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**Food Safety Legislation Enacted 2015**

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**Enacted Food Safety Legislation 2015**

State Legislatures introduced 516 bills in 47 states on food safety in 2015; 12 bills adopted in 15 states; 76 bills in 26 states were enacted.

This memo reviews enacted bills mostly, focusing on bills related to Food Safety Modernization Act, Food Safety, Cottage Foods, Genetically-Modified foods, bills to label food products, milk and raw milk, and restaurants.

**Food Safety Modernization Act**

Bills related to FSMA were sharply down in 2015, with only 6 bills on FSMA being introduced in 3 states; 1 being enacted (Texas) and 1 adopted (Hawaii):

Hawaii adopted HCR 212 (adopted) a resolution on the Food Safety Modernization Act. Requests federal and state agencies to consult with Hawaii small scale farmers, Hawaii small scale producers, and affected parties on the offsetting of costs associated with the implementation of the food safety modernization act.

The Texas law (TX H 1846 (Act No. 749)) related to Federal Food, Drug and Cosmetic Act Implementation. The state must seek solicitation of public comments on federal grants and contracts related to the Federal Food, Drug, and Cosmetic Act, including the Food Safety Modernization Act; provides that if an interested person requests that the department decline to receive future federal

funding from the grant or contract, the department shall consider the request and determine whether the benefits of the grant or contract outweigh the person's concerns.

## **Food Safety**

State legislatures introduced 29 Bills in 14 States related to food safety, with 8 being enacted in 6 states.

Healthy Arkansas Educational Program (AR S 827 (Act No. 1005)) creates the Healthy Arkansas Educational Program to create opportunities for Medicaid beneficiaries to receive training and education in areas which may include nutrition, food safety and food preservation, family and consumer economics, marriage, parenting and family life, and health, wellness and prevention.

In California, wine tasting facilities are not considered food facilities. CA A 143 (Act No. 164) Food Facilities and Wine Tasting excludes wine tasting rooms from the definition of food facility if they offers pretzels or prepackaged nonpotentially hazardous food for sale or for onsite consumption. The state also enacted CA A 226 (Act No. 615) Retail Food Safety: Fishermen's Markets which creates a new type of nonpermanent food facility, defined as a fisherman's market, that would be a food facility operated by a licensed commercial fisherman, or an entity representing specified fishermen or aquaculturists; imposes food safety and sanitation requirements upon such market.

CO H 1226 (Act No. 238) addresses Retail Food Establishment License Fee and Inspection. Requires the state to convene a stakeholder group to study retail food establishments, retail food establishment license fees, and retail food inspection programs to include incidents of food-borne illnesses. This includes a study of a uniform statewide inspection program that includes training, public communication, guidance documents, and inspection frequency, including compliance strategies, and an annual license fee.

Connecticut permits the commercial use of Sous Vide (CT S 590 (Act No. 15-140)). This bill permits the commercial use of sous vide if controls are in place, allows the commercial use of sous vide when the food processed using sous vide is consumed on premises.

Hawaii enacted the Good Agricultural Practices Program (HI H 573 (Act No. 2015-153)) which establishes a permanent good agricultural practices program for farms growing local agricultural food products, includes field management, proper hygiene, water quality for irrigation and produce rinse, agricultural chemicals, use of animal manure, pest and on-farm animal management, pesticides, fertilizer, soil amendment use, packing-shed operations and maintenance and product traceback.

Illinois S 46 (Act No. 62) Food Handling Regulation Enforcement Act provides that any individual seeking a food service sanitation manager certificate or a food service sanitation manager instructor certificate must receive a passing score on the examination set by the certification exam provider accredited under standards developed and adopted by the Conference for Food Protection.

Indiana amended their Sanitary Conditions and Sanitary Facilities (IN S 556 (Act No. 86)). This bill expands the building law to include sanitary conditions and sanitary facilities in elementary and secondary school buildings and on school grounds; provides that local health officers are food

environmental specialists subordinate to the state department; provides guidelines for uniform enforcement throughout the state.

Oregon H 2404 (Act No. 317) relates to School Food and Beverage Standards. This bill addresses school nutritional standards, food and beverage items sold to students, adds specified food items as items that are except from items with certain fat content, provides that beverages sold in a school may not contain caffeine, adds specified drinks as acceptable beverages, provides these standards do not apply to items sold as a meal under the federal lunch and breakfast program, or individual items under federal programs.

Texas S 582 (Act No. 843) addresses the Training of Food Handlers. A food service worker trained in a food handler training course accredited by the American National Standards Institute is considered to have met a local health jurisdiction's training, testing, and permitting requirements. TX H 2430 (Act No. 563) Food and Beverage Consumption in Public Swimming Pools provides that rules adopted by the state may not prohibit the consumption of food or beverages in a public swimming pool that is privately owned and operated.

In Virginia, S 1115 (Act No. 91) Seizure of Food and Dairy Products relates to seizure of food and dairy products, provides that where the analyst is an employee of the Division of Consolidated Laboratory Services of the Department of General Services that their conclusion is evidence of the facts certified to in any appropriate court where the sample may be offered in evidence. VA H 2114 (Act No. 568) Competitive Foods relates to school-sponsored fundraisers; requires the regulations setting nutritional guidelines for competitive foods to permit each public school to conduct on school grounds during regular school hours no more than a specified total of school-sponsored fundraisers per school year during which food that does not meet the nutrition guidelines for competitive food may be sold to students.

West Virginia's S Food Handler Examination and Cards (60 (Act No. 121)) relates to the regulation of food handlers, permits the issuance of a food handler's card and food handler's permit, requires a food handler's card or permit to be obtained within thirty days of being hired, requires the Bureau for Public Health to develop minimum training guidelines, permits a local health department to adopt certain training programs.

Wisconsin's A 17 (Act No. 9) Renewal of Certificate of Food Protection Practices relates to the renewal of a certificate of food protection practices for certificate holders that operate or manage a restaurant employing a specified number of food handlers. WI A 37 (Act No. 46) Certificated of Food Protection Services requires food service persons to hold certificates of food protection practices in order to operate or manage school lunchrooms participating in the National School Lunch Program, includes private schools, charter schools or school districts.

### **Cottage Foods**

Cottage foods and laws that exempt certain foods from food safety and health inspections remain popular. 15 bills were enacted in 2015 that address food safety and health exemptions.

California A 234 (Act No. 616) Food: Sale authorizes a community food producer to sell or provide whole uncut fruits or vegetables, or unrefrigerated shell eggs, directly to the public; authorizes a permitted food facility, cottage food operation or gleaner to sell or provide the same food produced by a community food producer directly to the public without registration or to donate the same food to a food bank or food kitchen without registration.

Colorado S 85 (Act No. 150) Cottage Foods Inspection Requirements increases the net revenue a producer can earn per calendar year from the sale of each eligible food product produced in the producer's home kitchen or a commercial, private, or public kitchen without being subject to food inspections. CO H 1102 (Act No. 313) expands the Cottage Foods Act by increasing the food products a producer can sell under the act; redefines producer; exempts sellers of certain foods from State inspection standards; expands the permitted foods to include fruit empanadas, tortillas, and pickled vegetables that have a specified equilibrium pH value.

Illinois narrowed their cottage food requirements as they relate to farmers' markets. H 132 (Act No. 9) Food Handling Regulation Enforcement Act amends the Food Handling Regulation Enforcement Act to specify the rules concerning farmers' markets. IL H 2486 (Act No. 191) amends the Food Handling Regulation Enforcement Act to provide that a home kitchen operation does not include a person who produces or packages non-potentially hazardous baked goods for sale by a religious, charitable, or nonprofit organization for fundraising purposes.

Michigan S 144 (Act No. 142) Food Inspection Exemptions provides for exemption from inspection and managerial certification requirements for facilities serving low-risk foods; specifies requirements and provisions related to food safety managers, the American National Standards Institute, specified food service establishments, vending machines, public health risk assessments, consultations, food safety education and operational reviews.

Montana's Cottage Food Safety Standards H 478 (Act No. 239) implements safety standards and oversight for cottage food operations and various retail food establishments, regulation of mobile food establishments, providing for local boards of health to oversee and issue permits for temporary food establishments. The state also allows the sale of raw honey at farmers' markets. MT S 31 (Act No. 185) Raw Honey allows raw honey to be bartered and sold as a raw and unprocessed farm product at farmer's markets without a special license.

New Hampshire exempts Homestead Food Operation Sales (H 200 (Act No. 2015-84)). This bill allows homestead food (cottage food) operations exempt from licensure to sell homestead food products at retail food stores, requires that such food products be labeled with specified information.

Nevada S 441 (Act No. 259) Cottage Foods Industries revises provisions relating to cottage food industries, exempts a craft food operation from certain inspections and other rules enforced by certain health authorities.

Oregon S 320 (Act No. 453) Food Establishment allows food establishment located within residential dwelling to produce limited amounts of certain foods for sale to public without being regulated by State Department of Agriculture; imposes food handler training and food labeling requirements.

Virginia's H 2090 (Act No. 356) and VA S 1260 (Act No. 528) addresses Food Safety and Allergy Awareness Training. These bills require the Board of Health to adopt training standards, including training standards for restaurant employees that address food safety and food allergy awareness and safety.

Washington H 1622 (Act No. 203) allows for Cottage Foods Candy Operations expanding the products considered to be potentially nonhazardous as they apply to cottage food operations; includes baked candies and candies made on a stovetop; provides that no ingredient containing a tetrahydrocannabinol concentration of 0.3 percent or greater may be included as an ingredient in any cottage food product. WA S 5603 (Act No. 196) Cottage Food Operation Provisions changes cottage food operation provisions; provides an increase in the amount of annual gross sales that require such an operation to be licensed.

Wyoming passed the Food Freedom (Act H 56 (Act No. 121)) exempting certain homemade food sales from licensure, certification and inspection; requires a producer to inform an end consumer that any food product or food sold at a farmer's market or through ranch, farm or home based sales is not certified, labeled, licensed, packaged, regulated or inspected.

### **Genetically-Modified Foods**

Bills on Genetically-Modified (GM) foods appeared in 69 bills in 23 states. GM labeling was the most popular subject matter, with bills being introduced in AK, AZ, CT, FL, HI, ID, IL, IN, IA, ME, MI, MN, MO, NJ, NY, OR, RI, TN, TX, VA, and WY.

The most active region for GM labeling was New England, where Rhode Island, Massachusetts and New Hampshire attempted to follow Connecticut's and Maine's lead on adopting a regional strategy where at least 4 of the states would require labeling for GM foods. Vermont's adoption of a GM labeling statute in 2014 (and the federal court's upholding of that law) means that at least 1 state will require GM labeling by July 2016.

Rhode Island alone introduced 7 bills on GM labeling: RI S 93; RI S 549; RI 557; RI 5078; RI H 5197; RI H 5502; RI H 5587. None were enacted.

RI S 557 exemplifies the issue of GM Labeling in the state. The bills would require that all genetically engineered food offered for retail sale in this state contain a label with the disclosure that the food is genetically engineered food, upon the occurrence of four (4) other states adopting similar mandatory labelling laws, as specified in this act. This act would take effect upon passage.

Tennessee sought a different approach, outlining procedures for a food product to claim itself 'non-GMO.' Senate Bill 394 and its companion House Bill 521 (2015) Non-GMO Labeling relates to Food and Food Products; authorizes a person, company, or entity to participate in the Non-GMO Projects products verification program to ensure that the food is not genetically engineered.

Three resolutions were adopted in Idaho, Michigan and North Dakota, all urging Congress to adopt a uniform food labeling policy based on sound science, meaning supporting GM.

Idaho HJM 6 Uniform Food Labeling urges Congress to affirm that the U.S. Food and Drug Administration is the primary authority on uniform food labeling related to genetic engineering.

Michigan HR 90 Genetically-Modified Food Resolution urges Congress to adopt a national uniform scientifically-based label program for genetically-modified foods.

North Dakota SCR 4020 (Act No. 547) Food Labeling Standards urges Congress to establish food labeling standards, direct the clarification of voluntary food labeling standards, and provide for a review of foods derived through the use of biotechnology.

Three bills on GM were enacted. Connecticut and Maine modified their GM Labeling laws, and Oregon enacted a law to address disputes between GM agricultural plots and non-GM agricultural plots.

CT H 6886 (Act No. 15-13) Applicability of Genetically-engineered Food Labeling relates to the applicability of genetically-engineered food labeling requirements to nonalcoholic malt beverages.

ME H 295 (Act No. 118) Nonalcoholic Malt Beverages exempts nonalcoholic malt beverages from the disclosure requirements of the laws regulating the labeling of genetically engineered products.

OR H 2509 (Act No. 630) Agricultural and Horticultural Interference provides for mediation in cases where a person has belief that an agricultural or horticultural practice on nearby land is interfering with a farming practice, provides a certain exception for certain disputes regarding the planting, growing or harvesting of a genetically-engineered commodity.

#### Food Labeling (Non-GMO)

Two bills and two resolutions were adopted on food labeling in 2015.

CA S 65 (Act No. 138) Food Labeling: Olive Oil requires that olive oil labeled as coming from a specific region in the State be made of oil that is a minimum percentage, by weight, derived solely from olives grown in that region.

MI 4017 (Act No. 41) Food and Drink Processing codifies the licensure and regulation of persons engaged in food or drink for human consumption; delegates powers to local governments; regulates labeling, manufacture, distribution and sale of food to prevent fraud and deception.

AL SR 37 Use of Sound Science in Evaluating Crop Protection requires use of sound science in evaluating genetically-engineered crops.

MI SR 59 Food Labeling Resolution urges the United States Congress to enact legislation requiring uniform and science-based food labeling nationwide.

#### **Milk, Dairy and Raw Milk**

Milk, dairy or raw milk were addressed in 59 bills in 25 states; 11 bills were enacted in 9 states; 1 adopted was adopted in Hawaii.

HI SR 65 Child Meals Options encourages food service facilities in the state that offer a children's menu of meal options, or a meal that is represented as a children's meal, to serve children's meals with higher nutritional quality and include only bottled water or low-fat milk as the default beverage in the meal or menu option.

Illinois enacted S 1228 (Act No. 304) Grade A Pasteurized Milk and Milk Products which requires that Grade A Pasteurized Milk and Milk Products Act to be labeled in accordance with the current Grade A Pasteurized Milk Ordinance as adopted by the United States Public Health Service Food and Drug Administration, including unpasteurized (raw) milk that is sold.

North Dakota S 2061 (Act No. 66) Pasteurized Milk Ordinance relates to the Pasteurized Milk Ordinance; state milk sanitation ratings and milk laboratory evaluations officers.

Four bills on raw milk were enacted in Connecticut, Oregon, South Dakota and Utah.

Connecticut's S 360 (Act No. 15-101) Herd Shares in Production of Milk and Raw Milk authorizes herd shares within the production of milk and raw milk products and the manufacture of cheese for personal consumption.

Oregon's H 2446 (Act No. 58) Raw Milk Sales deletes prohibition against advertising by unregulated producer engaged in small-scale on-premises sale of raw milk directly to consumer.

South Dakota's S 45 (Act No. 207) Sale of Unpasteurized Raw Milk revises provisions relating to the sale of unpasteurized raw milk, provides that no raw milk for human consumption may be purchased at a farmers' market or farmer-owned retail store that is not located at the place or farm where the milk is produced.

Utah's H 104 (Act No. 112) Cow Share Program Amendments modifies the State Dairy Act to remove a prohibition on cow-sharing programs.

## **Restaurants**

Legislatures introduced 30 bills in 13 states; 5 were enacted in 4 states; Georgia adopted a resolution on the restaurant industry.

Georgia's HR 204 commends the restaurant industry of Georgia and recognizing February 18, 2015, as State Restaurant Day at the state capitol.

Colorado's H 1226 (Act No. 238) Retail Food Establishment License Fee and Inspection requires the convening of stakeholder group to study retail food establishments, retail food establishment license fees, and retail food inspection programs to include incidents of food-borne illnesses. This includes a discussion on a uniform statewide inspection program that includes training, public communication,

guidance documents, and inspection frequency, including compliance strategies, and an annual license fee.

Delaware H 9 (Act No. 13) Public Water Systems exempts owners of seasonal public water systems, restaurants, hotels and similar businesses from the requirement to operate with a licensed public water supply operator.

Florida H 401 (Act No. 2015-143) Public Lodging Public Food Service Establishments deletes requirement that Department of Business and Professional Regulation Division of Hotels & Restaurants adopt rules providing risk-based inspection frequency for licensed public food service establishments and reassessment of inspection frequency, relates to the distribution of a food-recovery brochure, deletes a restriction temporary food service event operations.

#### Food Trucks

As food trucks gain in popularity, state legislatures are starting to address them. States addressed food truck via 3 bills in 3 states:

Montana's Cottage Food Safety Standards H 478 (Act No. 239) also addresses the regulation of mobile food establishments, providing for local boards of health to oversee and issue permits for temporary food establishments.

Virginia's H 2042 (Act No. 466) Food Truck Vending on State Highway Rights of Way directs the Commonwealth Transportation Board to amend its regulations to permit food truck vending on state highway rights-of-way.

Washington H 1108 (Pending) H 1108 Food Truck Beer and Wine License. Creates a food truck beer and/or wine license.



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