

FOOD SAFETY
State and Federal Standards and Regulations

Minnesota

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MINNESOTA

Minnesota food law is found at MINN. STAT. ANN. §§ 31.001 to 31.96. Minnesota has adopted the federal regulations as state regulations in order to maintain uniformity with the Federal Food, Drug and Cosmetic Act (“federal act”). Food is defined as any article of food or drink used by humans or animals, chewing gum and articles used for components of any such article.¹³⁴¹ The Commissioner of Agriculture (the “Commissioner”) is responsible for enforcement of the statute. The Commissioner may appoint inspectors to carry out duties.

Persons who violate the food law are guilty of a misdemeanor. Prohibited acts under the food law are the following:

- (1) the manufacture, sale, or delivery, holding or offering for sale of any food that is adulterated or misbranded;
- (2) the adulteration or misbranding of any food;
- (3) the receipt in commerce of any food that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise;
- (4) the distribution of a consumer commodity¹³⁴² contained in a package or mislabeled, but this prohibition does not apply to wholesalers or distributors except to the extent that they are involved in the packaging or labeling;
- (5) the sale, delivery for sale, holding for sale or offering for sale any article in violation of the emergency permit section;
- (6) the dissemination of false advertising;

¹³⁴¹ MINN. STAT. ANN. § 31.01(4) (West 1998).

¹³⁴² See § 31.01(20) (definition).

- (7) the refusal to permit entry, inspection, taking a sample or copying records as authorized by the section;
- (8) the giving of a false guaranty or undertaking, except by a person who relied on a guaranty or undertaking and received the food in good faith reliance;
- (9) the removal or disposal of a detained or embargoed article in violation of the section;
- (10) the alteration, mutilation, destruction, obliteration or removal of the whole or any part of the labeling of a food if done while it is held for sale and the act results in the article being misbranded or adulterated;
- (11) forging, counterfeiting, simulating or falsely representing, or using any mark, tag or label without proper authority;
- (12) the use by any person of a trade secret, entitled to protection, to that person's own advantage; or
- (13) the identification or sale as food for human consumption any product that has been previously labeled as animal food or seed which has received seed treatment.¹³⁴³

Food shall be deemed adulterated if:

- (1) it bears or contains any poison or deleterious substance which may render it injurious to health, but not if it only appears in quantities that would not ordinarily render it injurious;

¹³⁴³ § 31.02.

- (2) it bears or contains any added poison or added deleterious substance, other than one which is a pesticide chemical in or on a raw agricultural commodity; a food or color additive which is unsafe;¹³⁴⁴
- (3) it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe;
- (4) it is or bears or contains any food additive which is unsafe, provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with specified statutes and has been processed to remove residue 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 by law;
- (5) it consists in whole or in part of a diseased, contaminated, filthy, putrid or decomposed substance, or if it is otherwise unfit for food;
- (6) it has been produced, prepared, packed or held under insanitary conditions whereby it may have become contaminated or rendered injurious to health;
- (7) it is the product of a diseased animal or of an animal which has died otherwise than by slaughter, or of an animal that has been fed upon the uncooked offal from a slaughterhouse;
- (8) its container is composed of any poisonous or deleterious substance which may render the contents injurious to health;
- (9) it has been intentionally subjected to radiation, unless the use of the radiation was

¹³⁴⁴ §§ 31.02, 31.122 (definitions).

in conformity with the law;

- (10) any valuable constituent has been omitted or abstracted therefrom;
- (11) any substance has been substituted therefor;
- (12) damage or inferiority has been concealed in any manner;
- (13) any substance has been added or mixed or packed 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;
- (14) it is confectionary, and contains a nonnutritive object, except as provided in MINN. STAT. ANN. § 31.121(n);
- (15) it is or bears or contains any color additive which is unsafe;
- (16) it is oleomargarine or margarine or butter and any of the raw material used therein consisted of any filthy, putrid or decomposed substance or is otherwise unfit for food.¹³⁴⁵

Food shall be deemed misbranded if:

- (1) its labeling is false or misleading, or fails to conform with the labeling law, Laws 1974, chapter 84;
- (2) it is offered for sale under the name of another food;
- (3) it is an imitation of another food for which a definition and standard of identity have been prescribed by rules, or if it is an imitation and the label does not clearly and prominently state “imitation” and the name of the food imitated;
- (4) its container is so made, formed or filled as to be misleading;

¹³⁴⁵ § 31.121.

- (5) in package form, unless it bears a label containing the name and place of business of the manufacturer, packer or distributor, and an accurate statement of the quantity of the contents in accordance with the uniform rules set forth;
- (6) any word, statement or other information required by law is not prominently placed so as to make it likely to be read and understood by the ordinary individual;
- (7) it purports to be or is represented as food for which a definition and standard of identity have been prescribed by rules unless it conforms to said rules and its label bears the required name;
- (8) it purports to be or is represented as a food for which a standard of quality has been prescribed and it is not of that quality, or if a standard of fill quantity has been prescribed and it falls below that quantity;
- (9) it is not a food under (7), unless it bears labeling clearly giving it the common or usual name of the food and the common or usual name of each ingredient if it is made from more than one common food (excepting spices, flavorings and colorings), provided that the Commissioner has not exempted any food from this requirement;
- (10) it purports to be or is represented for special dietary uses, unless the label bears vitamin, mineral and other dietary properties prescribed by rule;
- (11) it bears or contains any artificial flavoring, artificial coloring or chemical preservative unless the label states that fact; provided that the Commissioner may exempt compliance if impracticable;

- (12) it is a raw agricultural commodity which is the product of the soil, bearing or containing a pesticide chemical applied after harvest, unless the shipping container bears a label that declares the presence of such chemical (but not after the product has been removed from the container and displayed for retail according to the custom of trade);
- (13) it is a product intended as an ingredient of another food and when used according to the directions of the purveyor will result in the final food product being adulterated or misbranded;
- (14) it is a color additive unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additives of the federal act.¹³⁴⁶

Insanitary conditions are prohibited in any place where food may be manufactured, stored, served or sold.¹³⁴⁷ If the inspector deems an establishment insanitary, the owner or operator has no more than two days to comply or be in violation of the food law.¹³⁴⁸

It is unlawful for any person to work in any place where food is manufactured, stored or sold if that person has a disease that may be spread directly or indirectly through food products, whether that disease is due to a contagious, infectious or venereal disease at any stage or due to the presence of disease germs, regardless of whether that person has symptoms of the disease itself. It is the Commissioner's duty to report any person suspected to be dangerous to the

¹³⁴⁶ § 31.123 (subsections (7), (9), and (11) do not apply to butter, cheese or ice cream)..

¹³⁴⁷ § 31.161.

¹³⁴⁸ § 31.165.

Commissioner of health and immediately exclude that person from employment pending investigation.¹³⁴⁹

Inspectors have access to enter any factory, warehouse or establishment in which food is manufactured, processed, packed or held for introduction into commerce or after such introduction or to enter any vehicle being used to transport or hold such food in commerce. They also have the authority to inspect these facilities in their entirety, to take samples and to copy all records or carriers in commerce that handle food.¹³⁵⁰ The chief chemist must make analyses and examination of all samples provided by the inspectors to determine if any have been adulterated or misbranded or otherwise violated the law. The chemist's report is prima facie evidence of the matters and facts contained in it.¹³⁵¹

The Commissioner has emergency permit control and may also publish reports summarizing all actions taken under the act, or any other information deemed necessary in the interest of public health and the protection of consumers against fraud.¹³⁵²

The county prosecutor has the duty to prosecute under this law. Persons against whom such criminal proceedings are contemplated receive notice and have the opportunity to present views before the Commissioner either orally, in writing, or by attorney.¹³⁵³

¹³⁴⁹ § 31.171.

¹³⁵⁰ § 31.04.

¹³⁵¹ § 31.13.

¹³⁵² § 31.131–.132.

¹³⁵³ § 31.14.

Eggs

In addition to holding a food handler's license, any person engaged in the business of buying for resale, selling or trading eggs must pay an annual inspection fee.¹³⁵⁴ The fee is based on the volume of eggs handled at the place of business in a year. Every person subject to this additional fee must keep necessary records and file them with the department of agriculture ("Department") annually.¹³⁵⁵

Federal regulations regarding the grading of shell eggs and the United States standards, grades and weight classes for shell eggs, in effect of July 1, 1990 are the grading and candling rules in Minnesota. Similarly, federal regulations governing the inspection of eggs and egg products in effect on May 1, 1990 are the inspection of egg and egg product rules in Minnesota.¹³⁵⁶

All eggs sold or offered for sale at retail must have been candled and graded and must be clearly labeled according to these rules. No eggs may be sold as "ungraded" or "unclassified". All eggs in possession of the retailer must be kept at a temperature not to exceed 45 degrees Fahrenheit (7 degrees Celsius).¹³⁵⁷

No person shall buy, sell, offer or expose for sale or possess for sale, eggs for human consumption that are inedible or adulterated. Adulterated eggs are eggs that are filthy, putrid, decomposed, or otherwise unfit for food in whole or in part. Inedible eggs include eggs which

¹³⁵⁴ MINN. STAT. ANN. § 29.22. This does not apply to a retail grocer who sells eggs previously candled and graded.

¹³⁵⁵ Minnesota food licensing law is found at §§ 28A.01 to 28A.16.

¹³⁵⁶ § 29.237 (1998).

¹³⁵⁷ § 29.23.

contain black rots, white rots, mixed rots, sour eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, eggs containing embryo chicks (at or beyond the blood ring stage), or any other eggs that are filthy, decomposed, or putrid.¹³⁵⁸

The Department may supervise, regulate and make reasonable rules relative to grading, candling, cleaning, breaking, purchasing and selling of eggs and egg products for the purpose of preserving and protecting the public health. All frozen, liquid or dried egg products sold or offered for sale shall be processed under the continuous supervision of an inspector of the Department or of the United States Department of Agriculture.¹³⁵⁹

Dairy

An article of food for human consumption may not be manufactured from adulterated milk or cream, except as provided by law for in MINN. STAT. ANN. § 32.22 (properly labeled skimmed milk) or under the federal act and related regulations. “Milk” is defined as the whole, fresh, clean lacteal secretion, practically free from colostrum obtained by the complete milking of one or more healthy cows. Unless the term is qualified, it only means cows’ milk.¹³⁶⁰

Adulterated milk is defined as milk that:

- (1) is drawn in a filthy or unsanitary place;
- (2) is drawn from unhealthy or diseased cows;
- (3) is drawn from cows that are fed garbage or an unwholesome animal or vegetable substance;

¹³⁵⁸ § 29.24.

¹³⁵⁹ § 29.27.

¹³⁶⁰ § 32.391 (1998).

- (4) is drawn from cows within 15 days before calving, or five days after calving;
- (5) contains water in excess of that normally found in milk;
- (6) contains a substance that is not a normal constituent of the milk except as allowed in this chapter; or
- (7) contains drug residues or other chemical or biological substances in amounts above the tolerances or safe levels established by rule or under MINN. STAT. ANN. § 32.415.¹³⁶¹

Persons who sell or knowingly buy adulterated milk products violate this statute are subject to a charge of a misdemeanor or a civil penalty up to \$1,000.¹³⁶²

No milk or milk product may be sold, advertised, offered or exposed for sale or held in possession for sale for human consumption unless it has been pasteurized and cooled. This does not apply to milk, cream, skim milk, sheep milk or goat milk purchased for personal use at the farm or place where the milk is produced. All pasteurized milk and milk products must be labeled or otherwise designated as pasteurized.¹³⁶³

Reusable dairy product containers must be cleaned in accordance with rules promulgated by the Commissioner.¹³⁶⁴

To maintain uniform quality standards in dairy products, every licensed purchaser of milk, cream and fluid milk products for manufacturing or resale receives quality test records

¹³⁶¹ § 32.21(3).

¹³⁶² § 32.21(4).

¹³⁶³ § 32.393.

¹³⁶⁴ § 32.106.

from each producer the first time that the purchaser buys from the producer. These quality test records are kept by each purchaser and must be furnished for the three months immediately preceding the first delivery to the new purchaser. If the purchaser does not receive these records, then the purchaser must establish a new producer's quality record. Failure to provide quality records, or to re-establish the quality record results in a misdemeanor charge. In addition, producers of milk used for manufacturing purposes must conform to federal standards.¹³⁶⁵

Milk grade requirements may be found at MINN. STAT. ANN. § 32.394 and §32.395. While milk is not required to be graded, if it is graded, it must be done according to these standards and labeled as such. If it is not graded, it may not be labeled as such. Grading involves an inspection fee and service from the Commissioner. Laboratory testing must be done in certified laboratories, determined by the Commissioner.

For milk and cream purchased for manufacturing, the Commissioner may adopt standards, grades and price differentials between various grades. All milk and cream purchased for manufacturing is purchased according to these grades and standards. The Commissioner is also charged with enforcing the provisions of this section.¹³⁶⁶

Minnesota dairy plants must be approved by the Commissioner. Plant owners or operators must submit an application for a permit, and duplicate floor plans, including source of water supply and method of distribution, and the location of the plumbing system. Alterations or new construction must be approved by the Commissioner.¹³⁶⁷

¹³⁶⁵ §§ 32.411, .415.

¹³⁶⁶ § 32.401.

¹³⁶⁷ § 32.392.

The Commissioner inspects all places where dairy products are made, stored, or served as food for pay, and all places where cows are kept by persons who sell milk. The Commissioner has the authority to require the correction of all insanitary conditions and practices found upon inspection. Specifically, the Commissioner inspects for unauthorized use of rBGH or mercury manometers. A plant or facility that refuses to cooperate may have their permit or certification suspended.¹³⁶⁸ Local municipalities and subdivisions of state government may also impose inspections.¹³⁶⁹

Milk and cream inspectors must be licensed by the state through the Commissioner. Only United States residents may apply for a license. Applications are reviewed by the Commissioner to determine that the applicant is competent and qualified to test milk and cream products and that the applicant is familiar with the state laws governing testing before a license is issued. Each dairy plant is required to have a licensed person on the premises. In addition, a bulk transporter of milk from the farm to the plant is required to be licensed to grade and sample milk.¹³⁷⁰

Licenses are for one year and are not transferable.¹³⁷¹ The Commissioner has the responsibility for enforcing this statute and can suspend or cancel any license after a hearing upon written notice containing the grounds for the suspension or cancellation. Each time an unlicensed person grades or samples milk constitutes a separate offense under the statute.¹³⁷²

¹³⁶⁸ § 32.103.

¹³⁶⁹ § 32.104.

¹³⁷⁰ §§ 32.071-32.074.

¹³⁷¹ § 32.075.

¹³⁷² §§ 32.076, 32.021.

Persons engaged in the purchase, manufacture or sale of dairy products, and all dairy plant owners or operators, are required to keep records of all dairy products handled on a daily basis.¹³⁷³ These records must be reported to the Commissioner, and the Commissioner has the authority to inspect the records, and audit them when there is reason to suspect any violations.¹³⁷⁴

Meat

The Minnesota meat inspection act is found at MINN. STAT. ANN. § §31A.01 to 31A.31. The Department is responsible for coordinating efforts with USDA so that the state rules and regulations are at least equal to those of the federal meat inspection act.¹³⁷⁵ The Commissioner appoints inspectors to examine and inspect all animals¹³⁷⁶ before they enter a slaughtering, packing, meat canning, rendering or similar establishment at all establishments where meat is prepared for intrastate commerce.¹³⁷⁷ The Commissioner also appoints inspectors to inspect animals, whole or parts of carcasses, meat and meat food products .¹³⁷⁸ Diseased animals must be separated and slaughtered separately from other animals. Inspectors must perform a postmortem examination and inspection of each carcass and all parts of animals usable as human food at the place of slaughter, canning, salting, packing or rendering if the meat is prepared for intrastate commerce. Inspectors must mark, tag, stamp or label all carcasses as “inspected and passed” or

¹³⁷³ § 32.18.

¹³⁷⁴ §§ 32.19, 32.20, 32.206.

¹³⁷⁵ § 31A.21 (1998).

¹³⁷⁶ “Animals” are defined as cattle, swine, sheep, goats, farmed cervidae, llamas, ratitae, horses, equine, and other large domesticated animals, not including poultry. MINN. STAT. ANN. § 31A.02(4).

¹³⁷⁷ § 31A.03.

¹³⁷⁸ § 31A.13.

“inspected and condemned.”¹³⁷⁹ Any carcass, in whole or in part, or a meat food product derived from it, is not passed if it has been adulterated. Adulterated is defined as a carcass, part of a carcass, meat or meat good product under one or more of the following circumstances:

- (a) if it bears or contains a poisonous or harmful substance which may render it injurious to health; but if the substance is not an added substance, the article is not adulterated if the quantity of the substance in or on the article does not ordinarily make it injurious to health;
- (b) if it bears or contains, by administration of a substance to the live animal or otherwise, an added poisonous or harmful substance, other than (1) a pesticide chemical in or on a raw agricultural commodity; (2) a food additive; or (3) a color additive, which may, in the judgment of the Commissioner, make the article unfit for human food;
- (c) if it is, in whole or in part, a raw agricultural commodity that bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the federal act;
- (d) if it bears or contains a color additive which is unsafe within the meaning of section 409 of the federal act;
- (e) if it bears or contains a color additive which is unsafe within the meaning of section 706 of the federal act;
- (f) if it contains a filthy, putrid, or decomposed substance or is for any other reason unfit for human food;

¹³⁷⁹ §§ 31A.04-31A.07.

- (g) if it has been prepared, packed or held under unsanitary conditions so that it may be contaminated with filth or harmful to health;
- (h) if it is wholly or partly the product of an animal which has died otherwise than by slaughter;
- (i) if its container is wholly or partly composed of a poisonous or harmful substance which may make the contents harmful to health;
- (j) if it has been intentionally subjected to radiation, unless the use of the radiation conformed with a regulation or exemption in effect under section 409 of the federal act;
- (k) if a valuable constituent has been wholly or partly omitted or removed from it; if a substance has been wholly or partly substituted for it; if damage or inferiority has been concealed; or if a substance has been added to it or mixed or packed with it so as to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is; or
- (l) if it is margarine containing animal fat and any of the raw material used in it wholly or partly consisted of a filthy, putrid, or decomposed substance.¹³⁸⁰

Any carcass that is inspected and condemned must be destroyed for food purposes in the presence of the inspector.¹³⁸¹ Inspectors have access to processing establishments at all times.

Inspectors may detain any animal or carcass up to 20 days if they have reason to believe that it is

¹³⁸⁰ § 31A.02(13).

¹³⁸¹ § 31A.04.

adulterated or misbranded.¹³⁸²

If any inspector refuses to comply with the rules set forth by the Commissioner, then the inspector may be removed from the establishment by the Commissioner.¹³⁸³ The Commissioner may also refuse inspection service to an establishment if he determines that the establishment is unfit to operate because of sanitary violations or if anyone reasonably connected with the business has been convicted of a felony or of a violation of food handling laws.¹³⁸⁴

Once the meat has been “inspected and passed,” its label must be attached to the container in which the meat is placed under the supervision of the inspector. Inspection is not complete until this label is attached. Labeling sizes and specifications are provided in the statute. Meat may not be sold in intrastate commerce without a label, or with a misleading label.¹³⁸⁵ Forging an official mark or label or use of an official mark or label without authorization from the Commissioner is prohibited. Misrepresentations about the inspection or certificate of a carcass are prohibited as well.¹³⁸⁶ Any carcass, or part thereof, meat or meat food product being transported in intrastate commerce that has been adulterated or misbranded, or in any way violates the act, may be seized and condemned.¹³⁸⁷ Misbranded means a carcass, in whole or in part, meat or a meat product under one or more of the following circumstances:

- (1) its labeling is false or misleading;

¹³⁸² § 31A.23.

¹³⁸³ § 31A.06.

¹³⁸⁴ § 31A.22.

¹³⁸⁵ § 31A.07.

¹³⁸⁶ § 31A.11.

¹³⁸⁷ § 31A.24.

- (2) it is offered for sale under the name of another food;
- (3) it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word “imitation” followed immediately by the name of the food imitated;
- (4) its container is so made, formed or filled as to be misleading;
- (5) in package form, unless it bears a label containing the name and place of business of the manufacturer, packer or distributor, and an accurate statement of the quantity of the contents in accordance with the uniform rules set forth;
- (6) any word, statement or other information required by law is not prominently placed so as to make it likely to be read and understood by the ordinary individual;
- (7) it purports to be or is represented as food for which a definition and standard of identity have been prescribed by rules unless it conforms to said rules and its label bears the required name;
- (8) it purports to be or is represented as a food for which a standard of fill quantity has been prescribed and it falls below that quantity;
- (9) it is not a food under (7), unless it bears labeling clearly giving it the common or usual name of the food and the common or usual name of each ingredient if it is made from more than one common food (excepting spices, flavorings and colorings), provided that the Commissioner has not exempted any food from this requirement;
- (10) it purports to be or is represented for special dietary uses, unless the label bears

vitamin, mineral and other dietary properties prescribed by rule;

- (11) it bears or contains any artificial flavoring, artificial coloring or chemical preservative, unless the label states that fact; or
- (12) it fails to bear, directly or on its container, as the Commissioner prescribes, the inspection legend and other information required by rule to assure that it will not have false or misleading labeling and that the public will be told how to keep the article wholesome.¹³⁸⁸

Horse meat must be plainly and conspicuously marked, labeled or otherwise identified according to rules set forth by the Commissioner.¹³⁸⁹

Exemptions from the meat inspection act provide that the inspections do not apply to processing done by persons of their own animals for their own use or to custom processing, as defined in the statute. Sanitation rules and adulteration and misbranding rules still apply to both of these inspection exemptions.¹³⁹⁰

Persons dealing with carcass and meat products must keep records that may be examined by the Commissioner at all reasonable times.¹³⁹¹ These persons may be required to report relating to any information provided in the records or other matters into which the Commissioner is inquiring.¹³⁹² Violators will be guilty of a misdemeanor.

¹³⁸⁸ § 31A.02(14).

¹³⁸⁹ § 31A.12.

¹³⁹⁰ § 31A.15.

¹³⁹¹ § 31A.18.

¹³⁹² § 31A.27.