

**FOOD SAFETY**  
**State and Federal Standards and Regulations**

***Pennsylvania***

**1999**

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## PENNSYLVANIA

### The Food Act

Pennsylvania uses the Food Act to protect its citizenry from adulterated, misbranded or deleterious foods.<sup>2250</sup>

### Definitions

“Food” includes (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.

“Color additive” means a material that: (1) 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 source; and (2) when added or applied to a food is capable, alone or through reaction with another substance, of imparting color.

“Department” means the Department of Agriculture of the Commonwealth of Pennsylvania.

“Imitation food” means a food that is a substitute for and resembles another food but is nutritionally inferior to that food.

“Package” means any container or wrapping in which food is enclosed for delivery or display to retail purchasers.

“Potentially hazardous food” means a food consisting in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea or other ingredients, and which is in a form capable of supporting rapid and progressive growth of infectious or toxicogenic

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<sup>2250</sup> 31 PA. CONS. STAT. ANN. § 20.1 *et seq.* (1997).

microorganisms.

“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 prior to marketing.

“Label” means a display of written, printed, or graphic matter upon the immediate container of any article. The term “immediate container” does not include package liners.

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

The term “Federal Acts” refers to the Federal Food, Drug and Cosmetic Act (Title 21, U.S.C. 301 et seq.; 52 Stat. 1040 et. seq.); the Wholesome Meat Act (Public Law 90-201, 21 U.S.C. § 601 et seq.); the Poultry Products Inspection Act (Public Law 85-172, 21 U.S.C. § 451 et seq.); the Fair Packaging and Labeling Act (Public Law 89-755, 15 U.S.C. § 1451 et seq.); the Federal Insecticide, Fungicide, and Rodenticide Act (61 Stat. 163, 7 U.S.C. § 136 et seq.); and the Nutritional Labeling and Education Act of 1990 (Public Law 101-535, 104 Stat. 2353).<sup>2251</sup>

### **Prohibited Acts**

The following acts are prohibited:

- (1) manufacture, sale, or delivery any food that is adulterated or misbranded except where a person in good faith delivers or offers to deliver the food and furnishes shipping documents to the secretary;
- (2) adulteration or misbranding of any food;
- (3) knowingly receiving in commerce any food which is adulterated or misbranded;

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<sup>2251</sup> § 20.2.

- (4) refusal to permit during normal business hours entry to, inspection of or taking of a sample or access to or copying of any record at a food establishment;
- (5) removal or disposal of a detained or embargoed food article;
- (6) alteration, mutilation, destruction, obliteration or removal of the whole or any part of the labeling of a food or the doing of any other act with respect to a food, if the act is done while the food is held for sale and results in the food being adulterated or misbranded;
- (7) forging, counterfeiting, simulation, falsely representing or using without proper authority any mark, stamp, tag, label or other identification device authorized or required under the act;
- (8) holding of any potentially hazardous food at unsafe temperatures; or
- (9) use of wording which incorrectly indicates or implies that a label or product has received approval of the department.<sup>2252</sup>

### **Penalties**

A person who violates any provision of the Food Act commits a summary offense. Third and subsequent offenses represent commission of a third degree misdemeanor. Civil penalties of up to \$10,000 for each offense may also be imposed for violations of the Act.<sup>2253</sup>

### **Detention and Condemnation**

Whenever the secretary has probable cause to believe that food is adulterated or misbranded, he shall affix to the container or wrapping a tag or other marking. The tag or

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<sup>2252</sup> § 20.3.

<sup>2253</sup> § 20.5.

marking shall give notice that: (1) the food may be adulterated or misbranded and shall be detained; and (2) it is unlawful to remove the food from the food establishment or to dispose of it without approval of the secretary.<sup>2254</sup>

### **Adulteration of Food**

Food is deemed adulterated:

- (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 if the quantity of such substance in the food does not ordinarily render it injurious to health;
- (2) if it bears or contains any added poisonous or added deleterious substance which is unsafe;
- (3) if it is a raw agricultural commodity and bears or contains a pesticide chemical which is unsafe;
- (4) if it bears or contains any food or color additive which is unsafe;
- (5) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food;
- (6) 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 injurious to health;
- (7) if it is in whole or in part the product of a diseased animal or of an animal which has died otherwise than by slaughter;

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<sup>2254</sup> § 20.6.

- (8) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;
- (9) if during the course of its processing, it has been subjected to radiation; or
- (10) if it bears or contains eggs processed by or egg products derived from a manufacturing, processing or preparing method wherein whole eggs are broken using a centrifuge-type egg breaking machine that separates the eggs liquid interior from the shell.<sup>2255</sup>

### **Misbranding of Food**

A food is deemed misbranded:

- (1) if its labeling is false or misleading in any particular;
- (2) if it is offered for sale under the name of another food;
- (3) if it is an imitation of another food, unless its label bears, in prominent type of uniform size, the word “imitation” and immediately thereafter the name of the food imitated;
- (4) if its container is so made, formed, or filled as to be misleading;
- (5) if in package form, unless it bears a label containing:
  - (i) the name and place of business of the manufacturer, packer, or distributor;  
and
  - (ii) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count;
- (6) if it purports to be or is represented as a food for which a definition and standard

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<sup>2255</sup> § 20.8.

of identity has been prescribed by federal regulations, unless it conforms to such definition and standard; and its label bears the name of the food specified in the definition and standard, and, in so far as may be required by regulation, the common names of optional ingredients, other than spices, flavoring, and coloring present in such food;

- (7) if it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as necessary in order to fully inform purchasers as to its value for such uses;
- (8) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, that to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations;
- (9) if it is a raw agricultural commodity bearing or containing a pesticide chemical applied after harvest;
- (10) if it is a color additive, unless its packaging and labeling are in conformity with requirements; or
- (11) if, at the site of purchase of the particular food, a sign, placard or other graphic matter relating to the food is false or misleading in any manner.<sup>2256</sup>

### **Poisonous or deleterious substance**

Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall

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<sup>2256</sup> § 20.9.

be deemed to be unsafe.<sup>2257</sup>

### **Inspection**

The secretary is authorized to enter any factory, warehouse or food establishment at reasonable times, and to inspect within reasonable limits all pertinent materials, containers and labeling and to obtain samples necessary to administer the Act. The secretary must prepare written reports of each inspection, provide receipts for samples taken, and pay fair market value of the samples.<sup>2258</sup>

### **Eggs**

It is unlawful to conduct any business of opening eggs and separating the egg content from the shell and using or disposing of the content for any purpose without first applying for and securing a license from the Department of Agriculture. Opening eggs unfit for food purposes is not permitted in any building or premises where the opening of eggs for food purposes is carried on. No eggs unfit for food may be offered for sale unless they have first been denatured to render unfit of use in the preparation of food products. The Department of Agriculture has full access to all palaces of business where eggs are kept, stored, shipped, transported, or handled. Violators are subject to penalty.<sup>2259</sup>

Eggs regulated include those that are wholly or partly decayed or decomposed; eggs in the fluid state, any portion of which are wholly or partly decayed or decomposed; or that are mixed

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<sup>2257</sup> § 20.11.

<sup>2258</sup> § 20.12.

<sup>2259</sup> § 294a.

with parts of eggs that are derived from eggs that are wholly or partly decayed or decomposed.<sup>2260</sup>

Pennsylvania requires by statute that eggs be refrigerated at a temperature under 55 degrees Fahrenheit within 24 hours of being laid. After washing and packing, eggs must be maintained at an ambient temperature not exceeding 45 degrees Fahrenheit.<sup>2261</sup>

It is unlawful to sell incubated or incubator reject eggs.<sup>2262</sup> Anyone violating the egg statutes is subject to criminal and civil penalties.<sup>2263</sup>

The Department of Agriculture administers and enforces egg statutes. It may inspect food processors, distributors, retail food stores and other food establishments. It may impose civil penalties and conduct hearings.<sup>2264</sup>

### **Pennsylvania Meat and Poultry Hygiene Law of 1968**

“Wholesome” meat means sound, healthful, clean and otherwise fit for human food.

“Unwholesome” meat means unsound, diseased, unclean, injurious to health or otherwise unfit for human food.<sup>2265</sup>

No one other than a producer who slaughters and sells exclusively at retail may operate a slaughtering establishment without first securing a license from the Secretary of Agriculture.<sup>2266</sup>

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<sup>2260</sup> § 295.

<sup>2261</sup> § 300.3.

<sup>2262</sup> § 296.

<sup>2263</sup> §§ 300.5, 300.6.

<sup>2264</sup> § 300.9.

<sup>2265</sup> § 483.2(11)-(12).

<sup>2266</sup> § 483.4.

Establishments are subject to inspection by municipal, state, and federal inspectors.<sup>2267</sup>

Each establishment where livestock or poultry are slaughtered shall be inspected to insure it is operated in accordance with sanitary practices required by rules and regulations prescribed by the secretary. Any establishment found operating in an unclean or insanitary condition may be required to come into compliance with sanitary regulations or may be closed and have license suspended or revoked.<sup>2268</sup>

The department shall conduct ante mortem inspections of all animals and poultry to the extent it determines necessary.<sup>2269</sup> The secretary shall provide post-mortem inspection of all animals or poultry for human food in any establishment in Pennsylvania.<sup>2270</sup>

The secretary is authorized to prohibit the entrance into channels of trade of any meat or poultry products found to be unwholesome, improperly labeled, or otherwise not in accordance with the Act, rules or regulations. Seized and confiscated meat and poultry products shall be condemned, unless such products can be made to conform with the act.<sup>2271</sup>

All shipping containers of meat found to be wholesome and not adulterated must bear the official inspection mark of the establishment in which the contents were processed.<sup>2272</sup>

Violations of the Act are subject to monetary fines or imprisonment or both.<sup>2273</sup>

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<sup>2267</sup> §§ 483.5, 483.6.

<sup>2268</sup> § 483.8.

<sup>2269</sup> § 483.9.

<sup>2270</sup> § 483.10.

<sup>2271</sup> § 483.15.

<sup>2272</sup> § 483.16.

<sup>2273</sup> § 483.19.

No seller shall sell to any institution owned or operated by the Commonwealth of Pennsylvania any meat or poultry product which has not been inspected by the Federal Inspection Service or a municipality or the Commonwealth of Pennsylvania which has an inspection program consistent with and containing authorities comparable to such Federal Inspection Service.<sup>2274</sup> Sellers in violation are subject to imprisonment or monetary fine.<sup>2275</sup>

It is unlawful to kill, slaughter, dress, or prepare for human food, any animal suspected or known to be affected with a transmissible disease.<sup>2276</sup> It is unlawful to handle, skin, butcher, cut up, dress or prepare for the making of fertilizers, animal feeding, or other uses, any animal, or the meat or other parts of an animal, that died from natural causes, disease, or accident, in any room of an establishment where animals are slaughtered, dressed, and prepared for human food.<sup>2277</sup>

### **Milk**

It is unlawful for any eating place to serve pasteurized milk, homogenized milk, chocolate milk, skimmed milk, or fluid derivatives of milk, which is not in its original container, except that it may be served in individual portions from automatic dispensing machines.<sup>2278</sup> It is also unlawful to furnish any milk diluted with water or otherwise adulterated to any butter or cheese manufactory.<sup>2279</sup>

The secretary is authorized to conduct inspection of dairy farms and may revoke permits

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<sup>2274</sup> § 491.3.

<sup>2275</sup> § 491.4.

<sup>2276</sup> § 501.

<sup>2277</sup> § 502.

<sup>2278</sup> § 520-5.

<sup>2279</sup> § 526.

for violations found during such inspections.<sup>2280</sup> Cows producing raw milk shall be fed, watered, housed, and cared for in such a manner that the milk will be clean and free from disease-producing organisms. The milking process must be carried on in a cleanly manner. The milk shall be promptly cooled. The milk containers, utensils, and equipment shall be of such material and so constructed that they may be readily cleaned.<sup>2281</sup> The Department of Agriculture is charged with enforcing milk statutes.<sup>2282</sup> Persons violating milk statutes are, upon conviction, guilty of a summary offense.<sup>2283</sup>

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<sup>2280</sup> § 650.

<sup>2281</sup> § 652.

<sup>2282</sup> § 520-7.

<sup>2283</sup> § 520-8.