



Liability Insurance for Farmers Market Participation

Liability insurance is one of life's "necessary evils". Why is that? People can be quick to file a lawsuit as a remedy to any issues they have and liability insurance is the best way to protect yourself against a suit. Lawsuits, whether frivolous or well-founded, can cost thousands to defend. And if the suit is lost, then the defendant can be liable for millions in damages. Without insurance to help defray the cost of defending against a lawsuit, or to cover awarded damages, farms, businesses and homes are at risk and may have to be sold or forfeited to cover the liability.

Farmers markets and property owners where markets are sited often require insurance coverage from their farmers and vendors. This coverage is on top of that already carried by the market and property owner and provides another layer of protection against suits filed against a vendor and/or the market. When lawsuits are filed, it is often with a shotgun approach. The suit will name the farmer(s) involved, the market where the injury occurred, as well as the property owner. Once a suit is filed, the courts will determine the negligence of each party named in the suit, looking at various issues such as:

- Was the injury caused by a situation the property owner should have corrected, i.e. pot holes that could cause falls?
- Was the injury a result of something the market itself was responsible for, i.e. protecting pedestrians from traffic entering and exiting the market?
- Was the injury a result of the farmer or vendor's actions, i.e. a table collapse due to inferior construction?
- Was the injury caused by a situation that had multiple components? For example, did a sudden wind cause a farmer's tent to blow over, striking and injuring a customer? In this case the farmer would be liable, but the market management should have ensured that all tents were properly secured. In this case there may be shared liability.

When all parties have liability insurance coverage, then each party shares in the defense of the suit, easing the burden for any one party.

So, is liability insurance important? Think of this as a way to protect your farm or business from a catastrophic loss. Should you be held liable in any lawsuit, the insurance would protect your assets – your farm, home or business. As most farmers markets will require liability insurance, think of it, also, as a cost of doing business.

The requirements of coverage by most farmers markets will include general liability, otherwise known as slip and fall coverage. Should someone be injured while at the market, general liability will cover the injury, including medical expenses, as well as any lawsuits that may arise as a result of the injury. In addition, most markets will require product liability coverage. This will protect against illnesses and injuries brought on through the products the farmer or vendor is selling. This is why it is critical that all necessary permits and licenses are maintained and strict adherence to food safety regulations and protocols are adhered to. These will help to prevent illnesses, but help in your defense of negligence should an illness result from your food products.

Some markets will require a certificate of liability, but most markets will require an “additional insured” certificate. What is the difference? A certificate of liability merely shows that you carry liability insurance, including the level of coverage, the carrier and dates of coverage. But an additional insured certificate includes all of the above, plus a named insured. The named insured would be the market and the property owner, including them as being part of the coverage. In other words, if the market is named as additional insured, you are providing an element of protection for the market, should they be named in a lawsuit along with you.

Finding liability insurance for farmers markets.

There are a few options for obtaining the coverage you need to vend at a farmers market. But it will require a bit of research to determine the best option for you.

- 1) Do you already have an insurance policy covering your farm or business? If so, it is often a simple task to get a rider that will provide coverage for farmers market sales. Contacting your insurance agent will tell you whether this is a possibility (usually this is possible), what the coverage would be, and what the cost of a rider is (usually a modest amount). The insurance agent will then issue the appropriate certificate based on the rider on your policy.
- 2) Many small businesses, such as crafters and home bakers, do not have business liability coverage. In a few cases, homeowners liability may be an option for a rider to cover farmers market sales. You will need to contact the insurance agent for your homeowners policy to determine if this is possible. However, the majority of homeowner policies will not provide this kind of rider, but it is worth checking into.
- 3) The Farmers Market Federation maintains a liability insurance program to cover farmers and vendors needing liability insurance to participate in farmers markets. The coverage provides \$1 million in both general and product liability with a \$2 million annual aggregate. That means they will pay up to \$1 million for any one claim, but no more than \$2 million in any one year. The policy provides coverage for all farmers markets that you attend for the one cost. It also provides all the additional insured certificates needed for each of the markets you participate in. However, there are some limitations to the coverage; meats, fish and wines (or any alcohol) is excluded from coverage. The policy year runs April 1 through March 31 with no prorating of premium based on late entrance or early exit of the program. To learn more about the Federation liability insurance program, go to <http://www.nyfarmersmarket.com/insvendor.htm>
- 4) Coverage can be obtained through a separate policy that will give coverage for selling at farmers markets. Each insurance company will set their own requirements for liability coverage at farmers markets, i.e. premium cost, fees for additional insured certificates, etc. One company that will offer a comparable program to the Federation program is with Campbell Risk Management. Campbell will cover products not covered by the Federation program. The premium is based on sales volumes.

