

FOOD SAFETY
State and Federal Standards and Regulations

Florida

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FLORIDA

Meat and Poultry

The Department of Agriculture and Consumer Services is authorized to establish labeling requirements, dictate standards of identity or composition for animal and animal products and conduct inspections of slaughter and processing facilities.⁵⁶⁴ “Animal” includes any equine, bovine, goat, sheep, swine or poultry or any other species the Department authorizes to be slaughtered and sold for human consumption. “Poultry” includes chicken, turkeys, ducks, geese or guineas. Also included is “nontraditional livestock” such as deer, bison, cattalo, ostrich, emu, and rhea.⁵⁶⁵

Custom slaughterers and processors must obtain permits before slaughtering animals or preparing animal products.⁵⁶⁶ The Department is also authorized to regulate persons engaged in the business of buying, selling, freezing, storing, or transporting animal products in intrastate commerce.⁵⁶⁷

Inspection

Any person engaged in preparation of animal products may request the grant of inspection to prepare, transport, or sell animal products. If the grant of inspection is approved, the Department will conduct inspections of all animals, animal products and of the sanitary conditions of the establishments.⁵⁶⁸ Antemortem inspection of all animals except poultry is

⁵⁶⁴ FLA. STAT. ANN. § 585.715 (West 1987 & Supp. 1999).

⁵⁶⁵ § 585.70(1), (13), (15).

⁵⁶⁶ § 585.91.

⁵⁶⁷ § 585.86.

⁵⁶⁸ § 587.74-.75.

mandatory. The Department may conduct antemortem inspection of poultry when deemed necessary to safeguard the public health.⁵⁶⁹ Postmortem inspection shall be required.⁵⁷⁰ Any animal products brought into any establishment must be inspected before the products are allowed to enter into any area of an establishment where such products are to be prepared. The Department is to inspect animal products prepared for intrastate commerce.⁵⁷¹ An inspection may be requested for nontraditional livestock in establishments with a grant of inspection that slaughters such livestock.⁵⁷²

Exempt from the inspection requirements are animals slaughtered on the farm for home use by the owner, members of his household and nonpaying guests and employees, or animals delivered to a custom slaughterer or processor for the exclusive use of the owner, members of the household, and nonpaying guests and employees. Retail stores and restaurants which use inspected products may make, prepare or sell prepared meats or meat food products in normal retail quantities for consumers at such establishments without additional inspection.⁵⁷³

Adulteration

The sale, transport, offering for sale or transport or receipt for transportation of any animal product which is adulterated is prohibited. Performing any act which has the effect of causing such products to be adulterated is also a violation.⁵⁷⁴ Adulteration is defined in a manner

⁵⁶⁹ § 585.76.

⁵⁷⁰ § 585.77(1), (2).

⁵⁷¹ § 585.78.

⁵⁷² § 585.93(1).

⁵⁷³ § 585.88(1).

⁵⁷⁴ § 585.80.

consistent with the federal law and specifically cross-references the Federal Food, Drug and Cosmetic Act.⁵⁷⁵ The adulteration provisions apply to products otherwise exempt from inspection.⁵⁷⁶

Misbranding and Labeling

The sale, transport, offering for sale or transport or receipt for transportation of any misbranded animal product is a violation of the Act. Any act which has the effect of causing the product to be misbranded is also prohibited.⁵⁷⁷ Misbranding is defined in a manner consistent with the federal law.⁵⁷⁸ Labeling of meats, meat products and meat food products and their containers are to be labeled as “Inspected and Passed” once an inspection is complete.⁵⁷⁹ This includes carcasses of nontraditional livestock.⁵⁸⁰ Poultry byproduct, poultry meat or poultry food product is to be marked as “Florida Inspected for Wholesomeness.”⁵⁸¹ Carcasses or parts thereof of horses, mules or other equines must be plainly and conspicuously marked or labeled.⁵⁸² The misbranding prohibitions apply to products otherwise exempt from inspection.⁵⁸³

⁵⁷⁵ § 585.72.

⁵⁷⁶ § 585.88(3).

⁵⁷⁷ § 585.80.

⁵⁷⁸ § 585.73.

⁵⁷⁹ § 585.79(1).

⁵⁸⁰ § 585.93(5).

⁵⁸¹ § 585.79(2).

⁵⁸² § 585.82.

⁵⁸³ § 585.88(3).

Enforcement

The Department may suspend inspection services for any establishment which is not maintained or operated in a clean and sanitary manner.⁵⁸⁴ This is particularly important because animals required to be inspected, which are not so inspected, cannot be sold, transported, offered for sale or transportation or received for transportation.⁵⁸⁵

The Department may request assistance of the state attorney to institute suits, civil or criminal, for the purpose of enforcing the Act. Injunctive relief by the circuit court is specifically authorized.⁵⁸⁶

Of most importance in enforcement is the Department's authority to issue stop-sale orders for products believed to be in violation. The Department may petition the circuit court for condemnation at the expense of the owner. If the violation can be corrected, the product may be delivered to the owner. Any animal product misbranded, adulterated or unwholesome is to be condemned or destroyed by the Department.⁵⁸⁷

Food Safety Act

The Department of Agriculture and Consumer Services is charged with administration and enforcement of the provisions relating to intrastate commerce in food.⁵⁸⁸ The Act is to be administered so far as practicable in conformity with the Federal Food, Drug and Cosmetic Act,

⁵⁸⁴ § 585.84.

⁵⁸⁵ § 585.80(1).

⁵⁸⁶ § 585.715(3).

⁵⁸⁷ §§ 585.90, 585.904.

⁵⁸⁸ § 500.032.

the Agriculture Marketing Act and the Federal Trade Commission Act.⁵⁸⁹ “Food” includes articles used for food or drink for human consumption, chewing gum and components of any such articles. It also includes articles for which health claims are made but which are not considered drugs and includes “any raw, cooked, or processed edible substance; ice; any beverage, or any ingredients.”⁵⁹⁰

The Department is granted exclusive regulatory authority over all food outlets, retail food stores, food establishments, convenience stores and minor food outlets. The Department may establish rules for manufacturing, processing, packing, holding, preparing, selling, or transporting of food. The Act requires that food establishments and retail food stores (except minor food outlets) apply for permits from the Department. Also before constructing, converting or remodeling any food establishment, food outlet or retail food store, a building permit must be obtained from the Department.⁵⁹¹

Inspections

The Department has inspection authority for most food establishments. To avoid duplication of regulatory inspections some establishments are regulated by other state departments, generally those with ancillary prepackaged retail food sales. The Department is given access for purposes of inspection to any food establishment and denial of access is grounds for suspending the permit.⁵⁹² The Department is authorized to inspect not only food

⁵⁸⁹ § 500.02.

⁵⁹⁰ § 500.03(1).

⁵⁹¹ §§ 500.12(1)-(2).

⁵⁹² §§ 500.12(4)(b)(5).

establishments but vehicles that transport or hold food in order to assure compliance with sanitary rules. Samples or specimens may be obtained for analysis.⁵⁹³

Adulteration

Adulteration of food is a violation as is the manufacture, sale or delivery, holding or offering for sale or receipt in commerce of any food that is adulterated.⁵⁹⁴ Adulteration is defined in a manner consistent with the federal law.⁵⁹⁵ Specific cross reference is made to pesticide tolerances under the federal law as well as to limits on food additives and color additives. However, the provisions suggest that the state may adopt tolerances, even zero tolerances, whether or not in accordance with regulations under the federal Act.⁵⁹⁶ This provision will have to be reconsidered in light of the Food Quality Protection Act of 1996. Special provisions are included relating to the alcohol content of confectionery items and to the addition of non-nutritive articles to these substances.⁵⁹⁷

Misbranding

Misbranding of food is prohibited as is the manufacture, sale or delivery, holding or offering for sale or receipt in commerce of any misbranded food.⁵⁹⁸ Misbranding is defined in a manner consistent with the federal law. Included in the definition are special provisions relating to corn meal which may be labeled as “water ground” under specified conditions. Beverages

⁵⁹³ § 500.147.

⁵⁹⁴ §§ 500.04(1) - (3).

⁵⁹⁵ § 500.10.

⁵⁹⁶ § 500.13.

⁵⁹⁷ § 500.10(3).

⁵⁹⁸ §§ 500.04(1) - (3).

containing vegetable or fruit juice must be labeled as to the total percentage of juice in the food. Special labeling requirements exist for fresh fruits, vegetables and packages of honey or bee pollen. Soft drinks may be sold with less restrictive labeling requirements.⁵⁹⁹ False advertising of food is also a violation.⁶⁰⁰ Advertising is deemed false if false or misleading in any particular.⁶⁰¹

If an article is alleged to be misbranded because the labeling is misleading or an advertisement is alleged to be false because it is misleading, other factors are also taken into account including the representations, as well as the extent to which the label or advertisement fails to reveal material facts.⁶⁰²

Enforcement

In addition to the inspection authority outlined above and the ability to suspend permits for violation, the Department is authorized to detain or embargo any food or food-processing equipment found in violation. If found in a court proceeding to, in fact, be in violation, the article must be destroyed or brought into compliance at the expense of the owner.⁶⁰³ Any food found to be adulterated or misbranded is subject to seizure and condemnation.⁶⁰⁴ Condemned articles are to be destroyed, unless the owner posts a bond to assure compliance.⁶⁰⁵

⁵⁹⁹ § 500.11.

⁶⁰⁰ § 500.04(5).

⁶⁰¹ § 500.115.

⁶⁰² § 500.03(2).

⁶⁰³ § 500.172.

⁶⁰⁴ § 500.173.

⁶⁰⁵ § 500.175.

If the Department finds any meat, seafood, poultry, vegetable, fruit, or other perishable articles which are unsound or contain filthy, decomposed or putrid substances or which may be poisonous or deleterious to health or otherwise unsafe, those articles are to be condemned or destroyed as a nuisance.⁶⁰⁶

The Department may seek injunctions in Circuit Court to restrain violations.⁶⁰⁷ In addition, the Department may impose fines not exceeding \$5,000 against any retail food store or food establishment for violations in addition to revocation of the food permit.⁶⁰⁸ Violations may also be prosecuted as misdemeanors.⁶⁰⁹ The Department is not required to institute proceedings for minor violations but may use suitable written notice or warning.⁶¹⁰

Special Provisions

Grain Products. State standards for grain products with regard to enrichment are to be consistent with federal standards.⁶¹¹ It is unlawful to sell grain products that do not conform to the state standards.⁶¹² The Department of Agriculture and Consumer Services enforces those provisions.⁶¹³

⁶⁰⁶ § 500.172(4).

⁶⁰⁷ § 500.171.

⁶⁰⁸ § 500.121.

⁶⁰⁹ § 500.172.

⁶¹⁰ § 500.179.

⁶¹¹ § 500.303.

⁶¹² § 500.302.

⁶¹³ § 500.304.

Citrus Juices

Florida has a specified citrus code which, among other things, sets minimum content requirements for citrus juices and related products. Restrictions on additives and other standards of quality are determined by the Department of Citrus. Labeling requirements are also spelled out for various juices.⁶¹⁴

Milk and Milk Products

The Department of Agriculture and Consumer Services administers the regulatory program related to the production, processing and distribution of milk and milk products. This includes sanitation and sanitary practices of establishments, other than food service establishments regulated under health provisions, where food and drink are sold for on-premise consumption and the sanitary conditions of food and drink sold or offered for sale. This also includes regulation of imitation and substitute milk and milk products.⁶¹⁵

Milk plants, milk producers, milk haulers, milk hauling services, washing station operators, milk plant operators, milk distributors, single-service container manufacturers, recovery stations and transfer stations must obtain permits to operate in the state. Exempt from this requirement are those producers who transport milk or milk products from their own farms; employees of a permitted milk distributor or milk plant operator; drivers of bulk milk trucks who do not collect milk from farms; and grocery stores, restaurants, soda fountains or similar establishments which sell or service milk or milk products but do not process the products.⁶¹⁶

⁶¹⁴ §§ 601.9904 to 601.9916.

⁶¹⁵ § 502.014 (1997).

⁶¹⁶ § 502.053.

Only Grade A pasteurized milk and milk products may be sold except in authorized emergencies.⁶¹⁷

A major aspect of the Department's regulatory authority is the inspection of dairy herds, dairy farmers and milk plants.⁶¹⁸ Routine inspections of all permit holders is expected in accordance with minimum requirements in the pasteurized milk ordinance (Recommendations of United States Public Health Service/Food and Drug Administration).⁶¹⁹

Specified rules are applicable to imitation and substitute milk or milk products, particularly restricting untrue, deceptive or misleading advertizing, packaging or labeling which could cause consumers to believe they are purchasing Grade A milk or milk products.⁶²⁰ Specific health standards are applicable.⁶²¹

Frozen Desserts

Similar requirements are set out for frozen desserts (those which conform to federal definition and standards of identity for frozen desserts).⁶²² These include license requirements for plants which manufacture, process or handle frozen desserts.⁶²³ Inspection programs are authorized and prohibitions exist against advertising, packaging, labeling, selling or offering for sale of frozen desserts with any assertion, representation or statement that is untrue, deceptive or

⁶¹⁷ § 502.091.

⁶¹⁸ § 502.014(7)(c).

⁶¹⁹ § 502.054.

⁶²⁰ § 502.181(3).

⁶²¹ § 502.165.

⁶²² § 503.011 *et seq.*

⁶²³ § 503.041.

misleading.⁶²⁴

Eggs, Egg Products and Poultry

The Department of Agriculture and Consumer Services is authorized to promulgate regulations to carry out provisions related to the sale of eggs, egg products and poultry.⁶²⁵ The Department is to cooperate with federal officials in carrying out the Act.⁶²⁶ One approach to regulation is to require a food permit for dealers or brokers.⁶²⁷ The Department has access for purposes of inspection to any establishment, premise or building where eggs, egg products or poultry are processed, stored or offered for sale and to vehicles which transport these articles. This also includes establishments where these products are served as food.⁶²⁸

Grades and standards of quality for eggs are to be established not to exceed those in federal regulations.⁶²⁹ Labels must reflect the grade as well as other specified information.⁶³⁰ Refrigeration requirements are also specified.⁶³¹

The Department is authorized to use stop-sale orders for articles which violate the provisions of the law and may condemn eggs, egg products or poultry which are unsound, contain any filthy, decomposed, or putrid substances or which may be poisonous, injurious to

⁶²⁴ § 503.031(6).

⁶²⁵ § 583.04 (1987 & Supp. 1999).

⁶²⁶ § 583.052.

⁶²⁷ § 583.09.

⁶²⁸ § 583.05.

⁶²⁹ § 583.03.

⁶³⁰ § 583.02.

⁶³¹ § 583.022.

health or otherwise unsafe.⁶³²

⁶³² § 583.05.