

“Are You Covered When Selling Fruits and Vegetables? Be Informed About Product Liability Risk”

Farmers Market Boot Camp Workshops

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Cookeville, February 16, 2015
Alcoa, February 17, 2015
Greeneville, February 18, 2015
Covington, February 24, 2015
Clarksville, February 25, 2015
Franklin, February 26, 2015

Overview

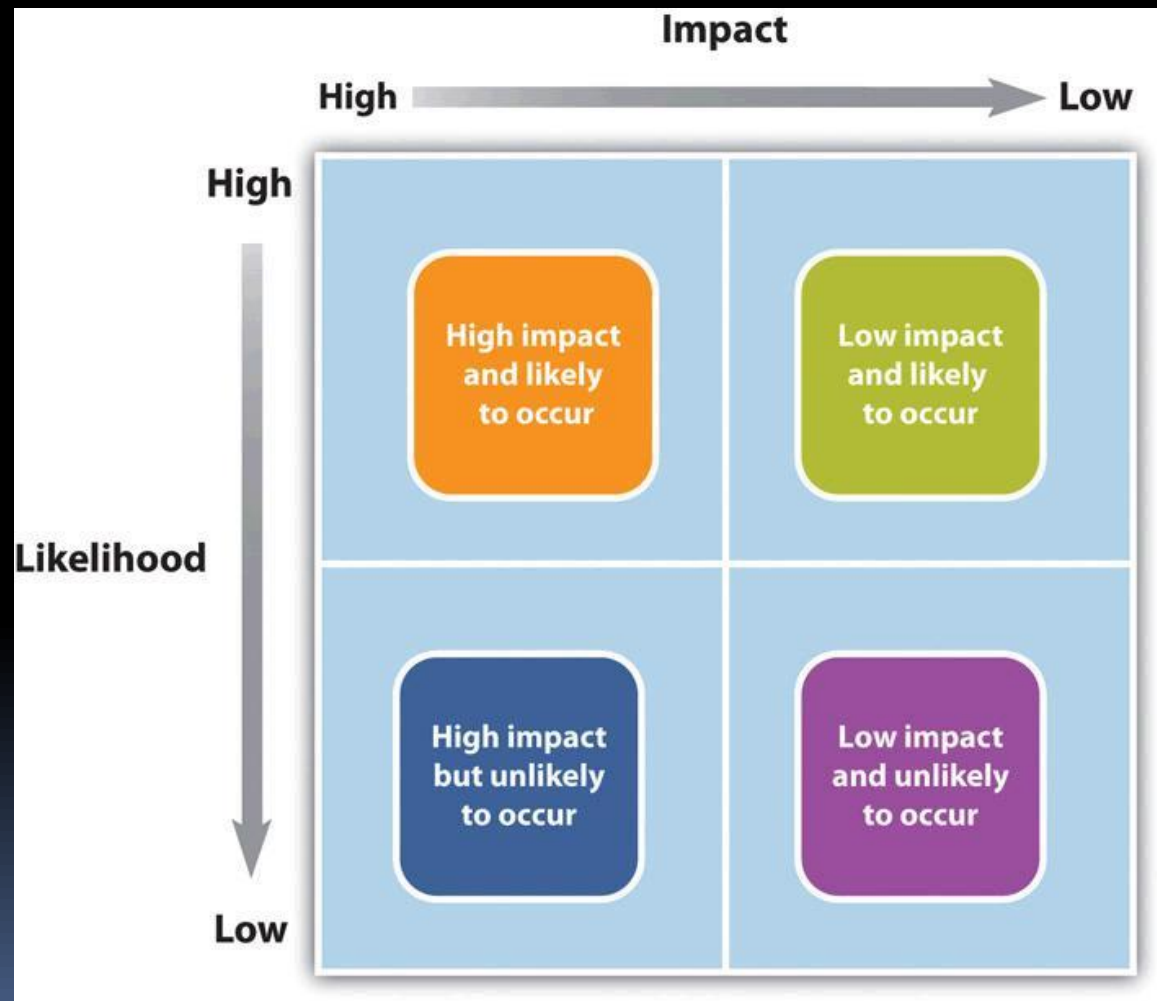
- Introduction to risk
- Using liability insurance to manage risk

Risk is...

- The uncertainty regarding likelihood or magnitude of loss, damage or injury



Assessing Risk



Managing Risk

Avoid Risk

Reduce Risk

Transfer Risk

Accept Risk

Even with local foods, food safety is an issue!



Examples of Incidents of Food-borne Illness

- 2011 Strawberries Oregon E. coli.
- 2011 Cantaloupes Colorado Listeria
- 2012 Cantaloupes Indiana Salmonella
- 2013 Mixed salad Mexico Cyclospora
- 2014 Caramel apples Listeria

Transferring Risk with Insurance

- Obtain insurance
- Learn and follow insurance requirements and claim procedures



Transferring Risk with Insurance

- Start with a visit to a qualified insurance agent—preferably one who is familiar with how direct farm businesses operate.

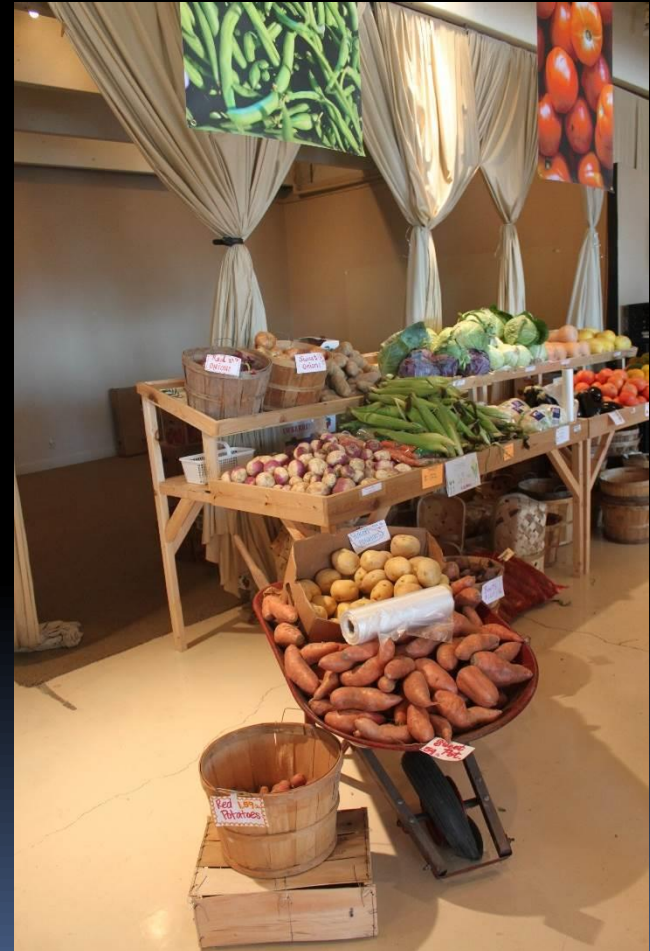


Transferring Risk with Insurance

- Explain your operation in detail.
- Request an insurance proposal that addresses all your operation's risks and potential amount of loss.
- Consider comparing policies from multiple agents.
- Can you add product liability insurance as a rider to your existing policy?

Transferring Risk with Insurance

- Some farmers markets and vendors require product liability insurance.
- Ask whether the policy only covers product liability arising from raw/unprocessed farm-grown products grown on the farm.



Transferring Risk with Insurance

- Does the policy cover sales at:
 - Roadside stands?
 - Farmers markets?
 - Restaurants?
 - CSA's?
 - Other vendors?



Transferring Risk with Insurance

- Does the policy cover “products and completed operations?”
- Does the policy cover sales of:
 - Products you purchased for resale?
 - Processed products?



Are You Covered?

- Many general farm liability insurance policies are written to cover injuries that occur on the farm premises or as a result of farm operations. They may not consider direct marketing activities as “farming” or necessary operations.

Caution

- Many farmers believe their general farm liability policy provides them with coverage in the situation where someone gets ill from eating food the farmer sold them. In many situations it may not!

Caution

- The sale of farm products you purchased from another farmer is likely NOT covered under a general farm liability insurance policy.



Commercial General Liability (CGL)

- Covers activities that a farmer also undertakes that are not considered “farming”
- Written specifically for the business involved
- May provide coverage for injuries excluded in a general farm liability insurance policy

Some points to consider...

- Insurance policies are contracts.
- Know what you're paying for.
- Understand the exclusions (what the policy does NOT cover).

Exclusions

- Some policies limit the scope of bodily injury.
- Example:
- “Bodily injury does not include:
 - The transmission or exposure directly or indirectly by any insured or by any other person or instrumentality to any other person of any communicable disease, bacteria, virus, parasite, or other organism.”

Product Liability Insurance Policy

- Protects against claims of injury from fresh or processed food products that cause food-borne illness
- Covers “products and completed operations”



Excess/Umbrella/Surplus Lines of Insurance

- Provide catastrophic loss protection when the underlying insurance is inadequate



Safe Haven???

- “No need to worry... I only sell to friends and family.”



When you buy an insurance policy...

- You are required to pay the premium at the time required or the policy will no longer be in force.
- You are required to report (in a timely fashion) any occurrences to the agent and company.



When you buy an insurance policy...

- You are required to report any material changes in the nature of your activities or the property which is subject to insurance.
- You are required to cooperate with the insurer in matters of subrogation.



How Much Insurance?

- Consider the value of your assets.
- Consider the probability of a loss occurring and the dollar value of potential claims.
- What problems have others in farm direct marketing or agritourism experienced?
- What are you doing to reduce the chances of loss to your business?
- Buyers may require a minimum amount of product liability insurance.

Points to Remember

- Make sure the proper entity is insured.
- Provide annual sales updates to your agent.
Premiums often are based largely on product sales and hazards involved.
- Reevaluate your coverage annually.

Take Home Messages

- Product liability insurance is a vital legal risk management tool for direct marketers.
- Carefully consider needs for coverage.
- Work closely with insurance agent and communicate well and often.

Sources of Product Liability Insurance

- C. L. Butcher Insurance Agency
401 Hotel Avenue
Knoxville, TN 37918
(865) 689-5482
- Food Liability Insurance Program
260 South 2500 West, Suite 303
Pleasant Grove, UT 84062
(888) 568-0548
Email info@fliprogram.com
<http://www.fliprogram.com>

Sources of Product Liability Insurance

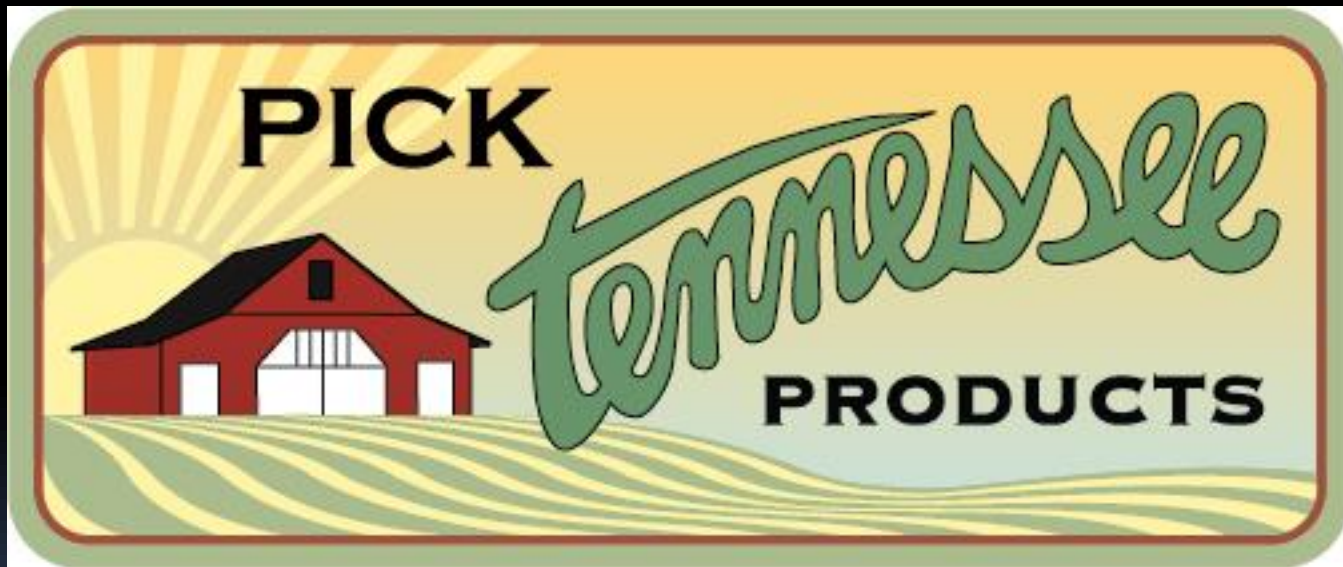
- Gilley McCready & Sneed Insurance
607 Holston Avenue
Bristol, TN 37620
(423) 968-7181
- John W. Pickard
Webb Pickard Insurance & Invest. Services, Inc.
5258 Murfreesboro Road
LaVergne, TN 37086
(615) 793-9000 Office (615) 585-8801 Cell
Email jpickard@webbpickard.com

Sources of Product Liability Insurance

- Larry Spilker
Campbell Risk Management
9595 Whitley Drive #204
Indianapolis, IN 46240
(800) 730-7475
Email lspilker@campbellrisk.com
<http://www.campbellriskmanagement.com/contact-us>

“Thanks” to:

- Tennessee Department of Agriculture



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