

FOOD SAFETY
State and Federal Standards and Regulations

Puerto Rico

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PUERTO RICO

The food safety programs in Puerto Rico are administered by both the Department of Health and the Department of Agriculture.

Food, Drug and Cosmetic Act

Puerto Rico's Food, Drug and Cosmetic Act (Food Act) is under the direction of the Secretary of Health of the Department of Health. Under the Act, the Secretary, in the interests of promoting honesty and fair dealing, has the authority to establish for foods: definitions and standards of identity, quality and/or fill of containers. The established definitions and standards are to conform to those promulgated under the Federal Food, Drug and Cosmetic Act.²²⁸⁴ As a result, "food" covers all articles that can be used for food or drink by humans or animals, chewing gum and all articles that are components of food or chewing gum. "Federal Act" means the Federal Food, Drug and Cosmetic Act.²²⁸⁵

Adulteration

The adulteration of any food is prohibited, as is the manufacture, sale, delivery or receipt in commerce of any food that is adulterated.²²⁸⁶ Adulterated is defined in a manner that is consistent with the Federal Act. Specific reference to a confectionery sets requirements for alcohol, nonnutritive substances and coal-tar color in the product.²²⁸⁷

²²⁸⁴ P.R. LAWS ANN. tit. 24 § 719 (1980).

²²⁸⁵ § 712.

²²⁸⁶ § 713.

²²⁸⁷ § 720.

Misbranding

Likewise, the misbranding of any food is prohibited. Misbranding also covers the manufacture, sale, delivery and receipt in commerce of any food that is misbranded as well as the destruction, mutilation, or otherwise damaging of a label of a food held for sale and results in it becoming misbranded.²²⁸⁸ A food is deemed to be misbranded under the same conditions as under the Federal Act. One additional requirement is that misbranding can occur if a food contains an artificially aromatic substance which is added for flavoring, coloring, or chemical preservatives, and the label does not state the fact.²²⁸⁹

Permits

In order to protect the public health, the Secretary can institute a permit requirement for any manufacturer, processor or packer when it is determined that food may become contaminated, during manufacturing, packing or processing, with micro-organisms that are injurious to health. Violators of permit conditions will have their permit suspended, and reinstatement requires a reinspection of the facility to ensure compliance.²²⁹⁰

Furthermore, if any poisonous or deleterious substance is added to the food, the food shall be declared unsafe and be deemed to be adulterated. However, the Secretary can designate certain tolerance levels for such substances when the substance is required in the production or cannot be avoided under good manufacturing practice. In making this designation, the Secretary must consider the extent the substance is required, cannot be avoided and the effects on the

²²⁸⁸ § 713.

²²⁸⁹ § 721.

²²⁹⁰ § 722.

consumer.²²⁹¹

False Advertising

The placing or dissemination of any false advertisement is prohibited.²²⁹² Under the Act, if any aspect of the advertisement is false or misleading, the advertisement is false.²²⁹³

Enforcement

Inspection is the primary enforcement tool for preventing unwholesome food entering commerce used by the Secretary. In all cases, the Secretary or authorized agents have free access during reasonable hours to inspect and secure samples of any food in any factory, warehouse, establishment or vehicle in order to determine if any food is being held, processed or packaged in violation of the Act.²²⁹⁴

Whenever food is believed to be adulterated or mislabeled so as to be dangerous to the public health, an authorized inspector can tag the article to give a warning that the food has been detained or embargoed. Such food cannot be removed without permission of the inspector or the court. If the food is not adulterated or misbranded, then the embargo is lifted and the tag removed. On the other hand, if found to be adulterated or misbranded, the article shall be destroyed, after entry of the decree. All expenses are to be borne by the manufacturer or merchant. However, if the adulteration or misbranding can be corrected by proper processing or labeling, the owner, upon posting a bond and under supervision of the inspector, can have the

²²⁹¹ § 723.

²²⁹² § 713.

²²⁹³ § 729.

²²⁹⁴ § 731.

articles returned for correction. Again, all expenses are paid by the owner.

In the case where spoiled meats, poultry, vegetables or fruits which are unsound, containing filthy, putrid substances or may be poisonous, deleterious or unsafe are found by the Secretary or agents of the Secretary, the food shall be declared a nuisance and shall be condemned, destroyed or otherwise rendered unfit for human consumption.²²⁹⁵

Also, the Secretary can restrain any violator of the prohibited acts -- § 713 -- by applying to the Superior Court for either a temporary or permanent injunction. This remedy exists whether or not an adequate remedy at law is available.²²⁹⁶ Before filing a complaint, the Secretary is required to provide notice and a hearing.²²⁹⁷ In the case of minor violations, the Secretary can issue a written notice or warning.²²⁹⁸ On the other hand, a violator of one of the prohibited acts is guilty of a misdemeanor and can receive both imprisonment and a fine.²²⁹⁹

Exceptions

No person is subject to a violation of a prohibited act if that person can establish that the food was received in good faith as not being adulterated or misbranded and evidenced by a guaranty signed by the Puerto Rico provider complete with name and address. Also, the media is not in violation for disseminating false advertisements if the medium provides the Secretary with the name and postal address of the manufacturer, packer, distributor, seller or advertising agency,

²²⁹⁵ § 716.

²²⁹⁶ § 714.

²²⁹⁷ § 717.

²²⁹⁸ § 718.

²²⁹⁹ § 715.

residing in Puerto Rico who furnished the advertisement.²³⁰⁰

Meat and Meat Products

Fresh meat

Under the Food Act, in rural zones of Puerto Rico, slaughterhouses are to be regulated as simple as possible by the Secretary.²³⁰¹ In these rural zones, because of the limited number of inspectors available, the ante and postmortem inspection of cattle slaughtered in the slaughterhouses and the resultant meat will be performed by a practicing rural teacher or other governmental official. However, in all cases, adequate preservation means must be available.²³⁰² Additionally, municipal governments are authorized to regulate the sale of fresh meats by public auctions, administration, or free slaughter.²³⁰³

Wholesome meat

Under the Wholesome Meat Act, the regulation of meats in intrastate commerce to prevent its adulteration is accomplished by giving the Secretary of Health authority to inspect every animal before it enters a slaughtering, packing, canning, fat and by-products processing establishment.²³⁰⁴ Post mortem inspections of the slaughtered animals are also directed by the Secretary with the meats being marked, sealed and identified by a tag or label as either “P.R. Inspected and Approved” or “P.R. Inspected and Seized.” The latter meats are destroyed in the

²³⁰⁰ *Id.*

²³⁰¹ § 762.

²³⁰² § 764

²³⁰³ §§ 765-768.

²³⁰⁴ § 771b.

presence of the inspector, unless passed upon reinspection.²³⁰⁵

Sanitary requirements

Furthermore, the Act provides that all the establishments detailed above must also meet certain sanitary standards promulgated by the Secretary. Any sanitary conditions that may cause the meat to be adulterated will result in the meat failing to pass inspection.²³⁰⁶ Adulteration of meat is defined in the same way as adulterated food and consistent with the Federal Act.²³⁰⁷ Unlike food, however, the inspection of animals or meat and meat products for intrastate commerce can be inspected day or night—not just during reasonable hours.²³⁰⁸

Exceptions

Inspection of the slaughter and preparation of meat and meat products does not apply in cases: where the animal is slaughtered and prepared by a person who raised the animal and its use is for the person, his household and nonpaying guests; or where the animal is custom slaughtered and prepared for the owner, his household and nonpaying guests; where such activities are normally preformed in retail stores and restaurants and sold in amounts directly to the consumer. However, the slaughter and preparation must still comply with established sanitary standards.²³⁰⁹

Enforcement

When such meat or meat food product is found to be unfit for human consumption or

²³⁰⁵ § 771c.

²³⁰⁶ § 771g.

²³⁰⁷ § 771a(k).

²³⁰⁸ § 771h.

²³⁰⁹ § 771o.

mislabeled, it will be tagged, giving warning that it has been seized, and it cannot be moved without permission of the Secretary or the courts. If found to be unfit for human consumption, it shall be destroyed. If mislabeled or the problem can be corrected through processing, the product can be returned, upon posting of bond. The owner is responsible for all associated expenses.²³¹⁰

Also, certain persons are required to maintain records that will disclose the transactions of the business. These records must be available for inspection, upon notice and during reasonable times, to the Secretary or authorized agents. These persons include those engaged in intrastate commerce who: slaughter animals, prepare, refrigerate, package, or label meats for human or animal food; buy or sell as meat brokers or transport or store meat; process fats and by-products or buy, sell, or transport dead, dying, diseased or disabled animals or animals which died other than by slaughter.²³¹¹

Violators of any provision of the Wholesome Meat Act can be subject to both fines and imprisonment.²³¹²

Marketing of Meat Act

As noted earlier, the Secretary of Agriculture of Puerto Rico shares in some of the responsibility for food safety. Under this Act, the Secretary is empowered to: establish regulations governing the meat markets to include truthful and fair marketing of meats as well as the temperature requirements for meats; inspect all meat introduced or marketed within the

²³¹⁰ § 771i.

²³¹¹ § 772a.

²³¹² § 774e.

Commonwealth; and establish a licensing program for marketers.²³¹³

Furthermore, the Secretary is responsible for establishing the guidelines for the origin, quality or condition of all meat to be marketed. This is accomplished through a labeling requirement which must designate the origin of the meat in a conspicuous manner. Meat labeled as Puerto Rican meat, but which is from the United States or other foreign country, is prohibited.²³¹⁴ Also, any labeling that causes confusion as to origin, quality or conditions of the meat is prohibited.²³¹⁵

Anyone violating the marketing provisions can have their license suspended or canceled. Non-compliance meats can be detained. Conviction will result in a fine, and the meat sold at public auction, destroyed or rendered unusable as human food.²³¹⁶

Poultry and Poultry Products

Puerto Rico's Wholesome Poultry and Poultry Products for Human Consumption Act²³¹⁷ mimics the provisions found in the Wholesome Meat Act. Thus, those provisions will not be duplicated. However, an exemption exists for poultry slaughtered for religious purposes which was not included in the Meat Act.²³¹⁸

Milk and Milk Products

As is the case with meats, the Secretaries of Health and Agriculture share responsibilities

²³¹³ tit. 10, § 241d (1997).

²³¹⁴ § 241b.

²³¹⁵ § 241c.

²³¹⁶ §§ 241g-241i.

²³¹⁷ tit. 24, §§ 741-758.

²³¹⁸ § 752(a)(3).

for ensuring the safety of milk and milk products. The Secretary of Health is authorized to establish the standard grade of milk;²³¹⁹ prevent the adulteration of milk;²³²⁰ and license and regulate the sale of powdered milk.²³²¹

On the other hand, the Milk Industry Regulation Administrator under the direction of the Secretary of Agriculture is responsible for investigating and regulating the production, processing, sterilization, manufacture, storage, purchase and sale, transportation and distribution of milk and milk products.²³²² This is accomplished through imposing record-keeping requirements on employers in the milk industry,²³²³ requiring licenses for producers, processors and sterilizers of milk and milk products,²³²⁴ and preventing or punishing violations through the refusing, suspending or revoking of licenses and through the issuing of orders to cease and desist.²³²⁵

Eggs

The Department of Agriculture is responsible for administering the safety provisions for eggs. Under the provisions, individual eggs sold in the markets must be marked to identify their origin. However, this requirement does not apply to eggs produced in Puerto Rico and packed in one-dozen containers or other suitable containers or eggs produced at home—not on farms—and

²³¹⁹ § 792.

²³²⁰ § 791.

²³²¹ §§ 796-801.

²³²² tit. 5, §§ 1093, 1096 (1997).

²³²³ § 1097.

²³²⁴ § 1101.

²³²⁵ §§ 1102, 1104.

sold directly to consumers.²³²⁶ Any alteration of the label or lack of required label is prohibited.²³²⁷ Eggs in their shell found to be in violation will be detained by the Secretary and violators shall be fined.²³²⁸

Other provisions

Puerto Rico also has provisions regarding coffee²³²⁹ and flour.²³³⁰

²³²⁶ tit. 10, §§ 242-242a.

²³²⁷ §§ 242b-242c.

²³²⁸ §§ 242d, 242f.

²³²⁹ tit. 24, §§ 821-827.

²³³⁰ §§ 851-858.