

Chinalaw
Provided By Chinalaw Computer-Assisted Legal Research Center,
Peking University.

LAW GOVERNING SANITARY PRODUCTION AND HANDLING OF
FOODS OF THE PEOPLE'S REPUBLIC OF CHINA

(Adopted by the 25th Session of the Standing Committee of the Fifth National People's Congress on
November 19, 1982 and promulgated with effect from July 1, 1983)

CHINALAW No. 139

ISSUING-DEPT: STANDING COMMITTEE OF PEOPLE'S CONGRESS

ISSUE-DATE:
11/19/1982

IMPLEMENT-DATE:
07/01/1983

TEXT:

CHAPTER I INTRODUCTION

[Article 1] This Law is formulated for the purpose of ensuring that foods for the consumption of the general public meet hygiene standards, and that they are prevented from contamination or unhealthy developments, so that the health of the people may be safeguarded.

[Article 2] The State exercises supervision over foods produced and handled for consumption by the public.

[Article 3] All food producing or handling entities within the People's Republic of China must abide by this Law. Anybody may enjoy the right to report or lodge complaints on any cases of infringement of this Law.

This Law applies to all foods, food additives, and containers, utensils, packaging, tools, facilities and equipment used in producing or handling foods. It also applies to the premises and their surroundings where food production or handling is carried out.

CHAPTER II FOOD SANITARY STANDARDS

[Article 4] Foods must be free of poisonous or deleterious substances, must conform to nutritive requirements, and must have the appearance, aroma and flavour appropriate to them.

[Article 5] The staple and supplementary foods produced especially for the consumption of infants and children must conform to the nutritive and hygienic standards set down by the health and sanitary authorities under the State Council.

[Article 6] The following sanitary requirements should be met in the production and handling of foods:

(1) The food production premises and surroundings should be clean and tidy. Measures should be taken to eliminate flies, mice, cockroaches and other pests, and their breeding grounds. Production should be carried out away from poisonous or deleterious sources, at a distance no less than that stipulated;

(2) The entities which produce or handle foods should have, for the preparation, processing, packaging, and storage of materials and products, workshops or places which are commensurate with the kind and quantity of the products produced or handled;

(3) At the site of production there should be proper facilities of the following kinds: disinfectants, locker-rooms and lavatories, natural and artificial lighting, ventilation, spoilage prevention, dust, fly and mouse prevention and elimination, washing and cleansing units, sewage, garbage and waste disposal facilities;

(4) The facilities should be so located and the production flow so arranged that uncooked and cooked foods, raw materials and processed products are separated from each other to avoid cross-infection. No food is allowed to come into contact with poisonous or unclean substances;

(5) Tableware, tea services, utensils and containers in which food for direct ingestion is put should be washed clean and disinfected before use; cooking utensils and implements should be cleansed and kept clean after use;

(6) Containers, implements and facilities used in transporting, loading and unloading food should meet sanitary requirements for the prevention of food contamination. The surroundings should also be kept clean;

(7) Take-away foods for direct ingestion should be served in clean and non-deleterious wrappings or containers;

(8) Personnel handling food in production and distribution should maintain personal hygiene; they should, when producing or selling food, keep their hands clean, and wear clean clothes and caps. Food for direct ingestion should be handled with implements; and

(9) Water used in the production of food should comply with the hygiene standards for potable water in cities and the countryside set by the State.

The sanitary requirements for food venders in marketplaces or country fairs to follow may be formulated by the Standing Committee of the provincial, municipal or autonomous regional People's Congress concerned.

[Article 7] Production is forbidden of foods of the following kinds:

(1) Foods which are spoiled, rancid, mouldy, maggot infested, unclean, admixed with foreign matter, or unnatural to the taste, eye or other sensual perceptions;

(2) Foods containing, or contaminated by, poisonous or otherwise deleterious matter;

(3) Foods containing disease-causing parasites, bacteria, or bacterial toxins by amounts exceeding limits set by the State;

(4) Meat or meat products that have not been examined by authorised veterinary surgeons, or that have failed to pass their examinations;

(5) Meat of fowls, domesticated animals, or aquatic animals which have died of disease, poison, or unknown cause, and their products;

(6) Foods contaminated because of use of unclean containers or packaging, or because of serious damage to the containers or packaging, or because of unclean transportation facilities whereby they are handled;

(7) Foods which are so adulterated or admixed with foreign matter that the nutritive and hygienic standards are violated;

- (8) Foods that are processed from nonedible raw materials;
- (9) Foods which have been kept beyond the time limits allowed;
- (10) Foods the sale of which has been prohibited by the public health authorities under the State Council or those under the provincial, municipal or autonomous regional governments, on grounds of disease prevention, etc;
- (11) Foods containing additives or (vestiges of) pesticides the use of which has not been approved by the public health authorities under the State Council; and
- (12) Foods which violate other sanitary standards or stipulations of the public health authorities.

[Article 8] No pharmaceuticals should be added to foods, except those which are traditionally regarded as both foods and pharmaceuticals, and those added as condiments or as food accessories.

CHAPTER III FOOD ADDITIVES

[Article 9] Food additives should meet quality standards, and should be produced only in factories appointed by the chemical, light, petroleum, forestry and aquatic products industries, and pharmaceuticals authorities concerned under the State Council, or the provincial, municipal, autonomous regional governments.

[Article 10] The production and use of food additives must comply with the sanitary and hygiene standards and hygienic standards and health and sanitary stipulations concerned. Use of substandard additives and additives not produced in appointed factories is prohibited.

CHAPTER IV FOOD CONTAINERS, PACKAGING MATERIALS, TOOLS AND EQUIPMENTS

[Article 11] Containers, packaging materials, tools and equipment used in the production and handling of food must conform to health and sanitary standards and regulations.

[Article 12] The materials used in the production of containers, packaging, tools and equipment must comply with health and sanitary standards; the finished products must be such as to facilitate cleansing and disinfection.

[Article 13] The paper, plastic, rubber, or paint material of the containers or packaging that gets into direct contact with food must be produced by factories specially appointed by the authorities concerned.

CHAPTER V FORMULATION OF STANDARDS AND RULES

[Article 14] The health and sanitary standards and rules, and the inspection and testing procedures for foods, food additives, containers, packaging, tools and equipment used in the production and handling of food, detergents used in the cleansing of food and the amounts of contaminants and radioactive substances tolerated, are formulated, approved and published by public health authorities under the State Council.

[Article 15] Foods which are not governed by any state health and sanitary standards, provincial, municipal or autonomous regional governments may stipulate their own standards applicable within their own jurisdictions; the said standards should be submitted and filed with the public health authorities under the State Council. The competent authorities responsible for the supervision of food production and distribution, or the entities engaged in food production and distribution may, after obtaining approval from the public health authorities concerned on the same level, specify under quality standards the health and sanitary targets they mean to achieve.

[Article 16] National quality standards for food additives which have a hygiene content should be approved by the relevant health authorities under the State Council.

Reports on the safety of pesticides, fertilisers and other such chemicals used should be approved by the relevant health authorities under the State Council.

The procedure for inspection of the killing of animals and fowls shall be drawn up by the competent authorities under the State Council and the public health authorities concerned.

[Article 17] The health and sanitary standards and rules, and the inspection and testing procedures may be revised or amended whenever necessary by the authorities which formulated or issued them.

CHAPTER VI MANAGEMENT

[Article 18] The authorities supervising the work of the entities producing or handling foods shall be held accountable for the sanitary operation of such entities, and shall see to it that these entities abide by the provisions of this Law.

[Article 19] The food producing or handling entities and the authorities supervising the work of such entities shall establish or perfect the food supervision setup, or assign full-time or part-time personnel responsible for the supervision of the sanitary operation of the entities.

[Article 20] The duties of the food supervision setup or of the personnel responsible for the supervision of the sanitary operation of the entities are:

(1) Implementing this Law and the relevant food, health and sanitary rules and regulations, and organising training programmes in food, health and sanitation;

(2) Undertaking the supervision and inspection of food produced or handled and of food production or handling procedures; and

(3) Supervising the work carried out to ensure sanitary production and handling of food, stopping any activity which violates this Law, reporting to the public health and other authorities concerned of any such violations, and putting forward suggestions as to what corrective measures should be taken.

[Article 21] In the building, extension, or rebuilding of a food producing or handling entity, the selection of the site and the designing of the structures should comply with health and sanitary requirements. the appraisal of the designs, and the checking and acceptance of the construction should be participated in by the appropriate food health and sanitary supervision authorities.

[Article 22] For new types of food or food additives, the producing entity should, before production begins, submit such data as are necessary for carrying out hygienic and nutritive evaluation of the products. For new types of raw materials used in the production of food containers, packaging, tools, or equipment, the entities producing them should, before production is actually carried out, submit such information as is necessary for sanitary appraisal of them. Samples should be provided before production begins, and application for approval submitted according to the proper procedures.

[Article 23] Printed product descriptions should go with packaged food or food additives that are being produced in large quantities. which should include name of product, place of production, name of factory, date of production, batch number, specifications, formula or chief ingredients, time limit within which the

product may be kept and method of use. Product descriptions should not contain exaggerations or false claims.

[Article 24] Entities producing or handling food have the right to demand from the seller presentation of certificates evidencing that what he is selling has passed the necessary health and sanitary tests. Under no circumstances may the seller refuse this. The kinds of product covered by this Article shall be determined by the provincial, municipal or autonomous regional public health authorities.

[Article 25] Personnel engaged in the production or handling of food shall undergo a physical checkup each year. Those who have just become engaged or who are temporarily engaged in the production or handling of food shall obtain a health certificate before they are allowed to participate in the work.

People who are not allowed to take part in the production or handling of food that is directly ingested include those who are suffering from dysentery, typhoid, hepatitis, and other infectious diseases of the alimentary canal (including those who are disease carriers), active pulmonary tuberculosis, festering or oozing skin diseases, and other diseases that may adversely affect the health of others.

[Article 26] Food producing entities and food dealers shall apply for a business permit from the authorities concerned or shall apply for a change in the content of a business permit only after prior acquisition of a food health and sanitary certificate.

The rules governing the issuance of a food health and sanitary certificate shall be formulated by the provincial, municipal or autonomous regional public health authorities.

[Article 27] Supervision of sanitary production and handling of food by food vendors in marketplaces or country fairs is carried out by the relevant business administrative authorities; food testing is the responsibility of the relevant public health authorities; animal and fowl veterinary examinations are carried out by the relevant agricultural, animal husbandry or fishery authorities.

[Article 28] Foods, food additives, food containers, packaging, tools and equipment imported from abroad should comply with national health and sanitary standards and public health regulations.

Inspection of such imports shall be carried out by the public health authorities at the ports of entry. When applying for inspection, the importer shall supply information and test reports on the farm chemicals, additives, and fumigants used in the exporting country (territory).

The Customs shall allow entry of these products only on presentation of certificates issued by such port of entry public health authorities.

[Article 29] Food exported shall be inspected and tested by the national commodity inspection and testing authorities.

The Customs shall allow export of these products only on presentation of certificates issued by such national commodity inspection and testing authorities.

CHAPTER VII SUPERVISION

[Article 30] Public health authorities of different levels shall be responsible for supervising the work for maintenance of health and sanitary standards of foods.

[Article 31] The sanitation and epidemic prevention stations or the food inspection and testing stations under the public health authorities above county levels shall carry out on-the-ground supervision to ensure that foods meet the health and sanitation standards.

The railway and communications, factory and mining sanitation and epidemic prevention stations do the duties of the food health and sanitary standards supervision authorities within their own jurisdiction, and are subject to guidance from the food health and sanitation standards supervision authorities of their localities.

[Article 32] Supervisors in a food supervision organ must be qualified, the qualification certificates being issued by the people's government at the same level.

Qualification certificates for supervisors at railway or communications centres, and at factories and mines shall be issued to them by the responsible government organs.

[Article 33] The responsibilities of the food supervision organs are as follows:

- (1) Carrying out inspection and testing, and giving technical guidance;
- (2) Helping in the training of personnel engaged in the production or handling of food, and supervising the physical checkup of such personnel;
- (3) Disseminating knowledge about hygiene and nutrition, carrying out food hygiene appraisal, and publishing food sanitation conditions;
- (4) Carrying out health and sanitary appraisal of the site selected and the designing of the structures involved in the building, extension, or rebuilding of a food producing or handling entity, and participating in the checking and acceptance of the construction after completion;
- (5) Investigating cases of food poisoning and food contamination, and adopting remedial measures;
- (6) Carrying out on-the-spot checks and inspections, to deal in good time with any problems that have been discovered;
- (7) Finding out the parties responsible for infringements, and meting out sanctions; and
- (8) Carrying out other work connected with food supervision.

[Article 34] Food supervisors perform tasks assigned to them by the food health and sanitary authorities.

When performing their duties, the food supervisors are entitled to elicit information and acquire necessary data from the food producers, and to gain access to workshops to inspect and get samples of products free of charge. The producers shall not refuse any such requests nor withhold anything from the supervisors.

Food supervisors have the obligation to keep secret the trade secrets of the producers.

[Article 35] The public health authorities of the State Council provincial, municipal and autonomous regions may appoint, where necessary, units with the capabilities other than food health and sanitary supervision organs to become food inspection and testing units, to carry out food testing and issue food testing reports.

[Article 36] The units which take in patients suffering from food poisoning to give them emergency treatment shall, in accordance with relevant government regulations, report the cases to the food health and sanitary supervision authorities concerned.

CHAPTER VIII LEGAL RESPONSIBILITIES

[Article 37] To those units seriously encroaching upon this Law, the following administrative punishments shall be meted out:

- (1) A warning and order for the adoption of corrective measures within a set time limit;
- (2) A request to recover products already sold which are forbidden to be produced;
- (3) The confiscation or destruction of food or food additives prohibited to be produced or distributed;
- (4) Fines ranging from RMB \$ 20 and RMB \$ 50,000;
- (5) An order to close down; and
- (6) The revocation of business permits.

Revocations and fines exceeding RMB \$ 5,000 shall be approved by the people's government of the county or higher levels.

The abovesaid administrative punishments may be dealt out singly or concurrently.

The confiscated products shall be disposed of under the supervision of the food health and sanitary supervision authorities.

[Article 38] Offenders refusing to accept the administrative punishments may file a law suit with the court within 15 days after notification of the punishments is issued. However, rulings that call for the confiscation or destruction of products must be carried out immediately. Noncompliance with the payment of fines without filing a law suit within the specified time limit shall be redressed by the food health and sanitary supervision authorities concerned through a call upon the court to execute forced implementation according to the procedures set out in the "Civil Procedural Law of the People's Republic of China".

[Article 39] People responsible for offences against this Law which result in cases of food poisoning or other diseases may be punished accordingly. Victims of such offences have the right to require compensation.

Compensation may be given in any one or more of the following forms; payment of medical expenses, an allowance for living expenses, sick pay, funeral expenses and pensions for the family.

[Article 40] Damages claims shall be handled by the public health authorities at county level or above. Offenders who refuse to accept the rulings may file a law suit with the court. Victims or their legal representatives who are not satisfied with the rulings may also file a law suit with the court.

Damages claims should be lodged within a year after the victim or his legal representative has learnt of, or should have learnt of, the extent of the damages. A case shall not be accepted if it is lodged after the given time limit.

[Article 41] People directly responsible for offences against this Law which have resulted in serious cases of food poisoning or other such diseases, bringing about death, deformity or loss of ability to work to the victims, shall be prosecuted in accordance with Articles 114, 164 or 187, of the Criminal Law of the People's Republic of China. For minor cases, criminal prosecution may be dropped in accordance with the relevant stipulations of the Criminal Law of the People's Republic of China. Administrative punishment shall then be dealt out by the authorities concerned.

CHAPTER IX SUPPLEMENTARY ARTICLES

[Article 42] More specific rules and regulations may be formulated on the basis of this Law by the public health authorities under the State Council, and submitted to the State Council for approval.

[Article 43] The following are the meanings of the terms used in this Law:

"Foods": All products and raw materials for human inception, and those which are traditionally regarded as both foods and pharmaceuticals, not including, however, those which are used solely as pharmaceuticals.

"Food additives": Synthetic or natural materials added to foods to improve the quality, the appearance, the aroma, and the flavour of foods, to prevent spoilage, and to satisfy technological needs.

"Food accessories": Natural or synthetic materials belonging to the category of natural nutrients, which are mixed with foods to raise the nutritive value of the foods.

"Food container and packaging materials": All paper, bamboo, wooden, metal, enamel, pottery, plastic, rubber, natural fibre, synthetic fibre, glass products in which foods are packaged or contained, and paints that may come into contact with foods.

"Food tools and equipment": All machinery, piping, conveyors, utensils, implements, tableware and tea services which come into contact with foods in the process of food production and food handling.

"Food production and food handling": Production (not including plant growing and animal breeding), collection, procurement, processing, storage, transportation, display, supply, and sale of foods.

"Food producing and handling entities": All units and individuals, including canteens and small dealers, that are engaged in the production and distribution of foods.

[Article 44] The rules and regulations governing production and distribution of foods for export shall be formulated by the national export and import commodity inspection and testing authorities, in conjunction with the public health authorities under the State Council and the authorities directly responsible for the work of the producing entities.

[Article 45] This Law shall come into force on July 1, 1983.

From the time this Law comes into force, the food health and sanitary supervision regulations of the People's Republic of China shall be annulled. This Law overrides all the rules previously promulgated which conflict with this Law.