

# **FOOD SAFETY**

## **State and Federal Standards and Regulations**

*Ohio*

**1999**

**A Project of the**

**National Association of State Departments of Agriculture  
Research Foundation**

**through the**

**National Center for Agricultural Law Research and Information**

This publication was made possible by a financial grant from the National Association of State Departments of Agriculture (NASDA), Washington, D.C., through funds made available from the United States Food and Drug Administration (FDA).

### **Disclaimer**

*This book's information is to be used as an educational tool and is not a substitute for individual legal advice. Any person wishing to obtain legal advice should consult a competent attorney and/or food law specialist. The utilization of these materials by any person constitutes an agreement to hold harmless the author, the National Association of State Departments of Agriculture, the National Center for Agricultural Law Research and Information, the University of Arkansas, and the United States Food and Drug Administration for any liability, claims, damages, or expenses that may be incurred by any person as a result of reference to or reliance on the information contained in this book.*

The National Association of State  
Departments of Agriculture (NASDA)  
1156 15<sup>th</sup> Street, N.W.  
Suite 1020  
Washington, D.C. 20005-1704  
(202)296-9680  
FAX: (202)296-9686  
nasda@patriot.net

National Center for Agricultural Law Research  
and Information  
U of A School of Law - 147 Waterman Hall  
University of Arkansas, Fayetteville, AR 72701  
(501) 575-7646  
FAX: (501) 575-5830

## OHIO

### Meat and Poultry Inspection

The Ohio Department of Agriculture is authorized to regulate establishments which slaughter animals or prepare meat or poultry for food purposes. This includes establishments which slaughter horses or prepare horse meat for human food. “Animals” includes cattle, calves, sheep, swine, horses, mules, other equines, and goats.<sup>1996</sup> “Poultry” means any domesticated bird.<sup>1997</sup> For some purposes, an establishment which slaughters or prepares meat of bison, cervidea, other bovidea, camelidae and hybrids thereof, ratites, domestic rabbits, pheasant, quail, partridge, peafowl, grouses, captive raised wild turkey, captive raised waterfowl, or other designated animals or poultry may also be regulated.<sup>1998</sup> Establishments are required to obtain a license from the Department prior to commencing operation.<sup>1999</sup>

Establishments subject to federal inspection are exempt from Ohio regulation as are those who slaughter or prepare animals or poultry on their own premises for personal or family use and sell no meat or poultry products.<sup>2000</sup> Retail dealers or butchers who sell meat or already inspected meat products or poultry or poultry products directly to household consumers in retail stores are likewise exempt.<sup>2001</sup> Also exempt is any person who grows and slaughters on his own premises less than 1,000 poultry in a calendar year if the person buys no poultry and sells processed

---

<sup>1996</sup> OHIO REV. CODE § 918.01(E).

<sup>1997</sup> § 918.21(m).

<sup>1998</sup> § 918.12.

<sup>1999</sup> §§ 918.08 (meat); 918.28 (poultry) and 919.02 (horse meat).

<sup>2000</sup> §§ 918.10(1) and (3); 918.27(A)(1)and (3).

<sup>2001</sup> §§ 918.10(2); 918.27(A)(2).

poultry to hotels, restaurants, or others who prepare the food in their own kitchen.<sup>2002</sup>

### **Meat Inspection**

One of the major means of enforcing the provisions of the law is through mandatory ante- and postmortem inspections of meat animals and meat products at all licensed establishments as well as of all processing operations. Sanitary conditions must be such that no meat product is rendered adulterated.<sup>2003</sup> Voluntary inspection services may be provided for establishments which slaughter and prepare meat from animals such as bison, cervidea, other bovidea, camelidae and hybrids thereof, ratites, domestic animals or other designated animals.<sup>2004</sup>

Inspection is not required for those establishments exempt from regulation as mentioned above, or at establishments which offer custom services for those otherwise exempt, or retail dealers and butchers selling inspected meat products and whose operations are not conducted at retail stores or restaurants.<sup>2005</sup> It is a specific violation to sell meat or meat products that have not been inspected in compliance with the law.<sup>2006</sup>

### **Adulteration**

It is also a violation to knowingly offer for sale or sell adulterated meat or meat products.<sup>2007</sup> For purposes of the Meat Inspection Act, adulteration is defined by cross-reference

---

<sup>2002</sup> § 918.27(A)(4).

<sup>2003</sup> § 918.02.

<sup>2004</sup> § 918.12(A).

<sup>2005</sup> § 918.10(B).

<sup>2006</sup> § 918.11(B).

<sup>2007</sup> § 918.11(C).

to the Ohio Pure Food and Drug Law.<sup>2008</sup> There the definition set out is consistent with the federal rules.

### **Misbranded/Labeling**

The Ohio Act has no separate section on misbranding but does require that inspected meat or meat products be labeled appropriately. An article may not be sold or offered for sale under names or labeling that is false or misleading.<sup>2009</sup> The “official mark” identifying the carcass, parts or products may be used only at licensed establishments.<sup>2010</sup>

### **Enforcement**

In addition to the inspection programs outlined above, the Department is authorized to dispose of any adulterated or unwholesome animal, carcass or meat products which cannot be reconditioned to reverse any unwholesomeness or adulterated condition.<sup>2011</sup> An operation found to be operating in violation of this Act may be notified and given an opportunity to correct the violation. Inspection services may be withdrawn and the establishment ordered to cease operation if the violation continues.<sup>2012</sup> If unsanitary conditions are a hazard to public health, the product may be detained or condemned and inspection immediately withdrawn until the conditions are corrected.<sup>2013</sup>

---

<sup>2008</sup> § 918.01(I) referring to OHIO REV. CODE § 3715.59 to 3715.62. A section of the Food and Drug Act prohibits the slaughtering of calves less than four weeks old. OHIO REV. CODE § 3715.22.

<sup>2009</sup> § 918.02(F).

<sup>2010</sup> § 918.11.(A); *also see* § 918.06.

<sup>2011</sup> § 918.03.

<sup>2012</sup> § 918.08(C).

<sup>2013</sup> § 918.08(D).

## **Federal/State Cooperation**

The Department is empowered to promulgate and enforce regulations to administer the Act.<sup>2014</sup> However, the Department may enter into agreements with USDA authorizing state employees to provide federal meat grading and certification service.<sup>2015</sup>

## **Poultry Inspection**

The Department of Agriculture is empowered to adopt regulations related to poultry and poultry products and to assure “maximum coordination and cooperation” with federal programs.<sup>2016</sup> An important aspect of the regulatory program is the requirement that any premises where poultry is slaughtered or prepared for food purposes must be licensed by the Department.<sup>2017</sup> And, all licensed establishments are subject to mandatory inspection requirements.<sup>2018</sup>

Exempt from the licensing (and inspection) requirements under state law are any facilities subject to federal inspection.<sup>2019</sup> Also exempt are those who process poultry on their own premises for personal or family use; retail dealers or butchers who sell inspected products; and those who grow and slaughter on their own premises less than 1,000 poultry per year if sold to a hotel, restaurant, institution or other consumer for preparation in the consumer’s own kitchen and

---

<sup>2014</sup> § 918.04.

<sup>2015</sup> § 918.44.

<sup>2016</sup> § 918.25.

<sup>2017</sup> § 918.21(A).

<sup>2018</sup> § 918.22.

<sup>2019</sup> § 918.27(D).

served by him.<sup>2020</sup> Custom slaughterers who do not buy, sell or barter poultry products and those who grow and slaughter 1,000 or more but less than 20,000 poultry per year sold to hotels, institutions, restaurants, or to consumers for preparation in their own kitchens, are exempt from inspection requirements but not the licensing and sanitary requirements of the Act.<sup>2021</sup>

The Department may provide for antemortem inspections at licensed establishments and must make postmortem inspections of the carcass of each bird processed.<sup>2022</sup> These establishments are subject to sanitary requirements for the premises, facilities and equipment.<sup>2023</sup>

The Department may order quarantine, segregation, retention or reinspection of products. If they are found to be unwholesome or unfit for human food they may be condemned.<sup>2024</sup>

### **Horse Meat**

Ohio has special rules relating to the processing and sale of horse meat (defined as an animal of the equine family).<sup>2025</sup> A license is required for establishment which processes or sells horsemeat for human food.<sup>2026</sup> In addition to the inspection programs of the Meat Inspection Act, these establishments are subject to investigations by the Department and samples or specimens of any carcass, meat or meat food products may be obtained by the Department.<sup>2027</sup>

---

<sup>2020</sup> § 918.27(A)-(C), (E).

<sup>2021</sup> § 918.27.

<sup>2022</sup> § 918.22.

<sup>2023</sup> § 918.25(c).

<sup>2024</sup> § 918.22.

<sup>2025</sup> § 919.01(E).

<sup>2026</sup> § 919.02.

<sup>2027</sup> § 919.09.

All horse carcasses, horse meat or horse meat food products must be plainly labeled.<sup>2028</sup>

Horse meat sellers, including restaurants, must display signs indicating that horse meat is sold or served.<sup>2029</sup>

### **Ohio Pure Food and Drug Law**

The Director of Agriculture is vested with regulatory authority related to food and food products.<sup>2030</sup> “Food” includes articles used for food or drink for humans or animals, chewing gum, or components of these products.<sup>2031</sup> The Director may adopt definitions for food and standards for quality, identity, purity, grade and strength, packaging and labeling, food processing equipment, processing procedures and fill of containers. These standards are to conform where applicable, to those of USDA. Regulations for enforcement are to be the same as those under the federal Food, Drug and Cosmetic Act. A part of the enforcement is the inspection of food or drink manufactured, stored, or offered for sale in the state.<sup>2032</sup> A right of entry to all premises where food or drink is made, prepared, dispensed, sold or offered for sale to make inspections is granted the Director.<sup>2033</sup>

Permits may be required of manufacturers, processors or packers of foods which may be injurious to health by reason of contamination by microorganisms during manufacture, processing or packing, and if the injurious nature cannot be adequately determined after the foods

---

<sup>2028</sup> § 919.03.

<sup>2029</sup> § 919.07.

<sup>2030</sup> OHIO REV. CODE ANN. §§ 3715.02, 3715.69 (Anderson 1997 & Supp. 1998).

<sup>2031</sup> § 3715.01(A)(5).

<sup>2032</sup> § 3715.02.

<sup>2033</sup> § 3715.03.

enter commerce.<sup>2034</sup>

### **Adulteration**

The manufacture, sale, or delivery, holding or offering for sale, receipt in commerce, proffered delivery, of adulterated food as well or the adulteration of food is prohibited.<sup>2035</sup>

Adulterated food is defined consistently with the federal Act.<sup>2036</sup> A special provision related to poisonous or deleterious substances required in the production or which cannot be avoided by good manufacturing practice, allows limits to be established by regulation for such substances.<sup>2037</sup>

Specific prohibitions in the statute relate to manufacture and sale of adulterated candy,<sup>2038</sup> adulteration of maple sugar or syrup,<sup>2039</sup> and the inclusion of injurious ingredients in vinegar.<sup>2040</sup> Flavoring extracts must also meet fixed standards.<sup>2041</sup>

### **Misbranding**

Misbranding is also defined consistently with the federal law.<sup>2042</sup> Misbranding is prohibited as is the manufacture, sale, or delivery, holding or offering for sale, receipt in

---

<sup>2034</sup> § 3715.61. Any such permit program is to be adopted by the Public Health Council.

<sup>2035</sup> § 3715.52(B).

<sup>2036</sup> § 3715.59.

<sup>2037</sup> § 3715.62.

<sup>2038</sup> § 3715.23.

<sup>2039</sup> § 3715.25.

<sup>2040</sup> § 3715.34.

<sup>2041</sup> § 3715.07.

<sup>2042</sup> § 3715.60.

commerce or proffered delivery of any misbranded food.<sup>2043</sup> Special prohibitions are included related to the labeling of fruits and vegetables, maple syrup and sugar, vinegar and honey. Dealers, packers or manufacturers of preserved or canned fruits or vegetables or other articles of food are prohibited from offering these items for sale unless they are labeled.<sup>2044</sup> False labeling or selling or offering for sale cans or jars of food that are falsely labeled is also prohibited.<sup>2045</sup> Perishable foods must contain a “sale date” if it has a quality assurance period of 30 days or less.<sup>2046</sup> “Soaked” goods put up from products dried before canning must be plainly marked.<sup>2047</sup> The sale of misbranded maple products is a violation.<sup>2048</sup> Vinegar must be branded in specific ways.<sup>2049</sup> Restrictions on the representation of products as “honey” also are included.<sup>2050</sup>

## **Enforcement**

In addition to the authority to inspect food premises and to require permits in some cases, as outlined above, the Director’s enforcement authority includes the power to embargo or detain items believed to be adulterated or misbranded and seek condemnation in municipal or county court. If meat, sea food, poultry, vegetable, fruit or other perishable articles are found which are unsound, contain filthy, decomposed or putrid substances or are poisonous or deleterious to

---

<sup>2043</sup> § 3715.52(B).

<sup>2044</sup> §§ 3715.14, 3715.15.

<sup>2045</sup> § 3715.17.

<sup>2046</sup> § 3717.1.

<sup>2047</sup> §§ 3718 and .19.

<sup>2048</sup> § 3715.25.

<sup>2049</sup> § 3715.36.

<sup>2050</sup> § 3715.38.

health or otherwise unsafe, these may be condemned and destroyed immediately.<sup>2051</sup>

The Attorney General, any prosecuting attorney or city director of law may institute proceedings upon notification by the Director of violation.<sup>2052</sup> The Director may choose to issue suitable notices or warnings for minor violations rather than report them for prosecution.<sup>2053</sup>

### **Baby Food**

Special provisions apply to baby food and infant formula. No person may sell or offer for sale or deliver at retail baby food or infant formula after the expiration date, “use by” date or sale date required on the package.<sup>2054</sup> Baby food, infant formula or similar products cannot be sold or offered for sale at a flea market.<sup>2055</sup>

### **Milk and Dairy Products**

The Director of Agriculture is authorized to administer regulatory provisions related to milk and dairy products.<sup>2056</sup> A milk sanitation board is created to advise and consult with the Director on the administration and enforcement of the dairy provisions, and to make recommendations regarding proposed rules.<sup>2057</sup> The regulatory authority extends to production, storage, transportation, manufacturing, handling, processing, sampling, testing, examination and sale of dairy products. The Director may adopt, by reference, rules of the federal FDA or USDA

---

<sup>2051</sup> § 3715.55..

<sup>2052</sup> § 3715.56.

<sup>2053</sup> § 3715.57.

<sup>2054</sup> § 3715.57.

<sup>2055</sup> § 3715.52(C).

<sup>2056</sup> § 917.02.

<sup>2057</sup> §§ 917.03, 917.03.1.

where appropriate.<sup>2058</sup>

The regulatory approach is to require licenses for producers, retailers, weighers, samplers, testers and milk haulers.<sup>2059</sup> Examinations must be passed before issuance of a weigher, sampler or tester license.<sup>2060</sup>

### **Inspections**

The Director is authorized to conduct inspections of milk plant facilities and equipment, vehicles and containers used by milk haulers, and dairy farmers.<sup>2061</sup>

### **Prohibitions**

The manufacture, sale, delivery, holding or offering for sale of a dairy product that is adulterated or misbranded, as defined in the Food and Drug Act, is prohibited.<sup>2062</sup> Proper labeling is required.<sup>2063</sup> Representation of an imitation to be a dairy product is likewise a violation.<sup>2064</sup> Raw milk must be specifically labeled and can only be sold by certain raw milk retailers.<sup>2065</sup> Frozen desserts can only be manufactured from pasteurized ingredients.<sup>2066</sup>

---

<sup>2058</sup> §§ 917.02.

<sup>2059</sup> § 917.09.

<sup>2060</sup> §§ 917.08, 917.09(G).

<sup>2061</sup> § 917.19.

<sup>2062</sup> § 917.05(F) referring to §§ 3715.59, 3715.60.

<sup>2063</sup> § 917.05(E) (referring to federal law), and § 917.11.

<sup>2064</sup> § 917.05(A).

<sup>2065</sup> § 917.04.

<sup>2066</sup> § 917.10.

## Enforcement

In addition to the inspection authority mentioned above the Director may seek injunctive relief in court to restrain violations of the Act or the regulations adopted under it.<sup>2067</sup> License denial, suspension or revocation may also be sought, following notice and an opportunity for hearing.<sup>2068</sup> Violations may be prosecuted as misdemeanors (or in some cases, felonies).<sup>2069</sup>

## Eggs

The Director of Agriculture regulates the production, processing and sale of shell eggs.<sup>2070</sup> Standards, grades and weight classes of USDA are adopted for shell eggs sold, offered for sale or advertised in the state.<sup>2071</sup> Producers who sell shell eggs produced by their own hens on their own premises, or who sell eggs directly to hatcheries, are exempt from the provisions of the Act.<sup>2072</sup>

The Director is authorized to inspect any premises where shell eggs are produced, processed, stored, sold, offered for sale or exposed for sale.<sup>2073</sup> Eggs are to be maintained at specified temperatures<sup>2074</sup> and specific labeling of containers is required.<sup>2075</sup>

---

<sup>2067</sup> § 917.21.

<sup>2068</sup> § 917.22.

<sup>2069</sup> § 917.99.

<sup>2070</sup> § 925.05, 925.06.

<sup>2071</sup> §§ 925.02, 925.02.4.

<sup>2072</sup> § 917.10.

<sup>2073</sup> § 917.07.

<sup>2074</sup> § 917.03.

<sup>2075</sup> § 917.02.1.

## **Food Handlers and Processors**

In addition to the general sanitary regulations under the Food and Drug Law, the Meat Inspection Program or the milk, dairy products or egg regulations, the Director of Agriculture has regulatory authority regarding a number of specific entities which either handle or process food.

## **Bakeries**

Bakeries which only serve bakery products on its premises are regulated under special provisions. Food service operations which prepare and serve bakery products may be separately regulated. The law requires regulation of all bakeries, even those classified as “home bakeries” with only one oven.<sup>2076</sup>

All bakery products and their ingredients must be stored, handled, transported and kept in a sanitary manner.<sup>2077</sup> The premises, equipment, and containers must be kept in sanitary condition.<sup>2078</sup> Employees are subject to physical exams.<sup>2079</sup>

All bread must meet specified weight requirements and must be properly labeled.<sup>2080</sup> Flour must meet specified vitamin and mineral content requirement and this must be reflected in any white bread or rolls.<sup>2081</sup>

---

<sup>2076</sup> §§ 911.01, 911.01.1, 911.02.

<sup>2077</sup> § 911.07.

<sup>2078</sup> §§ 911.09, 911.10.

<sup>2079</sup> § 911.11.

<sup>2080</sup> § 911.18.

<sup>2081</sup> §§ 911.31-911.35.

## **Canneries**

A license is required to operate a cannery.<sup>2082</sup> Regulations of FDA or USDA, as appropriate, will be applicable to canneries in the state.<sup>2083</sup> Inspection of canneries is specifically authorized.<sup>2084</sup>

## **Cold Storage Facilities**

Cold storage warehouses are required to be licensed.<sup>2085</sup> These facilities are prohibited from keeping diseased, tainted or unwholesome food<sup>2086</sup> and meat, poultry, eggs, or butter kept for more than one year cannot be sold.<sup>2087</sup>

Individual locker plants are also required to be licensed.<sup>2088</sup> Inspections of such facilities before licensing is mandatory.<sup>2089</sup>

## **Food Service Operations**

Food service operations, where food intended to be served in individual portions is prepared or served for a charge, are regulated under authority of the Public Health Council.<sup>2090</sup>

---

<sup>2082</sup> § 913.02.

<sup>2083</sup> § 913.04.

<sup>2084</sup> § 913.05

<sup>2085</sup> § 915.02.

<sup>2086</sup> § 915.07.

<sup>2087</sup> § 915.06.

<sup>2088</sup> § 915.15.

<sup>2089</sup> § 915.17.

<sup>2090</sup> §§ 3732.01, 3732.02.

These operations must be licensed<sup>2091</sup> and are subject to inspections to prevent outbreaks of food borne diseases as well as standard periodic inspections.<sup>2092</sup>

### **Retail Frozen Dessert Freezers**

The Department of Agriculture regulates through a licensing requirement businesses operating retail frozen dessert freezers operated for the purpose of freezing, refreezing, or holding any frozen dessert to be sold at retail.<sup>2093</sup>

### **Soft Drink Bottles**

The Director of Agriculture regulates the manufacturing and bottling of soft drinks (nonalcoholic flavored carbonated beverages, soda, soda water, or fruitade, nonalcoholic flavored still beverages, artificial waters whether carbonated or not, and bottled table waters, seltzer, or club soda).<sup>2094</sup> Licenses are required for manufacture or bottling of soft drinks in closed containers.<sup>2095</sup> Inspections of the products at the place of business prior to the issuance of the license is required.<sup>2096</sup> The law specifies ingredient requirements for soft drinks,<sup>2097</sup> and proper labeling is mandated.<sup>2098</sup> Adulteration is prohibited.<sup>2099</sup>

---

<sup>2091</sup> § 3732.03.

<sup>2092</sup> § 3732.08.

<sup>2093</sup> § 3715.21.

<sup>2094</sup> §§ 913.22, 913.28.

<sup>2095</sup> § 913.23.

<sup>2096</sup> § 913.23(B).

<sup>2097</sup> § 913.24.

<sup>2098</sup> § 913.25.

<sup>2099</sup> § 913.26.

## **General Sanitary Requirements**

In addition to any specific requirements outlined for the various food handling and processing entities, Ohio includes a general requirement for all food processing establishments. Under this provision, the Director of Agriculture may notify any such establishment that it is to be placed in clean and sanitary condition. Failure to do so in a timely manner is a violation.<sup>2100</sup>

---

<sup>2100</sup> §§ 913.41, 913.42.