

The Food Safety Law of the People's Republic of China

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The Food Safety Law of the People's Republic of China, which was adopted at the 7th Session of the Standing Committee of the 11th National People's Congress of the People's Republic of China on February 28, 2009, is hereby promulgated and shall come into force as of June 1, 2009.

President of the People's Republic of China Hu Jintao

February 28, 2009

Food Safety Law of the People's Republic of China

(Adopted at the 7th Session of the Standing Committee of the 11th National People's Congress on February 28, 2009)

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Chapter I General Provisions

Article 1

This Law is enacted to ensure the food safety and guarantee the safety of the lives and health of the general public.

Article 2

Those engaging in the following activities within the People's Republic of China shall abide by this Law:

1. food production and processing (hereinafter referred to as food production), and food circulation and catering services (hereinafter referred to as food business operation);
2. the production and business operation of food additives;
3. the production and business operation of packing materials, containers, detergents and disinfectants for food and utensils and equipment for food production and business operation (hereinafter referred to as "food-related products");
4. the use of food additives and food-related products by food producers and business operators; and
5. the safety management of food, food additives and food-related products.

The quality and safety management of edible primary products sourced from agriculture (hereinafter referred to as "edible agricultural products") shall be governed by the provisions of the Law on the Quality and Safety of Agricultural Products. However, the formulation of quality and safety standards for edible agricultural products and the release of safety information about edible agricultural products shall be governed by the relevant provisions of this Law.

Article 3

Food producers and business operators shall follow relevant laws, regulations and food safety standards when engaging in food production and business operation activities, be responsible to the society and the general public, ensure food safety, accept social supervision and assume social responsibilities.

Article 4

The State Council shall establish a Food Safety Committee, of which the functions shall be prescribed by the State Council.

The health administrative department of the State Council shall undertake the comprehensive coordination function for food safety, be responsible for the assessment of food safety risks, formulation of food safety standards, release of food safety information, formulation of qualification determination conditions and inspection requirements for food inspection agencies, and organize the investigation and handling of major food safety accidents.

The quality supervision department, industry and commerce administrative department and state food and drug administrative department of the State Council shall, according to the functions as prescribed in this Law and those as provided for by the State Council, supervise and administer the food production, food circulation and catering services, respectively.

Article 5

A local people's government at or above the county level shall undertake the overall responsibility for the food safety supervision and administration within its own administrative region, uniformly lead, organize and coordinate the work of food safety supervision and administration within its own administrative region, establish a sound whole-process food safety supervision and administration mechanism, uniformly lead and exercise command in responses to food safety emergencies, improve and execute the food safety supervision and administration accountability system, and appraise, discuss and evaluate the performances of the food safety supervision and administration departments. A local people's government at or above the county level shall, in accordance with this Law and the provisions of the State Council, determine the food safety supervision and administration functions of the health administrative department, agriculture administrative department, quality supervision department, industry and commerce administrative department, food and drug supervision and administration department at the same level. These departments shall, within the scope of their respective functions, be responsible for the food safety supervision and administration within that administrative region.

The agency established within an administrative region at a lower level by a department of the people's government at a higher level shall do a good job in the food safety supervision and administration under the uniform coordination of the local people's government.

Article 6

The health administrative departments, agriculture administrative departments, quality supervision departments, industry and commerce administrative departments, food and drug supervision and administration departments at and above the county level shall strengthen communication and closely cooperate with each other, and exercise the powers and assume the responsibilities under their respective functions.

Article 7

The relevant food industry associations shall strengthen the industrial self-discipline, direct food producers and business operators to engage in production and business operation according to law, boost the industrial trustworthiness, publicize and popularize the knowledge on food safety.

Article 8

The state shall encourage social groups and autonomous grassroots mass organizations to carry out the work in respect of the popularization of food safety laws, regulations, standards and knowledge, advocate healthy eating styles, and enhance consumers' food safety awareness and self-protection capability.

The news media shall publicize food safety laws, regulations, standards and knowledge for the public good and, through public opinions, supervise violations of this Law.

Article 9

The state shall encourage and support the basic research and application research relevant to food safety, and encourage food producers and business operators to adopt advanced technologies and advanced management criterions and grant support to them so as to enhance food safety levels.

Article 10

Any entity or individual shall be entitled to report any violation of this Law which is committed during the food production and business operation process, get food safety information from relevant departments and put forward opinions and suggestions on the food safety supervision and administration work.

Chapter II Monitoring and Assessment of Food Safety Risks

Article 11

The state shall establish a food safety risk monitoring system to monitor the food-borne diseases, food contamination and harmful factors in food.

The health administrative department of the State Council shall, jointly with relevant departments of the State Council, work out and execute the national food safety risk monitoring plan. The health administrative departments of the people's governments of the provinces, autonomous regions and municipalities directly under the Central Government shall, according to the national food safety risk monitoring plan, and by taking into account the actualities of their respective administration region, organize the preparation and execution of the food safety risk monitoring program for their respective administrative region.

Article 12

After getting the information about the relevant food safety risks, the agriculture administrative department, quality supervision department, industry and commerce administrative department, state food and drug administrative department and other relevant departments of the State Council shall promptly notify the health administrative department of the State Council. After verifying the information jointly with the relevant departments, the health administrative department shall timely adjust the food safety risk monitoring plan.

Article 13

The state shall establish a food safety risk assessment system to conduct risk assessment on the biological, chemical and physical hazards in food and food additives.

The health administrative department of the State Council shall be responsible for organizing the food safety risk assessment work. It shall form a food safety risk assessment expert committee composed of experts in medical science, agriculture, food, nutrition, etc., to assess food safety risks.

The safety assessment of pesticides, fertilizers, growth regulators, veterinary medicines, feeds and feed additives, etc. shall be made with the participation of experts from the food safety risk assessment expert committee.

The food safety risk assessment shall be made through scientific methods and be based on the food safety risk monitoring information, scientific data and other relevant information.

Article 14

Where the health administrative department of the State Council finds any hidden food safety risk through food safety risk monitoring or through a tip-off it receives, it shall immediately organize an

inspection and a food safety risk assessment.

Article 15

The agriculture administrative department, quality supervision department, industry and commerce administrative department, state food and drug administrative department and other relevant departments of the State Council shall put forward suggestions on food safety risk assessment and furnish relevant information and materials to the health administrative department of the State Council.

The health administrative department of the State Council shall timely notify the relevant departments of the State Council of the result of food safety risk assessment.

Article 16

The result of food safety risk assessment is the scientific basis for formulating and revising the food safety standards, and for exercising food safety supervision and administration.

If it concludes from the result of food safety risk assessment that any food is unsafe, the quality supervision department, industry and commerce administrative department and state food and drug administrative department of the State Council shall, according to their respective functions, immediately take corresponding measures to ensure cessation of the production and business operation of the food in question, and inform the consumers that they should stop eating it. If it is necessary to formulate or revise the pertinent national food safety standards, the health administrative department of the State Council shall do so promptly.

Article 17

The health administrative department of the State Council shall, jointly with the relevant departments of the State Council, make a comprehensive analysis on the status quo of food safety in light of the food safety risk assessment result and the food safety supervision and administration information. If it shows that any food is with possibly high safety risk upon the comprehensive analysis, the health administrative department of the State Council shall timely give a warning of food safety risk and make an announcement.

Chapter III Food Safety Standards

Article 18

The purpose of formulating food safety standards shall be to ensure the physical health of the general public. The food safety standards shall be scientific, reasonable, safe and reliable.

Article 19

The food safety standards are standards for mandatory execution. Except for food safety standards, no other mandatory food standards shall be set down.

Article 20

The food safety standards shall contain

1. provisions on limits of pathogenic microorganisms, pesticide residues, veterinary medicine residues, heavy metals, pollutants and other substances hazardous to human health in food and food-related products;
2. varieties, extent of use and dosages of food additives;
3. nutrient content requirements for staple and supplementary food exclusively for infants and other particular groups of people;
4. requirements for labels, marks and instructions relating to food safety or nutrition;
5. hygienic requirements for food production or business operation process;
6. quality requirements relating to food safety;
7. methods and procedures for food inspection; and
8. other contents which are necessary to be formulated as food safety standards.

Article 21

The national food safety standards shall be formulated and announced by the health administrative department of the State Council, for which the standardization administrative department of the State Council shall provide the serial number of national standards.

The provisions on limits of pesticide residues and veterinary medicine residues, and the inspection methods and procedures thereof shall be formulated by the health administrative department and agriculture administrative department of the State Council.

The inspection procedures for slaughtered livestock and poultry shall be formulated by the relevant competent department of the State Council jointly with the health administrative department of the State Council.

Where any national product standard involves provisions of the national food safety standards, it shall assure its consistency with the national food safety standards.

Article 22

The health administrative department of the State Council shall consolidate the mandatory standards in the existing edible agricultural product quality and safety standards, food safety standards, food quality standards as well as relevant industrial standards on food and uniformly publish them as national food safety standards.

Before the national food safety standards as prescribed in this Law are published, the food producers and business operators shall produce food and engage in the business operation of food under the existing edible agricultural product quality and safety standards, food safety standards, food quality standards as well as relevant industrial standards on food.

Article 23

The national food safety standards shall be examined and adopted by the National Food Safety Standard Review Committee. The National Food Safety Standard Review Committee shall consist of experts in medical science, agriculture, food, nutrition, etc. and representatives from relevant

departments of the State Council

The national food safety standards shall be formulated on the basis of the food safety risk assessment results, by taking into full consideration the quality and safety risk assessment results of edible agricultural products, referring to the relevant international standards and international food safety risk assessment results, and upon soliciting opinions from a wide range of food producers, business operators and consumers.

Article 24

In the absence of national food safety standards, local food safety standards may be formulated. When organizing the formulation of local food safety standards, the health administrative department of the people's government of a province, autonomous region or municipality directly under the Central Government shall refer to the provisions of this Law regarding the formulation of national food safety standards and report them to the health administrative department of the State Council for archival purposes.

Article 25

In the absence of national food standards or local standards for the food produced by an enterprise, the enterprise shall formulate enterprise standards as the basis for organizing the production thereof. The state shall encourage food production enterprises to formulate standards more stringent than the national food safety standards or than the local food safety standards. The standards of an enterprise shall be submitted to the provincial health administrative department for archival purposes and be applied inside the said enterprise.

Article 26

The food safety standards shall be available for the general public to consult free of charge.

Chapter IV Food Production and Business Operation

Article 27

A food producer or business operator shall meet the food safety standards and satisfy the following requirements:

1. having places for treating food raw materials and food processing, packaging and storage, which adapt to the varieties and quantities of the food under its production or business operation; keeping the environment of the said places tidy and clean, and ensuring that they are at a prescribed distance from toxic and hazardous sites and other pollution sources;
2. having production or business operation equipment or facilities, which adapt to the varieties and quantities of the food under its production or business operation, and having the corresponding equipment or facilities for disinfection, changing clothes, toilet, day-lighting, illumination, ventilation, anti-corrosion, anti-dust, anti-fly, rat proof, mothproof, washing, disposal of waste water, and storage of garbage and waste.
3. having professional food safety technicians and managerial personnel, and rules and regulations for ensuring the food safety;

4. having reasonable equipment layout and technical flowchart so as to prevent cross pollution between the food to be processed and ready-to-eat food, and between raw materials and finished products, and to prevent the food from contacting with toxic substances or unclean articles;
5. ensuring that the cutlery, drinking sets and containers for ready-to-eat food are washed clean or disinfected prior to use, the kitchenware and utensils are washed clean after use and kept clean;
6. ensuring that the containers, utensils and equipment for storing, transporting, loading and unloading food are safe and innocuous, are kept clean so as to prevent pollution to food, reach the necessary temperature for food safety and meet other special requirements, and that the food may not be transported together with toxic or harmful articles;
7. having small packages or using innocuous and clean packing materials or cutlery for the ready-to-eat food;
8. ensuring that the persons engaging the production or business operation of food shall keep personal hygiene, wash their hands clean and wear clean clothes and hats during the process of production or business operation, and that they use innocuous and clean vending devices when selling unpacked ready-to-eat food;
9. using water which conforms to the national hygiene standards for drinking water;
10. using detergent or disinfectant which is safe and innocuous to human body; and
11. other requirements as prescribed in laws and regulations.

Article 28

It is forbidden to produce or engage in business operation of the following food:

1. food produced with non-food raw materials, or food containing non-food-additive chemical substances and other substances potentially hazardous to human health, or food produced with recycled food as raw materials;
2. food in which the pathogenic microorganisms, pesticide residues, veterinary medicine residues, heavy metals, pollutants and other substances hazardous to human health exceed the limits as prescribed in the food safety standards;
3. staple or supplementary food exclusively for infants and other particular groups of people, of which the nutrient ingredients do not meet the food safety standards;
4. food that is putrid or deteriorated, spoiled by rancid oil or fat, moldy, infested with pest, contaminated and dirty, mixed with strange objects, adulterated and impure, or abnormal in sensory properties;
5. meat of poultry, livestock, beasts and aquatic animals that died from disease or poisoning or for some unknown cause, and the products made of it;
6. meat that has not been quarantined by the animal health inspection institution or has failed the quarantine or meat products that have not been inspected or have failed the inspection;
7. food that is contaminated by packing materials, containers or transport vehicles;
8. food whose shelf-life has expired;
9. pre-packed food without labels;

10. food, the production and business operation of which is expressly banned by the state for anti-disease purpose or for other special needs; and

11. other food which does not conform to the food safety standards or requirements.

Article 29

The state shall adopt a licensing system for the food production and business operation. Those intending to engage in food production, food circulation or catering services shall obtain a license for food production, food circulation or catering services.

A food producer who has obtained a food production license is not required to obtain a food circulation license when selling self-produced food at its (his) production place. A catering service provider who has obtained a catering service license is not required to obtain food production and circulation licenses when selling self-made or self-processed food at its (his) catering service place. An individual farmer is not required to obtain the food circulation license when selling self-produced edible agricultural products.

To engage in food production or business operation, a small food production or processing workshop or a food vendor shall meet the food safety requirement of this Law, namely adapting to its production or business operation scale and conditions, so as to ensure that the food which it (he) produces or operates is hygienic, nontoxic and innocuous. The relevant departments shall intensify the supervision and administration of such small food production or processing workshops and food vendors. The specific measures shall be formulated in pursuance of this Law by the standing committee of the people's congress of the province, autonomous region or municipality directly under the Central Government.

Article 30

The people's government at or above the county level shall encourage small food production or processing workshops to improve their working conditions, and encourage food vendors to do business in such fixed establishments as centralized trade markets, and stores.

Article 31

The quality supervision departments, industry and commerce administrative departments and food and drug supervision and administration departments at and above the county level shall, pursuant to the Administrative License Law of the People's Republic of China, examine the relevant materials submitted by an applicant under the requirements in subparagraphs (1) through (4) of Article 27 of this Law, and where necessary, conduct an on-site inspection of the production and business operation place of the applicant. If the applicant meets the prescribed conditions, it shall decide to grant it (him) a license. If it (he) does not meet the prescribed conditions, it shall decide not to grant it (him) a license, and make an explanation in writing.

Article 32

An enterprise engaging in the production or business operation of food shall establish and improve its food safety management system, strengthen the training of its employees in respect to food safety knowledge, be provided with full-time or part-time food safety managers, do a good job in inspecting the food which it produces or operates, and carry out food production and business operation activities according to law.

Article 33

The state shall encourage enterprises engaging in production and business operation of food to meet the good manufacturing practice (GMP) and implement a hazard analysis and critical control point system (HACCP) so as to improve the food safety management level.

Where an enterprise engaging in production or business operation of food has passed the certification of good manufacturing practice (GMP), hazard analysis and critical control point system (HACCP), the certification agency shall conduct follow-up investigation according to law. If the enterprise no longer meets the certification requirements, it shall revoke the certification according to law and timely notify the quality supervision department, industry and commerce administrative department and food and drug supervision and administration department and make an announcement to the public. The certification agency shall not charge any fee for the follow-up investigation.

Article 34

A food producer or business operator shall establish and implement a handler health management system. No one who suffers from dysentery, typhoid, viral hepatitis or any other infectious disease of digestive tract, or active tuberculosis, or suppurative or exudative skin disease or any other disease that may affect the food safety shall engage in the work involving contact with ready-to-eat food.

A person engaging in the production or business operation of food shall be subject to a health examination every year, and shall not commence such work until he has obtained a health certificate.

Article 35

An edible agricultural produce producer shall, in accordance with the food safety standards and relevant provisions of the state, use pesticides, fertilizers, growth regulators, veterinary medicines, feeds, feed additives and other agricultural inputs. An enterprise or farmers' professional cooperative and economic organization engaging in the production of edible agricultural products shall establish a production record system for edible agricultural products.

The agriculture administrative department at or above the county level shall intensify the administration and guidance on the use of the agricultural inputs and establish a sound system for the safe use of agricultural inputs.

Article 36

When purchasing food raw materials, food additives and food-related products, a food producer shall check and verify the supplier's license and product compliance certification document. It shall, under the food safety standards, inspect the food raw materials, for which the supplier is unable to furnish a compliance certification document. It shall not purchase or use any food raw material, food additive or food-related product that does not conform to the food safety standards.

A food production enterprise shall establish a check and inspection record system for the purchased food raw materials, food additives and food-related products so as to faithfully record such contents as the names, specifications and quantities of the food raw materials, food additives and food-related products, names and contact information of the suppliers, and purchase dates.

The check and inspection records of the purchased food raw materials, food additives and food-related products shall be true and be preserved for at least 2 years.

Article 37

A food production enterprise shall establish a food ex-factory check record system so as to check the inspection certificates and the safety conditions of ex-factory food and faithfully record the name, specifications, quantity, production date, production batch number and inspection compliance certificate number of food, name and contact information of purchasers, date of sale, etc.

The food ex-factory check records shall be true and shall be kept for at least 2 years.

Article 38

A producer of food, food additives or food-related products shall, under the food safety standards, inspect the food, food additives or food-related products it produces, and shall not allow the ex-factory of or sell any food, food additive or food-related product unless it passes the inspection.

Article 39

When purchasing food, a food business operator shall check and verify the supplier's license and food compliance certification document.

An enterprise engaging in the business operation of food shall establish a check and inspection record system for the purchased food so as to faithfully record such contents as the name, specifications, quantity, production batch number, shelf-life of the food, name and contact information of the supplier, purchase date, etc.

The check and inspection records of the purchased food shall be true and be preserved for at least 2 years.

For an enterprise engaging in business operation of food by means of centralized distribution, the headquarters of the enterprise may, in a centralized manner, check and verify the suppliers' licenses and food compliance certification documents and make check records of the purchased food.

Article 40

A food business operator shall store food under the requirements for ensuring food safety, periodically check the food inventory and timely clear up the food which has gone bad or whose shelf life has expired.

Article 41

To store food in bulk, a food business operator shall give clear indications of the name, date of production, shelf life, name and contact information of the producer etc. of the food at the place of storage.

To sell food in bulk, a food business operator shall give clear indications of the name, date of production, shelf life of the food, name and contact information of the producer as well as the name and contact information of the business operator on the containers and external packages of the food in bulk.

Article 42

The packages of pre-packed food shall be labeled. A label shall indicate

1. the name, specifications, net content and production date;
2. a table of ingredients or components ;
3. the name, address and contact information of the producer;
4. the shelf life;
5. the product standard code;
6. the storage requirements;
7. the common names in the national standards for the food additives used;
8. the serial number of the production license; and
9. other matters required by laws, regulations or food safety standards.

The labels of staple and supplementary food exclusively for infants and other particular groups of people shall also bear indications of the main nutrient ingredients and contents thereof.

Article 43

The state shall adopt a licensing system for the production of food additives.

The requirements and procedures for applying for a food additive production license shall be in conformity with the relevant provisions of the state on the administration of licenses for production of industrial products.

Article 44

Where an entity or individual intends to apply for engaging in food production by using new food raw materials or for engaging in the production of a new food additive or a new food-related product, it or he shall submit to the health administrative department of the State Council the safety assessment documents of the pertinent product. The health administrative department of the State Council shall, within 60 days from the date on which it receives the application, organize an examination of the safety assessment documents of the product. If the food safety requirements are satisfied, it shall decide to grant to the applicant a license and make an announcement. If the food safety requirements are not satisfied, it shall decide not to grant the applicant a license, and make an explanation in writing.

Article 45

No food additive may be listed in the scope of allowed use unless it is really technically necessary and has been proved as safe and reliable upon risk assessment. The health administrative department of the State Council shall, on the basis of the technical necessities and food safety risk assessment results, timely revise the standards for the varieties, extent of use and dosage of food additives. Article 46 A food producer shall use food additives under food safety standards on the varieties, extent of use and dosages of food additives and shall not, during the process of food production, use any non-food-additive chemical substance or any other substance which is potentially hazardous to human health.

Article 47

Food additives shall have labels, instructions and packages. The labels and instructions shall indicate the matters as prescribed in subparagraphs 1 through 6, 8 and 9 of paragraph 1 of Article 42 of this Law, and the extent of use, dosage and use methods, and the labels shall bear an indication of the characters "FOOD ADDITIVE".

Article 48

No food or food additive labels or instructions shall contain any false or exaggerated content or involve such functions as disease prevention and treatment. The food producer shall assume legal liabilities for the representations of the labels or instructions.

The labels and instructions of food and food additives shall be clear and easily identifiable.

No food or food additive, which is not in conformity with the contents as indicated by its label or instructions, shall be placed on the market for sale.

Article 49

A food business operator shall sell pre-packed food according to the warning signs, warning instructions or notes for attention as given on the food labels or instructions.

Article 50

No medicine may be added to food under production or business operation, but substances that are traditionally both food and traditional Chinese medicinal materials may be added thereto. The list of substances that are traditionally both food and traditional Chinese medicinal materials shall be formulated and published by the health administrative department of the State Council.

Article 51

The state shall stringently supervise foods claimed to have particular effects on human health. The relevant supervision and administration departments shall perform their functions according to law and undertake the responsibilities. The concrete administrative measures shall be prescribed by the State Council.

No food claimed to have particular effects on human health shall cause any acute, sub-acute or chronic harm to the human health. The labels and instructions of such food shall not involve the effect of prevention or treatment of any disease, and the contents thereof shall be true and indicate applicable groups of people, inapplicable groups of people, effective ingredients or symbolic ingredients and contents thereof, etc. The effects and ingredients of a product shall be consistent with the indications in the labels and instructions.

Article 52

The sponsor of a centralized trade market, the lessor of counters or the organizer of a trade fair shall check the licenses of the food business operators admitted thereto, set down the food safety management responsibilities of the food business operators admitted thereto, regularly check their business operation environment and conditions. If it finds any food business operator who violates this Law, it shall timely stop the violation and promptly report it to the local industry and commerce administrative department or food and drug supervision and administration department at the county

level.

If the sponsor of a centralized trade market, lessor of counters or organizer of a trade fair fails to perform the obligations as described in the preceding paragraph and any food safety accident occurs in the market, it shall bear several and joint liabilities.

Article 53

The state shall establish a food recall system. Where a food producer finds that any food it produces does not conform to the food safety standards, it shall promptly stop the production, recall all the food already placed on market for sale, notify the related producers, business operators and consumers and record the recall and notification information.

Where a food business operator finds that any food under its business operation does not conform to the food safety standards, it shall promptly stop the operations, notify the related producers, business operators and consumers, and record the stop of operation and notification information. If the food producer considers it necessary to recall the food, it shall recall it immediately. The food producer shall make remedies to, make innocuous disposal of, destroy or take other measures against the recalled food, and report to the quality supervision department at or above the county level the information about the recall of food and about disposal of the recalled food. If the food producer or business operator fails, under the provisions of this Article, to recall or stop the business operation of the food that does not meet the food safety standards, the quality supervision department, industry and commerce administrative department or food and drug supervision and administration department at or above the county level may order it to recall the food or stop the business operations.

Article 54

The contents of a food advertisement shall be true, shall not contain any falsehood or exaggeration, nor shall they involve the effect of prevention or treatment of any disease.

No food safety supervision and administration department or agency undertaking the function of food inspection, food industrial association or consumers' association may recommend any food to consumers by advertisements or by other means.

Article 55

Where a social group or any other organization or individual recommends food to consumers in a false advertisement, and thus impairs the legitimate rights and interests of consumers, it or he shall, along with the food producer or business operator, bear several and joint liabilities.

Article 56

The people's governments at all levels shall encourage mass production and chain business operation or distribution of food.

Chapter V Food Inspection

Article 57

A food inspection agency shall not engage in the food inspection activities until it has obtained the

qualifications under relevant certification and accreditation provisions of the state, except it is otherwise provided for by law.

The qualification accreditation conditions and inspection requirements of food inspection agencies shall be prescribed by the health administrative department of the State Council.

A food inspection agency established upon approval of the relevant competent department of the State Council or has been accredited according to law prior to the implementation of this Law may carry on the food inspection activities under this Law.

Article 58

A food inspection shall be independently made by the inspector(s) designated by the food inspection agency.

The inspector(s) shall inspect the food under relevant laws, regulations, food safety standards and inspection requirements, respect science, scrupulously abide by professional ethics, ensure the objectiveness and impartiality of the issued inspection data and conclusion, and shall not issue any false inspection report.

Article 59

The food inspection shall be subject to the food inspection agency and inspector mutual accountability system. A food inspection report shall bear the official seal of the food inspection agency as well as the signature or seal of the inspector(s). The food inspection agency and inspector (s) shall be responsible for the issued food inspection report.

Article 60

No food safety supervision and administrative department shall exempt any food from inspection.

The quality supervision departments, industry and commerce administrative departments and food and drug supervision and administration departments at and above the county level shall regularly or irregularly make food inspections by taking samples. To make an inspection by taking samples, the randomly selected samples shall be purchased and no inspection fee or any other fee may be charged.

Where a quality supervision department, industry and commerce administrative department or food and drug supervision and administration department at or above the county level needs to inspect the food during its law enforcement work, it shall authorize a food inspection agency, which conforms to the provisions of this Law, to make the food inspection, and pay the relevant expenses. If it holds objections to the inspection conclusion, it may arrange a new inspection according to law.

Article 61

An enterprise engaging in the production or business operation of food may, by itself, inspect the food it produces, or authorize a food inspection agency, which conforms to the provisions of this Law, to do so.

Where a food industrial association or any other organization or a consumer needs to authorize a food inspection agency to make an inspection of food, it or he shall authorize a food inspection agency, which conforms to the provisions of this Law, to do so.

Chapter VI Import and Export of Food

Article 62

The imported food, food additives and food-related products shall conform to the national food safety standards of China.

The imported food shall be subject to the inspection of the entry/exit inspection and quarantine institution. If it passes the said inspection, the customs office shall release it upon the strength of the clearance certificate issued by the entry/exit inspection and quarantine institution.

Article 63

For the import of food which is not covered by the national food safety standards, or for the initial import of a new food additive or food-related product, the importer shall file an application with the health administrative department of the State Council and submit relevant safety assessment materials. The health administrative department of the State Council shall decide whether to grant the license in accordance with Article 44 of this Law and timely formulate corresponding national food safety standards.

Article 64

If a food safety accident occurring abroad may have an impact within China, or a serious food safety problem is found in any imported food, the entry/exit inspection and quarantine department of the state shall timely take the risk pre-warning measures or control measures, and notify the health administrative department, agricultural administrative department, industry and commerce administrative department and food and drug administrative department of the State Council. The departments that have received the notification shall timely take corresponding measures.

Article 65

An exporter or agent to export food to China shall go through the record-filing formalities at the entry/exit inspection and quarantine department of the state. An overseas food production enterprise to export food to China shall be registered at the entry/exit inspection and quarantine department of the state.

The entry/exit inspection and quarantine department of the state shall regularly announce the list of exports and agents who have made record filing, and the list of overseas food production enterprises registered.

Article 66

The imported pre-packed food shall have labels and instructions in Chinese. The labels and instructions shall conform to this Law, other relevant laws, administrative regulations and national food safety standards of China, and state the place of origin as well as the name, address and contact information of the domestic agent. No pre-packed food may be imported if it does not have labels and instructions in Chinese or if the labels and instructions do not conform to the provision of this Article.

Article 67

An importer shall establish a record system for the import and sale of food so as to faithfully record

the name, specifications, quantity, date of production, production or import batch number, shelf life, name and contact information of the exporter and purchaser, date of delivery of the food, etc.

The records of import and sale of food shall be true and be preserved for at least 2 years.

Article 68

The food to be exported shall be subject to the supervision and sampling inspection of the entry/exit inspection and quarantine institution and shall be released by the customs office upon the strength of the clearance certificate issued by the entry/exit inspection and quarantine institution. An export food production enterprise or planting and breeding plants of raw materials for the exported food shall go through the record-filing formalities at the entry/exit inspection and quarantine department of the state.

Article 69

The entry/exit inspection and quarantine department of the state shall collect and consolidate the safety information about the imported and exported food and timely notify the relevant departments, institutions and enterprises.

The entry/export inspection and quarantine department of the state shall establish records of the credit-standing of importers, exporters and export food production enterprises of the imported and exported food and publish them. It shall intensify the inspection and quarantine of the food imported and exported by the importers, exporters and export food production enterprises which have bad records.

Chapter VII Handling of Food Safety Accidents

Article 70

The State Council shall organize the formulation of a national food safety emergency response plan.

The people's government at or above the county level shall, under relevant laws and regulations, the food safety emergency response plan of the people's government at the higher level, and by taking into consideration the local actualities, work out a food safety emergency response plan for its own administrative region and submit it to the people's government at the next higher level for archival purposes.

An enterprise engaging in production and business operation of food shall work out a plan on handling food safety accidents and regularly check the implementation of its own food safety prevention measures so as to timely eradicate the potential risks of food safety accident.

Article 71

The entity, in which a food safety accident occurs, shall deal with the accident immediately so as to prevent it from becoming worse. The entity, in which an accident occurs, and the entities receiving patients for medical treatment shall timely report the relevant situation to the health administrative department at the county level at the place of accident.

If the agriculture administrative department, quality supervision department, industry and commerce administrative department or food and drug supervision and administration department finds, during its routine supervision and administration, any food safety accident or receives any tip-off of food

safety accident, it shall notify the health administrative department immediately.

At the occurrence of a major food safety accident, the health administrative department at the county level which receives the report shall, under relevant provisions, report to the people's government at the same level and to the health administrative department of the people's government at the higher level. The people's government at the county level and the health administrative department of the people's government at the higher level shall report it to its superior under relevant provisions. No entity or individual may conceal, make false report or delay the report of any food safety accident, or destroy relevant evidence.

Article 72

As soon as a health administrative department at or above the county level receives a report of food safety accident, it shall, jointly with the agriculture administrative department, quality supervision department, industry and commerce administrative department and food and drug supervision and administration department, investigate and deal with it, and take the following measures to prevent or mitigate its hazards to the society:

1. to carry out the emergency response and rescue work; the health administrative department shall immediately organize the rescue and medical treatment of persons suffering personal injuries in a food safety accident;
2. to seal up the food and its raw materials which may result in the food safety accident and make an inspection immediately; to order the food producer or business operator to, under Article 53 of this Law, recall, stop business operation of and destroy the contaminated food and raw materials upon confirmation;
3. to seal up the utensils and devices used for the contaminated food, and order to have them cleaned and disinfected; and
4. to do a good job in releasing information, releasing the information about the food safety accident and about the handling of the accident according to law, and making explanations and statements about the possible hazards.

In the case of a major food safety accident, the people's government at or above the county level shall promptly form a command body for handling the food safety accident, initiate the emergency plan and deal with the accident in accordance with the provision of the preceding paragraph.

Article 73

In the case of a major food safety accident, the health administrative department of the people's government at or above the level of a districted city shall, jointly with the relevant departments, investigate the liabilities for the accident, urge the relevant departments to perform their functions, and report to the people's government at the same level a report about the investigation and handling of accident liabilities.

Where a major food safety accident involves 2 or more provinces, autonomous regions and municipalities directly under the Central Government, the health administrative department of the State Council shall organize an investigation of the accident liabilities according the provisions of the preceding paragraph.

Article 74

At the occurrence of a food safety accident, the disease prevention and control institution shall assist

the health administrative department and other relevant departments in performing the sanitary treatment at the scene of accident and conduct an epidemiological investigation into the factors relating to the food safety accident.

Article 75

In the investigation of a food safety accident, in addition to the liabilities of the entity in which the accident occurs, the neglect or dereliction of duty on the side of functionaries of the supervision and administration department or of the certification agency having the functions of supervision and administration or certification shall be found out.

Chapter VIII Supervision and Administration

Article 76

A local people's government at or above the county level shall organize the health administrative department, agriculture administrative department, quality supervision department, industry and commerce administrative department and food and drug supervision and administration department at the same level to work out an annual plan on the food safety supervision and administration of its own administrative region and carry out the relevant work under the annual plan.

Article 77

The quality supervision department, industry and commerce administrative department and food and drug supervision and administration department at or above the county level shall perform their respective functions on food safety supervision and administration, and have the power to take the following measures:

1. to conduct on-site inspections by entering the production and business operation sites;
2. to conduct sampling inspection on the food under production and business operation;
3. to consult and copy relevant contracts, instruments, account books and other relevant materials;
4. to seal up and detain the food that, as evidence shows, does not conform to the food safety standards, the food raw materials, food additives and food-related products for illegal use, as well as the utensils and equipment that are used for illegal production and business operation or that have been contaminated; and
5. to seal up the sites for the illegal production and business operation of food;

The agriculture administrative department at or above the county level shall, in accordance with the Law of the People's Republic of China on Agricultural Product Quality Safety, supervise and administer the edible agricultural products.

Article 78

When supervising and inspecting the food producers and business operators, a quality supervision department, industry and commerce administrative department or food and drug supervision and administration department at or above the county level shall record the supervision and inspection information as well as the handling results. The supervision and inspection records shall be archived

after being signed by the supervision and inspection personnel as well as by the food producer or business operator.

Article 79

A quality supervision department, industry and commerce administrative department or food and drug supervision and administration department at or above the county level shall establish food safety credit archives for food producers and business operators so as to record the information about the issuance of licenses, routine supervision and inspection results, investigation and handling of unlawful conducts, etc., and shall, in light of the records in the food safety credit archives, increase the frequency of supervision and inspection on food producers and business operators having bad credit records.

Article 80

Where a health administrative department, quality supervision department, industry and commerce administrative department or food and drug supervision and administration department at or above the county level receives a consultation request, complaint or tip-off, it shall accept it if it falls within the scope of its functions, and shall timely make a reply, verify and deal with it. If it does not fall within the scope of its functions, it shall give the party concerned a written notice and transfer the case to the competent department. The competent department shall timely deal with it, and shall not decline it. If it is a food safety accident, it shall be handled under the relevant provisions of Chapter VII of this Law.

Article 81

A health administrative department, quality supervision department, industry and commerce administrative department or food and drug supervision and administration department at or above the county level shall, under the statutory functions and procedures, perform the food safety supervision and administration functions. It shall not impose the administrative punishment of fine twice or more against the same unlawful conduct of a producer or business operator. If the producer or business operator is suspected of committing any crime, it shall transfer the case to the public security organ according to law.

Article 82

The State shall establish a uniform system for the release of food safety information. The following information shall be uniformly released by the health administrative department of the State Council:

1. the overall information about the national food safety;
2. the food safety risk assessment information and food safety risk warning information;
3. the information about major food safety accidents and about the handling thereof; and
4. other important food safety information, and the information which the State Council determines necessary to release uniformly.

For the information as described in sub-paragraphs 2 and 3, if its consequences are limited to a specific region, it may be released by the health administrative department of the people's government of the relevant province, autonomous region or municipality directly under the Central Government.

A health administrative department, quality supervision department, industry and commerce

administrative department or food and drug supervision and administration department at or above the county level shall, in light of its own functions, release the information about its routine supervision and administration of food safety.

A food safety supervision and administration department shall ensure the accuracy, timeliness and objectiveness of the information it releases.

Article 83

When a local health administrative department, agriculture administrative department, quality supervision department, industry and commerce administrative department or food and drug supervision and administration department at or above the county level gets any information which is required to be uniformly released according to paragraph 1 of Article 82 of this Law, it shall promptly report to its superior administrative department. Its superior administrative department shall promptly report to the health administrative department of the State Council. Or it even may, where necessary, directly report to the health administrative department of the State Council.

The health administrative department, agriculture administrative department, quality supervision department, industry and commerce administrative department and food and drug supervision and administration department at or above the county level shall notify each other of the food safety information they get.

Chapter IX Legal Liabilities

Article 84

Where a violator of this Law engages in the food production or business operation activities without a license or produces food additives without a license, its illegal gains, food or food additives under its illegal production and business operation, as well as the utensils, equipment, raw materials and other articles used for the illegal production or business operation shall be confiscated by the relevant competent departments under their respective functions. If the monetary value of the illegally produced or operated food or food additives is less than 10, 000 yuan, the violator shall be fined not less than 2, 000 yuan but not more than 50, 000 yuan concurrently. If the monetary value of the said food or food additive is 10, 000 yuan or more, the violator shall be fined not less than 5 times but not more than 10 times the monetary value concurrently.

Article 85

Where a violator of this Law is under any of the following circumstances, its illegal gains, illegally produced or operated food, and utensils, equipment, raw materials and other articles used for the illegal production or business operation shall be confiscated by the relevant competent departments under their respective functions. If the monetary value of the illegally produced or operated food is less than 10, 000 yuan, the violator shall be fined not less than 2, 000 yuan but not more than 50, 000 yuan concurrently. If the monetary value of the said food is 10, 000 yuan or more, the violator shall be fined not less than 5 times but not more than 10 times the monetary value concurrently. If the circumstance is serious, the license of the violator shall be revoked:

1. It produces food with non-food raw materials, or food containing non-food-additive chemical substances and other substances potentially hazardous to human health, or food produced with recycled food as raw materials;
2. It produces or engages in the business operation of food in which the pathogenic microorganisms, pesticide residues, veterinary medicine residues, heavy metals, pollutants and other substances

hazardous to human health exceed the limits as prescribed in the food safety standards;

3. It produces or engages in the business operation of staple or supplementary food exclusively for infants or other particular groups of people, of which the nutrient ingredients do not meet the food safety standards;

4. It engages in the business operation of food that is putrid or deteriorated, spoiled by rancid oil or fat, moldy, infested with pest, contaminated and dirty, mixed with strange objects, adulterated and impure, or abnormal in sensory properties;

5. It engages in the business operation of the meat of poultry, livestock, beasts and aquatic animals that died from disease or poisoning or for some unknown cause, or such meat products;

6. It engages in the business operation of the meat that has not been quarantined or has failed the quarantine by the animal health inspection institution or meat products that have not been inspected or have failed the inspection;

7. It engages in the business operation of the food of which the shelf life has expired;

8. It produces or engages in the business operation of food, the production and business operation of which is expressly banned by the state for anti-disease purpose or for other special reasons;

9. It produces food with new food raw materials or produces a new food additive or new food-related product without undergoing the safety assessment; or

10. The food producer or business operator still refuses to recall or stop the business operation of the food which does not conform to the food safety standards, after the relevant competent department so orders.

Article 86

Where a violator of this Law is under any of the following circumstances, its illegal gains, illegally produced or operated food, utensils, equipment, raw materials and other articles used for the illegal production or business operation shall be confiscated by the relevant competent departments under their respective functions. If the monetary value of the illegally produced or operated food is less than 10, 000 yuan, the violator shall be fined not less than 2, 000 yuan but not more than 50, 000 yuan concurrently. If the monetary value of the said food is 10, 000 yuan or more, the violator shall be fined not less than 2 times but not more than 5 times the monetary value concurrently. If the circumstance is serious, the violator shall be ordered to stop production or business operation or even have its business license revoked:

1. It engages in the business operation of the food contaminated by packing materials, containers, transport means, etc.;

2. It produces or engages in the business operation of pre-packed food or food additive without labels, or produces or engages the business operation of food or food additive of which the labels or instructions do not conform to the provisions of this Law;

3. The food producer purchases and uses food raw materials, food additives or food-related products which do not conform to the food safety standards; or

4. The food producer or business operator adds any medicine to the food.

Article 87

Where a violator of this Law is under any of the following circumstances, the relevant competent departments shall, under their respective functions, order it to make a correction and give it a warning. If it refuses to make a correction, it shall be fined not less than 2, 000 yuan but not more than 20, 000 yuan. If the circumstance is serious, it shall be ordered to stop production and business operation, or its license shall be revoked even:

1. failing to inspect the food raw materials purchased by it and the food, food additives and food-related products produced by it;
2. failing to establish and abide by the check and inspection record system or ex-factory check record system;
3. having laid down enterprise food safety standards but failing to go through the record-filing formalities under this Law;
4. failing to store or sell food or clear up the food inventory under the prescribed requirements;
5. failing to check the license and relevant certification documents when purchasing goods;
6. the labels or instructions of the food or food additive produced involve the effect of prevention or treatment of any disease; or
7. assigning any person, who suffers from any of the diseases as listed in Article 34 of this Law, to engage in the work involving contact with ready-to-eat food.

Article 88

After the occurrence of a food safety accident, if the entity in which the food safety accident occurs fails, by violating this Law, to handle or report the accident, it shall be ordered to make a correction and be given a warning by the relevant competent departments under their respective functions. If it destroys relevant evidence, it shall be ordered to stop production or business operation and concurrently be fined not less than 2, 000 yuan but not more than 100, 000 yuan. If it causes any severe consequences, its license shall be revoked by the original issuing department.

Article 89

Where a violator of this Law is under any of the following circumstances, it shall be punished under Article 85 of this Law:

1. It imports any food which does not conform to the national food safety standards of China;
2. It imports any food which is not covered by the national food safety standards, or initially imports any new food additive or food-related product without undergoing the safety assessment; or
3. The exporter exports food by violating this Law.

An importer, which violates this Law due to its failure to establish or failure to observe the food import and sale record system, shall be punished in accordance with Article 87 of this Law.

Article 90

Where, in violation of this Law, the sponsor of a centralized trade market, the lessor of counters or the

organizer of a trade fair allows a food business operator without a license to enter the market to sell food, or fails to perform such obligations as inspection and reporting, it shall be fined not less than 2, 000 yuan but not more than 50, 000 yuan by the competent departments under their respective functions. If severe consequences are caused, it shall be ordered to stop business operation, and have its license revoked by the original issuing department.

Article 91

A violator of this Law who fails to follow the relevant requirements in the transport of food shall be ordered to make a correction and be given a warning by the relevant competent departments under their respective functions. If it refuses to make a correction, it shall be ordered to stop production or business operation, and be fined not less than 2, 000 yuan but not more than 50, 000 yuan. If the circumstance is serious, it shall have its license revoked by the original issuing department.

Article 92 The directly responsible person-in-charge of an entity whose license for food production, circulation or catering services is revoked shall not engage in the management of food production and business operation within 5 years as of the date on which the punishment decision is made. Where a food producer or business operator hires a person, who is forbidden to engage in the management of food production and business operation, to engage in the management work, its license shall be revoked by the original issuing department.

Article 93

Where a food inspection agency or food inspector violates this Law due to issuing any false inspection report, the competent department or institution, which granted it the qualification, shall revoke its inspection qualification and shall, according to law, give the directly responsible person-in-charge and the food inspector a sanction of removal or dismissal.

A person who is subject to a criminal punishment or sanction of dismissal because of his violation of this Law shall not engage in the food inspection work within 10 years as of the date on which the execution of the criminal punishment is ended or the sanction decision is made. Where a food inspection agency hires any person forbidden to engage in the food inspection work, the competent department or institution, which granted it the qualification, shall revoke its inspection qualification.

Article 94

A violator of this Law who makes misrepresentations about the food quality in an advertisement and thus misleads the consumers shall be punished in accordance with the Advertising Law of the People's Republic of China.

Where a food safety supervision and administration department or agency undertaking the function of food inspection, food industrial association or consumers' association recommends, in violation of this Law, any food to consumers by advertisements or by other means, the relevant competent department shall, in pursuance of law, confiscate its illegal gains, impose such sanctions as major demerit, demotion or removal on the directly responsible person-in-charge and other directly liable persons.

Article 95

Where a local people's government at or above the county level fails, in violation of this Law, to perform its functions in the food safety supervision and administration, and any major food safety accident has occurred within its administrative region and causes severe social consequences, the directly responsible person-in-charge and other directly liable persons shall, according to law, be given a sanction of major demerit, demotion or removal or dismissal.

Where a health administrative department, agriculture administrative department, quality supervision department, industry and commerce administrative department, food and drug supervision and administration department or any other relevant administrative department at or above the county level fails, in violation of this Law, to perform the functions as prescribed in this Law or abuses its powers, neglects its duties or practices favoritism, the directly responsible person-in-charge and other directly liable persons shall be given a sanction of major merit or demotion according to law. If severe consequences are caused, they shall be given a sanction of removal or dismissal and the major person-in-charge shall take the blame and resign.

Article 96

A violator of this Law who causes personal, property or other damages shall bear the compensation liability.

Besides claiming damages, a consumer may require the producer, who produces food which does not conform to the food safety standards, or the seller who knowingly sells food which does not conform to the food safety standards, to pay 10 times the money paid.

Article 97

A violator of this Law shall bear the civil compensation liability and pay the fine or pecuniary penalty. If its (his) property is insufficient to cover all the payment at the same time, it (he) shall first bear the civil compensation liability.

Article 98

For a violator of this Law, if any crime is constituted, it (he) shall be subject to the criminal liabilities.

Chapter X Supplementary Provisions

Article 99

Definitions of the following terms as used in this Law:

The term “food” refers to the finished products and raw materials for people to eat or drink, and articles which are traditionally food and medicine, excluding articles that are used for the purpose of medical treatment.

The term “food safety” means that the food is nontoxic, innocuous and satisfies the necessary nutritional requirements, and does not cause any acute, sub-acute or chronic hazards to the human health.

The term “pre-packed food” refers to the food of fixed quantity which is packed or made in packing materials and containers in advance.

The term “food additive” refers to any synthetic or natural substance that is added to food for improving its quality, color, flavor or taste, or for the needs of inhibiting spoilage, preservation or processing.

The term “packing materials and containers of food” refers to the paper, bamboo, wood, metal,

enamel, ceramic, plastic, rubber, natural fiber, chemical fiber, glass and other products used for packing and containing food or food additives, and the paints that directly contact food or food additives.

The term “utensils and equipment for food production or business operation” refers to the machinery, pipes, conveyors, containers, utensils, cutlery, etc. that directly contact food or food additives during the course of production, circulation and utilization of food or food additives.

The term “detergent or disinfectant used for food” refers to the substances that are directly used for washing or disinfecting food, cutlery, drinking sets, and utensils, equipment or food packing materials and containers directly contacting the food.

The term “shelf life” refers to the term of quality guarantee of pre-packed food under the storage conditions as stated on its labels.

The term “food-borne disease” refers to an infectious or poisoning disease or any other disease resulting from the entry of pathogenic factors of food into the human body.

The term “food poisoning” refers to the acute or sub-acute disease occurring after the eating of food contaminated by toxic or harmful substances or food containing toxic and harmful substances.

The term “food safety accident” refers to an accident that stems from food and is or may be hazardous to the human body, such as food poisoning, food-borne disease or food contamination.

Article 100

The corresponding license which a food producer or business operator has already obtained prior to the implementation of this Law shall remain valid.

Article 101

The food safety administration of dairy products, genetically modified food, slaughtering of live pigs, spirits and common salt shall be governed by this Law. If it is otherwise provided for by any other law or administrative regulation, that law or administrative regulation shall prevail.

Article 102

The administrative measures for the food safety in the railway business operations shall be formulated by the health administrative department of the State Council jointly with the relevant department of the State Council in pursuance of this Law.

The administrative measures for the food safety of the exclusive food and self-supplied food of the army shall be formulated by the Central Military Commission according to this Law.

Article 103

Where necessary, the State Council may make adjustments to the food safety supervision and administration system.

Article 104

This Law shall come into force as of June 1, 2009. The Food Hygiene Law of the People’s Republic

of China shall be abolished simultaneously.