

HOW TO LICENSE???

Food Distributors and Warehouses

All a firm's activities must be in one or more categories listed in this box before they are exempt from licensure. Does the firm distribute only alcoholic beverages? **OR** Is the firm a commissary that supplies to their own retail outlets? **OR** Is the firm a direct seller who is not otherwise engaged in manufacturing? **OR** a restaurant that provides food (non-amenable) for immediate human consumption to a political subdivision or to a licensed nonprofit organization if the restaurant would not otherwise be considered a food wholesaler (i.e., public schools)? **OR** Is the firm licensed exclusively according to Health and Safety Code, Chapter 432 (Salvage), Chapter 433 (Meat & Poultry), Chapter 435 (Dairy products), Chapter 436 (aquatic life), or Chapter 440 (Frozen desserts)?

YES
®

Automatically **EXEMPT** from licensing under this chapter, but still subject to inspection

- **NO**

Does the firm manufacture food?

® **YES**

Must license as a Food Manufacturer or permit as Retail Food Est. 229.182(a)(7) & (a)(1)

- **NO**

Does the firm store food products only for lessees?

® **YES**

Firm must license as a warehouse operator and lessees must **REGISTER** as a food wholesaler 229.182(a)(5) &(a)(3)

- **NO**

Does the firm store food products at a warehouse operated by a food manufacturer, which is totally separate from any manufacturing location, including locations from which foods are held for limited periods of time for distribution?

® **YES**

Firm must license as a warehouse operator 229.182(a)(6)

- **NO**

Does the firm store food products with a licensed warehouse operator?

® **YES**

Firm must **REGISTER** as a food wholesaler 229.182(a)(3)

- **NO**

Does the firm store and/or distribute food products at and from a location other than a licensed warehouse?

® **YES**

Firm must license as a Food Wholesaler 229.182(a)(2)

- **NO**

Does the firm distribute food and drugs, food and medical devices, or food and drugs and medical devices, but does not lease any space to other companies?

® **YES**

Firm must license as a multiple products license even if storing with a licensed warehouse operator 229.182(a)(4)

- **NO**

Does the firm store food and drugs, food and medical devices, or food and drugs and medical devices for lessees?

® **YES**

Then firm will obtain either a warehouse operator or a multiple products license depending on which has the higher fee 229.182(a)(5)

DEFINITIONS

Commissary – A commissary is a facility that distributes food primarily intended for immediate consumption on the premises of a retail outlet under common ownership.

Direct Seller - An individual:

- (A) who is not affiliated with a permanent retail establishment and who engages in the business of:
 - (i) in-person sales of prepackaged nonperishable foods, including dietary supplements, to a buyer on a buy-sell basis, a deposit-commission basis, or a similar basis for resale in a home; or
 - (ii) sales of prepackaged nonperishable foods, including dietary supplements, in a home;
- (B) who receives substantially all remuneration for a service, whether in cash or other form of payment, which is directly related to sales or other output, including the performance of the service, and not to the number of hours worked; or
- (C) who performs services under a written contract between the individual and the person for whom the service is performed, and the contract provides that the individual is not treated as an employee with respect to federal tax purposes.

Licensed Non-Profit Organization - an organization that has received an exemption from federal taxation under 26 U.S.C. Section 501 and is described by Subsection (c)(3) of that section.