

# Florida's Food Safety Net

---

**Ensuring Safe Food from  
Production to Consumption**



**April 2006**

**Florida PIRG** Education  
Fund

# **Florida's Food Safety Net:**

**Ensuring Safe Food from Production to Consumption**

**Florida PIRG** Education  
Fund

**April 2006**

## **Acknowledgements**

---

Written by Alison Cassady, Research Director with Florida PIRG Education Fund.

© 2006, Florida PIRG Education Fund

Photo credits: Lori Carpenter/FOTOLIA (photo of boy); Robert Lerich/FOTOLIA (photo of fruit); Steve Degenhardt/FOTOLIA (photo of milk and cookies); and Terry Poche/FOTOLIA (photo of crawfish).

The author would like to thank Benjamin Cohen, Senior Staff Attorney with the Center for Science in the Public Interest, for offering editorial review and compiling the list of state food safety laws that forms the foundation of this report. Additional thanks to Meghan Purvis, Environmental Health Advocate with Florida PIRG Education Fund, for her contributions.

Special thanks to the Beldon Fund and Bauman Foundation for supporting the state PIRGs' work on toxics and right-to-know issues.

For more information, contact:

Florida PIRG Education Fund  
926 E. Park Ave.  
Tallahassee, FL 32301  
(850) 224-3321  
[www.floridapirg.org](http://www.floridapirg.org)

## Overview

---

Protecting the safety and integrity of the food supply is one of the oldest functions of government, one that the American people expect their government to perform and perform well.

The current food safety regulatory system in the United States is the shared responsibility of local, state and federal partners. In some cases, the federal government has delegated the responsibility for ensuring food safety to states and municipalities, which are often more nimble and able to respond quickly to localized public health problems. Approximately 80% of food safety inspections in the nation, for example, are completed at state and local levels. All 50 states hold the primary responsibility for ensuring the safety of milk and the sanitary operation of restaurants. In other areas, states have passed unique food safety standards that address local concerns or fill important gaps in food safety regulation left open by the U.S. Food and Drug Administration (FDA) and other regulatory agencies. As federal agencies become increasingly under-funded and influenced by powerful corporate interests, the states' role in maintaining the food safety net grows ever-more important.

The following are just a few examples of how the state of Florida has enacted standards to ensure the safety of the food supply in Florida and protect the health of its residents.

## Shellfish Safety

---

Shellfish are filter feeders; they get food and oxygen by pumping large quantities of water across their gills. During feeding, shellfish take in bacteria, viruses and chemical contaminants, which can bioaccumulate in their bodies. As a result, some shellfish harvested from polluted areas may pose a health hazard if consumed, causing diseases such as typhoid, hepatitis and salmonellosis.

No federal laws exist to regulate shellfish harvesters and processors to ensure that shellfish are safe; as such, states are responsible for adopting laws and regulations to ensure that shellfish are grown, harvested and processed in a safe and sanitary manner. FDA's National Shellfish Sanitation Program has created a model ordinance for states, but this serves only as guidance and is not mandatory.<sup>1</sup>

Approximately 16 states have adopted shellfish safety standards, including Florida.<sup>2</sup> Florida's statutes outline sanitation and permitting requirements for shellfish processors, handlers and transporters and prohibit the sale or distribution of "adulterated" shellfish. Shellfish are considered "adulterated" if they are harvested from an area where fecal material, pathogenic microorganisms, radio nuclides, harmful chemicals, and marine biotoxins are present in dangerous concentrations.<sup>3</sup> The Shellfish Environmental Assessment Section in Florida's Division of Aquaculture is responsible for classifying and managing Florida's 37 shellfish harvesting areas and oversees 1,200 bacteriological sampling stations.<sup>4</sup>

The federal government has not established similar mandatory standards; FDA regulations merely prohibit the interstate transport of shellfish that are likely to contribute to the spread of communicable disease from one state to another.<sup>5</sup>

## **Citrus Fruit and Juices**

---

Florida's citrus industry is a huge part of the state's economy; the 2004-2005 citrus crop alone was worth an estimated \$742.2 million.<sup>6</sup>

Because the citrus industry is so important to the state, Florida established the Florida Citrus Code, which, among other things, sets minimum maturity requirements for citrus fruits and content requirements for citrus juices; establishes inspection standards and enforcement responsibilities for the state Department of Agriculture; and details labeling requirements for canned fruit and frozen concentrated orange juice.<sup>7</sup> The purpose of the Citrus Code, according to the statute itself, is to safeguard public health and help the citrus industry, which "affects the health, morals, and general economy of a vast number of citizens of the state who are either directly or indirectly dependent" on the citrus industry for a livelihood. The Citrus Code helps ensure that consumers are receiving a quality product subject to strict content and safety standards, which benefits the economy and public health.

The Florida Department of Agriculture and Consumer Services' Bureau of Inspection is responsible for inspecting and certifying produce and implementing the state's standards for the quality of fresh or processed citrus products.

## **Milk and Other Dairy Products**

---

In the early 20<sup>th</sup> century, adulterated and spoiled milk caused a range of diseases and illness, including tuberculosis and diphtheria. States and municipalities responded to this problem by passing standards for how the dairy industry gathered, processed, distributed and sold milk in the United States. To this day, the states hold the primary responsibility for milk safety. FDA provides guidance to the states in the form of model codes,<sup>8</sup> and the states may adopt these codes voluntarily. But the federal government has not established any mandatory national safety standards for Grade A milk; no national law even regulates the sale of raw unpasteurized milk. That has been left up to states and localities, which are best equipped to regulate, monitor and inspect the local dairy industry and respond to local reports of adulterated milk.

The purpose of Florida's milk safety standards is to ensure that "milk and milk products sold or offered for sale in this state are produced under sanitary conditions, are wholesome and fit for human consumption, and are correctly labeled as to grade, quality, and source of production."<sup>9</sup> Florida's Bureau of Dairy Inspections inspects all dairy farms, milk and milk product processing plants, frozen dessert plants, milk transfer stations, receiving stations, tank truck washing facilities,

and container/closure manufacturers to see that each is operated in a sanitary manner and in compliance with public health regulations. The Bureau of Dairy Compliance Monitoring performs regulatory analyses on all milk, milk products, and frozen dessert samples submitted by the Bureau of Dairy Inspection.<sup>10</sup> Florida's milk standards protect the state's residents from the outbreaks of milk-borne diseases that were common in the early 20<sup>th</sup> century.

A key component of state milk safety standards, including Florida's standards, is the provision empowering the state to prevent the sale of contaminated or adulterated milk.<sup>11</sup> Whether milk becomes contaminated or adulterated by accident or intent, the state's authority to remove these products from the marketplace is critical for public health.

## **Food Safety in Restaurants and Other Food Establishments**

---

Almost everyone experiences a food-borne illness or food "poisoning" at least once in their lifetimes after eating out at a restaurant or other food service establishment. These food-borne illnesses, caused most often by inadequate cooking, improper holding temperatures, poor personal hygiene, contaminated equipment and food from unsafe sources,<sup>12</sup> can cause symptoms ranging from the uncomfortable to the life-threatening, particularly for the elderly and those with compromised immune systems. The Centers for Disease Control estimates that food-borne disease causes 325,000 hospitalizations and 5,000 deaths each year.<sup>13</sup>

The federal government has promulgated no mandatory requirements for the safety of restaurant and food service establishment food, devolving this responsibility to the states. All 50 states—generally through their health, small business or agriculture departments—regulate and inspect restaurants, schools, nursing homes, and other food service establishments to ensure the safety of food served. State and local agencies are the main line of defense against food-borne disease.

Florida has established statutes to protect the public from food contaminated by food service establishments or retail food stores during storage, preparation, service, or display and to ensure that food service establishments and retail food stores have adequate facilities for the storage, preparation, service, or display of food.<sup>14</sup> Through its Food Hygiene Program, Florida's Department of Health regulates food service operations located in institutional settings (such as schools, nursing homes, hospitals, and correctional facilities), civic and fraternal organizations, theaters, and churches that serve the public. The Division of Hotels and Restaurants of the Department of Business and Professional Regulation licenses, inspects and regulates public lodging and food service establishments in Florida.

## **Food and Color Additives**

---

Most packaged foods on grocery store shelves contain numerous food or color additives. A food additive is "any substance the intended use of which results or may reasonably be expected to

result—directly or indirectly—in its becoming a component or otherwise affecting the characteristics of any food.”<sup>15</sup> A color additive is any dye, pigment or substance that can impart color when added or applied to a food.<sup>16</sup>

FDA has the primary legal responsibility for determining the safe use of food and color additives and setting standards for what constitutes a “safe” level of an additive. Several states, including Florida,<sup>17</sup> have enacted laws in effect reserving the right to go above and beyond federal standards to protect public health. Although no states have used this authority to date, states may need to resort to enacting more protective health standards for certain additives if FDA fails to do so in the future. Debate is currently brewing over the use of carbon monoxide in meat, for example.<sup>18</sup> Without a formal review process, FDA allowed the meat industry to start spiking packaged meat with carbon monoxide to keep it looking pink and fresh for weeks. Consumer advocates argue that this could make spoiled meat look fresh, endangering public health. Since FDA has no plans to set standards or labeling guidelines for meat treated with carbon monoxide, states may step in to fill this gap.

## **Conclusion**

---

The Florida food safety standards discussed here and others are important for several reasons:

- They help protect public health from food-borne illnesses and other risks by filling gaps left in federal law;
- They give consumers the power to make informed choices about the food and beverages they purchase for themselves and their families; and
- They help protect local industries by ensuring the safety and purity of their products.

The FDA and other federal agencies do not have the resources—and often do not have the political will—to monitor all aspects of food safety. In fact, the number of full-time FDA employees dealing with food safety has fallen steadily from 3,167 in FY 2003 to 2,843 in FY 2006; the president’s proposed FY 2007 budget for FDA would further reduce that number to 2,757.<sup>19</sup> As such, states will continue to play a pivotal role in ensuring that America’s food supply remains among the safest in the world.

## End Notes

---

- <sup>1</sup> FDA, Center for Food Safety and Applied Nutrition, National Shellfish Sanitation Program Model Ordinance, accessed March 30, 2006 at <http://www.cfsan.fda.gov/~ear/nsspotoc.html>.
- <sup>2</sup> Florida Aquaculture Policy Act, Title XXXV, Chapter 597.
- <sup>3</sup> Florida Department of Agriculture and Consumer Services, Division of Aquaculture, Chapter 5L-1, The Comprehensive Shellfish Control Code, available at [http://www.floridaaquaculture.com/SEAS/5L1\\_rule.pdf](http://www.floridaaquaculture.com/SEAS/5L1_rule.pdf).
- <sup>4</sup> Florida Department of Agriculture and Consumer Services, Division of Aquaculture, Shellfish Environmental Assessment Section, accessed March 28, 2006 at [http://www.floridaaquaculture.com/SEAS/SEAS\\_intro.htm](http://www.floridaaquaculture.com/SEAS/SEAS_intro.htm).
- <sup>5</sup> See U.S. FDA, 21 CFR 1240.60.
- <sup>6</sup> USDA, National Agricultural Statistics Service, "Florida Citrus Summary 2004-05," September 22, 2005, accessed March 23, 2006 at [www.nass.usda.gov/Statistics\\_by\\_State/Florida/Publications/Citrus/cspre/cit92205.pdf](http://www.nass.usda.gov/Statistics_by_State/Florida/Publications/Citrus/cspre/cit92205.pdf).
- <sup>7</sup> Florida Citrus Code, Title XXXV, Chapter 601.
- <sup>8</sup> See U.S. FDA, Center for Food Safety and Applied Nutrition, National Conference on Interstate Milk Shipments (NCIMS) Model Documents, accessed March 21, 2006 at <http://www.cfsan.fda.gov/~ear/p-nci.html>.
- <sup>9</sup> Florida Statutes, Title XXXIII, Chapter 502, §§502.012- 502.232.
- <sup>10</sup> See Florida Department of Agriculture and Consumer Services, Division of Dairy Industry, <http://www.doacs.state.fl.us/dairy/index.html>.
- <sup>11</sup> Florida Statutes, Title XXXIII, Chapter 502, §502.014.
- <sup>12</sup> U.S. FDA, *FDA Report on the Occurrence of Foodborne Illness Risk Factors in Selected Institutional Foodservice, Restaurant, and Retail Food Store Facility Types*, 2004.
- <sup>13</sup> Centers for Disease Control, Division of Bacterial and Mycotic Diseases, "Foodborne Illness" fact sheet, accessed March 22, 2006 at [http://www.cdc.gov/ncidod/dbmd/diseaseinfo/files/foodborne\\_illness\\_FAQ.pdf](http://www.cdc.gov/ncidod/dbmd/diseaseinfo/files/foodborne_illness_FAQ.pdf).
- <sup>14</sup> Florida Statutes, Title XXXIII, Chapter 509, §§509.013-509.101.
- <sup>15</sup> U.S. FDA, Center for Food Safety and Applied Nutrition, "Food Ingredients & Colors," brochure, accessed March 21, 2006 at <http://www.cfsan.fda.gov/~acrobat/foodic.pdf>.
- <sup>16</sup> U.S. FDA, Center for Food Safety and Applied Nutrition, "Food Ingredients & Colors," brochure, accessed March 21, 2006 at <http://www.cfsan.fda.gov/~acrobat/foodic.pdf>.
- <sup>17</sup> Florida Food Safety Act, Title XXXIII, §500.13(2).
- <sup>18</sup> Rick Weiss, "FDA Is Urged to Ban Carbon-Monoxide-Treated Meat," *Washington Post*, February 20, 2006.
- <sup>19</sup> FDA, Office of Management Budget Formulation and Presentation, "Foods," accessed March 30, 2006 at <http://origin.www.fda.gov/oc/oms/ofm/budget/2007/HTML/1Foods.htm>.