
- Business Members:
 - Paul Wright
- Other:
 - Natasha Hedin
 - Alida Sorenson
 - Shelley Erickson

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General Business Information (Do not include this section in public-facing online database)	
Name of business:	Wright Farms
Location of business:	Hutchinson, MN
Referred by:	<input type="checkbox"/> MDA <input type="checkbox"/> MDH X <u>FIT member</u> <input type="checkbox"/> MDA Delegated Agency <input type="checkbox"/> MDH Delegated Agency
Current license(s), registration(s), and/or exemption(s): (Please include date of issuance.)	No current license – operates under “product of the farm or garden” exemption (MN Statute 28A.15 EXCLUSIONS – Subd. 2) https://www.revisor.mn.gov/statutes/cite/28A.15
Why was this business referred to FIT?	
Current business model:	<p>Wright Farms currently grows Aronia berries and sells them frozen and directly to consumers in small quantities (in harvest trays or cleaned and bagged). The farm harvests the berries and puts them in trays or cleans them by removing leaves and stems and bag, then freezes the cleaned berries. Wright Farms does sell some in fresh state during harvest time.</p> <p>Paul Wright, owner of Wright Farms, contacted the Agricultural Utilization Research Institute (AURI) regarding questions about the licensing (and other requirements) needed to sell Aronia berry juice. Mr. Wright had contacted MDA and received some correspondence but was having difficulty understanding the requirements for selling direct-to-consumer versus wholesale or under the Cottage Food Law. Mr. Wright was seeking an outline with specific steps needed to take in order to sell juice from the farm.</p>
Key issues examined by FIT:	Mr. Wright would like to explore selling Aronia berry juice directly to consumers and possibly to other entities like wineries. They would press juice on the farm using a bladder press juicer. Product would either be bottled in 16 oz. to 1 gal. for consumers or in larger, 5-gal. pails for “wholesale”. He would like to clarify the steps needed for either option.
Other issues:	Additional issues came up during the discussion, including selling Aronia berry juice with additional ingredients (not considered “product of the farm”) and selling Aronia berry products under Cottage Food Law.
What issues were resolved?	
Description of resolution:	The discussion focused on producing pure Aronia berry juice with no added ingredients. Note that these discussions focused on the sale of juice, and not the whole berries. Whole berries can be sold to another location for juicing, and that location would then be responsible for any Juice Hazard Analysis Critical Control Point (HACCP) requirements.

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	<p><u>Option 1: Wholesaling juice to a fermenter (e.g. winery or brewery)</u> If the winery or brewery will be adding juice <i>before</i> the fermentation, the juice can be sold “raw”. If the secondary business is adding the juice <i>after</i> fermentation (e.g. for flavor), the juice will need a HACCP plan to address reducing pathogen load (see Option 2). This is a key question to ask of the winery or brewery before selling any product.</p> <p><u>Option 2: Wholesaling juice to another retailer (non-fermenting)</u> The juice will need to be produced under HACCP. The individual overseeing the juice HACCP plan will need to have had juice HACCP training. Natural pathogens in the juice are of greatest concern and the juice must undergo a pasteurization process to achieve a 5-log reduction in pathogen load.</p> <p><u>Option 3: Selling juice under a retail license (not wholesaling, selling to the end consumer)</u> This is an option if adding other non-farm ingredients (if the product no longer falls under the “product of the farm” exemption. The juice would need to be produced in a licensed facility. Again, this applies only for juice produced under a retail license. The product would require a cautionary statement if it is not pasteurized. If it is a ready-to-eat food (non-potentially hazardous) a date marking parameter is not identified.</p> <p><u>Option 4: Selling license-exempt “product of the farm/garden” (no license required)</u> Juice may be sold directly to consumers as a product of the farm/garden if it does not include any additional ingredients beyond what is produced at Mr. Wright’s farm. While no license is required and MDA would not complete an onsite inspection, the Aronia berry juice would need to be produced under current Good Manufacturing Practices (GMPs). These can be reviewed on FDA’s Electronic Code of Federal Regulations (Title 21: Food and Drugs – Part 117), but include disease control and cleanliness among staff, and safety and cleanliness of the production facility area and equipment (protected from the elements, cleanable, pest-free, etc.). The use of a cautionary statement as referenced in Option 3 is encouraged.</p>
Other notes:	<p>Selling as a dietary supplement: If wholesaling Aronia berries as an ingredient for a dietary supplement, more regulations may apply, because the product would no longer fall into the food/alcohol category.</p> <p>Selling under Cottage Food Law: Beverages can be sold under Cottage Food Law, as long as they meet law guidelines. The juice would need a pH of less than 4.6 and would need to be water bath canned or hot filled. The juice would need to be sold directly to the end consumer and gross annual sales could not exceed \$18,000. More limitations exist, see MDA Cottage Food FAQs and Registration (link below) for</p>

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	<p>more information. Other options that could be considered for Cottage Foods include jam, freezer jam or frozen treats created with the berries.</p> <p>Selling to another CSA: This type of sale would be considered wholesaling, and HACCP requirements would come into play.</p>
Licensing authority representative (name and organization):	This operation is currently exempt from licensing by MDA under MN Statute 28A.15 Subd. 2.
Recommendations / Lessons Learned	
FBO:	<ul style="list-style-type: none"> ● Resources <ul style="list-style-type: none"> ○ Perennial Fruit Book ○ Aronia PDF ○ Cottage Food Exemption ○ Cottage Food FAQs and Registration ○ MFMA Cottage Foods List (see Section 3: Beverages) ○ FDA CFR Title 21: Food and Drugs – Part 117 (GMPs) ● If selling to a winery or brewery, be sure to ask whether they will be adding the Aronia berry juice before or after fermentation. ● A HACCP plan is required for wholesaling juice to locations other than fermenters who will be adding before fermentation. ● Note that other considerations come in if the Aronia berry is sold as an ingredient for a dietary supplement (versus food or alcohol). The intent of use should be considered prior to sale. ● The FBO may explore doing a mix of different types of sales, though all sales under Cottage Food Law must be kept separate.
Internal (FIT):	<ul style="list-style-type: none"> ● Highlights importance of partners working together (MISA, AURI, Extension, MDA, MFMA, etc.)
Licensing agency:	<ul style="list-style-type: none"> ● MDA will make additional edits to the Food Licensing Wizard to add more information on wholesaling juice (fermenting/HACCP) and other special regulatory cases/process that might apply to product of the farm – if a food business owner is exploring one of these special cases, they should call the Licensing Liaison to work through the details. ● It is critical to bring more awareness of the Licensing Liaison position to new business owners and utilizing the Licensing Liaison request form on the MDA website. ● MDA is working on internal factsheet about juice for inspectors and can adjust slightly for an external audience. MDA will work with partners on the fact sheet and ensure the Licensing Liaison and other MDA staff have access and know about the document.
Rules / Statutes:	<p>MN Statute 28A.15 EXCLUSIONS – Subd. 2 Sales by farmers; others not in food business</p> <p>MN Statute 28A.152 COTTAGE FOODS EXEMPTION</p>

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Exclusion of liability statement

The report generated is a *recommendation* by the FIT Subcommittee; it is the role of the jurisdictional regulatory body to determine next steps for the FBO. Neither the FIT Subcommittee nor the FSDTF are the final decision maker regarding the future of a case. FSDTF and its subcommittees are advisory bodies only. The job of the FIT Subcommittee is to aid FBOs with complex questions as it relates to licensing, and offer suggestions based on member's experience and expertise. The FSDTF and its subcommittees do not have any enforcement or regulatory authority and are not liable for any issues or consequences arising out of the use of the FSDTF or any subcommittees thereof.