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Cottage Food Law Statutes:

Florida



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Cottage Food Laws: Florida

Fla. Stat. § 500.03(1)(j)(k)

Fla. Stat. § § 500.80

Current through 2024 legislative session.

Fla. Stat. § 500.03—Definitions; construction; applicability.

(1) For the purpose of this chapter, the term:

(a) “Advertisement” means any representation disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of food.

(b) “Approved laboratory” or “certified laboratory” means a laboratory of the department, a commercial laboratory certified by the Department of Health, or a competent commercial laboratory certified by an agency of another state or the United States Environmental Protection Agency to perform analyses of drinking water in accordance with the water quality testing procedures adopted by the United States Environmental Protection Agency.

(c) “Approved source” as it relates to water means a source of water, whether it is a spring, artesian well, drilled well, municipal water supply, or any other source, that complies with the Federal Safe Drinking Water Act, Pub. L. No. 93-523, as amended.

(d) “Bottled water” means water intended for human consumption and sealed in a bottle or other container with no added ingredients, except that it may contain safe and suitable antimicrobial agents.

(e) “Bottled water plant” means a food establishment in which bottled water is prepared for sale.

(f) “Color” includes black, white, and intermediate grays.

(g)

1. “Color additive” means a material which:

a. Is a dye pigment, or other substance, made by a process of synthesis or similar artifice, or



extracted, isolated, or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral, or other source, or

b. When added or applied to a food, is capable, alone or through reaction with another substance, of imparting color thereto; except that such term does not include any material that is exempt under the federal act.

2. Nothing in subparagraph 1. shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

(h) “Contaminated with filth” applies to any food not securely protected from dust, dirt, and, as far as may be necessary by all reasonable means, all foreign or injurious contamination.

(i) “Cottage food operation” means a natural person or an entity that produces or packages cottage food products at the residence of the natural person or at the residence of a natural person who has an ownership interest in the entity and sells such products in accordance with s. 500.80.

(j) “Cottage food product” means food that is not a potentially hazardous food as defined by department rule which is sold by a cottage food operation in accordance with s. 500.80.

(k) “Cultivated meat” means any meat or food product produced from cultured animal cells.

(l) “Department” means the Department of Agriculture and Consumer Services.

(m) “Federal act” means the Federal Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. ss. 301 et seq.; 52 Stat. 1040 et seq.

(n) “Food” includes:

1. Articles used for food or drink for human consumption;
2. Chewing gum;
3. Articles used for components of any such article;
4. Articles for which health claims are made, which claims are approved by the Secretary of the United



States Department of Health and Human Services and which claims are made in accordance with s. 343(r) of the federal act, and which are not considered drugs solely because their labels or labeling contain health claims;

5. Dietary supplements as defined in 21 U.S.C. s. 321(ff)(1) and (2); and

6. Hemp extract as defined in s. 581.217. The term includes any raw, cooked, or processed edible substance; ice; any beverage; or any ingredient used, intended for use, or sold for human consumption.

(o) “Food additive” means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, transporting, or holding food and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that such term does not include:

1. A pesticide chemical in or on a raw agricultural commodity;
2. A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;
3. A color additive; or
4. Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act (21 U.S.C. ss. 451 et seq.); or the Meat Inspection Act of March 4, 1967 (34 Stat. 1260), as amended and extended (21 U.S.C. ss. 71 et seq.).

(p) “Food establishment” means a factory, food outlet, or other facility manufacturing, processing, packing, holding, storing, or preparing food or selling food at wholesale or retail. The term does not include a business or activity regulated under s. 413.051, s. 500.80, chapter 509, or chapter 601. The term



includes tomato packinghouses and repackers but does not include any other establishments that pack fruits and vegetables in their raw or natural states, including those fruits or vegetables that are washed, colored, or otherwise treated in their unpeeled, natural form before they are marketed.

(q) “Immediate container” does not include package liners.

(r) “Label” means a display of written, printed, or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if there is any, of the retail package of such article or is easily legible through the outside container or wrapper.

(s) “Labeling” means all labels and other written, printed, or graphic matters:

1. Upon an article or any of its containers or wrappers; or
2. Accompanying such article.

(t) “Minor food outlet” means any retail establishment that sells groceries and may offer food service to the public, but neither business activity is a major retail function based on allocated space or gross sales.

(u) “Natural water” means bottled spring water, artesian well water, or well water that has not been altered with water from another source or that has not been modified by mineral addition or deletion, except for alteration that is necessary to treat the water through ozonation or an equivalent disinfection and filtration process.

(v) “Packaged ice” means ice that is enclosed in a container and is offered for sale for human consumption or for other use by the consumer. The term does not include ice that is manufactured by any business licensed under chapter 381 or chapter 509.

(w) “Packaged ice plant” means a food establishment in which packaged ice is manufactured or processed.

(x) “Pesticide chemical” means any substance which, alone, in chemical combination, or in formulation with one or more other substances is a “pesticide” within the meaning of the Florida Pesticide Law, part I of chapter 487, and which is used in the production, storage, or transportation of raw agricultural commodities.



(y) “Raw agricultural commodity” means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

(z) “Vehicle” means a mode of transportation or mobile carrier used to transport food from one location to another, including, but not limited to, carts, cycles, vans, trucks, cars, trains and railway transport, and aircraft and watercraft transport.

(2) For the purpose of this chapter:

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

(b) If an article is a food, and it is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, or sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to prominently and conspicuously reveal facts relative to the proportions or absence of certain ingredients or other facts concerning ingredients in the food, which facts are of material interest to consumers.

(3) For the purpose of this chapter, the selling of food includes the manufacture, production, processing, packing, exposure, offer, possession, and holding of any article of food for sale; the sale, dispensing, and giving of any article of food; and the supplying to or applying of food in the conduct of any food establishment.

(4) For the purposes of this chapter, hemp extract is considered a food that requires time and temperature control for the safety and integrity of the product.

Fla. Stat. § 500.80 — Cottage food operations.

(1)



- (a) A cottage food operation must comply with the applicable requirements of this chapter but is exempt from the permitting requirements of s. 500.12 if the cottage food operation complies with this section and has annual gross sales of cottage food products that do not exceed \$250,000.
 - (b) For purposes of this subsection, a cottage food operation's annual gross sales include all sales of cottage food products at any location, regardless of the types of products sold or the number of persons involved in the operation. A cottage food operation must provide the department, upon request, with written documentation to verify the operation's annual gross sales.
- (2) A cottage food operation may sell, offer for sale, and accept payment for cottage food products over the Internet or by mail order. Such products may be delivered in person directly to the consumer, to a specific event venue, or by United States Postal Service or commercial mail delivery service. A cottage food operation may not sell, offer for sale, or deliver cottage food products at wholesale.
- (3) A cottage food operation may only sell cottage food products which are prepackaged with a label affixed that contains the following information:
- (a) The name and address of the cottage food operation.
 - (b) The name of the cottage food product.
 - (c) The ingredients of the cottage food product, in descending order of predominance by weight.
 - (d) The net weight or net volume of the cottage food product.
 - (e) Allergen information as specified by federal labeling requirements.
 - (f) If any nutritional claim is made, appropriate nutritional information as specified by federal labeling requirements.
 - (g) The following statement printed in at least 10-point type in a color that provides a clear contrast to the background of the label: "Made in a cottage food operation that is not subject to Florida's food safety regulations."
- (4) A cottage food operation may only sell cottage food products that it stores on the premises of the cottage food operation.
- (5) This section does not exempt a cottage food operation from any state or federal tax law, rule, regulation, or certificate that applies to all cottage food operations.



(6) The regulation of cottage food operations is preempted to the state. A local law, ordinance, or regulation may not prohibit a cottage food operation or regulate the preparation, processing, storage, or sale of cottage food products by a cottage food operation; however, a cottage food operation must comply with the conditions for the operation of a home-based business under s. 559.955.

(7)

(a) The department may investigate any complaint which alleges that a cottage food operation has violated an applicable provision of this chapter or rule adopted under this chapter.

(b) Only upon receipt of a complaint, the department's authorized officer or employee may enter and inspect the premises of a cottage food operation to determine compliance with this chapter and department rules, as applicable. A cottage food operation's refusal to permit the department's authorized officer or employee entry to the premises or to conduct the inspection is grounds for disciplinary action pursuant to s. 500.121.

(8) This section does not apply to a person operating under a food permit issued pursuant to s. 500.12.

