CHAPTER 57

Food Safety

**SECTION 46‑57‑10.** Administration and enforcement of chapter.

The Department of Agriculture shall administer and enforce the provisions contained in this chapter.

HISTORY: 2023 Act No. 60 (S.399), Section 9, eff July 1, 2024.

**SECTION 46‑57‑20.** Definitions; home‑based food production; labels; direct sales.

(A) For the purposes of this section:

(1) "Home‑based food production operation" means an individual, operating out of the individual's dwelling, who prepares, processes, packages, stores, and distributes nonpotentially hazardous foods for sale directly to a person.

(2) "Nonpotentially hazardous foods" means candy and baked goods that are not potentially hazardous foods.

(3) "Person" means an individual consumer.

(4) "Potentially hazardous foods" means:

(a) an animal food that is raw or heat treated, a plant food that is heat treated or consists of raw seed sprouts, cut melons, cut leafy greens, cut tomatoes, or mixtures of cut tomatoes not modified to prevent microorganism growth or toxin formation, or garlic in oil mixtures not modified to prevent microorganism growth or toxin formation;

(b) certain foods that are designated as Product Assessment Required (PA) because of the interaction of the pH and Aw values in these foods. Below is a table indicating the interaction of pH and Aw for control of spores in food heat treated to destroy vegetative cells and subsequently packaged:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  |
|  |  | Aw values |  | pH values |  |
|  |  |  | 4.6 or less | >4.6—5.6 | >5.6 |
|  | (1) | <0.92 | non‑PHF | non‑PHF | non‑PHF |
|  | (2) | >0.92—0.95 | non‑PHF | non‑PHF | PHF |
|  | (3) | >0.95 | non‑PHF | PHF | PHF |

Foods in item (2) with a pH value greater than 5.6 and foods in item (3) with a pH value greater than 4.6 are considered potentially hazardous unless a product assessment is conducted pursuant to the 2009 Federal Drug Administration Food Code.

(B) The operator of the home‑based food production operation must take all reasonable steps to protect food items intended for sale from contamination while preparing, processing, packaging, storing, and distributing the items including, but not limited to:

(1) maintaining direct supervision of any person, other than the operator, engaged in the processing, preparing, packaging, or handling of food intended for sale;

(2) prohibiting all animals, including pets, from entering the area in the dwelling in which the home‑based food production operation is located while food items are being prepared, processed, or packaged and prohibiting these animals from having access to or coming in contact with stored food items and food items being assembled for distribution;

(3) prohibiting all domestic activities in the kitchen while the home‑based food production operation is processing, preparing, packaging, or handling food intended for sale;

(4) prohibiting any person who is infected with a communicable disease that can be transmitted by food, who is a carrier of organisms that can cause a communicable disease that can be transmitted by food, who has an infected wound, or who has an acute respiratory infection from processing, preparing, packaging, or handling food intended for sale by the home‑based food production operation; and

(5) ensuring that all people engaged in processing, preparing, packaging, or handling food intended for sale by the home‑based food production operation are knowledgeable of and follow safe food handling practices.

(C) Each home‑based food production operation shall maintain a clean and sanitary facility to produce nonpotentially hazardous foods including, but not limited to:

(1) department‑approved water supply;

(2) a separate storage place for ingredients used in foods intended for sale;

(3) a properly functioning refrigeration unit;

(4) adequate facilities, including a sink with an adequate hot water supply to meet the demand for the cleaning and sanitization of all utensils and equipment;

(5) adequate facilities for the storage of utensils and equipment;

(6) adequate hand washing facilities separate from the utensil and equipment cleaning facilities;

(7) a properly functioning toilet facility;

(8) no evidence of insect or rodent activity; and

(9) department‑approved sewage disposal, either on‑site treatment or publicly provided.

(D) All food items packaged at the operation for sale must be properly labeled. The label must comply with federal laws and regulations and must include:

(1) the name and address of the home‑based food production operation;

(2) the name of the product being sold;

(3) the ingredients used to make the product in descending order of predominance by weight; and

(4) a conspicuous statement printed in all capital letters and in a color that provides a clear contrast to the background that reads: "NOT FOR RESALE PROCESSED AND PREPARED BY A HOME‑BASED FOOD PRODUCTION OPERATION THAT IS NOT SUBJECT TO SOUTH CAROLINA'S FOOD SAFETY REGULATIONS."

(E) Home‑based food operations only may sell, or offer to sell, food items directly to a person for his own use and not for resale. A home‑based food operation may not sell, or offer to sell, food items at wholesale. Food produced from a home‑based food production operation must not be considered to be from an approved source, as required of a retail food establishment pursuant to Regulation 61‑25.

(F) A home‑based food production operation is not a retail food establishment and is not subject to regulation by the department pursuant to Regulation 61‑25.

(G) The provisions of this section do not apply to an operation with net earnings of less than five hundred dollars annually but that would otherwise meet the definition of a home‑based food operation provided in subsection (A)(1).

HISTORY: 2023 Act No. 60 (S.399), Section 9, eff July 1, 2024.

**SECTION 46‑57‑30.** Undercooked ground beef product; liability; notice of possible health risk.

(A) Notwithstanding any other provision of law, ground beef or any food containing ground beef prepared by a food service provider for public consumption must be cooked to heat all parts of the food to at least one hundred fifty‑five degrees Fahrenheit, or sixty‑eight degrees Celsius, unless otherwise ordered by the immediate consumer.

(B) The food service provider, its business, or its employees or agents, are not liable for any adverse effects to the purchaser or anyone else for providing a ground beef product cooked at an internal temperature less than one hundred fifty‑five degrees Fahrenheit, or sixty‑eight degrees Celsius, if providing the product is at the request of the purchaser and if the food service provider has notified the purchaser in advance that a possible health risk may exist by eating the product. The notice must state that a possible health risk may exist in eating undercooked ground beef at an internal temperature less than one hundred fifty‑five degrees Fahrenheit, or sixty‑eight degrees Celsius, and be given to the purchaser:

(1) in writing;

(2) as stated on the menu; or

(3) by visible sign warning.

(C) In order for an immediate consumer or purchaser, as used in this section, to request or order ground beef to be cooked to a temperature less than one hundred fifty‑five degrees Fahrenheit (sixty‑eight degrees Celsius), the individual must be eighteen years of age or older.

HISTORY: 2023 Act No. 60 (S.399), Section 9, eff July 1, 2024.

**SECTION 46‑57‑40.** Resale of returned fresh meat or fresh meat products prohibited.

Fresh meat or fresh meat products sold to a consumer may not be offered to the public for resale for human consumption if the fresh meat or fresh meat products have been returned by the consumer.

HISTORY: 2023 Act No. 60 (S.399), Section 9, eff July 1, 2024.

**SECTION 46‑57‑50.** Rules and regulations relating to establishments providing eating or drinking facilities, etc.

The Department of Agriculture may make, adopt, promulgate, and enforce reasonable rules and regulations from time to time requiring and providing for:

(1) the sanitation of hotels, restaurants, cafes, drugstores, hot dog and hamburger stands, all other places or establishments providing eating or drinking facilities, and all other places known as private nursing homes or places of similar nature, operated for gain or profit; and

(2) the production, storing, labeling, transportation, and selling of milk and milk products, filled milk and filled milk products, imitation milk and imitation milk products, synthetic milk and synthetic milk products, milk derivatives, and any other products made in semblance for milk or milk products; and

(3) the sanitation and control of abattoirs, meat markets, whether the same be definitely provided for that purpose or used in connection with other businesses, and bottling plants; and

(4) the sanitation and control of abattoirs, meat markets, whether the same be definitely provided for that purpose or used in connection with other business, and bottling plants.

HISTORY: 2023 Act No. 60 (S.399), Section 9, eff July 1, 2024.

**SECTION 46‑57‑60.** Enforcement of Regulation 61‑25.

The department may not use any funds appropriated or authorized to the department to enforce Regulation 61‑25 to the extent that its enforcement would prohibit a church or charitable organization from preparing and serving food to the public on their own premises at not more than one function a month or not more than twelve functions a year.

HISTORY: 2023 Act No. 60 (S.399), Section 9, eff July 1, 2024.

**SECTION 46‑57‑70.** Penalties for violations of regulations.

(A) Except as provided in Section 46‑57‑50, a person who after notice violates, disobeys, or refuses, omits, or neglects to comply with a regulation of the Department of Agriculture promulgated pursuant to this chapter, is guilty of a misdemeanor and, upon conviction, must be fined not more than two hundred dollars or imprisoned for thirty days.

(B) A person who after notice violates a rule, regulation, permit, permit condition, final determination, or order of the department issued pursuant to this chapter is subject to a civil penalty not to exceed one thousand dollars a day for each violation.

(C) Fines collected pursuant to subsection (B) must be remitted by the department to the State Treasurer for deposit in the state general fund.

(D) The term "notice" as used in this section means either actual notice or constructive notice.

HISTORY: 2023 Act No. 60 (S.399), Section 9, eff July 1, 2024.