

FOOD SAFETY
State and Federal Standards and Regulations

South Carolina

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 15th 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

SOUTH CAROLINA

South Carolina regulates food quality through the South Carolina Food and Cosmetic Act,²³⁶⁸ The Food and Cosmetic Act is enforced by the Commissioner of Agriculture of South Carolina. The Department of Agriculture also enforces and regulates the other types of food quality, while working in coordination with the department of health and environmental control to establish and enforce sanitary regulations for ice cream and other frozen desserts,²³⁶⁹ and other issues relating to milk or milk products.²³⁷⁰ The sale, grading, and inspection of livestock is administered by the state livestock-poultry commission.

Food and Cosmetic Act

Under the South Carolina Food and Cosmetic Act, the Commissioner of Agriculture of South Carolina may adopt rules for enforcement of the Act, and may adopt the regulations adopted under the federal act and the Fair Packaging and Labeling Act. A "food" includes articles used for food or drink for man or other animals; chewing gum; and articles used for components of these articles.²³⁷¹

Inspection

The department or its agents have free access at all reasonable hours to any factory, warehouse, or establishment in which food is manufactured, processed, packed, or held for introduction into commerce or to any vehicle used to transport such food for the purpose of

²³⁶⁸ S.C. CODE ANN. § 39-25-10 *et seq.* (Law Co-op. 1985).

²³⁶⁹ § 39-37-120.

²³⁷⁰ 39-33-50.

²³⁷¹ § 39-25-20(c).

inspecting the factory, warehouse, or establishment for violations and for securing samples of any food. If there are any improprieties, the agent shall provide the owner of the facility with a report of any improper conditions or practices, and shall forward the report to the commissioner.²³⁷²

Adulteration

The Act defines adulteration in a manner consistent with federal regulations.²³⁷³ The Act prohibits the adulteration of food, as well as the sale or delivery, or holding or offering for sale, or receipt in commerce of adulterated food.²³⁷⁴

Misbranding

The Act defines misbranding in a manner consistent with federal regulations.²³⁷⁵ The Act prohibits misbranding food, as well as manufacturing, selling, delivering, or holding or offering misbranded food for sale or receiving misbranded food into commerce.²³⁷⁶ The commissioner can exempt any food from the labeling requirement if it was labeled or repacked at establishments other than where it was originally processed or packed, if it was not adulterated or misbranded.²³⁷⁷

Enforcement

An agent of the department has authority to detain or embargo the sale of any article of

²³⁷² § 39-25-190.

²³⁷³ § 39-25-100.

²³⁷⁴ § 39-25-30.

²³⁷⁵ § 39-25-110.

²³⁷⁶ § 39-25-30.

²³⁷⁷ § 39-25-120.

food that is found to be adulterated or misbranded. The agent is to tag or otherwise mark the article so that it cannot be removed or disposed of until a court proceeding determines that it is, in fact, a violation of the Act. If it is, the article must be destroyed at the expense of the owner unless proper processing would correct the adulteration or misbranding. In such cases, the article may be released if the owner posts bond and pays all costs and expenses.²³⁷⁸

If meat, seafood, poultry, vegetables, fruit, or other perishable articles are found to contain any filthy, putrid, or decomposed substance or are censored or that may be poisonous or deleterious to health or otherwise unsafe, the department or its agent is authorized to destroy the article or make it unsaleable as human food.²³⁷⁹

Violators of the Act are guilty of a misdemeanor.²³⁸⁰ If the violations are minor, the department may give a suitable notice or warning rather than report the matter for institution of court proceedings.²³⁸¹ The inspection provisions also serve as enforcement mechanisms of the Act.²³⁸²

Flour and Bread

The statute requires white flour or self-rising wheat flour made for human consumption to be enriched with specified vitamins and minerals.²³⁸³ All enriched flour or bread must be labeled

²³⁷⁸ § 39-25-60.

²³⁷⁹ *Id.*

²³⁸⁰ § 39-25-50.

²³⁸¹ § 39-25-80.

²³⁸² *See e.g.*, § 39-25-190.

²³⁸³ § 39-27-10.

as such in accordance with federal regulations.²³⁸⁴

Corn Meal and Grits

The statute requires corn meal and grits to be enriched with specific amounts of vitamin B-1, riboflavin, niacin or niacin amide, iron, and, optionally, vitamin D and calcium.²³⁸⁵ Any corn meal or grits used in a compound food product must be so enriched.²³⁸⁶ The type and amount of enrichment must be labeled.²³⁸⁷

The commissioner has free access to business premises and vehicles for inspections, and can seize nonconforming corn meal or corn grits.²³⁸⁸

Rice

The statute requires rice or bulk rice to be enriched with specific amounts of vitamin B-1, niacin or niacin amide, iron, and, optionally, calcium, and riboflavin.²³⁸⁹ The rice packages must be labeled with the amounts of enriched vitamins, and must contain specific cooking instructions.²³⁹⁰

The commissioner may seize nonconforming rice.²³⁹¹ He has free access to business

²³⁸⁴ § 39-27-50.

²³⁸⁵ § 39-29-20.

²³⁸⁶ § 39-29-30.

²³⁸⁷ § 39-29-80.

²³⁸⁸ § 39-29-60, -70.

²³⁸⁹ § 39-31-20 to 40.

²³⁹⁰ § 39-31-60, -100.

²³⁹¹ § 39-31-80.

premises or vehicles to enforce the provisions of the statutes.²³⁹²

Milk and Milk Products Marketing

These statutory provisions establish the state dairy commission, and provide the terms of membership, organization, and operating budget for the commission. The commission is to establish, supervise, and regulate a uniform classified milk purchasing plan and a statewide distribution plan to dispose of all milk from producers and encourage year round production and an adequate supply of milk.²³⁹³ The commission is to establish and fix minimum prices paid by distributors to producers for various classes of milk, and may adopt a formula which incorporates economic and price alignment factors. The commission shall hold public hearings for amendments to the formula.²³⁹⁴ The commission also may hold investigational hearings, and as such, may issue subpoenas, take depositions, and grant immunity from prosecution.²³⁹⁵

All distributors of milk must obtain a license²³⁹⁶ (stores are de facto licensed), and all licensees must keep records pertaining to the acquisition, processing, marketing, and sale of milk, and must file reports with the commission as required. Records must be kept for three years. The commission has access to all books and records, and has right of entry for inspection, audit, or copying of records.²³⁹⁷ The provisions cover all grade A milk, whether raw, reconstituted, evaporated, or condensed, and all milk products, whether pasteurized, homogenized, flavored,

²³⁹² § 39-31-90.

²³⁹³ § 39-33-30, -40.

²³⁹⁴ § 39-33-60.

²³⁹⁵ § 39-33-70.

²³⁹⁶ § 39-33-90.

²³⁹⁷ § 39-33-80.

skim, lowfat, buttermilk, or cultured.²³⁹⁸

It is unlawful to overread, underread, or otherwise manipulate the Babcock test for the amount of butterfat in milk, cream, or dairy products.²³⁹⁹ Each plant, creamery, shipping station, or factory shall employ a licensed tester to operate the Babcock.²⁴⁰⁰ Milk haulers cannot manipulate weights or samples.²⁴⁰¹ Receivers or buyers of milk shall provide the equipment to accurately weigh samples and determine the amount of butterfat of samples, and every milk plant, creamery, shipping station or factory shall employ one weighman and sampler who is responsible for accurate weights and representative samples on the basis of weight and butterfat content.²⁴⁰² Temporary permits are available.²⁴⁰³

It is unlawful to place offensive material in milk containers, and unlawful to traffic in any milk or cream can belonging to any dealer or shipper of milk or cream in the state.²⁴⁰⁴ Possession of a milk can without consent is presumptive evidence of unlawful trafficking.²⁴⁰⁵ It is unlawful for anyone engaged in the sale of milk to use the stamped milk bottles of another milk salesman, to use another's milk bottles, to sell milk containers of another, or to possess another's milk

²³⁹⁸ § 39-33-20.

²³⁹⁹ § 39-33-1210.

²⁴⁰⁰ § 39-33-1220.

²⁴⁰¹ § 39-33-1240.

²⁴⁰² § 39-33-1250, 1260.

²⁴⁰³ § 39-33-1270.

²⁴⁰⁴ § 39-33-1520, 1530.

²⁴⁰⁵ § 39-33-1530.

bottles for more than seven days.²⁴⁰⁶

It is unlawful to sell or deliver for sale any adulterated milk, milk from a diseased animal, or milk from which strippings have been held back.²⁴⁰⁷

Milk and Milk Products

These statutes cover all grade A milk and milk products.²⁴⁰⁸ Milk distributors must obtain a license from the department before doing business.²⁴⁰⁹

Butter and Cheese Imitations

If a product is produced that is not wholly from pure milk, designed to be used as a substitute for butter or cheese (and excluding salt or harmless color additives) must be designated as imitation butter or cheese.²⁴¹⁰ Any substitute butter or cheese must be plainly marked.²⁴¹¹ It is a violation to fail to identify imitation products as imitation, and to fail to label imitation products as imitation.²⁴¹² These provisions do not apply to oleomargarine or margarine; however, margarine must contain a certain amount of vitamin A and must be so labeled.²⁴¹³

Ice Cream and Other Frozen Desserts

²⁴⁰⁶ §§ 39-33-1540 to 570.

²⁴⁰⁷ § 39-33-1720.

²⁴⁰⁸ § 46-49-10 *et seq.* (1987 & Supp. 1998).

²⁴⁰⁹ § 46-49-60.

²⁴¹⁰ § 39-35-10 (1985).

²⁴¹¹ § 39-35-60.

²⁴¹² § 39-35-40, 70.

²⁴¹³ § 39-35-90, -210, -220.

All milk and milk products used in the manufacture of ice cream, ice milk, frozen custard, or sherbet shall be pasteurized.²⁴¹⁴ Frozen desserts may not be sold from any container or cabinet that contains any other articles. It is unlawful to misrepresent the character or content of any frozen dessert.²⁴¹⁵ Establishments selling ice milk must post a sign to that effect.²⁴¹⁶ All additives, sweeteners, and the like must be appropriately labeled.²⁴¹⁷

Licensing

During each May, every manufacturer of frozen desserts must apply for a license from the department.²⁴¹⁸ The department shall issue the license, free of charge, if the manufacturing plant or plants are sanitary.²⁴¹⁹ A manufacturer's license shall be suspended if any frozen dessert is adulterated or misbranded.²⁴²⁰ Revocation of a license, or denial of a license, is reviewable by the court of common pleas.²⁴²¹

Enforcement

The Department of Agriculture shall enforce the statutory regulations, and the Department of Health and Environmental Control shall establish and enforce regulations

²⁴¹⁴ § 39-37-30.

²⁴¹⁵ § 39-37-40.

²⁴¹⁶ § 39-37-50.

²⁴¹⁷ § 39-37-60.

²⁴¹⁸ § 39-37-70.

²⁴¹⁹ § 39-37-80.

²⁴²⁰ § 39-37-90.

²⁴²¹ § 39-37-100.

regarding sanitation.²⁴²²

Eggs and Baby Chicks

All cartons of eggs must be labeled with the classification, which shall include the egg's quality, size, and weight class.²⁴²³ All retailers and wholesalers of eggs must be licensed by the department of agriculture.²⁴²⁴

Sale, Grading, and Inspection of Livestock

The State Livestock-Poultry Health commission administers the provisions of the statutes dealing with livestock.²⁴²⁵ Specific provisions regulate stockyards, equine sales facilities, and livestock dealers. Further, the commission is to adopt and enforce rules for the testing of livestock or other animals that may be exposed to disease, and is to cooperate with the federal government to eradicate or control disease.²⁴²⁶ Specific provisions regarding vaccination, testing, quarantine, treatment, and the like are contained in the statutes.

Meat and Meat Food Regulations and Inspection Law

Federal/State Cooperation

The Act calls for cooperation by with the state Department of Health and Environmental Control and the U.S. Secretary of Agriculture.²⁴²⁷

²⁴²² § 39-37-120.

²⁴²³ § 39-39-140 (Supp. 1998).

²⁴²⁴ § 39-39-120.

²⁴²⁵ § 47-11-10 (Supp. 1998).

²⁴²⁶ § 47-11-10 *et seq.* (1987 & Supp. 1998).

²⁴²⁷ § 47-17-140 (1987 & Supp. 1998).

Inspection

To prevent the entry into intrastate commerce any livestock carcass, meat food product, or meat by product capable of use as human food that is adulterated, the director shall conduct antemortem inspections where necessary and shall conduct postmortem inspections on the carcass of each animal slaughtered.²⁴²⁸

Enforcement

If any carcasses are found to be adulterated, the carcasses and parts thereof shall be condemned and destroyed.²⁴²⁹ Sanitary conditions are required in all slaughtering and processing facilities.²⁴³⁰ Permits are required to slaughter livestock or to operate a canning, smoking, packing, rendering, or curing facility for meat, meat by-products, or meat food products intended for human consumption.²⁴³¹ Each shipping container of meat, meat by-products, and meat food products must contain an official inspection mark and the approved plant number where the meat was processed.²⁴³² All persons who slaughter or process or meat, meat food products, or meat food products slaughtered for human consumption shall keep records of their activities to insure against adulterated or misbranded meat.²⁴³³ All imported meats are to be labeled as “imported.”²⁴³⁴

²⁴²⁸ § 47-17-30.

²⁴²⁹ § 47-17-30.

²⁴³⁰ § 47-17-40.

²⁴³¹ § 47-17-120.

²⁴³² § 47-17-50.

²⁴³³ § 47-17-80.

²⁴³⁴ § 47-17-310.

It is unlawful to slaughter or to sell or transport any unadulterated, misbranded, or uninspected meat, meat by-products or meat food products except in accordance with the statutes.²⁴³⁵ Any meat found to be in non-compliance with the Act will be confiscated and destroyed.²⁴³⁶ Violations of the statutes are punishable as a misdemeanor.²⁴³⁷ Livestock slaughtered on the farm for personal use, persons slaughtering livestock to be processed for religious practices, and custom preparation of carcasses are exempt from the statutory provisions.²⁴³⁸

Poultry Products Inspection Law

State/Federal cooperation

The Livestock/Poultry Health Commission is designated as the agency responsible to cooperate with the USDA.²⁴³⁹

Inspection

The director shall conduct antemortem inspections to prevent any poultry product capable of use as human food to enter into intrastate commerce if it is adulterated, and it shall conduct postmortem inspections on the carcass of each bird processed.²⁴⁴⁰ Poultry and poultry products that are not intended as human food need not be inspected.²⁴⁴¹ The commission may also provide

²⁴³⁵ § 47-17-70.

²⁴³⁶ § 47-17-320.

²⁴³⁷ § 47-17-100.

²⁴³⁸ § 47-17-90.

²⁴³⁹ § 47-19-30 (1987 & Supp. 1998).

²⁴⁴⁰ § 47-19-40.

²⁴⁴¹ § 47-19-90.

for voluntary inspection of species of birds for which inspection is not required (such as emus, ostriches, and the like).

Enforcement

If any carcasses are found to be adulterated, the carcasses and parts thereof shall be condemned and destroyed, unless they can, by reprocessing, be made unadulterated. The director may also quarantine, segregate, and reinspect birds. Sanitary conditions are required.²⁴⁴²

Licenses are required to slaughter poultry or to operate a canning, smoking, packing, rendering, or curing facility for poultry products intended for human consumption. All poultry products brokers, wholesalers, renderers, or animal food manufacturers must register with the director.²⁴⁴³

All inspected poultry products must be properly labeled in accordance with specific statutory guidelines.²⁴⁴⁴ All persons who slaughter or process or render poultry and all poultry brokers and wholesalers must keep records of their activities to insure against adulterated or misbranded poultry.²⁴⁴⁵

It is unlawful to slaughter any poultry or process any poultry which are capable for use as human food except in accordance with the statutes; to sell or transport any unadulterated, misbranded, or uninspected poultry products or to sell or transport any slaughtered poultry from which the blood, head, feet, feathers or viscera have not been removed.²⁴⁴⁶ Violations of the

²⁴⁴² §§ 47-19-40, 50.

²⁴⁴³ § 47-19-35.

²⁴⁴⁴ § 47-19-60.

²⁴⁴⁵ § 47-19-100.

²⁴⁴⁶ § 47-19-70.

statutes are punishable as a misdemeanor; violators are given due process rights.²⁴⁴⁷

Retail dealers selling poultry products directly to consumers, individual slaughtering and custom slaughtering are exempt from the statutory provisions.²⁴⁴⁸ The provisions of the chapter apply to domesticated rabbits and to pigeons.²⁴⁴⁹

²⁴⁴⁷ §§ 47-19-120, -130.

²⁴⁴⁸ § 47-19-140.

²⁴⁴⁹ §§ 47-19-160, -165.