Effective 7/1/2017

Chapter 5
Utah Wholesome Food Act

Part 1
Administration

4-5-102 Definitions.

As used in this chapter:

(1) "Advertisement" means a representation, other than by labeling, made to induce the purchase of food.

(2)
(a) "Color additive":
(i) means a dye, pigment, or other substance not exempted under the federal act that, when added or applied to a food, is capable of imparting color; and
(ii) includes black, white, and intermediate grays.
(b) "Color additive" does not include a pesticide chemical, soil or plant nutrient, or other agricultural chemical that imparts color solely because of the chemical's effect, before or after harvest, in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of any plant life.

(3)
(a) "Consumer commodity" means a food, as defined by this chapter, or by the federal act.
(b) "Consumer commodity" does not include:
(i) a commodity subject to packaging or labeling requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Sec. 136 et seq.;
(ii) a commodity subject to Chapter 16, Utah Seed Act;
(iii) a meat or meat product subject to the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.;
(iv) a poultry or poultry product subject to the Poultry Inspection Act, 21 U.S.C. Sec. 451 et seq.;
(v) a tobacco or tobacco product; or
(vi) a beverage subject to or complying with packaging or labeling requirements imposed under the Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq.

(4) "Contaminated" means not securely protected from dust, dirt, or foreign or injurious agents.

(5)
(a) "Cultivated meat product" means a meat, as defined in Section 4-32-105, or another food or food product that is:
(i) produced by cultivating or culturing an animal cell in vitro; and
(ii) used for human consumption.
(b) "Cultivated meat product" includes poultry, fish, and other livestock, as defined in Section 4-7-103, that meets the requirements of Subsection (5)(a).

(6)
(a) "Farm" means an agricultural operation, under management by one entity, that grows or harvests crops.
(b) "Farm" does not include an entity that is exempt under 21 C.F.R. 112.4(a) or 21 C.F.R. 112.5.

(7) "Farmers market" means a market where a producer of a food product sells only a fresh, raw, whole, unprocessed, and unprepared food item directly to the final consumer.

(8) "Federal act" means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.
(9) "Food" means:
(a) an article used for food or drink for human or animal consumption or the components of the article;
(b) chewing gum or chewing gum components; or
(c) a food supplement for special dietary use that is necessitated because of a physical, physiological, pathological, or other condition.
(10)
(a) "Food additive" means a substance, the intended use of which results in the substance becoming a component, or otherwise affecting the characteristics, of a food.
(b)
(i) "Food additive" includes a substance or source of radiation intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food.
(ii) "Food additive" does not include:
(A) a pesticide chemical in or on a raw agricultural commodity;
(B) a pesticide chemical that is intended for use or is used in the production, storage, or transportation of a raw agricultural commodity; or
(C) a substance used in accordance with a sanction or approval granted pursuant to the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq. or the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.
(11)
(a) "Food establishment" means a grocery store, bakery, candy factory, food processor, bottling plant, sugar factory, cannery, farm, rabbit processor, meat processor, flour mill, cold or dry warehouse storage, or other facility where food products are manufactured, canned, processed, packaged, stored, transported, prepared, sold, or offered for sale.
(b) "Food establishment" does not include:
(i) a dairy farm, a dairy plant, or a meat establishment, that is subject to the Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Federal Meat Inspection Act, 21 U.S.C. Sec. 601 et seq.;
(ii) a farmers market; or
(iii) a food service establishment, as that term is defined in Section 26B-7-401.
(12) "Label" means a written, printed, or graphic display on the immediate container of an article of food.
(13) "Labeling" means a label and other written, printed, or graphic display:
(a) on an article of food or the article of food's container or wrapper; or
(b) accompanying the article of food.
(14) "Official compendium" means the official documents or supplements to the:
(a) United States Pharmacopoeia;
(b) National Formulary; or
(c) Homeopathic Pharmacopoeia of the United States.
(15)
(a) "Package" means a container or wrapping in which a consumer commodity is enclosed for use in the delivery or display of the consumer commodity to retail purchasers.
(b) "Package" does not include:
(i) a package liner;

(ii) a shipping container or wrapping used solely for the transportation of a consumer commodity in bulk or in quantity to a manufacturer, packer, processor, or wholesale or retail distributor; or

(iii) a shipping container or outer wrapping used by a retailer to ship or deliver a consumer commodity to a retail customer, if the container and wrapping bear no printed information relating to the consumer commodity.

(16)

(a) "Pesticide" means a substance intended:

(i) to prevent, destroy, repel, or mitigate a pest, as defined under Section 4-14-102; or

(ii) for use as a plant regulator, defoliant, or desiccant.

(b) "Pesticide" does not include:

(i) a new animal drug, as defined by 21 U.S.C. Sec. 321, that has been determined by the United States Secretary of Health and Human Services not to be a new animal drug by federal regulation establishing conditions of use of the drug; or

(ii) animal feed, as defined by 21 U.S.C. Sec. 321, bearing or containing a new animal drug.

(17) "Plant or insect based meat substitute" means a food or food product that:

(a) is plant or insect based;

(b) approximates the aesthetic qualities, primarily texture, flavor, and appearance, or the chemical characteristics of a type of meat, as defined in Section 4-32-105, including fish; and

(c) does not include the flesh, offal, or other by-product of any part of the carcass of a live animal that has been slaughtered.

(18) "Principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

(19) "Produce" means a food that is a:

(a) fruit, vegetable, mix of intact fruits and vegetables, mushroom, sprout from any seed source, peanut, tree nut, or herb; and

(b) raw agricultural commodity.

(20) "Raw agricultural commodity" means a food in the food's raw or natural state, including all fruits that are washed, colored, or otherwise treated in the fruit's unpeeled, natural form before marketing.

(21) "Registration" means the commissioner's issuance of a certificate to a qualified food establishment.

(22) "Sprout" means the shoot of a plant generally harvested when cotyledons are undeveloped or underdeveloped and mature leaves have not emerged.

Amended by Chapter 79, 2025 General Session

4-5-103 Adulterated food specified.

(1) A food is adulterated:

(a) if the food bears or contains a poisonous or deleterious substance in a quantity that may ordinarily render the food injurious to health;

(b) if the food bears or contains an added poisonous or added deleterious substance that is unsafe within the meaning of Subsection 4-5-204(1);

(c) except as provided in Subsection (3), if the food:

(i) is a raw agricultural commodity; and

(ii) bears or contains a pesticide chemical that is unsafe within the meaning of 21 U.S.C. Sec. 346a;

(d) if the food is, bears, or contains a food additive that is unsafe within the meaning of 21 U.S.C. Sec. 348;
(e) if the food consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance;
(f) if the food is otherwise unfit for food;
(g) if the food has been produced, prepared, packed, or held under unsanitary conditions whereby the food may have:
  (i) become contaminated with filth; or
  (ii) been rendered diseased, unwholesome, or injurious to health;
(h) if the food is, in whole or in part, the product of:
  (i) a diseased animal;
  (ii) an animal that has died other than by slaughter; or
  (iii) an animal that has fed upon the uncooked offal from a slaughterhouse;
(i) if the food's container is composed, in whole or in part, of a poisonous or deleterious substance that may render the contents injurious to health;
(j) if the food is intentionally subjected to radiation, unless the use of the radiation was in conformity with a rule or exemption in effect pursuant to Section 4-5-204, or 21 U.S.C. Sec. 348;
(k) if the food:
  (i) is a meat or meat product; and
  (ii)
    (A) is in a casing, package, or wrapper:
      (I) through which a part of the casing, package, or wrapper's contents can be seen; and
      (II) that is colored or has markings that are colored, so as to be misleading or deceptive with respect to the color, quality, or kind of food to which the color is applied; or
    (B) contains or bears a color additive;
(l) if the food is produce and is in violation of 21 C.F.R. Part 112;
(m) if a valuable constituent is, in whole or in part, omitted or abstracted from a product and a substance is substituted wholly or in part;
(n) if damage or inferiority is concealed;
(o) if a substance is added, mixed, or packed with a product so as to:
  (i) increase the product's bulk or weight;
  (ii) reduce the product's quality or strength; or
  (iii) make the product appear better or of greater value; or
(p) if the food:
  (i) is confectionery; and
  (ii)
    (A) has partially or completely imbedded in the food a nonnutritive object, unless the department determines that the nonnutritive object:
      (I) is of practical functional value to the confectionery product; and
      (II) would not render the product injurious or hazardous to health;
    (B) bears or contains alcohol, other than alcohol derived solely from the use of flavoring extracts, that does not exceed .05% by volume; or
    (C) bears or contains a nonnutritive substance, unless:
      (I) the nonnutritive substance is a safe nonnutritive substance that is in or on the confectionery for a practical functional purpose in the manufacture, packaging, or storing of the confectionery; and

(II) the use of the nonnutritive substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of this chapter.

(2) The department may, for the purpose of avoiding or resolving uncertainty as to the application of Subsection (1)(p)(ii)(C), issue rules allowing or prohibiting the use of a particular nonnutritive substance.

(3) Notwithstanding Section 4-5-204, the residue of a pesticide chemical remaining in or on a processed food is not considered unsafe if:

(a) the pesticide chemical is used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under 21 U.S.C. Sec. 346a;

(b) the residue of the pesticide chemical in or on the raw agricultural commodity is removed to the extent possible in good manufacturing practice;

(c) the raw agricultural commodity is subjected to processing such as canning, cooking, freezing, dehydrating, or milling; and

(d) the concentration of the residue in the processed food when ready to eat is no greater than the tolerance prescribed for the raw agricultural commodity.

Amended by Chapter 311, 2020 General Session

4-5-104 Authority to make and enforce rules.

(1) The department may adopt rules to efficiently enforce this chapter, and if practicable, adopt rules that conform to the regulations adopted under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

(2) The department or an officer, agent, or employee designated by the department shall conduct a hearing authorized or required by this chapter.

(3)

(a) Except as provided by Subsection (3)(b), pesticide chemical regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the pesticide chemical regulations in this state.

(b) The department may adopt a rule that prescribes tolerance for pesticides in finished foods in this state whether or not in accordance with regulations made under the federal act.

(4)

(a) Except as provided by Subsection (4)(b), food additive regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the food additive regulations in this state.

(b) The department may adopt a rule that prescribes conditions under which a food additive may be used in this state whether or not in accordance with regulations made under the federal act.

(5) Color additive regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the color additive rules in this state.

(6)

(a) Except as provided by Subsection (6)(b), special dietary use regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the special dietary use rules in this state.

(b) The department may, if the department finds it necessary to inform purchasers of the value of a food for special dietary use, prescribe special dietary use rules whether or not in accordance with regulations made under the federal act.

(7)

(a) Except as provided by Subsection (7)(b), regulations adopted under the Fair Packaging and Labeling Act, 15 U.S.C. Sec. 1453 et seq., shall be the rules in this state.
(b) Except as provided by Subsection (7)(c), the department may, if the department finds it necessary in the interest of consumers, prescribe package and labeling rules for consumer commodities, whether or not in accordance with regulations made under the federal act.
(c) The department may not adopt rules that are contrary to the labeling requirements for the net quantity of contents required according to 15 U.S.C. Sec. 1453(a)(4).

(8)
(a) Except as provided by Subsection (8)(b), the preventive control for human food regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the preventive controls for the state.
(b) The department may adopt a rule that prescribes preventive controls in this state whether or not in accordance with regulations made under the federal act except that the rule may not be more stringent than the federal law.

(9)
(a) Except as provided by Subsection (9)(b), the standards for the growing, harvesting, packaging, and holding of produce for human consumption regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the standards for the state.
(b) The department may adopt a rule that prescribes standards for the growing, harvesting, packaging, and holding of produce for human consumption in this state whether or not in accordance with regulations made under the federal act except that the rule may not be more stringent than the federal law.

(10)
(a) A federal regulation automatically adopted according to this chapter takes effect in this state on the date the federal regulation becomes effective as a federal regulation.
(b) The department shall publish all other proposed rules in publications prescribed by the department.
(c)
(i) A person who may be adversely affected by a rule may, within 30 days after a federal regulation is automatically adopted, or within 30 days after publication of any other rule, file with the department, in writing, objections and a request for a hearing.
(ii) The timely filing of substantial objections to a federal regulation automatically adopted stays the effect of the rule.
(d)
(i) If no substantial objections are received and no hearing is requested within 30 days after publication of a proposed rule, it shall take effect on a date set by the department.
(ii) The effective date shall be at least 60 days after the time for filing objections has expired.
(e)
(i) If timely substantial objections are made to a federal regulation within 30 days after the federal regulation is automatically adopted or to a proposed rule within 30 days after the proposed rule is published, the department, after notice, shall conduct a public hearing to receive evidence on the issues raised by the objections.
(ii) An interested person or the person's representative may be heard.
(f)
(i) The department shall act upon objections by order and shall mail the order to objectors by certified mail as soon after the hearing as practicable.
(ii) The order shall be based on substantial evidence in the record of the hearing.

(g)
(i) If the order concerns a proposed rule, the department may withdraw the proposed rule or set an effective date for the rule as published or as modified by the order.
(ii) The effective date shall be at least 60 days after publication of the order.
(11) Whenever a regulation is made under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., establishing standards for food, the tolerances established by the department under this chapter shall immediately conform to the standards established by the Federal Food and Drug Administration as herein provided and shall remain the same until the department determines that for reasons peculiar to Utah a different rule should apply.

Amended by Chapter 311, 2020 General Session
Amended by Chapter 354, 2020 General Session

4-5-105 Inspection of premises and records -- Authority to take samples -- Inspection results reported.

(1) An authorized agent of the department, upon presenting appropriate credentials to the owner, operator, or agent in charge, may:
(a) enter at reasonable times a factory, farm, warehouse, or establishment in which food is manufactured, processed, packed, or held for introduction into commerce or after introduction into commerce;
(b) enter a vehicle being used to transport or hold food in commerce;
(c) inspect at reasonable times and within reasonable limits and in a reasonable manner a factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling located within the factory, warehouse, establishment, or vehicle;
(d) obtain samples necessary for the enforcement of this chapter if the department:
(i) pays the posted price for the sample if requested to do so; and
(ii) receives a signed receipt from the person from whom the sample is taken; and
(e) have access to and copy all records of carriers in commerce showing:
(i) the movement in commerce of food;
(ii) the holding of food during or after movement in commerce; and
(iii) the quantity, shipper, and consignee of food.
(2) Evidence obtained under this section may not be used in a criminal prosecution of the person from whom the evidence was obtained.
(3) A carrier is subject to the other provisions of this chapter by reason of the carrier's receipt, carriage, holding, or delivery of food in the usual course of business as a carrier.
(4) After the inspection of a factory, warehouse, consulting laboratory, or other establishment and before leaving the premises, the authorized agent making the inspection shall give the owner, operator, or agent in charge a written report describing any conditions or practices observed by the agent during the inspection which, in the agent's judgment, indicate that a food in the establishment:
(a) consists in whole or in part of a filthy, putrid, or decomposed substance; or
(b) has been prepared, packed, or held under unsanitary conditions whereby the food may have become contaminated with filth or been rendered injurious to health.
(5) A copy of the report required under Subsection (4) shall be sent promptly to the department.
(6) If the authorized agent making the inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, the agent shall give to the owner, operator, or agent in charge:

(a) a receipt describing the samples obtained; and
(b) if an analysis is made of the sample for the purpose of ascertaining whether the food consists in whole or in part of a filthy, putrid, or decomposed substance or is otherwise unfit for food, a copy of the results of the analysis.

Amended by Chapter 32, 2019 General Session

4-5-106 Publication of reports and information.

(1) The department shall publish reports summarizing all judgments, decrees, and court orders which have been rendered under this chapter, including the nature of the charge and its disposition.
(2) The department shall disseminate information regarding food which it considers necessary in the interest of public health and for the protection of consumers against fraud.
(3) Nothing in this section prohibits the department from collecting, reporting, and illustrating the results of investigations made by the department.

Renumbered and Amended by Chapter 345, 2017 General Session

4-5-107 Food containing vaccine.

(1) As used in this section, "vaccine or vaccine material" means a substance that is:
(a) intended for use in humans to stimulate the production of antibodies and provide immunity against disease;
(b) prepared from the causative agent of a disease, the disease's products, or a synthetic substitute treated to act as an antigen without including the disease; and
(c) authorized or approved by the United States Food and Drug Administration.
(2) A food intended for human consumption that intentionally contains a vaccine or vaccine material is considered a drug for purposes of this chapter, Section 26B-7-108, and Title 58, Chapter 37, Controlled Substances.

Amended by Chapter 362, 2026 General Session

Part 2
Labels and Regulations

4-5-201 Labeling requirements -- Misbranded food specified.

(1) The department may require that a label contain specific written, printed, or graphic information which is:
(a) displayed on the outside container or wrapper of a retail package of an article; or
(b) easily legible through the outside container or wrapper.
(2) Food is misbranded if:
(a) its label is false or misleading in any way;
(b) its labeling or packaging fails to conform with the requirements of Section 4-5-205;
(c) it is offered for sale under the name of another food;
(d) its container is so made, formed, or filled with packing material or air as to be misleading; or
(e) it fails to conform with any requirement specified in this section.
(3)

(a) A food that is an imitation of another food shall bear a label, in type of uniform size and prominence, stating the word "imitation," and, immediately thereafter, the name of the food imitated.

(b) If the state allows a cultivated meat product to be manufactured, sold, held or offered for sale, or distributed, a food that contains the cultivated meat product shall bear a term or phrase on a label in a place on the packaging that is reasonably certain to notify a consumer that the food contains a cultivated meat product.

(c) A food that contains a plant or insect based meat substitute:

(i) is not subject to Subsection (3)(a); and

(ii) shall bear a term or phrase on a label in a place on the packaging that is reasonably certain to notify a consumer that the food contains a plant or insect based meat substitute.

(d) The department shall interpret and enforce this Subsection (3) in a manner consistent with applicable federal statute and regulations.

(e) The department may not enforce the requirements of Subsections (3)(b) and (c) on or before October 31, 2025.

(4)

(a) A food in package form shall bear a label containing:

(i) the name and place of business of the manufacturer, packer, or distributor; and

(ii) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count.

(b) The statement required by Subsection (4)(a)(ii) shall be separately and accurately stated in a uniform location upon the principal display panel of the label unless reasonable variations and exemptions for small packages are established by a rule made by the department.

(c) A manufacturer or distributor of carbonated beverages who utilizes proprietary stock or a proprietary crown is exempt from Subsection (4)(a)(i) if the manufacturer or distributor files with the department:

(i) a sworn affidavit giving a full and complete description of each area within the state in which beverages of the manufacturer's or distributor's manufacturing or distributing are to be distributed; and

(ii) the name and address of the person responsible for compliance with this chapter within each of those areas.

(5) Any word, statement, or other information required by this chapter to appear on the label or labeling shall be:

(a) prominently placed on the label;

(b) conspicuous in comparison with other words, statements, designs, or devices in the labeling; and

(c) in terms which render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(6) If a food is represented as a food for which a definition and standard of identity has been prescribed by federal regulations or department rules as provided by Section 4-5-207, it shall:

(a) conform to the definition and standard; and

(b) have a label bearing:

(i) the name of the food specified in the definition and standard; and

(ii) insofar as may be required by the rules, the common names of optional ingredients, other than spices, flavorings, and colorings, present in the food.

(7) If a food is represented as a food for which a standard of quality has been prescribed by federal regulations or department rules as provided by Section 4-5-207, and its quality falls below the

standard, its label shall bear, in the manner and form as the regulations or rules specify, a statement indicating that it falls below the standards.

(8) If a food is represented as a food for which a standard of fill of container has been prescribed by federal regulations or department rules as provided by Section 4-5-207, and it falls below the applicable standard of fill, its label shall bear, in the manner and form as the regulations or rules specify, a statement indicating that it falls below the standard.

(9)

(a) Any food for which neither a definition nor standard of identity has been prescribed by federal regulations or department rules as provided by Section 4-5-207 shall bear labeling clearly giving:

(i) the common or usual name of the food, if any; and

(ii) in case it is fabricated from two or more ingredients, the common or usual name of each ingredient, except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings without naming each.

(b) To the extent that compliance with the requirements of Subsection (9)(a)(ii) is impractical or results in deception or unfair competition, exemptions shall be established by rules made by the department.

(10) If a food is represented as a food for special dietary uses, its label shall bear the information concerning its vitamin, mineral, and other dietary properties as the department by rule prescribes.

(11)

(a) If a food bears or contains any artificial flavoring, artificial coloring, or chemical preservatives, its label shall state that fact.

(b) If compliance with the requirements of Subsection (11)(a) is impracticable, exemptions shall be established by rules made by the department.

(12)

(a) The shipping container of any raw agricultural commodity bearing or containing a pesticide chemical applied after harvest shall bear labeling which declares the presence of the chemical in or on the commodity and the common or usual name and function of the chemical.

(b) The declaration is not required while the commodity, having been removed from the shipping container, is being held or displaced for sale at retail out of the container in accordance with the custom of the trade.

(13) A product intended as an ingredient of another food, when used according to the directions of the purveyor, may not result in the final food product being adulterated or misbranded.

(14) The packaging and labeling of a color additive shall be in conformity with the packaging and labeling requirements applicable to the color additive prescribed under the federal act.

(15)

(a) Subsections (6), (9), and (11) with respect to artificial coloring do not apply to butter, cheese, or ice cream.

(b) Subsection (11) with respect to chemical preservatives does not apply to a pesticide chemical when used in or on a raw agricultural commodity.

Amended by Chapter 79, 2025 General Session

4-5-202 Adulterated or misbranded articles -- Tagging -- Detention or embargo -- Court proceedings for condemnation -- Perishable food.

(1)

(a) When an authorized agent of the department finds or has probable cause to believe that any food is adulterated, or so misbranded as to be dangerous or fraudulent within the meaning of this chapter, the agents shall affix to the food a tag or other appropriate marking, giving notice that:
(i) the food is, or is suspected of being, adulterated or misbranded;
(ii) the food has been detained or embargoed; and
(iii) removal of the food is prohibited as provided in Subsection (1)(b).
(b) No person may remove or dispose of detained or embargoed food by sale or otherwise until permission for removal or disposal is given by an agent of the department or the court.
(2)
(a) When food detained or embargoed under Subsection (1) has been found by an agent to be adulterated or misbranded, the department shall petition the district court in whose jurisdiction the food is detained or embargoed for an order of condemnation of the food.
(b) When the agent has found that food so detained or embargoed is not adulterated or misbranded, the department shall remove the tag or other marking.
(3)
(a) If the court finds that detained or embargoed food is adulterated or misbranded, the food shall, after entry of the decree, be destroyed under the supervision of the agent.
(b) If the adulteration or misbranding can be corrected by proper labeling or processing of the food, the court may by order direct that the food be delivered to the claimant for labeling or processing after:
(i) entry of the decree;
(ii) all costs, fees, and expenses have been paid; and
(iii) a sufficient bond, conditioned that the food shall be properly labeled and processed, has been executed.
(c) An agent of the department shall supervise, at the claimant's expense, the labeling or processing of the food.
(d) The bond shall be returned to the claimant of the food upon:
(i) representation to the court by the department that the food is no longer in violation of this chapter; and
(ii) the expenses of supervision have been paid.
(4) If an authorized agent of the department finds in any building or vehicle any perishable food which is unsound, contains any filthy, decomposed, or putrid substance, or may be poisonous, deleterious to health, or otherwise unsafe, the commissioner or his authorized agent shall condemn or destroy the food or render it unsalable as human food.

Renumbered and Amended by Chapter 345, 2017 General Session

4-5-203 Food processed, labeled, or repacked at another location -- Exemption from labeling requirements by rule.

(1) The department shall adopt rules exempting food from any labeling requirement of this chapter that is, in accordance with the practice of the trade, to be processed, labeled or repacked in substantial quantities at establishments other than those where originally processed or packed, on condition that the food is not adulterated or misbranded under this chapter upon removal from such processing, labeling or repacking establishment.
(2)

(a) Regulations now or hereafter adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., relating to the exemptions described in Subsection (1) are automatically effective in this state.
(b) The department may adopt additional rules or amendments to existing rules concerning exemptions.

Renumbered and Amended by Chapter 345, 2017 General Session

4-5-204 Substances considered unsafe -- Authority in department to regulate quantity and use.

(1)
(a) Any added poisonous or deleterious substance, any food additive, any pesticide chemical in or on a raw agricultural commodity or any color additive, with respect to any particular use or intended use, is considered to be unsafe for the purpose of application of Subsection 4-5-103(1)(b) unless:
(i) there is in effect a rule adopted pursuant to this section or Section 4-5-104 limiting the quantity of the substance; and
(ii) the use or intended use of the substance conforms to the terms prescribed by the rule.
(b) While the rules relating to the substance are in effect, a food may not, by reason of bearing or containing the substance in accordance with the rules, be considered adulterated within the meaning of Subsection 4-5-103(1)(a).

(2) The department may make rules, which may or may not be in accordance with regulations made under the federal act, prescribing:
(a) tolerances, including zero tolerances, for:
(i) added poisonous or deleterious substances;
(ii) food additives;
(iii) pesticide chemicals in or on raw agricultural commodities; or
(iv) color additives;
(b) exemptions from tolerances in the case of pesticide chemicals in or on raw agricultural commodities; or
(c) conditions under which a food additive or a color additive may be safely used and exemptions when a food additive or color additive may be used solely for investigational or experimental purposes.

(3)
(a) The department may make these rules upon its own initiative or upon the petition of any interested party.
(b) It is incumbent upon the petitioner to establish by data submitted to the department that the rule is necessary to protect the public health.
(c) If the data furnished by the petitioner is not sufficient to allow the department to determine whether the rule should be made, the department may require additional data to be submitted.
(d) Failure to comply with the request is sufficient grounds to deny the request.

(4) In making the rules, the department shall consider, among other relevant factors, the following which the petitioner, if any, shall furnish:
(a) the name and all pertinent information concerning the substance including:
(i) where available;
(ii) its chemical identity and composition;

(iii) a statement of the conditions of the proposed use, including directions, recommendations, and suggestions;
(iv) specimens of proposed labeling; and
(v) all relevant data bearing on the physical or other technical effect and the quantity required to produce such effect;
(b) the probable composition of any substance formed in or on a food resulting from the use of the substance;
(c) the probable consumption of the substance in the diet of man and animals, taking into account any chemically or pharmacologically related substance in the diet;
(d) safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of the substances for the uses for which they are proposed to be used, are generally recognized as appropriate for the use of animal experimentation data;
(e) the availability of any needed practicable methods of analysis for determining the identity and quantity of:
(i) the substance in or on food;
(ii) any substance formed in or on food because of the use of the substance; and
(iii) the pure substance and all intermediates and impurities; and
(f) facts supporting a contention that the proposed use of the substance will serve a useful purpose.

Renumbered and Amended by Chapter 345, 2017 General Session

4-5-205 Consumer commodities -- Labeling and packaging.

(1) All labels of consumer commodities, as defined by this chapter, shall conform with the requirements for the declaration of net quantity of contents of 15 U.S.C. Sec. 1453 and the regulations promulgated pursuant thereto: provided, that consumer commodities exempted from 15 U.S.C. Sec. 1453(a)(4) shall also be exempt from this Subsection (1).
(2) The label of any package of a consumer commodity that bears a representation as to the number of servings of the commodity contained in the package shall bear a statement of the net quantity in terms of weight, measure, or numerical count for each serving.
(3)
(a) No person shall distribute or cause to be distributed in commerce any packaged consumer commodity if any qualifying words or phrases appear in conjunction with the separate statement of the net quantity of contents required by Subsection (1), but nothing in this section shall prohibit supplemental statements, at other places on the package, describing in nondeceptive terms the net quantity of contents.
(b) Supplemental statements of net quantity of contents may not include any term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the commodity contained in the package.
(4)
(a) Whenever the department determines that rules other than those prescribed by Subsection (1) are necessary to prevent the deception of consumers or to facilitate value comparisons as to any consumer commodity, the department shall promulgate rules effective to:
(i) establish and define standards for the characterization of the size of a package enclosing any consumer commodity, which may be used to supplement the label statement of net quantity of contents of packages containing the commodity, but this Subsection (4) does not authorize any limitation on the size, shape, weight, dimensions, or number of packages that may be used to enclose any commodity;

(ii) regulate the placement upon any package containing any commodity, or upon any label affixed to a commodity, of any printed matter stating or representing by implication that the commodity is offered for retail sale at a price lower than the ordinary and customary retail sale price or that a retail sale price advantage is accorded to purchasers by reason of the size of that package or the quantity of its contents;

(iii) require that the label on each package of a consumer commodity bear:

(A) the common or usual name of such consumer commodity, if any; and

(B) if the consumer commodity consists of two or more ingredients, the common or usual name of each such ingredient listed in order of decreasing predominance, but nothing in this Subsection (4) shall be considered to require that any trade secret be divulged; or

(iv) prevent the nonfunctional slack-fill of packages containing consumer commodities.

(b) For the purposes of Subsection (4)(a)(iv), a package is nonfunctionally slack-filled if it is filled to substantially less than its capacity for reasons other than:

(i) protection of the contents of such package; or

(ii) the requirements of machines used for enclosing the contents in such package; provided, that the department may adopt any rules promulgated according to the Fair Packaging and Labeling Act, 15 U.S.C. Sec. 1453.

Renumbered and Amended by Chapter 345, 2017 General Session

4-5-206 Food advertisement false or misleading.

An advertisement of a food is considered to be false if it is false or misleading in any way.

Renumbered and Amended by Chapter 345, 2017 General Session

4-5-207 Definitions and standards of identity, quality, and fill of container -- Rules -- Temporary and special permits.

(1)

(a) Definitions and standards of identity, quality and fill of container, now or hereafter adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the definitions and standards of identity, quality and fill of container in this state.

(b) The department may adopt rules establishing definitions and standards of identity, quality and fill of container for foods where no federal regulations exist and may promulgate amendments to any federal regulations or state rules that set definitions and standards of identity, quality and fill of container for foods.

(2)

(a) Temporary permits granted for interstate shipment of experimental packs of food varying from the requirements of federal definitions and standards of identity are automatically effective in this state under the conditions provided in the permits.

(b) The department may issue additional permits where they are necessary for the completion or conclusiveness of an otherwise adequate investigation and where the interests of consumers are safeguarded.

(c) Permits are subject to the terms and conditions the department may prescribe by rule.

Renumbered and Amended by Chapter 345, 2017 General Session

Part 3
Registration and Inspection

4-5-301 Registration of food establishments -- Fee -- Suspension and reinstatement of registration -- Inspection for compliance.

(1)
(a) Pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules providing for the registration of food establishments to protect public health and ensure a safe food supply.
(b) The owner or operator of a food establishment shall register with the department before operating a food establishment.
(c) Before granting a registration to the owner or operator of a food establishment, the department shall inspect and assess the food establishment to determine whether it complies with the rules established under Subsection (1)(a).
(d) An applicant shall register with the department, in writing, using forms required by the department.
(e) The department shall issue a registration to an applicant, if the department determines that the applicant meets the qualifications of registration established under Subsection (1)(a).
(f) If the applicant does not meet the qualifications of registration, the department shall notify the applicant, in writing, that the applicant's registration is denied.
(g)
(i) If an applicant submits an incomplete application, a written notice of conditional denial of registration shall be provided to an applicant.
(ii) The applicant shall correct the deficiencies within the time period specified in the notice to receive a registration.
(h)
(i) The department may, as provided under Subsection 4-2-103(2), charge the food establishment a registration fee.
(ii) The department shall retain the fees as dedicated credits and shall use the fees to administer the registration of food establishments.
(2)
(a) A registration, issued under this section, shall be valid from the date the department issues the registration, to December 31 of the year the registration is issued.
(b) A registration may be renewed for the following year by applying for renewal by December 31 of the year the registration expires.
(3) A registration, issued under this section, shall specify:
(a) the name and address of the food establishment;
(b) the name of the owner or operator of the food establishment; and
(c) the registration issuance and expiration date.
(4)
(a) The department may immediately suspend a registration, issued under this section, if any of the conditions of registration have been violated.
(b)
(i) The holder of a registration suspended under Subsection (4)(a) may apply for the reinstatement of a registration.
(ii) If the department determines that all registration requirements have been met, the department shall reinstate the registration.

(5)
(a) A food establishment, registered under this section, shall allow the department to have access to the food establishment to determine if the food establishment is complying with the registration requirements.
(b) If a food establishment denies access for an inspection required under Subsection (5)(a), the department may suspend the food establishment's registration until the department is allowed access to the food establishment's premises.
(6)
(a) A food establishment shall:
(i) notify the department as part of the registration or renewal process whether the food establishment plans to sell, hold or offer for sale, or distribute a cultivated meat product or a plant or insect based meat substitute;
(ii) permit the department to inspect for compliance with Subsection 4-5-201(3); and
(iii) pay a fee established in accordance with Subsection 4-2-103(2).
(b) The department shall retain the fee as a dedicated credit and shall use the fee to administer Subsection 4-5-201(3).
(c) Pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to address notification, inspection, and payment of fees under this Subsection (6).

Amended by Chapter 79, 2025 General Session

Part 4
Enforcement

4-5-401 Unlawful acts specified.
(1) A person may not:
(a) manufacture, sell, deliver, hold, or offer for sale a food that is adulterated or misbranded;
(b) adulterate or misbrand food;
(c) except as provided in Subsection (2), distribute, in commerce, a consumer commodity inconsistent with the packaging and labeling requirements of this chapter, or the rules made under this chapter;
(d) sell, deliver for sale, hold for sale, or offer for sale an article in violation of Section 4-5-301;
(e) disseminate false advertising;
(f) remove or dispose of detained or embargoed food in violation of Section 4-5-202;
(g) adulterate, mutilate, destroy, obliterate, or remove the food label which results in the food being misbranded or adulterated while the food is for sale;
(h) forge, counterfeit, simulate, or misrepresent a label or information, by the unauthorized use of a mark, stamp, tag, label, or other identification device;
(i) use or reveal a method, process, or information which is protected as a trade secret;
(j) operate a food establishment without a valid registration issued by the department; and
(k) refuse entry to an authorized agent of the department in a food establishment as required under Section 4-5-105.
(2) Subsection (1)(c) does not apply to a person engaged in the wholesale or retail distribution of consumer commodities unless that person:
(a) is engaged in the packaging or labeling of consumer commodities; or
(b) prescribes or specifies the manner in which consumer commodities are packaged or labeled.

Renumbered and Amended by Chapter 345, 2017 General Session

4-5-402 Defenses.

No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section by reason of the dissemination of such false advertisement, unless he has refused, on the request of the department to furnish it, the name and post-office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the state of Utah who caused him to disseminate such advertisement.

Renumbered and Amended by Chapter 345, 2017 General Session

Part 5
Special Programs

4-5-501 Cottage food operations.

(1) For purposes of this chapter:
  (a) "Cottage food operation" means a person who produces a cottage food product in a home kitchen .
  (b) "Cottage food product" means a nonpotentially hazardous baked good, jam, jelly, or other nonpotentially hazardous food produced in a home kitchen.
  (c) "Home kitchen" means a kitchen:
    (i) designed and intended for use by the residents of a home; and
    (ii) used by a resident of the home for the production of a cottage food product.
  (d) "Potentially hazardous food" means:
    (i) a food of animal origin;
    (ii) raw seed sprouts; or
    (iii) a food that requires time or temperature control, or both, for safety to limit pathogenic microorganism growth or toxin formation, as identified by the department in rule.
(2) The department shall adopt rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to protect public health and ensure a safe food supply.
(3) Rules adopted pursuant to Subsection (2) may not require:
  (a) the use of a commercial surface such as a stainless steel counter or cabinet;
  (b) the use of a commercial grade:
    (i) sink;
    (ii) dishwasher; or
    (iii) oven;
  (c) a separate kitchen for the cottage food operation; or
  (d) the submission of plans and specifications before construction of, or remodel of, a cottage food production operation.
(4) The operator of a cottage food operation shall:
  (a) register with the department as a cottage food operation before operating as a cottage food operation;
  (b) hold a valid food handler's permit; and
  (c) package a cottage food product with a label, as specified by the department in rule.

(5) Notwithstanding the provisions of Subsections 4-5-301(1)(a) and (c), the department shall issue a registration to an applicant for a cottage food operation if the applicant for the registration:
(a) pays the fees required by the department; and
(b) meets the requirements of this section.
(6) Notwithstanding the provisions of Section 26A-1-114, a local health department:
(a) does not have jurisdiction to regulate the production of food at a cottage food operation operating in compliance with this section, as long as the products are not offered to the public for consumption on the premises; and
(b) does have jurisdiction to investigate a cottage food operation in an investigation into the cause of a foodborne illness outbreak.
(7) A food service establishment as defined in Section 26B-7-401 may not use a product produced in a cottage food operation as an ingredient in a food that is prepared by the food establishment and offered by the food establishment to the public for consumption.

Amended by Chapter 327, 2023 General Session

4-5-502 Food designated as raw honey.
(1) As used in this section:
(a) "Honey" means the natural sweet substance produced by honeybees from nectar of plants or from secretions of living parts of plants that the bees collect, transform by combining with specific substances of their own, then deposit, dehydrate, store, and leave in the honeycomb to ripen and mature.
(b) "Raw honey" means honey:
(i) as it exists in the beehive or as obtained by extraction, settling, or straining;
(ii) that is minimally processed; and
(iii) that is not pasteurized.
(2) Honey that is produced, packed, repacked, distributed, or sold in this state may only be labeled and designated as raw honey if it meets:
(a) the definition of raw honey in this section; and
(b) any additional requirements imposed by the department by rule.
(3) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish labeling requirements consistent with the provisions of this section.

Renumbered and Amended by Chapter 345, 2017 General Session