

FOOD SAFETY

State and Federal Standards and Regulations

Illinois

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ILLINOIS

ACT 605. Animals Intended for Food Act

The Animals Intended for Food Act, ensures that the Department of Agriculture has the authority to inspect any livestock or poultry that is intended for human consumption.⁸⁰⁷ This is to ensure that there are no products for human consumption which are unsound, unhealthful, unwholesome, or otherwise unfit for human food.⁸⁰⁸

If an animal is suspected to have a disease or ailment that would render it unfit for human consumption, the animal shall be inspected and destroyed. If it doesn't carry the disease and is fit, it shall be sold. If it is unfit, then it shall be tagged as such and properly disposed of.⁸⁰⁹

When it is in the best interest of the public health, and when the Department of Agriculture deems it advisable, the Department has the authority to quarantine or restrict all animals that contain a poisonous or deleterious substance that would render it unfit for human consumption.⁸¹⁰ If the animal contains an amount of a poisonous or deleterious substance that is safe for human consumption, there is an exception.⁸¹¹

The Department has the authority to investigate these types of cases and to enter premises to administer this act. They may allow the sale or transfer of animals under quarantine or restriction under reasonably prescribed rules and regulations.⁸¹²

⁸⁰⁷ 410 ILL. COMP. STAT. §§ 605/0.01, 605/1 (West 1993).

⁸⁰⁸ § 605/1.

⁸⁰⁹ § 605/2.

⁸¹⁰ § 605/2.1

⁸¹¹ *Id.*

⁸¹² *Id.*

Animal means under this Act: “cattle, calves, sheep, swine, horses, mules, or other equidae, goats, poultry, and any other animal which can be or may be used in and for meat or poultry or their products for human consumption.”⁸¹³

Any person or corporation who violates this Act is guilty of a Class A misdemeanor. Each day’s violation constitutes a separate offense.⁸¹⁴

Butter and Cheese Factories Act

Illinois also has in effect an act that prescribe rules, regulations, and standards for cheese and butter factories.⁸¹⁵

Illinois Egg and Egg Products Act

This Act is designated to ensure quality eggs and egg products. This Act sets standards for quality and uniformity for eggs and egg products. It prescribes the movement of adulterated or misbranded eggs.⁸¹⁶

This Act has its own definition of adulterated. It mimics for the most part, the Federal Food , Drug, and Cosmetic Act’s definition of adulterated. It reads as follows:

“Adulterated” means any egg or egg product under one or more of the following circumstances:

- (a) if it bears or contains any poisonous or deleterious substance that may render it injurious to health; but in case the substance is not an added substance, the article shall not be considered adulterated under this clause if the quantity of the

⁸¹³ *Id.*

⁸¹⁴ § 605/3.

⁸¹⁵ § 610/0.01 *et seq.*

⁸¹⁶ § 615/2.

- substance in or on the article does not ordinarily render it injurious to health
- (b) if it bears or contains any added poisonous or added deleterious substance other than one which is
 - (i) a pesticide chemical in or on a raw agricultural commodity,
 - (ii) a food additive; or
 - (iii) a color additive that may, in the judgment of the Director, make the article unfit for human food;
 - (c) if it is, in whole or part, a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 408 of the Federal Food, Drug, and Cosmetic Act;
 - (d) if it bears or contains any food additive that is unsafe within the meaning of Section 409 of the Federal Food, Drug, and Cosmetic Act;
 - (e) if it bears or contains any color additive that is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act. However, an article that is not otherwise deemed adulterated under subparagraph (c), (d), or (e) shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive, or color additive, in or on the article, is prohibited by regulations of the Director in official plants;
 - (f) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food;
 - (g) if it has been prepared, packaged, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered

injurious to health;

- (h) if it is an egg that has been subjected to incubation or the product of any egg that has been subject to incubation;
- (i) if its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health;
- (j) if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect under Section 408 of the Federal Food, Drug, and Cosmetic Act;
- (k) if any valuable constituent has been, in whole or in part, omitted or abstracted from the egg or egg product; or if any substance has been substituted wholly, or in part for the egg or egg product; or if damage or inferiority has been concealed in any manner; or if any substance has been added to the egg or egg product or mixed or packed with the egg or egg product so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is; or
- (l) if the egg is processed in a manner that does not allow the examination of the content of the individual egg and allows the egg content to commingle with the egg shell or shell membrane during processing.⁸¹⁷

⁸¹⁷ § 615/3.1.

Illinois Food, Drug, and Cosmetic Act⁸¹⁸

Definitions

“Director” means the Director of Public Health, but when referencing meat and poultry and meat and poultry food products, other than those sold at retail, “Director” means the Director of Agriculture.⁸¹⁹

“Food” means ” (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article.⁸²⁰

"Label" means a display of written, printed, or graphic matter, upon the immediate container of any article; and a requirement made by or under authority of the Act that any word, statement or other information appearing shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.⁸²¹

“Labeling” means “all labels and other written, printed, or graphic matter upon an article or any of its containers or wrappers, or accompanying such article.”⁸²²

Misleading Labeling or Advertisement

⁸¹⁸ § 620/1. *et seq.*

⁸¹⁹ § 620/2.1.

⁸²⁰ § 620/2.3.

⁸²¹ § 620/2.8.

⁸²² § 620/2.10.

An article may be alleged to be misbranded because the labeling is misleading, or an advertisement false or because it is misleading. To determine if the label or advertising is misleading, representations made by words, devices, sounds, designs, or any combination thereof will be taken into consideration. The extent to which the label is misleading will be considered, as will the conditions of normal use.⁸²³

“**Advertisement**” means all representations disseminated in any manner or by any means other than by labeling, to induce or which are likely to induce, directly, or indirectly, the purchase of food...”⁸²⁴

“**Selling of Food**” includes the “manufacture, production, processing, packing, packaging, exposure, offer, possession of such article...and the supplying or applying of any such article in the conduct of any food...establishment.”⁸²⁵

“**Pesticide chemical**” means any substance which alone, in chemical combination or in formulation with one or more other substances is “a pesticide” within the meaning of [FIFRA] as now enacted or as hereafter amended, and which is used in the production, storage , or transportation of raw agricultural commodities.”⁸²⁶

“**Raw agricultural commodity**” means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form before marketing.⁸²⁷

⁸²³ § 620/2.11.

⁸²⁴ § 620/2.12.

⁸²⁵ § 620/2.16.

⁸²⁶ § 620/2.17.

⁸²⁷ § 620/2.18.

A “**Food additive**” means any substance, the intended use of which results or may be reasonably expected to result, directly, or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in a food prior to January 1, 1958, through scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that such term does not include:

- (1) a pesticide chemical in or on a raw agricultural commodity; or
- (2) a pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; or
- (3) a color additive; or
- (4) any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment, pursuant to the to the Federal Act; the federal Poultry Products Inspection Act or the federal Meat Inspection Act...”⁸²⁸

A “**color additive**” is a “material which—(A) is a dye, pigment or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral, or other

⁸²⁸ § 620/2.19.

source; or (B) when added or applied to a food...is capable (alone or through reaction with another substance) of imparting color thereto; except that such term does not include any material which has been or hereafter is exempted under the Federal Act. (2) "Color" includes black, white, and intermediate grays. (3) Nothing in clause (1) of this Section shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding or otherwise affecting, directly or indirectly the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest."⁸²⁹

"**Bulk food**" is food in the aggregate, but does not include fresh fruits, fresh vegetables, nuts in the shell, salad bars, or potentially hazardous foods.⁸³⁰

This definition section also includes definitions relating to the dairy industry.⁸³¹

Prohibited Acts

Committing, or causing to be committed the following, are prohibited:

1. manufacturing, selling, delivering, holding, offering for sale, or receipt of any adulterated or misbranded food;⁸³²
2. adulterating or misbranding any food;⁸³³
3. receipt of any adulterated or misbranded food, or the delivery or offered delivery

⁸²⁹ § 620/2.20.

⁸³⁰ § 620/2.23.

⁸³¹ §§ 620/2.30.-2.35., 2.38.-2.39.

⁸³² §§ 620/3. and 3.1.

⁸³³ § 620/ 3.2.

of such items;⁸³⁴

4. selling, delivering for sale, holding, or offering for sale, food in violation of section 12, 17, or 17.1;⁸³⁵
5. false advertising;⁸³⁶
6. refusal to cooperate with inspections, sampling, and failing to create or maintain records, or refusal to access records;⁸³⁷
7. removing or disposing detained or embargoed food in violation of Section 6;⁸³⁸
8. tampering with labeling, and such tampering results in adulteration or misbranding of the article;⁸³⁹

Relief Available

Injunctive relief is available in addition to the other types of relief available.⁸⁴⁰

Any person who violates this act, other than Section 3.22 and 6, is guilty of a Class C misdemeanor. But, if the violation is committed after a conviction of such person under this Section has become final, the person is guilty of a Class A misdemeanor. But if the violation is committed after a conviction of such person under this Section has become final, the person is

⁸³⁴ § 620/ 3.3

⁸³⁵ § 620/ 3.4.

⁸³⁶ § 620/ 3.5.

⁸³⁷ § 620/ 3.6.

⁸³⁸ § 620/ 3.8.

⁸³⁹ § 620/ 3.9.

⁸⁴⁰ § 620/4.

guilty of a Class 4 felony.⁸⁴¹

Tagging Adulterated or Misbranded Food

When an authorized agent of the Director finds or has probable cause to believe that any food is adulterated or misbranded or dangerous to human health or fraudulent, they may tag or mark the item, and give notice that the item is or is under suspicion of being adulterated or misbranded. They can detain or embargo the item and warn all persons not to dispose of the article by sale or otherwise, until they are given permission to do so. No person shall dispose or sell the item once notified, without permission.⁸⁴²

If the agent determines that the item in question is misbranded or adulterated, then they shall petition the circuit court in the jurisdiction where the article has been detained or embargoed for a libel for condemnation of the food. If it is determined that the food is not adulterated or misbranded, then the agent shall remove the tag or other marking.⁸⁴³

If the food is deemed adulterated or misbranded, then it will be destroyed at the expense of the claimant, under the supervision of the agent. All court, storage, and other costs, will be taxed against the claimants. If the adulteration or mislabeling can be corrected by re-labeling, or processing, then it can be done so, supervised by the agent.⁸⁴⁴

Condemnation or Destruction

The department, or any of its authorized agents shall destroy or condemn any perishable

⁸⁴¹ § 620/5.

⁸⁴² 410 Ill. Comp. Stat. § 620/6.

⁸⁴³ *Id.*

⁸⁴⁴ *Id.*

food which is unsound, filthy, decomposed or putrid, or that may be poisonous or deleterious to health, or otherwise unsafe, the same can be declared a nuisance.⁸⁴⁵

Proceedings, Notice, Minor Violations

The prosecuting attorney shall proceed without delay against violations of this section.⁸⁴⁶ Notice shall be given to the person against whom the proceeding goes they have an opportunity to present their views before the Director.⁸⁴⁷ If the department believes that a minor violation of this section can be corrected with a written notice or warning, a proceeding is not necessary.⁸⁴⁸

Definitions and Standards

The definitions and standards for foods are to be determined by the Federal Food, Drug and Cosmetic Act. The Director also has the authority to promulgate definitions and standards under this act.⁸⁴⁹

When Food is Deemed Adulterated

The Illinois adulterated food statute is verbatim to the Federal Act with few exceptions.⁸⁵⁰ Part (c) is a slight deviation from the federal act which discusses confectionaries.⁸⁵¹

Otherwise, Illinois' Act states that a food is deemed to be adulterated:

⁸⁴⁵ *Id.*

⁸⁴⁶ § 620/7.

⁸⁴⁷ *Id.*

⁸⁴⁸ § 620/8.

⁸⁴⁹ § 620/9.

⁸⁵⁰ *See* 410 ILL. COMP. STAT. § 620/10.

⁸⁵¹ *Id.*

(a)(1) if it "bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in the food does not ordinarily render it injurious to health;"

(2)(A) "If it bears or contains any added poisonous or added deleterious substance other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive which is unsafe within the meaning of subsection (a) of Section 13; or ... (B) if it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of Section 408(a) of the Federal Act as amended; or (C) if it is or it bears or contains, any food additive which is unsafe within the meaning of Section 409; provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under Section 408 of the Federal Act, and such raw agricultural commodity has been subjected to processing...the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provision of Sections 13 and Clause (C) of this Section, not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice, and the concentration of such residue in the processed food when ready-to-eat is not greater than the tolerance prescribed for the raw agricultural commodity;... or (3) if it consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been produced, prepared, packed, or held under unsanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome or injurious to health; or if it is the product of a

diseased animal or one that did not die by slaughter. A food also will be adulterated if the animal is fed uncooked offal from a slaughterhouse, or if its container is in any way made of any poisonous or deleterious substance. A food will be deemed adulterated if it has been intentionally subjected to radiation, unless the radiation was in conformity with a regulation or exemption;⁸⁵²

(b) if any valuable part has been partially or completely omitted, substituted, or extracted; or if anything has been added to increase the bulk or weight, reduce or strengthens its quality, or make it appear falsely to be of greater value than it actually is;

(c) If it is or bears an unsafe color additive within the meaning of section 21;

(d) If its packaging or labeling is in violation of an applicable regulation pursuant to the Illinois Poison Prevention Packaging Act.⁸⁵³

When Food is Deemed Misbranded

Again, Illinois' statute mimics the language of the Federal Act.

A food is misbranded when:

(a) its labeling is false or misleading;

(b) it is offered for sale under the name of another food;

(c) it is an imitation of another food, other than honey, unless its label bears, in type of uniform size and prominence, the word "imitation" directly after the name of the food imitated;

(d) if the container is misleadingly made, formed or filled;

⁸⁵² *Id.*

⁸⁵³ *Id.*

- (e) In a package form, the label does not contain:
 - (1) the manufacturer's, packer's, or distributor's name and place of business;
 - (2) an accurate statement of quantity, by weight, or other measure; however, reasonable variations are permitted;
- (f) the label is not conspicuous and easily understood by the ordinary user of the product;
- (g) the food claims to be a defined and standardized food and it does not conform to the definition and standard, unless its label must contain the name of the defined and standardized food, and if required, the common names of optional ingredients that are in the food;
- (h) it purports to be or is represented as a standardized food but falls below that standard, unless the label indicates that the food, or fill requirements, falls below the standard;
- (i) the food is not subject to part (g) unless it bears labeling:
 - (1) that clearly states the common name of the food, and
 - (2) if it's made from two or more ingredients, the common name of all ingredients, with the exception of spices, flavorings, and colorings that do not otherwise need to be named, unless such naming is impractical or deceptive, or results in unfair competition;
- (j) the label does not state vitamin, mineral, and other dietary properties if it claims to be a dietary use product; however, exemptions will be recognized if compliance with this part is impracticable;

- (k) the labeling does not state the presence of artificial flavoring, artificial coloring, or chemical preservatives; however, exemptions will be recognized if compliance with this part is impracticable;
- (l) it is a raw agricultural commodity for direct human consumption, and it bears or contains a pesticide chemical applied after harvest, unless the shipping container provides the name and function of the chemical; except no labeling is required once the items have been removed from the shipping container, if that is customary in the trade;
- (m) the product is to be used for an ingredient of another food and when used according to the directions of the purveyor, will result in an adulterated or misbranded final food product;
- (n) it is a color additive and the packaging and labeling does not conform with the federal act provisions for color additives;
- (o) it is a meat or poultry product that has been previously frozen, and it does not bear a label stating such;
- (p) the label states “honey” or “imitation honey” and the product is not pure honey manufactured by honeybees.⁸⁵⁴

Microorganism Contamination

Section 620/12 protects consumers from food that may contain levels of contamination by microorganisms. It allows regulations to be made by the Director to ensure food safety.

It also contains a provision for the revocation of permits once the Director finds a violation of this

⁸⁵⁴ § 620/11.

Section. It also states that any officer or employee designated by the Director may enter the premises of permit holders to determine whether conditions of the permit are being complied with. Denial of such access is grounds for revocation.⁸⁵⁵

Labeling Requirement Exemptions

The Director may regulate the following exemptions:

1. small, open containers of fresh fruits and vegetables; and
2. food that is customarily processed, labeled or re-packed in substantial quantities at different establishments than where they were originally processed, labeled, or packed, provided that when they leave the new establishment, they are not misbranded or adulterated.⁸⁵⁶

Additives Regulations

The Director may establish regulations, such as zero tolerances regarding added poisonous or deleterious substances, any food additive, any pesticide chemical in or on a raw agricultural commodity or any color additive. When such regulations are created and upheld, consumer safety and public health will be served.⁸⁵⁷

Dairy Section

Sections 620/21.1 through 620/22 provide standards for manufactured dairy farms, manufactured dairy plants, bulk milk-hauler-samplers, bulk milk pick up tanks, certified pasturizer sealers, and manufactured dairy products.

⁸⁵⁵ § 620/12.

⁸⁵⁶ § 620/12.1.

⁸⁵⁷ § 620/13.

APA

Sections 620/22.1 and 620/22.2 set forth that the Administrative Procedure Act is adopted. Also, all administrative decisions of the Department are judicially reviewable.

Denial, Suspension, or Revocation of Permit

After notice and opportunity for hearing, the Director may suspend, revoke, or deny a permit. The procedure for this process is outlined in this Section.⁸⁵⁸

Food and Drug Safety Fund

Illinois has created a special food safety fund. The money from subscriptions, fines, and permit fees goes into this fund. The money is made available to the Department of Health for activities related to “food safety, drug safety, milk safety, or drug product selection.”⁸⁵⁹

Publication of Reports by Director

The Director must publish annually the findings, judgments, etc. of cases resulting from violation of this Act. The Director may also disseminate information about food as necessary to protect the public health and protect consumers against fraud.⁸⁶⁰

Powers of Director

This section outlines the powers of the Director to enforce provisions of this Act.⁸⁶¹ The Illinois code contains a Food Handling Regulation Enforcement Act. This is to ensure safe food handling. And also outlines requirements for certified food service sanitation managers.⁸⁶²

⁸⁵⁸ § 620/22.3.

⁸⁵⁹ § 620/22.4.

⁸⁶⁰ § 620/23.

⁸⁶¹ § 620/25.

⁸⁶² §§ 625/0.01 to 625/3.

Act 630 is the Food Safety Transportation Act which ensures safe transportation of food intended for human consumption.⁸⁶³

Act 635 is the Grade A Pasteurized Milk and Milk Products Act. This Act delineates standards for sanitation and cleanliness in the dairy industry.⁸⁶⁴ This Act sets fees for permits. It also outlaws the sale of milk or milk products before pasteurization.⁸⁶⁵ The Director and their agents have the authority to inspect milk plants for sampling and testing of milk.⁸⁶⁶

The enforcing agent has the authority to condemn or shut-down facilities and equipment that are under investigation of a transmissible animal disease.⁸⁶⁷ If the enforcing agent finds an imminent public safety hazard, they have the authority to issue an injunction without respect to any administrative procedure.⁸⁶⁸ The enforcing agency has the authority to embargo or investigate suspect milk, milk products, or equipment.⁸⁶⁹

Milk or a milk product that is unwholesome or poisonous or deleterious to humans or is otherwise unsafe, is a nuisance and shall be condemned or destroyed, or otherwise made unsaleable as human food.⁸⁷⁰

The Department is given the power to publish and adopt rules, regulations and standards

⁸⁶³ §§ 630/1 to 630/5.

⁸⁶⁴ §§ 635.1 to 635/19.

⁸⁶⁵ § 635/8.

⁸⁶⁶ § 635/10.

⁸⁶⁷ § 635/11.

⁸⁶⁸ § 635/12.

⁸⁶⁹ § 635/13.

⁸⁷⁰ § 635/14.

for milk haulers.⁸⁷¹

Violations of this Act are a Class A misdemeanor and violators are subject to a fine. Penalties for shipping antibiotic positive milk include monetary and suspension of licenses. The money collected goes to the Food and Drug Safety Fund.⁸⁷²

Hearth-baked Bread

Hearth-baked bread may be sold in open-ended bags at retail.⁸⁷³

Kosher Food Law

This act prescribes Illinois' standards for Kosher food.⁸⁷⁴

Sanitary Food Preparation Act

This Act outlines construction requirements and prohibited acts to ensure safe food preparation.⁸⁷⁵

⁸⁷¹ § 635/15.

⁸⁷² § 635/16.

⁸⁷³ §§ 640/0.01. to 640/2.

⁸⁷⁴ §§ 645/0.01. to 645/2.

⁸⁷⁵ §§ 650/0.01. to 650/13.