

FOOD SAFETY

State and Federal Standards and Regulations

Texas

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TEXAS

Texas Food, Drug and Cosmetic Act²⁵⁶³

- (1) “Animal feed” means an article intended for use as food for animals other than Man.
- (2) “Board” means the Texas Board of Health.
- (3) “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. The term does not include any material exempted under the federal Act.
- (4) “Commissioner” means the commissioner of health.
- (5) “Consumer commodity” does not include (a) a meat or meat product, poultry or poultry product, or tobacco or tobacco product; or (b) a beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act (27 U.S.C. 205(e)).
- (6) “Contaminated with filth” applies to any food not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.
- (7) “Department” means the Texas Department of Health.
- (8) “Federal Act” means the Federal Food, Drug and Cosmetic Act (Title 21 U.S.C.

²⁵⁶³ TEX. HEALTH & SAFETY CODE ANN. § 431.001 (West 1992 & Supp. 1999).

301 et seq.).

- (9) “Food” means (a) articles used for food or drink for man; (b) chewing gum; and (c) articles used for components of any such article.
- (10) “Food Additive” means any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures to be safe under the conditions of its intended use; except that such term does not include:
 - (a) a pesticide chemical in or on a raw agricultural commodity;
 - (b) a pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;
 - (c) a color additive; or
 - (d) any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, the Poultry Products Inspection Act, or the Meat Inspection Act of 1907.
- (11) “Immediate container” does not include package liners.
- (12) “Infant formula” means a food that is represented for special dietary use solely as a food for infants by reason of its simulation of human milk or its suitability as a complete or partial substitute for human milk.

- (13) “Label” means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement that any word, statement, or other information that appears on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of the article, or is easily legible through the outside container or wrapper.
- (14) “Labeling” means all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article.
- (15) “Manufacture” means the process of combining or purifying food and packaging food for sale to a consumer at wholesale or retail.
- (16) “Person” includes any individual, partnership, corporation, and association.
- (17) “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.
- (18) “Safe” refers to the health of humans or animals.
- (19) “Secretary” means the secretary of the United States Department of Health and Human Services.²⁵⁶⁴

Adulterated Food

A food is deemed to be adulterated if:

- (1) 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

²⁵⁶⁴ § 431.002.

substance the food shall not be considered adulterated if the quantity of the substance in the food does not ordinarily render it injurious to health;

- (2) (A) bears or contains any added poisonous or added deleterious substance, other than one that is a pesticide chemical in or on a raw agricultural commodity, a food additive, a color additive, or a new animal drug which is unsafe; (B) is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe; (C) is, or it 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 a granted exception under Section 431.161(a), and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of such pesticide chemical remaining in or on such processed food shall not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed 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 for the raw agricultural commodity; or (D) is, or it bears or contains, a new animal drug, or a conversion product of a new animal drug, that is unsafe under the federal Act;
- (3) it consist in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance, or if it is otherwise unfit for foods;
- (4) 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 diseased, unwholesome, or injurious to health;
- (5) it is, in whole or in part, the product of a diseased animal, an animal which has died otherwise than by slaughter, or an animal that has been fed upon the uncooked offal from a slaughterhouse;
 - (6) its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or
 - (7) it has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in accordance with the federal Act;
 - (8) any valuable constituent has been in whole or in part omitted or abstracted therefrom;
 - (9) any substance has been substituted wholly or in part therefor;
 - (10) damage or inferiority has been concealed in any manner;
 - (11) any substance has been added thereto or mixed or packed therewith 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;
 - (12) it contains saccharin, dulcin, glucin, or other sugar substitutes except in dietary foods, and when so used shall be declared;
 - (13) it is fresh meat and it contains any chemical substance containing sulphites, sulphur dioxide, or any other chemical preservative which is not approved by the United States Department of Agriculture, the Animal

Plant Health Inspection Service, or by rules of the board;

- (14) it is, or it bears or contains, a color additive that is unsafe; or
- (15) it is confectionery and:
 - (1) has any nonnutritive object partially or completely imbedded in it;
or
 - (2) bears or contains any alcohol not in excess of 5% by volume; or
 - (3) bears or contains any nonnutritive substance.²⁵⁶⁵

Misbranded Food

A food is deemed misbranded:

- (A) if its labeling is false or misleading in any particular;
- (B) if its advertising is false or misleading in a material respect or its labeling violates the federal Act;
- (C) if it is offered for sale under the name of another food;
- (D) 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;
- (E) if its container is so made, formed, or filled as to be misleading;
- (F) if in package form unless it bears a label containing:
 - (1) the name and place of business of the manufacturer, packer, or distributor;
and
 - (2) an accurate statement of the quantity of the contents in terms of weight,

²⁵⁶⁵ § 431.081.

measure, or numerical count; provided, that reasonable variations shall be permitted, and exemptions as to small packages shall be established, by rules adopted by the board;

- (G) if any word, statement, or other information required to appear on the label or labeling is not prominently placed thereon with such conspicuousness and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- (H) if it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by federal regulations unless;
 - (1) it conforms to such definition and standard; and
 - (2) 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;
- (I) if it purports to be or is represented as:
 - (1) a food for which a standard of quality has been prescribed and its quality falls below such standard unless its label bears a statement that it falls below such standard; or
 - (2) a food for which a standard or standards of fill of container have been prescribed and it falls below the standard of fill of container applicable thereto, unless its label bears a statement that it falls below such standard;
- (J) unless its label bears:

- (1) the common or usual name of the food, if any; and
 - (2) in case it is fabricated from two or more ingredients, the common or usual name of each ingredient;
- (K) 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 the board determines to be, and by rule prescribed, as necessary in order to fully inform purchasers as to its value for such uses;
- (L) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided that exemptions shall be established by rules of the board. The provisions with respect to artificial coloring do not apply in the case of butter, cheese, and ice cream;
- (M) if it is a raw agricultural commodity that is the produce of the soil and bears or contains a pesticide chemical applied after harvest, unless the shipping container of the commodity bears labeling that declares the presence of the chemical in or on the commodity and the common or usual name and the function of the chemical, except that the declaration is not required while the commodity, after removal from the shipping container, is being held or displayed for sale at retail out of the container in accordance with the custom of the trade;
- (N) if it is a product intended as an ingredient of another food and if used according to the directions of the purveyor will result in the final food product being adulterated or misbranded;
- (O) if it is a color additive, unless its packaging and labeling are in conformity with

the packaging and labeling requirements applicable to the color additive as may be contained in regulations under the federal Act;

- (P) if its packaging or labeling is in violation of an applicable regulation issued under the Federal Poison Prevention Packaging Act of 1970;
- (Q) if it contains saccharin, unless its label and labeling and retail display comply with the requirements of the federal Act; or
- (R) if it contains saccharin and is offered for sale, but not for immediate consumption, at a retail establishment, unless the retail establishment displays prominently, where the food is held for sale, notice that is provided by the manufacturer of the food under the federal Act for consumers concerning the information required to be on food labels and labeling.²⁵⁶⁶

Misleading Labeling or Advertising

If an article is alleged to be misbranded because the labeling or advertising is misleading, then in determining whether the labeling or advertising is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or any combination of these, but also the extent to which the labeling or advertising fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertising relates under the conditions of use prescribed in the labeling or advertising thereof, or under such conditions of use as are customary or usual.²⁵⁶⁷

²⁵⁶⁶ § 431.082.

²⁵⁶⁷ § 431.003.

Prohibited Acts

The following acts are unlawful and prohibited:

- (A) the introduction or delivery for introduction into commerce of any food that is adulterated or misbranded;
- (B) the adulteration or misbranding of any food in commerce;
- (C) the receipt in commerce of any food that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise;
- (D) the dissemination of any false advertisement;
- (E) the refusal to permit entry or inspection, or to permit the taking of a sample or to permit access to or copying of any record as authorized; or the failure to establish or maintain any record or make any report required under the federal act, or the refusal to permit access to or verification or copying of any such required record;
- (F) the manufacture within Texas of any food that is adulterated or misbranded;
- (G) the removal or disposal of a detained or embargoed article;
- (H) the alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food if such act is done while such article is held for sale after shipment in commerce and results in such article being adulterated or misbranded; or
- (I) the engaging in the manufacture of food in Texas without first registering with the department.²⁵⁶⁸

²⁵⁶⁸ § 431.021.

Inspection

The Commissioner, an authorized agent, or a health authority may (1) enter at reasonable times an establishment in which a food is manufactured, processed, packed, or held for introduction into commerce or held after the introduction; (2) enter a vehicle being used to transport or hold food in commerce; or (3) inspect at reasonable times the establishment or vehicle and all equipment, finished and unfinished materials, containers, and labeling of any item and obtain samples necessary for enforcing the Food, Drug and Cosmetic Act.²⁵⁶⁹

The Commissioner shall affix to food articles a tag or other appropriate marking that gives notice that the article is, or is suspected of being, adulterated or misbranded and that the article has been detained or embargoed if the Commissioner finds or has probable cause to believe that the food is: (1) adulterated; or (2) misbranded so that the food is dangerous or fraudulent. The tag or marking on a detained or embargoed food article must warn all persons not to use the article, remove the food from the premises or dispose of the food by sale or otherwise until permission for use, removal or disposal is given by the Commissioner. The Commissioner may permit perishable goods to be moved to a place suitable for proper storage. The Commissioner shall remove the tag from an embargoed or detained article if the Commissioner finds that the article is not adulterated or misbranded.²⁵⁷⁰

The Commissioner may order a food recall requiring food articles to be removed to one or more secure areas.²⁵⁷¹ Actions for condemnation of a food article may be brought before a

²⁵⁶⁹ § 431.042(a).

²⁵⁷⁰ § 431.048.

²⁵⁷¹ § 431.0495.

court in whose jurisdiction the food is located, detained, or embargoed if the food is adulterated, or misbranded.²⁵⁷² A court shall order the destruction of a sampled article or a detained or embargoed article if the court finds that the article is adulterated or misbranded. After entry of the court's order, an authorized agent shall supervise the destruction of the article. The claimant of the article shall pay the cost of the destruction of the article. The court shall tax against the claimant of the article or the claimant's agent all court costs and fees, and storage and other proper expenses.²⁵⁷³

The Commissioner shall immediately condemn or render by any means unsalable as human food an article that is a nuisance and that the Commissioner finds in any room, building, or other structure or in a vehicle. Any meat, seafood, poultry, vegetable, fruit, or other perishable article is a nuisance if it (1) is unsound; (2) contains a filthy, decomposed, or putrid substance; or (3) may be poisonous or deleterious to health or otherwise unsafe.²⁵⁷⁴

Civil and/or criminal penalties may be assessed against any person who violates any of the provisions of the Food, Drug and Cosmetic Act.²⁵⁷⁵

Poisonous or Deleterious substances

Any poisonous or deleterious substance, food additive, pesticide chemical in or on a raw agricultural commodity, or color additive shall be deemed unsafe with respect to any food.

Exceptions, including tolerance levels, apply according to statute and regulations.²⁵⁷⁶

²⁵⁷² § 431.050.

²⁵⁷³ § 431.051.

²⁵⁷⁴ § 431.053.

²⁵⁷⁵ §§ 431.0585, 431.059.

²⁵⁷⁶ § 431.161.

Texas Meat and Poultry Inspection Act²⁵⁷⁷

Meat and meat food products are an important source of the nation's total food supply. It is essential in the public interest that the health and welfare of consumers be protected by assuring that meat and meat food products distributed to them are wholesome, unadulterated, and properly marked, labeled, and packaged. Unwholesome, adulterated, or misbranded meat or meat food products: (1) injure the public welfare; (2) destroy markets for wholesome, unadulterated, and properly labeled and packaged meat and meat food products; (3) cause losses to livestock producers and processors of meat and meat food products; (4) cause injury to consumers; and (5) can be sold at lower prices and compete unfairly with wholesome, unadulterated, and properly labeled and packaged articles, to the detriment of consumers and the public.²⁵⁷⁸

Definitions²⁵⁷⁹

- (A) "Animal food manufacturer" means a person in the business of manufacturing or processing animal food any part of which is derived from a carcass, or a part or product of a carcass, of livestock.
- (B) "Capable of use as human food" means: (A) not naturally inedible by humans; or (B) not denatured or otherwise identified as required by rule of the Commissioner to deter its use as human food.
- (C) "Color additive" has the same meaning as in the federal Act.

²⁵⁷⁷ § 433.001.

²⁵⁷⁸ § 433.002.

²⁵⁷⁹ § 433.003.

- (D) “Food additive” has the same meaning as in the federal Act.
- (E) “Inedible animal product” means a product, other than a meat food product, any part of which is made from a carcass, or a part or product of a carcass, of livestock.
- (F) “Livestock” means cattle, sheep, swine, goats, horses, mules, other equines, poultry, domestic rabbits, exotic animals, or domestic game birds.
- (G) “Exotic animal” means a member of a species of game not indigenous to Texas, including an axis deer, nilga antelope, red sheep, or other cloven-hoofed ruminant animal.
- (H) “Meat broker” means a person in the business of buying or selling, on commission, carcasses, parts of carcasses, meat, or meat food products of livestock, or otherwise negotiating purchases or sales of those articles other than for the person’s own account or as an employee of another person.
- (I) “Meat food product” means a product that is capable of use as human food and that is made in whole or part from meat or other portion of the carcass of livestock.
- (J) “Poultry” means a live or dead domesticated bird.
- (K) “Poultry product” means a poultry carcass, part of a poultry carcass, or a product any part of which is made from a poultry carcass or part of a poultry carcass.
- (L) “Prepared” means slaughtered, canned, salted, rendered, boned, cut up, stuffed, or manufactured or processed in any other manner.
- (M) “Processing establishment” means a slaughtering, packing, meat-canning, or

rendering establishment or a similar establishment.

- (N) “Renderer” means a person in the business of rendering carcasses, or parts or products of carcasses, of livestock.

Adulteration²⁵⁸⁰

A carcass, part of a carcass, meat, or a meat food product is adulterated if:

- (1) it bears or contains a poisonous or deleterious substance that may render it injurious to health unless:
 - (A) the substance is not an added substance; and
 - (B) the quantity of the substance in or on the article does not ordinarily render it injurious to health;
- (2) it bears or contains, because of administration of a substance to a live animal or otherwise, an added poisonous or deleterious substance that the Commissioner believes makes the article unfit for human food, other than a:
 - (A) pesticide chemical in or on a raw agricultural commodity;
 - (B) food additive; or
 - (C) color additive;
- (3) any part of it is a raw agricultural commodity that bears or contains a pesticide that is unsafe under the federal Act.
- (4) it bears or contains a food additive that is unsafe or a color additive that is unsafe under the federal Act.
- (5) it is not adulterated under (3) or (4) but use of the pesticide chemical, food

²⁵⁸⁰ § 433.004.

- additive, or color additive that the article bears or contains is prohibited by rule of the Commissioner in establishments at which inspection is maintained;
- (6) any part of it consists of a filthy, putrid, or decomposed substance or is for another reason unsound, unhealthy, unwholesome, or otherwise unfit for human food;
 - (7) it is prepared, packed, or held under unsanitary conditions that may have caused it to become contaminated with filth or rendered injurious to health;
 - (8) any part of it is the product of an animal, including an exotic animal, that has died in a manner other than slaughter;
 - (9) any part of its container is composed of a poisonous or deleterious substance that may render the contents injurious to health;
 - (10) it is intentionally subjected to radiation, unless the use of the radiation is in conformity with a regulation or exemption under the federal Act.
 - (11) any part of a valuable constituent is omitted or abstracted from it, or a substance is substituted for all or part of it;
 - (12) damage or inferiority is concealed;
 - (13) a substance has been added to or mixed or packed with it in a manner that:
 - (A) increases its bulk or weight;
 - (B) reduces its quality or strength; or
 - (C) makes it appear better or of greater value than it is; or
 - (14) it is margarine containing animal fat and any part of the raw material used in it consists of a filthy, putrid, or decomposed substance.

Misbranding²⁵⁸¹

- (A) A livestock or poultry product is misbranded if:
- (1) any part of its labeling is false or misleading;
 - (2) it is offered for sale under the name of another food;
 - (3) it is an imitation of another food, unless its label bears the word “imitation” immediately followed by the name of the food imitated;
 - (4) its container is made, formed, or filled so as to be misleading;
 - (5) it does not bear a label showing the manufacturer’s, packer’s, or distributor’s place of business, and an accurate statement of the quantity of the product by weight, measure, or numerical count;
 - (6) words required to be included in labeling are not prominently displayed;
 - (7) it purports to be a food for which a definition and standard of identity has been prescribed, and it does not conform to that standard.
 - (8) it purports to be a food for which a standard of fill of container has been prescribed, and it does not meet such standard.
 - (9) it does not purport to be a food for which a standard of identity has been prescribed, unless its label bears any common or usual name of the food and if it is fabricated from two or more ingredients, the common or usual name of each ingredient;
 - (10) it purports to be for special dietary uses and its label does not bear required information to inform its purchasers of its value for those uses;

²⁵⁸¹ § 433.005.

- (11) it bears or contains artificial flavoring, artificial coloring or a chemical preservative unless it bears labeling stating that fact; or
- (12) it does not bear on itself or its container required inspection legends.

Provisions requiring inspection of the slaughter of animals and the preparation of carcasses, parts of carcasses, meat, and meat food products at establishments conducting those operations do not apply to the slaughtering of animals by a person on the person's own premises, or the preparation and limited transportation in intrastate commerce of those articles by the person exclusively for use by the person or the person's household, nonpaying guests, or employees. The adulteration and misbranding provisions, apply to those articles.²⁵⁸²

Inspection

Inspections of livestock prior to entering a processing establishment are conducted to prevent the use in intrastate commerce of adulterated meat and meat food products. Any livestock showing symptoms of disease are set apart and slaughtered separately.²⁵⁸³

Inspections are also made of livestock carcasses and parts of carcasses capable of use as human food to prevent the use of adulterated meat and meat food products in intrastate commerce. All inspected meat is stamped as either "inspected and passed" or "inspected and condemned".²⁵⁸⁴ The Commissioner may not inspect an establishment for the slaughter of livestock or the preparation of carcasses if the articles are not intended for human

²⁵⁸² § 433.006.

²⁵⁸³ § 433.021.

²⁵⁸⁴ § 433.025.

consumption.²⁵⁸⁵

Carcasses, dying, disabled, or diseased livestock, meat or meat products believed to be adulterated or misbranded and capable of use as human food may be detained by the Commissioner.²⁵⁸⁶ Such articles may be seized and condemned.²⁵⁸⁷

A person may not slaughter a livestock animal or prepare a carcass, part of a carcass, meat, or a meat food product of a livestock animal, capable of use as human food, except in compliance with the Texas Meat and Poultry Inspection Act.²⁵⁸⁸

A person in the business of buying, selling, or transporting, in intrastate commerce, may not offer an inedible animal product for sale unless: (1) the sale is for further sterilization processing; or (2) the product has been processed in a manner that prevents the survival of disease-producing organisms or deleterious substances in the processed material.²⁵⁸⁹

Violations of the Texas Meat and Poultry Inspection Act are subject to imprisonment, monetary fine or both.²⁵⁹⁰

Aquatic Life

A public water may be declared to be a prohibited area if sanitary, chemical or bacteriological surveys show that any aquatic life therein is unfit for human consumption.²⁵⁹¹

²⁵⁸⁵ § 433.029.

²⁵⁸⁶ § 433.030.

²⁵⁸⁷ § 433.031.

²⁵⁸⁸ § 433.051.

²⁵⁸⁹ § 433.056.

²⁵⁹⁰ § 433.081.

²⁵⁹¹ § 436.003.

Shellfish plants are inspected by the Commissioner.²⁵⁹² Shellfish may be subject to an emergency order if it poses an immediate threat to human health or life and other procedures are insufficient.

Eggs

Egg Definitions

The Texas Agriculture Code defines “Egg” as a chicken egg²⁵⁹³ and “Texas eggs” as those eggs produced in Texas. “Shipped eggs” are those eggs produced outside Texas and shipped into Texas to be resold. “Inspection” refers to a personal examination by a Agriculture Department enforcement officer.²⁵⁹⁴

Egg Quality Standards/state & federal cooperation

Any standards adopted for inspecting and regulating the quality, grade, and size of eggs in Texas must be at least equal to standards adopted by the USDA and federal FDA. Unless USDA and FDA proscribe other standards, shell eggs must be stored at a temperature of 45 degrees Fahrenheit or less after initial packing. Where Texas standards vary from federal standards, the federal standards prevail.²⁵⁹⁵

Egg Inspection

The Texas Department of Agriculture prescribes methods of sampling eggs for inspection. The methods chosen must be reasonably calculated to ensure a fair representation of

²⁵⁹² § 436.015.

²⁵⁹³ § 132.001(1).

²⁵⁹⁴ § 132.001(5).

²⁵⁹⁵ § 132.004.

all eggs in a lot, and must be similar to methods prescribed by the USDA.²⁵⁹⁶ To inspect eggs, the department may enter (1) retail businesses where eggs are offered for sale to ultimate consumers and (2) distribution centers where eggs are held after being received from a packing plant. These inspections are to be completed during ordinary business hours.²⁵⁹⁷ When eggs of a Texas licensee are inspected outside of Texas, the records relating to those eggs are subject to inspection by the department as it considers necessary.²⁵⁹⁸ Shipped eggs must be transported under refrigeration and must be inspected and graded by a Texas licensee at the licensee's place of business in Texas before being sold at retail.²⁵⁹⁹

Eggs: Cooperation among Agencies

The Texas Department of Agriculture and the Texas Department of Health are required to work together to coordinate regulatory programs and eliminate conflicting regulatory requirements and inspection standards. This coordinating of programs applies to the regulation of eggs.²⁶⁰⁰

Egg Licensing

Any person wishing to buy or sell eggs in Texas for the purpose of resale must first obtain a license from the department.²⁶⁰¹ A "person" under the egg regulations includes individuals,

²⁵⁹⁶ § 132.005(a).

²⁵⁹⁷ § 132.005(b).

²⁵⁹⁸ § 132.006.

²⁵⁹⁹ § 132.046.

²⁶⁰⁰ § 132.008.

²⁶⁰¹ § 132.021(a).

firms corporations, cooperatives and any other types of business entities.²⁶⁰² Persons may be licensed categorically according to the actions they undertake.²⁶⁰³ Licenses are issued to persons in the following categories:

1. Broker. This includes those persons who never assume ownership or possession of eggs, but act as agents for a fee or a commission in the sale or transfer of eggs between producers or dealer-wholesalers as sellers and a dealer-wholesaler, processor, or retailer as buyer.²⁶⁰⁴
2. Dealer-wholesaler. This includes persons who buy eggs from a producer or other person and sell or transfer the eggs to dealer-wholesalers, processors, retailers, consumers or other persons. This also includes those persons who produce eggs from their own flocks and dispose of the production on a fully graded basis.²⁶⁰⁵
Licensed dealer-wholesalers must keep records of all eggs bought and sold. These records should be kept complete for two years and include: (1) the name and address of the person from which the eggs were purchased or to whom the eggs were sold; (2) the number of cases or dozens of eggs sold in each transaction; and (3) the date of each transaction. Records must be available for departmental inspection at all reasonable times.²⁶⁰⁶
3. Processor. This includes those persons who operate a plant for the purpose of

²⁶⁰² § 132.001(2).

²⁶⁰³ § 132.022(a).

²⁶⁰⁴ § 132.022(b).

²⁶⁰⁵ § 132.022(c).

²⁶⁰⁶ § 132.061.

breaking eggs for freezing, drying, or commercial food manufacturing.²⁶⁰⁷ Record keeping requirements for processors are the same as those for dealer-wholesalers.²⁶⁰⁸

Exceptions to the licensing requirements do exist. The following persons are not subject to licensing requirements:

1. hatcheries buying eggs exclusively for hatching purposes;²⁶⁰⁹
2. hotels, restaurants, or other public eating places where all eggs purchased are served by the establishment;²⁶¹⁰
3. food manufacturers who purchase eggs for use only in the manufacture of food products (this exception does not include plants whose purpose is breaking eggs for freezing, drying, or commercial food manufacturing);²⁶¹¹
4. agents employed and paid a salary by a licensed person;²⁶¹² or
5. retailers selling eggs to the ultimate consumer of the eggs.²⁶¹³

For those licensees required to keep records, exceptions exist as well. If the licensee is also a retailer and purchases eggs in less than case lots, no records are required to show to whom eggs

²⁶⁰⁷ § 132.022(d).

²⁶⁰⁸ § 132.061(a).

²⁶⁰⁹ § 132.021(b)(1).

²⁶¹⁰ § 132.021(b)(2).

²⁶¹¹ § 132.021(b)(3).

²⁶¹² § 132.021(b)(4).

²⁶¹³ § 132.021(b)(5).

purchased from a particular dealer-wholesaler are sold.²⁶¹⁴

Egg Labeling

A number of labeling requirements exist for egg containers. Where eggs are offered for retail or wholesale for human consumption, the containers must be labeled to show (1) the size and grade of the eggs in the container; (2) the address and license number of the person who graded and sized the eggs; and (3) if the eggs were sized at an address other than the address in (2), the address where the eggs were sized and graded or a department approval code. Containers required to be labeled may not be deceptively labeled, advertised, or invoiced. The department may require repacking, downgrading or both repacking and downgrading of eggs by a retailer.²⁶¹⁵

When eggs are sold not in cartons, they must be in a container that includes all the information required in the previous paragraph and must display that information in legible letters at least one inch high on a sign attached to the container. This requirement does not apply to a retailer's sale of ungraded eggs if the eggs are clearly labeled as being ungraded and the retailer sells less than 120 dozen eggs a week.²⁶¹⁶

Eggs: Sanitation

Eggs are to be handled under reasonably sanitary conditions in compliance with the departments rules. After eggs are received from the producer, those eggs intended for human consumption must be handled in a manner that prevents undue deterioration. Eggs in the possession of a person engaged in the sale of eggs are presumed to be intended for human

²⁶¹⁴ § 132.061(b).

²⁶¹⁵ § 132.044.

²⁶¹⁶ § 132.047.

consumption unless the eggs are denatured or labeled in accordance with a specific intended use other than human consumption.²⁶¹⁷

Infected Persons Prohibited from Handling Food

A person may not handle food, utensils, dishes, or serving implements that are for public sale or for the consumption or use by another if the person: (1) is infected with a disease that is transmissible through the handling of food; (2) resides in a household in which there is a transmissible case of a communicable disease that may be food borne; (3) is known to be a carrier of the organisms causing a communicable disease that may be food borne; or (4) has a local infection that is commonly transmitted through the handling of food.²⁶¹⁸

²⁶¹⁷ § 132.045.

²⁶¹⁸ TEX. HEALTH & SAFETY CODE § 438.032.