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Food Hygiene Law of the PRC

CHAPTER 1 GENERAL PROVISIONS

Article 1 This Law is enacted for the purpose of ensuring food hygiene, preventing food contamination and harmful substances from injuring human health, safeguarding the health of the people and improving their physical fitness.

Article 2 The State institutes a system of food hygiene supervision.

Article 3 The administrative department of public health under the State Council shall be in charge of supervision and control of food hygiene throughout the country.

Other relevant departments under the State Council shall, within the scope of their respective functions and duties, be responsible for control of food hygiene.

Article 4 Whoever engages in food production or marketing within the territory of the People's Republic of China must observe this Law.

This Law applies to all foods and food additives as well as containers, packaging, utensils and equipment used for food, detergents and disinfectants; it also applies to the premises, facilities and environment associated with food production or marketing.

Article 5 The State encourages and protects the social supervision exercised by public organizations and individuals over food hygiene.

Any person shall have the right to inform the authorities and lodge a complaint about any violation of this Law.

CHAPTER II FOOD HYGIENE

Article 6 Food shall be nontoxic and harmless, conform to proper nutritive requirements and have appropriate sensory properties such as colour, fragrance and taste.

Article 7 Principal and supplementary foods intended specially for infants and preschool children shall conform to the nutritive and hygienic standards promulgated by the administrative department of public health under the State Council.

Article 8 In the process of food production or marketing, the requirements for hygiene stated below shall be conformed to:

(1) The environment inside and outside any food production or marketing establishment shall be kept clean and tidy; measures shall be taken to eliminate flies, rodents, cockroaches and other harmful insects and to remove conditions for their propagation; and a prescribed distance shall be kept from any toxic or harmful site;

(2) An enterprise engaged in food production or marketing shall have workshops or other premises for the preparation of raw materials and for processing, packing and storage that are commensurate with the varieties and quantities of the products handled;

(3) Appropriate facilities shall be made available for disinfection, changing clothes, toilet, natural and artificial light, ventilation, prevention of spoilage, - protection against dust, elimination of flies and rodents, washing of equipment, sewage discharge and the containment of garbage and other wastes;

(4) The layout of installations and the application of technological processes shall be rational in order to prevent contamination between foods to be processed and ready-to-eat foods, and between raw materials and finished products; food must not be placed in contact with any toxic substance or filth;

(5) Tableware, kitchenware and containers for ready to eat foods must be cleaned and disinfected prior to use; cooking utensils and other utensils must be washed after use and kept clean;

(6) Any containers, packagings, utensils and equipment used for the storage, transportation, loading and unloading of food as well as the conditions under which these operations are carried out must be safe, harmless and kept clean in order to prevent food contamination;

(7) Ready-to-eat foods shall be kept in small packets or in nontoxic, clean packaging materials;

(8) All persons involved in food production or marketing shall maintain a constant

standard of personal hygiene, taking care to wash their hands thoroughly and wear clean work clothes and headgear while preparing or selling food; also, proper utensils must be used when selling ready-to-eat foods;

(9) Any water used must conform to the national hygiene standards for drinking-water in urban and rural areas;

(10) The detergents and disinfectants used shall be safe and harmless to human health.

The hygienic requirements for food production or marketing undertaken by food vendors and persons engaged in the food business in urban and rural markets shall be formulated specifically according to this Law by the standing committees of the people's congresses in the provinces, autonomous regions, or municipalities directly under the Central Government.

Article 9 The production and marketing of foods in the following categories shall be prohibited:

(1) foods that can be injurious to human health because they are putrid or deteriorated, spoiled by rancid oil or fat, molded, infested with insects or worms, contaminated, contain foreign matter or manifest other abnormalities in sensory properties;

(2) foods that contain or are contaminated by toxic or deleterious substances and can thus be injurious to human health;

(3) foods that contain pathogenic parasites, microorganisms or an amount of microbial toxin exceeding the tolerance prescribed by the State;

(4) meat and meat products that have not been inspected by the veterinary health service or have failed to pass such inspection;

(5) poultry, livestock, game and aquatic animals that have died from disease, poisoning or some unknown cause, as well as products made from them;

(6) foods contaminated by use of filthy or seriously damaged containers or packages, or filthy means of conveyance;

(7) foods that impair nutrition or health because they are adulterated or misbranded;

(8) foods processed with non-food raw materials; foods mixed with non-food chemical substances, or non-food stuffs used as food;

(9) foods that has expired the date for guaranteed quality;

(10) foods of which the sale has been specifically prohibited, for the prevention of diseases or other special reasons, by the administrative department of public health

under the State Council or by the people's governments of the provinces, autonomous regions, or municipalities directly under the Central Government;

(11) foods that contain additives not approved for use by the administrative department of public health under the State Council or residues of pesticides exceeding the tolerance prescribed by the State; and

(12) other foods that do not conform to the standards and requirements for food hygiene.

Article-10 Food must not contain medicinal substances, with the exception of those materials that have traditionally served as both food and medicaments and are used as raw materials, condiments or nutrition fortifiers.

CHAPTER III HYGIENE OF FOOD ADDITIVES

Article 11 The production, marketing and use of food additives must conform to the hygiene standards for use of food additives and the hygiene control regulations; the food additives that do not conform to the hygiene standards and the hygiene control regulations may not be marketed and used.

CHAPTER IV HYGIENE OF CONTAINERS, PACKAGINGS, UTENSILS AND EQUIPMENT

Article 12 Containers, packagings, utensils and equipment used for food must conform to the hygiene standards and the hygiene control regulations.

Article 13 The raw materials for making containers, packagings, utensils and equipment used for food must meet hygiene requirements. The finished products should be easy to clean and disinfect.

CHAPTER V FORMULATION OF FOOD HYGIENE STANDARDS AND MEASURES FOR FOOD

Article 14 The administrative department of public health under the State Council shall formulate or approve and promulgate the national hygiene standards, hygiene control regulations and inspection procedures for food, food additives, the containers, packagings, utensils and equipment used for food, the detergents and disinfectants used for washing food or utensils and equipment used for food, and the tolerances for contaminants and radioactive substances in food.

Article 15 If the State has not formulated hygiene standards for a certain food, the people's governments of the provinces, autonomous regions, or municipalities directly under the Central Government may establish local hygiene standards for that food and report them to the administrative department of public health under the State Council and the

competent standardization administration department under the State Council for the record.

Article 16 Norms of significance to the science of health to be included in the national quality standards for food additives must be examined and approved by the administrative department of public health under the State Council.

Appraisals on the safety for use of agricultural chemicals, such as pesticides and chemical fertilizers, shall be examined and approved by the administrative department of public health under the State Council.

Veterinary hygiene inspection procedures for slaughtered livestock and poultry shall be formulated jointly by the relevant administrative departments under the State Council and the administrative department of public health under the State Council.

Article 17 The departments in charge of control of food production or marketing of the people's governments at various levels shall strengthen control of food hygiene and oversee the implementation of this Law.

The people's governments at various levels shall encourage and support efforts to improve food processing technology so as to promote the improvement of hygienic quality of food.

Article 18 Enterprises engaged in food production or marketing shall improve their own system for food hygiene control, appoint full-time or part-time workers to control food hygiene and strengthen inspection of the foods they produce or market.

Article 19 The selection of sites and the designs for construction, extension or renovation projects of enterprise engaged in food production or marketing shall meet hygiene requirements, and the administrative department of public health must participate in the examination of those designs and in the inspection and acceptance of finished projects.

Article 20 Before starting production of new varieties of food or food additives with new resources, the enterprises engaged in their production or marketing must submit the data required for evaluation of the hygiene and nutrition of such products; before starting production of new varieties of containers, packagings, utensils or equipment used for foods, with new raw or processed materials, the enterprises engaged in their production or marketing must submit the data required for evaluation of the hygiene of such products. Before the new varieties mentioned above are put into production, it shall also be necessary to provide samples of the varieties and the matter shall be reported for examination and approval in accordance with the specified procedures for examining and approving food hygiene standards.

Article 21 Any standardized packaged food or food additive must, according to the requirements for different products, have the name of the product, the place of

manufacture, the name of the factory, the date of manufacture, the batch number (or code number), the specifications, the formula or principal ingredients, the date of expiration for guaranteed quality, the method of consumption or use, and other such information indicated in the label of the package or the product description. The product description for any food or food additive shall not contain exaggerated or false advertising.

The label of the food package must be clearly printed and easy to read. Foods sold on domestic markets must have labels in the Chinese language.

Article 22 With regard to the food indicated to have specific health functions, the products and its description must be submitted to the administrative department of public health under the State Council for examination and approval; its hygiene standards and the measures for control of its production and marketing shall be formulated by the administrative department of public health under the State Council.

Article 23 The food indicated to have specific health functions may not be harmful for human health; the content of the product description shall be true, and the functions and ingredients of the product shall be identical with the information given in the product description and there shall be no false information.

Article 24 Food, food additives and containers, packagings and other utensils used specially for food may be dispatched from factory or sold only after their producers have carried out inspection and found them to be up to the standards according to the hygiene standards and the hygiene control regulations.

Article 25 Whenever producers or marketers of food procure supplies, they shall, in accordance with the relevant State regulations, request inspection certificates or laboratory test reports and the supplier must provide these. The scopes and types of food that requires certificates shall be specified by the administrative department of public health of the people's governments of the provinces, autonomous regions, or municipalities directly under the Central Government.

Article 26 All persons engaged in food production or marketing must undergo an annual medical examination; persons newly employed or serving temporarily in this field must also undergo a medical examination and may not start work until they have obtained health certificates.

No persons suffering from dysentery, typhoid, viral hepatitis or other infectious diseases of the digestive tract (including pathogen carriers), active tuberculosis, suppurative or exudative dermatosis or any other disease incompatible with food hygiene, may be engaged in any work involving contact with ready-to-eat foods.

Article 27 Enterprises engaged in food production or marketing as well as food vendors must obtain a hygiene licence issued by the administrative department of public health before they shall be permitted to apply for registration with the administrative

departments of industry and commerce. No person who has not obtained a hygiene licence may engage in food production or marketing.

Food producers or marketers may not forge, alter or lend the hygiene license.

The measures for the issuance and control of hygiene licenses shall be worked out by the administrative departments of public health of the people's governments of the provinces, autonomous regions, or municipalities directly under the Central Government.

Article 28 Persons who run a food market of any type shall be responsible for the food hygiene control of the market, set up necessary public sanitary facilities in the market and maintain a good sanitary environment.

Article 29 The administrative departments of industry and commerce shall be responsible for the control of food hygiene on urban and rural markets; the administrative departments of public health shall be responsible for the supervision and inspection of food hygiene.

Article 30 Imported foods, food additives and containers, packagings, utensils and equipment used for food must comply with the national hygiene standards and the hygiene control regulations.

The above-mentioned imports shall be subject to hygiene supervision and inspection by the frontier agencies for hygiene supervision and inspection of imported food. Only those proved to be up to the standards through inspection shall be allowed to enter the territory. The Customs authorities shall grant clearance of goods on the strength of the inspection certificate.

When declaring such products for inspection, the importer shall submit the relevant data and inspection reports on the pesticides, additives, fumigants and other such substances used by the exporting country (region).

The imports mentioned in the first paragraph shall be subject to inspection in accordance with the national hygiene standards. In the absence of the national hygiene standards for such imports, the importer must provide the hygiene evaluation data prepared by the health authorities or organization of the exporting country (region) to the frontier agencies for hygiene supervision and inspection of imported food for examination and inspection and such data shall also be reported to the administrative department of public health under the State Council for approval.

Article 31 Foods for export shall be subject to hygiene supervision and inspection by the national inspection agency for import and export commodities.

The Customs authorities shall grant clearance of export commodities on the basis of the certificates issued by the national inspection agency for import and export commodities.

CHAPTER VII SUPERVISION

Article 32 The administrative departments of public health of the local people's governments at or above the county level shall exercise their functions and duties for food hygiene supervision within the scope of their jurisdiction.

The agencies for food hygiene supervision set up by the administrative departments of railways and communications shall exercise their functions and duties for food hygiene supervision jointly prescribed by the administrative departments of public health under the State Council and other relevant departments under the State Council.

Article 33 The duties for food hygiene supervision shall be as follows:

- (1) to provide monitoring, inspection and technical guidance for food hygiene;
- (2) to contribute to the training of personnel for food production and marketing and to supervise the medical examination of such personnel;
- (3) to disseminate knowledge of food hygiene and nutrition, provide appraisals of food hygiene and publicize the existing situation in food hygiene;
- (4) to conduct hygiene inspection of sites selected or designs made for construction, extension or renovation projects of enterprises engaged in food production or marketing and participate in the inspection and acceptance of finished projects;
- (5) to undertake investigation of accidents involving food poisoning or food contamination and take measures of control;
- (6) to make supervision and inspection rounds to see whether any act is committed against this Law;
- (7) to pursue investigation of the responsibility of persons who violate this Law and impose administrative punishment on them according to law; and
- (8) to take charge of other matters that concern food hygiene supervision.

Article 34 The administrative departments of public health of the people's governments at or above the county level shall be manned with food hygiene supervisors. Such supervisors shall be qualified professionals and issued with such certificates by the administrative departments of public health at the corresponding levels.

The food hygiene supervisors appointed by departments in charge of railways and communications agencies shall be issued with the certificates by the competent authorities at a higher level.

Article 35 Food hygiene supervisors shall carry out the tasks assigned to them by the administrative department of public health.

Food hygiene supervisors shall enforce laws impartially, be loyal to their duties and may

not seek personal gain by taking advantage of their office.

While carrying out their tasks, food hygiene supervisors may obtain information from the food producers or marketers, request necessary data, enter production or marketing premises to inspect them, and get free samples in accordance with regulations. The producers or marketers may not turn down such requests or hold back any information.

Food hygiene supervisors shall be obliged to keep confidential any technical data provided by the producers or marketers.

Article 36 The administrative department of public health under the State Council and those of the peoples governments of the provinces, autonomous regions, or municipalities directly under the Central Government may, if the need arises, assign qualified units as units for food hygiene inspection; these units shall undertake food hygiene inspection and provide inspection reports.

Article 37 The administrative department of public health of the local people's governments at or above the county level may adopt the following temporary measures of control over the food producer or marketer when a food poisoning accident has occurred or when there is evidence of a potential food poisoning accident:

(1) to seal up the food and its raw materials that have caused food poisoning or that are likely to cause food poisoning;

(2) to seal up the contaminated utensils used for food and order the food producer or marketer to have them cleaned and disinfected.

The food that is found to be contaminated after inspection shall be destroyed, while the food that is found not contaminated shall be unsealed.

Article 38 The units where food poisoning accidents have occurred and the units that have admitted the victims for medical treatment shall, in addition to taking rescue measures, submit prompt reports to the local administrative departments of public health in accordance with relevant State regulations.

The administrative department of public health of a local people's government at or above the county level shall, upon receipt of such report, conduct prompt investigation and handle the matter and adopt control measures.

CHAPTER VIII LEGAL RESPONSIBILITY

Article 39 Whoever, in violation of this Law, produces or markets food which is not up to the hygiene standards, thus causing an accident of food poisoning or resulting in a disease caused by food borne bacteria, shall be ordered to stop such production or marketing; the food causing such food poisoning or disease shall be destroyed; the illegal gains shall be confiscated and a penalty of not less than one time and not more than five times the

illegal gains shall concurrently be imposed; if there are no illegal gains, a penalty of not less than 1,000 yuan and not more than 50,000 yuan shall be imposed.

Whoever, in violation of this Law, produces or markets food which is not up to the hygiene standards, thus causing a serious accident of food poisoning or resulting in a disease caused by food-borne bacteria, and seriously harming human health, or adulterates food he produces or markets with toxic or harmful non-food raw materials, shall be investigated for criminal responsibility according to law.

If a person commits any of the acts mentioned in this Article, his hygiene licence shall be revoked.

Article 40 If anyone, in violation of this Law, engages in food production or marketing without obtaining a hygiene licence or with a forged hygiene licence, such production or marketing shall be banned; the illegal gains shall be confiscated and a penalty of not less than one time and not more than five times the illegal income shall concurrently be imposed; if there are no illegal gains, a penalty of not less than 500 yuan and not more than 30,000 yuan shall be imposed. If anyone alters or lends his hygiene licence, his hygiene licence and the illegal gains shall be confiscated; and a penalty of not less than one time and not more than three times the illegal gains shall concurrently be imposed; if there are no illegal gains, a penalty of not less than 500 yuan and not more than 10,000 yuan shall be imposed.

Article 41 If, in violation of this Law, any food producer or marketer does not comply with the hygiene requirements, he shall be ordered to set it right and given a disciplinary warning, and a penalty of not more than 5,000 yuan may be imposed; if he refuses to set it right or other serious circumstances are involved, his hygiene licence shall be revoked.

Article 42 If anyone, in violation of this Law, produces or markets food the production and marketing of which is prohibited, he shall be ordered to stop producing or marketing such food, a public announcement shall be made immediately to recall the sold food and the food shall be destroyed; the illegal gains shall be confiscated and a penalty of not less than one time and not more than five times the illegal gains shall concurrently be imposed; if there are no illegal gains, a penalty of not less than 1,000 yuan and not more than 50,000 yuan shall be imposed; if the offence is serious, the offender's hygiene licence shall be revoked.

Article 43 If anyone, in violation of this Law, produces or markets the principal and supplementary foods intended specially for infants and preschool children which do not conform to the nutritive and hygiene standards, he shall be ordered to stop producing and marketing such foods, a public announcement shall be made immediately to recall the sold foods and the foods shall be destroyed; the illegal gains shall be confiscated and a penalty of not less than one time and not more than five times the illegal gains shall concurrently be imposed; if there are no illegal gains, a penalty of not less than

1,000 yuan and not more than 50,000 yuan shall be imposed; if the offence is serious, the offender's hygiene licence shall be revoked.

Article 44 If anyone, in violation of this Law, produces, markets or uses the food additives, food containers, packagings, utensils and equipment used for food as well as the detergents and disinfectants which do not conform to the hygiene standards and the hygiene control regulations, he shall be ordered to stop producing and using them; the illegal gains shall be confiscated and a penalty of not less than one time and not more than three times the illegal gains shall concurrently be imposed; if there are no illegal gains, a penalty of not more than 5,000 yuan shall be imposed.

Article 45 If anyone, in violation of this Law, produces or markets the food indicated to have specific health functions without examination and approval by the administrative department of public health under the State Council, or if the product description of such food provides false information, he shall be ordered to stop producing or marketing such food, the illegal gains shall be confiscated and a penalty of not less than one time and not more than five times the illegal gains shall concurrently be imposed; if there are no illegal gains, a penalty of not less than 1,000 yuan and not more than 50,000 yuan shall be imposed; if the offence is serious, the offender's hygiene licence shall be revoked.

Article 46 If anyone, in violation of this Law, does not indicate or falsely indicates specified matters such as the date of manufacture and the date of expiration for guaranteed quality in the labels of packages of the standardized packaged food or food additives or in the product descriptions, or in violation of the regulations, does not have labels in the Chinese language, he shall be ordered to set it right and a penalty of not less than 500 yuan and not more than 10,000 yuan may concurrently be imposed.

Article 47 If a food producer or marketer, in violation of this Law, engages in food production or marketing without obtaining a health certificate, or if the producers or marketers who suffer from diseases and may not contact with ready-to-eat foods are not transferred to other posts according to relevant regulations, they shall be ordered to set it right and a penalty of not more than 5,000 yuan may be imposed.

Article 48 If anyone, in violation of this Law, causes an accident of food poisoning or a disease engendered by food-borne bacteria or causes harm to another person by other acts against this Law, he shall bear the civil liability for compensation according to law.

Article 49 The administrative punishment provided in this Law shall be decided by the administrative department of public health of a local people's government at or above the county level. Other authorities exercising the power of food hygiene supervision as provided by this Law shall, within the stipulated scope of functions and duties, make decisions on administrative punishment in accordance with the provisions of this Law.

Article 50 If a party is not satisfied with the decision on administrative punishment, he may, within 15 days from receipt of the notice of punishment, apply for reconsideration

to the organ at the next higher level over the one that has made the decision. The party may also directly bring a suit in a People's Court within 15 days from receipt of the said notice.

The reconsideration organ shall, within 15 days from receipt of the application for reconsideration, make a reconsideration decision. If the party concerned is not satisfied with the reconsideration decision, he may, within 15 days from receipt of the reconsideration decision, bring a suit in a People's Court.

If a party neither applies for reconsideration, nor brings a suit in a People's Court within the time limit, nor execute the decision on administrative punishment, the organ that has made the decision may apply to a People's Court for compulsory execution.

Article 51 If an administrative department of public health, in violation of this Law, issues hygiene licences to producers or marketers not meeting the requirements, the persons who are directly responsible for the offence shall be given administrative sanctions; those who accept bribes, if the case constitutes a crime, shall be investigated for criminal responsibility in accordance with law.

Article 52 Food hygiene supervisors and administrators who by abusing their power, neglecting their duties or engaging in malpractice for personal gain, cause a major accident, which constitutes a crime, shall be investigated for criminal responsibility in accordance with law; if the offence does not constitute a crime, the offender shall be given administrative sanctions--according to law.

Article 53 Whoever prevents, by force or intimidation, food hygiene supervisors or administrators from performing their duties according to law shall be investigated for criminal responsibility in accordance with law; whoever prevents or obstructs, without resorting to force or intimidation, food hygiene supervisors or administrators from performing their duties according to law shall be punished by the public security organs in accordance with the Regulations on Administrative Penalties for Public Security.

CHAPTER IX SUPPLEMENTARY PROVISIONS

Article 54 For the purpose of this Law, the definitions of the following terms are:

“Food” means any finished product or raw materials provided for people to eat or drink, as well as any product that has traditionally served as both food and medicament, with the exception of products used solely for medical purposes.

“Food additive” means any synthetic compound or natural substance put into food to improve its quality, colour, fragrance or taste, or for the sake of preservation or processing.

“Food fortifier” means any natural or artificial food additive belonging to the category of natural nutrients that is put into food to increase its nutritive value.

“Containers and packagings used for food” means products of various materials including paper, bamboo, wood, metal, enamelware, ceramics, plastics, rubber, natural fibres, synthetic fibres and glass that are used to wrap or contain food, as well as paints or coatings that come in direct contact with food.

“Utensils and equipment used for food” means apparatus including machinery, piping, conveyor belts, containers, utensils and tableware that come in direct contact with food in the course of food production or marketing

“Food production or marketing” means all operations in the production of food (other than planting and breeding) and activities such as the gathering, purchase, processing, storage, transport, display, supply and sale of food.

“Producers or marketers of food” means all units or individuals involved in food production or marketing, including workers’ dining halls and food vendors.

Article 55 Measures for the administration of food for export shall be formulated separately by the national import and export commodities inspection department in conjunction with the administrative department of public health and other relevant administrative departments under the State Council.

Article 56 Hygiene control measures for food specially used or supplied for its own use by the Army shall be formulated by the Central Military Commission in accordance with this Law.

Article 57 This Law shall come into force as of the date of promulgation. The Food Hygiene Law of the People’s Republic of China (for trial implementation) shall be unnullled on the same date.