

INSURANCE FOR VERMONT FARMERS' MARKETS AND THEIR VENDORS

The information provided below is to be used as a guide for managers and farmers' market board of directors interested in learning more about insurance for their organization.

BASIC INFORMATION

If someone is injured or made sick from some situation at a market, the injured/sick person has the "right" to sue for damages. This could target the individual vendor because they caused the problem, the Market Steering Committee because they run the Market, and the owners of the property where the market is held. Home owner policies do not cover products sold off premises (without special riders). In addition, the city or private business location where a Farmers' Market sets up will not be covered unless they have a special rider or separate policy for the time the market is using their space.

General Liability Insurance (Commercial Liability) policies cover losses associated with the market site. Another name for this insurance is called "trip and fall insurance" because in reality, that is about all it covers at a market. Many of the Farmers' Markets in the state have this coverage, and many have it through the Co-Operative Insurance Companies through agents throughout the state. The premium is based on the gross receipts the market takes in over a given year. The market is audited every year, with the insurance company asking what the gross receipts were the past year (and this can be as simple as a phone call) and charged accordingly. If a market's gross revenues are low, a base fee is assessed and it will be as low as \$125 a year. Markets can procure insurance even if they are not officially incorporated. Some insurance companies are leery of insuring markets with a general liability policy if their vendors are not required to have their own personal liability insurance, and they have the right to terminate the market's policy due to the increased risk they are taking on.

Product Liability Insurance covers each individual vendor for the products they make/sell as well as anything that could happen to a customer as a result of their vending stand or space.

Directors and Officers Insurance: Your board of directors can be held personally liable for actions taken by the board. This type of insurance transfers the responsibility for paying for any losses to the insurer. Lawsuits can be brought against a board for liable and slander, mismanagement of funds, not following the organizational charter, and other aspects relating to the management of the organization. It also covers individual board members' expenses to prove their innocence relating to an unrealistic claim against them. To keep this coverage current, each year you must register the names of your board of directors with the Vermont Secretary of State.

Workers Compensation Insurance pays set benefits if your employee (usually the manager) is injured on the job. Vermont requires that you carry this insurance if you have employees (it is required under workers compensation laws).

Another thing to consider in regards to markets: when markets pay their manager as a subcontractor, the manager takes full responsibility for whatever goes on and technically, if the sub-contracted manager gets a 1099 IRS form for their wages, the IRS requires them to have their own liability insurance. (If managers are paid less than \$600/yr, no IRS form is required and they can be paid a "donation" for helping out and possibly other free "perks." But if something happens to them, they are "on their own" and will be responsible for their own expenses if something happens and they are involved). Additional legal requirements for hiring managers as subcontractors are found in the Market Managers chapter of this manual.

Hold Harmless Clauses. Some farmers' markets in Vermont require vendors to sign a statement releasing the market from responsibility for any harm done by the vendor or the vendor's products. This is an added layer of protection that some insurers are requiring before issuing general liability insurance to a market. For some markets, it is an alternative to requiring that all vendors hold individual liability insurance though in this case, its legal value without vendors having individual product liability is questionable. You should make clear to vendors that the market's liability coverage will not protect them against losses related to their individual products. An example of this is found in Appendix V.

VENDORS APPLYING FOR INSURANCE

Insurance companies all have very definite lists of what they will insure and what they won't insure if sales take place off premises; and since homeowner's insurance may not cover small businesses, homeowners and renters will have to go elsewhere to find insurance.

For vendors interested in getting **product liability insurance**, here are some scenarios, and an example of the insurance options:

1. A farmer sells/grows produce or meats or fiber or maple syrup, etc and already has a farm policy or mini-farm policy in place for their homeowners insurance.

A vendor can add a rider onto their existing policy, for an approximate fee ranging from \$200 to \$600 per year, with the higher cost applying to selling ready to eat hamburgers cooked on site (greater risk), and the lower cost for a person selling yarn from their sheep (lesser risk). The Co-Operative Insurance Co insures many farms and mini-farms and sugar makers in the state in this way.

2. A small(backyard) farmer has a homeowners policy but has never thought of covering their few sheep or cows or bee hives let alone sell their products at a market.

Most insurance companies (like Allstate, State Farm or Nationwide) will not write any "add-on" or riders and the vendor has to go through a separate commercial company, often paying between \$250 to \$1200/year to get coverage if they want to sell at a location away from their home... Also, if a person has a "regular" homeowners policy and has, say, sheep in a barn that burns, chances are the insurance company will not pay for the loss of the barn or the loss of animals... because most homeowner policies do not cover "farms" and even a few sheep are considered a "farm."

3. A homeowner (with a homeowners policy) has a HUGE vegetable or perennial garden, and decides to sell excess at a farmers market; or a person rents their home or apartment, and wants to have a small craft or food business in it to sell products at a market or has a large garden or berry patch in the yard and they want to earn extra cash at a market.

In most cases, there is no coverage for the products sold off a vendor's property. The vendor will need to find a company that will insure the product(s).

4. A person rents a house or an apartment (who has renters insurance) and rents/owns a site at a different location to grow vegetables/make maple syrup/raise sheep or beef animals

If someone rents a home/apartment but also rents/owns land at a different location, for producing a product, and if it is an agricultural product, the Co-Op, or Farm Family will provide a farm policy with a product liability rider attached for the rented land (and this policy does not have to be the same as the homeowners policy though it may be advantageous to combine them).

5. Vendors that use the Venture Center to make a value added food product

If a vendor makes a product at the Venture Center, it is usually easy to get insurance as there are companies that work with the Center to provide insurance for small entrepreneurs (mainly because of all the hoops the entrepreneurs have already jumped through to prove their product is safe) and their premiums are generally low.

As stated before, in most cases, it is not difficult for a farm or "mini-farm" to get product liability insurance; though this may mean the homeowner/vendor has to change their homeowner insurance policy to a different company that offers farm or mini-farm coverage. The vendors that have difficulty finding insurance, (with very few exceptions) are either craft vendors or prepared food vendors. Their difficulties (or very high

premium quotes) are because their products fall into high risk categories and they have to pay accordingly like other businesses that sell similar products across the U.S. Everyone can get insurance...the bottom line is do they want to and are they able to pay the price required to get it.

VERMONT-WIDE PRODUCT LIABILITY INSURANCE:

Many people involved in Vermont Farmers' Markets have asked if it is possible for a company to write an "affordable" policy so that all vendors of markets can have Product Liability Insurance...or if a blanket policy can be written for all markets inclusively. After much research with a number of agents representing different insurance companies that are licensed to write policies in Vermont, this will not be possible. The reason is because currently many of the farmers' markets in Vermont are *technically* NOT farmers' only markets, but are markets that sell a variety of products that are not farm-produced goods. Because so many of the Vermont Farmers' Markets allow many types of crafts and many value added products of many sorts (that have nothing to do with Vermont agriculture) and some have food vendor stands that look like they are small restaurants, the markets are categorized as MARKETS (or as the IRS would categorize them for non-profit tax exempt status: a 501 (c) (6): BUSINESS LEAGUE) which makes it impossible for any insurance company to take on an "anything goes" policy. Because of this, a vendor at a farmers' market in Vermont is looked at by insurance underwriters as a SMALL INDEPENDENT BUSINESS and must be treated as such by the underwriters. Their product will be compared to others across the country according to the "risk" record that product has.

RESOURCES:

Individuals must go through local agents and not the providing insurance company to procure coverage. Vendors that are interested in getting product liability insurance should first contact the agency they currently use. If the company that insures their home or farm will not allow them to have a rider for their business, the yellow pages of the phone book lists agents in Vermont that carry insurance with the companies mentioned below. These companies have worked successfully with many Vermont farmers' markets and their vendors. This is by no means a comprehensive list and this is not an endorsement of these companies, just a place to start.

Cooperative Insurance Company (a Vermont Insurance co): agents throughout Vermont
Farm Family Insurance: agents/representatives throughout Vermont
Grange Insurance: agents/representatives throughout Vermont
Union Mutual (a Vermont Insurance co.): agents/representatives throughout Vermont
The Hartford Insurance Company: agents/representatives throughout Vermont