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Food Safety Law of the People's Republic of China

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Report Highlights:

On February 28, China's National People's Congress (NPC) Standing Committee passed the first comprehensive Food Safety Law (FSL) after five years of drafting. The FSL will go into effect on June 1, 2009. This report is an UNOFFICIAL translation of this law.

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Executive Summary: On February 28, China's National People's Congress (NPC) Standing Committee passed the first comprehensive Food Safety Law (FSL) after five years of drafting; the first draft was read in December 2007. The FSL will go into effect on June 1, 2009. For the first time, the Chinese Government uses Western terminology in calling for food safety regulation "from the production line to the dining table." Key organizational provisions create a state-level Food Safety Commission to oversee food-safety monitoring. This Commission will be composed of members from the Ministry of Health (MOH), Ministry of Agriculture (MOA), General Administration for Quality Supervision, Inspection and Quarantine (AQSIQ), State Food and Drug Administration (SFDA) and the State Administration for Industry and Commerce (SAIC). Other key provisions deal with supervision, monitoring, enforcement, recall, trace back, licensing, registration, and development of standards and regulations.

A complete analysis of this law is provided in GAIN Report CH9018. This report is an UNOFFICIAL translation of this law.

BEGIN TRANSLATION

Food Safety Law of the People's Republic of China

The Food Safety Law of the People's Republic of China has been adopted at the 7th Session of the 11th Standing Committee of the National People's Congress of the People's Republic of China on February 28, 2009, is now issued, and shall be effective as of June 1, 2009.

President of the People's Republic of China

Hu Jintao

February 28, 2009

Food Safety Law of the People's Republic of China

(adopted at the 7th Session of the 11th Standing Committee of the National People's Congress of the People's Republic of China on February 28, 2009)

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Food Safety Law of the People's Republic of China

Chapter 1: General Provisions

Article 1 This Law is formulated to assure food safety and safeguard people's health and life.

Article 2 The following business activities carried out within the territory of the People's Republic of China shall abide by this law:

- 1) Food production and processing (hereinafter referred to as "Food Production"); food distribution and catering service (hereinafter referred to as "Food Trading");
- 2) Production and trading of food additives;
- 3) Production and trading of packing materials, vessels, detergents and disinfectants for food, as well as utensils and equipment used in food production and trading (hereafter referred to as "Food-Related Products");
- 4) Food additives and food-related products used by food producers and traders;
- 5) Safety management of food, food additives and food-related products.

The quality and safety management of primary agricultural products for consumption (hereinafter referred to as "Edible Agricultural Products") shall abide by the Law of the People's Republic of China on Quality and Safety of Agricultural Products. However, this Law must be observed when developing quality and safety standards and releasing food safety information on edible agricultural products.

Article 3 Food producers and traders shall strictly follow relevant laws, regulations and food safety standards in their business activities, be responsible for the public, ensure the food safety, receive the supervision of the public, and bear the social responsibility.

Article 4 The State Council shall establish a Food Safety Committee whose responsibilities will be determined by the State Council.

The executive department of health under the State Council is responsible for the overall food safety coordination, risk assessment of food safety, formulation of food safety standards, release of food safety information, development of accreditation criteria for food testing agencies and testing specifications, and the organization of investigation of and response to major food safety accidents.

The regulatory departments for quality supervision, industry and commerce administration, and food and drug administration under the State Council shall regulate food production, food distribution, and catering service, respectively, in accordance with this law and the responsibilities identified by the State Council.

Article 5 Local people's governments at and above the county level shall take integrated responsibility, leadership, organization, and coordination roles in regulating food safety within their jurisdiction and shall establish and hone a mechanism on the regulation of food safety during the whole food chain; take the integrated leadership and guidance role in dealing with food safety emergencies; develop and enforce a food safety accountability system that evaluates and examines the regulatory agencies related to food safety.

The local People's Government at the county level or above shall define the regulatory responsibilities relating to food safety for the executive departments on health, agriculture, quality supervision, industry and commerce, and food and drug administration in accordance with this Law and the State Council regulations. The relevant departments shall be responsible for the regulatory work on food safety within their respective jurisdiction.

Agencies that are established by subordinate administrative divisions of a higher level government and are located in a lower level administrative region shall carry out the

regulatory responsibilities of food safety under the integrated organization and coordination of the lower level government.

Article 6 The administrative departments of health, agriculture, quality supervision, industry and commerce, and food and drug administration at the county level or above shall enhance communication, coordination, exercise the rights and bear the responsibilities in accordance with their respective duties.

Article 7 Food industry associations shall tighten the self-discipline of the industry, and guide food producers and traders to produce and trade according to law, facilitate the construction of industry creditability, and publicize and spread knowledge related to food safety.

Article 8 The State encourages social and community groups to conduct educational activities regarding food safety laws and regulations, food safety standards and knowledge, to advocate healthy diets, and to raise consumers' food safety awareness and self-protection ability.

The media shall publicize food safety laws, regulations, standards and knowledge for free and provide public oversight on acts that violate the Law.

Article 9 The State encourages and supports basic and applied research related to food safety and encourages and supports food producers and traders to adopt advanced technologies and management practices for the sake of enhanced food safety.

Article 10 Any organization or individual has the right to report any act during food production and trade that violates this Law and has the right to inquire food safety information from relevant agencies and provide comments and suggestions about food safety regulation.

Chapter 2: Surveillance and Assessment of Food Safety Risks

Article 11 A national surveillance system for food safety risks shall be established to monitor food-borne diseases, food contamination and other food-related hazards.

The executive department of health under the State Council, in conjunction with other relevant departments of the State Council, shall formulate and enforce a national surveillance plan on food safety risks. The executive departments of health at the people's governments of provinces, autonomous regions and municipalities directly under the central government shall formulate and enforce surveillance plans on food safety risks within their respective jurisdiction in accordance with the national surveillance plan on food safety risks and taking into account regional particularities.

Article 12 The executive departments on agriculture, quality supervision, industry and commerce, and food and drug administration under the State Council shall immediately report to the executive department of health under the State Council after hearing any information on food safety risks. The executive department of health under the State Council shall in a timely manner adjust the surveillance plan on food safety risks upon verification of the information with other relevant authorities.

Article 13 A national assessment mechanism for food safety risks shall be established to assess the risks on biological, chemical and physical hazards in foods and food additives.

The executive department of health under the State Council shall be responsible for organizing food safety risk assessments. An expert committee on food safety risk assessment which is composed of experts on medical science, agriculture, food, and nutrition, shall be established to conduct the food safety risk assessment.

The safety assessment of pesticides, fertilizers, growth regulators, animal drugs, feed and feed additives shall be attended by experts from the expert committee on food safety risk assessment.

The food safety risk assessment shall be conducted on the basis of scientific methods, information of food safety risk surveillance, scientific data, and other relevant information.

Article 14 The executive department of health under the State Council, upon discovering any possible safety problem through food safety risk surveillance or reports of other parties, shall immediately organize inspection and food safety risk assessment.

Article 15 The executive departments for agriculture, quality supervision, industry and commerce administration, and food and drug administration under the State Council shall make suggestions on food safety risk assessment and provide the relevant information and documents.

The executive department of health under the State Council shall inform the relevant departments of the State Council of the food safety risk assessment results in a timely manner.

Article 16 Food safety risk assessment results shall be the scientific basis for developing and modifying food safety standards, as well as regulating food safety.

In case the food safety risk assessment concludes that a food is unsafe, the executive departments for quality supervision, industry and commerce, and food and drug administration under the State Council shall immediately take corresponding actions within their respective duties to ensure termination of the food production and trade inform consumers to stop consumption of the food; if necessary, the executive department of health under the State Council shall immediately formulate or modify the relevant food safety national standards.

Article 17 The executive department of health under the State Council shall, in conjunction with relevant State Council departments, conduct comprehensive analyses of the food safety situation according to the result of food safety risk assessments and food safety regulatory information. For foods with high potential risks as a result of the comprehensive analyses, the executive department of health under the State Council shall issue food safety alerts to the public in a timely manner.

Chapter 3: Food Safety Standards

Article 18 The food safety standards shall be intended to safeguard the public health, to be scientific, reasonable, safe and reliable.

Article 19 Food safety standards are mandatory. Except for the food safety standards, no other mandatory standards for food shall be developed.

Article 20 Food safety standards shall include the following:

- 1) The limits of pathogenic microorganisms, pesticide residues, veterinary drug residues, heavy metals, contaminants, and other substances hazardous to human health in food and food-related products;
- 2) Varieties, scope of application, and dose of food additives;
- 3) Requirements for nutritional ingredients in staple and supplementary food dedicated to babies and other specific populations;
- 4) Requirements for labeling, identification and instructions relevant to food safety and nutrition;
- 5) Hygienic requirements for food production and trading processes;

- 6) Quality requirements related to food safety;
- 7) Methods and procedures for food testing; and
- 8) Other particulars necessary for developing food safety standards.

Article 21 The executive department of health under the State Council shall be responsible for developing and publicizing national food safety standards and the standardization administrative department under the State Council shall provide the national standard number.

The limits of pesticide residue and veterinary drug residue in food and their testing methods and procedures shall be developed by the executive department of health and agriculture under the State Council.

The testing procedures for slaughtering livestock and poultry shall be developed by the competent authorities under the State Council in conjunction with the executive department of health under the State Council.

In case a product's national standard involves the national food safety standard, it shall be consistent with the national food safety standard.

Article 22 The executive department of health under the State Council shall consolidate the mandatory standards among existing quality and safety standards for edible agricultural products, food hygiene standards, food quality standards, and relevant industry standards related to food and issue unified national food safety standards.

Before issuance of the national food safety standards specified in the Law, food producers and traders shall produce or trade food based on existing quality and safety standards for edible agricultural products, food hygiene standards, food quality standards, and relevant industry standards related to food.

Article 23 The national food safety standards shall be reviewed and approved by the national food safety standard evaluation committee which is composed of experts in medicine, agriculture, food, and nutrition as well as representatives from relevant departments under the State Council.

The formulation of national food safety standards shall base on the results of food safety risk assessments and take full account of the results of quality and safety risk assessments for edible agricultural products, shall reference to the relevant international standards and the results of international food safety risk assessments, and shall solicit extensively the opinions from food producers, traders, and consumers.

Article 24 In the absence of a national food safety standard, a local food safety standard may be developed.

The executive departments of the people's governments at the provincial, autonomous region, and municipal levels shall organize the drafting of local food safety standards with reference to the provisions of this Law regarding formulation of national food safety standards and report to the executive department of health under the State Council for record.

Article 25 In the absence of a national or local food safety standard, the food enterprise may develop an enterprise standard as this basis for production. The State encourages food enterprises to develop enterprise standards more stringent than the national or local food safety standards. The enterprise standard is applicable only to the enterprise and shall be reported to the executive department of health at the provincial level for record.

Article 26 Food safety standards shall be accessible by the public for free.

Chapter 4: Food Production and Trade

Article 27 Any food production or trading activities shall comply with food safety standards and the following requirements:

- 1) Have appropriate places for raw material treatment and food processing, packaging, and storage that are suitable for the variety and quantity of the food being produced or traded, make the environment tidy, and keep a required distance away from toxic or hazardous places, and other contamination sources.
- 2) Have appropriate production or trading equipment or facilities that are suitable for the variety and quantity of the food being produced or traded, have appropriate equipment or facilities for disinfection, changing clothes, cleansing, lighting, ventilation, anticorrosion, dust-proofing, fly-proofing, rat-proofing, pest-proofing, washing, and drainage of wastewater, and deposit of garbage and wastes.
- 3) Have technical staff on food safety, management personnel, and the rules and regulations to ensure food safety;
- 4) Have reasonable equipment layout and operational flow to prevent cross-contamination between unprocessed foods and direct consumption foods, between raw materials and finished products, and to avoid food contacting with toxic or dirty items;
- 5) Wash and sterilize the tableware, kitchenware, and containers holding direct consumption food before use, and wash and clean the kitchenware and utensils after use;
- 6) Use safe and harmless containers, tools, and equipment for food storage, transportation, and loading/unloading, keep them clean and avoid food contamination, comply with special requirements such as temperature for food safety purposes, and never transport food with toxic or harmful items;
- 7) Use small packages or nontoxic and clean packaging materials and tableware for direct consumption food;
- 8) Food producers and traders shall maintain personal hygiene, clean their hands, and dress in clean clothing and cap; use sterilized and clean vending tools for direct consumption food without a package;
- 9) Use water that complies with the national hygienic standard for drinking water;
- 10) Use detergents and disinfectors that are safe and harmless to the human body;
- 11) Other requirements stipulated by laws and regulations.

Article 28 Production and trading of the following foods are prohibited:

- 1) Food made with non-food raw material or added with chemicals other than food additives or other substances possibly hazardous to human health, or food produced from recycled food as raw materials;
- 2) Food with content of pathogenic microorganisms, pesticide residues, veterinary drug residues, heavy metals, contaminants, and other substances of possible hazards to human health exceeding the limits of the food safety standards;
- 3) The nutritional ingredients for staple and supplementary food dedicated to babies and other specific populations fail to comply with food safety standards;
- 4) Food which is rotten or spoiled, has rancid fat, contains mold or insects, is dirty or contaminated, contains foreign matters, has been adulterated, or displays abnormal sensory indication;

- 5) Meat or meat products of poultry, livestock, animals, or aquatic animals that die from disease, poison, or any unidentified causes;
- 6) Meat or meat products that have not been inspected and quarantined by animal health supervisory agencies or have failed to pass such inspection and quarantine;
- 7) Food contaminated by packaging materials, containers or means of transport;
- 8) Food exceeding the shelf life;
- 9) Pre-packaged products without labels;
- 10) Food expressly prohibited by the State from production and trading for special purposes such as disease prevention;
- 11) Other food failing to meet food safety standards or requirements.

Article 29 The State implements a licensing system for food production and trading. Any organization or individual shall obtain a food production license, food distribution license, or catering service license according to law before engaging in food production, food distribution, or catering service.

Food producers having a food production license are not required to obtain a food distribution license when selling foods produced by themselves at their production premises; catering service providers having a catering service license are not required to obtain a food production or distribution license when selling foods produced by themselves at their service premises; farmers are not required to obtain a food distribution license when selling edible agricultural products produced by themselves.

Small food workshops and food vendors that engage in food production and trading activities shall comply with the food safety requirements of the Law suitable for their production or trading scale and conditions ensure that the food being produced or traded are clean, nontoxic and harmless. The relevant authorities shall strengthen the supervision and management over these individuals. Detailed management measures shall be developed in accordance with the Law by the standing committees of the People's Congress at the provincial, autonomous region, and municipal levels.

Article 30 The People's Governments at the county level or above shall encourage small food workshops to improve the production conditions and encourage food vendors to trade in fixed locations, such as centralized markets and shops.

Article 31 The executive departments of health, agriculture, quality supervision, industry and commerce, and food and drug administration at the county level or above shall review applicants' documents as required by Article 27.1 – 4 of the Law in accordance with the Law of the People's Republic of China on Administrative Licensing, and shall inspect the applicant's production or trading place if necessary. For applicants that comply with the requirements, a license shall be granted; for those that fail to comply with the requirements, a license shall not be granted with reasons in writing.

Article 32 Food producers and traders shall establish a food safety management system, strengthen the training of the employees on food safety knowledge, assign the full-time or part-time food safety management personnel, properly conduct inspection of the foods for operation and conduct the food production and trading according to law.

Article 33 The State encourages food producers and traders to comply with good manufacturing practices (GMP) and to implement the Hazard Analysis and Critical Control Point (HACCP) system in order to improve food safety management level.

For food enterprises having been certified with GMP and HACCP, the certification institutions shall conduct the follow-up investigations according to law; for those failing to comply with the certification requirements, the certification institutions shall cancel

the certificate according to law and report in a timely manner to the authorities of quality supervision, industry and commerce, and food and drug administration, and notify the public. The certification institution shall not charge any fees for the follow-up investigation.

Article 34 Food producers and traders shall establish and implement an employee health management system. Anyone who suffers from an infectious disease of digestive tract, such as dysentery, typhoid, or virus hepatitis, active tuberculosis, and purulent or weeping skin diseases that adversely affect food safety must not engage in work in direct contact with food for consumption.

The personnel involved in food production and trading shall take a medical check-up each year, and can work only after they have obtained a health certificate.

Article 35 The producers of edible agricultural products shall apply agricultural inputs such as pesticides, fertilizers, growth regulators, veterinary drugs, feed, and feed additives in accordance with food safety standards and relevant State regulations. Enterprises and specialized farmer cooperatives that produce edible agricultural products shall establish a production record for the edible agricultural product.

The executive department of agriculture at the county level or above shall enhance the management and guidance on the application of agricultural inputs and establish and improve a safe application system for agricultural inputs.

Article 36 Food producers shall check the license of the supplier and compliance certificate of the product when purchasing food raw materials, food additives, and food-related products. In the absence of a compliance certificate, the food raw material shall be tested in accordance with food safety standards. Food producers shall not purchase or use raw materials, food additives, and food-related products that do not comply with the food safety standards.

Food producers shall establish a verification record for incoming food raw materials, food additives, and food-related products, indicating such information as name, specification, quantity, supplier name and contact information, and purchase date of food raw materials, food additives, and food-related products.

The verification record for food raw material, food additives, and food-related products shall be true and be kept for at least two years.

Article 37 Food producers shall establish and maintain an inspection record for outgoing food that verifies inspection certificates and safety status of the outgoing food. It shall truly record such information as name, specification, quantity, production date, batch number, inspection certificate number, name and contact information of the purchaser, and sale date.

The inspection record for outgoing food shall be true and be kept for at least two years.

Article 38 Producers of food raw materials, food additives, or food-related products shall inspect the food raw materials, food additives, or food-related products being produced in accordance with food safety standards and the products can exit the factory or be sold only after they have passed the inspections.

Article 39 Food traders shall check the license of the supplier and compliance certificate of the food when purchasing a food item.

Food trading enterprises shall establish and maintain an inspection record for incoming food that truly indicate such information as name, specification, quantity, production date, batch number, shelf life, name and contact information of the supplier, and purchase date.

The inspection record for incoming food shall be true and be kept for at least two years.

For food trading enterprises that adopt a centralized distribution model, the headquarters of the enterprises may centrally check the license of the supplier and compliance certificates of the food and create an inspection record for incoming food products.

Article 40 Food traders shall store food in accordance with food safety assurance requirements, and regularly check the food in storage and remove the spoiled or outdated food in a timely manner.

Article 41 Food traders shall indicate at the storage facility such information as food name, production date, shelf life, and name and contact information of the producer when storing food in bulk.

Food traders shall indicate on the container or external package the food name, production date, shelf life, and name and contact information of the trader when selling food in bulk.

Article 42 Pre-packaged food shall be labeled on the package, which indicate the following:

- 1) Name, specification, net content, and date of production;
- 2) Table of ingredients or formulation;
- 3) Producer name, address and contact information;
- 4) Shelf life;
- 5) Code of product standard(s);
- 6) Storage requirements;
- 7) Generic name of the food additives as used in the national standard;
- 8) Production License Number; and
- 9) Other information that must be indicated in accordance with applicable laws, regulations, and food safety standards.

The labels of staple and supplementary food dedicated to babies and other specific populations shall also indicate main nutritional ingredients and their contents.

Article 43 The State adopts a licensing system for the production of food additives. The conditions and procedures of applying for a food additive production license shall be implemented in accordance with the relevant State regulations governing the administration of production licensing for industrial products.

Article 44 Any organization or individual applying for production of novel foods, new food additive varieties, or new food-related products shall submit the assessment materials relative to the product to the executive department of health under the State Council. The executive department of health under the State Council shall organize a review of the safety assessment materials within sixty (60) days upon receipt of the application. For applications that comply with food safety requirements, a license shall be granted and made public. For applications that fail to comply with the safety requirements, a license shall not be granted with an explanatory note in writing.

Article 45 A food additive can be incorporated into the scope permitted for use only after it is technically required and proven to be safe and reliable through the risk assessment. The executive department of health under the State Council shall timely revise the standards on varieties, scope of application, and dosage levels of food additives in accordance with technical necessity and the results of food safety assessments.

Article 46 Food producers shall apply food additives in accordance with food safety standards governing food additive varieties, scope of application and dosage levels and

must not use any chemical substances other than food additives or other substances with possible hazards to human health during food production.

Article 47 Food additives must be provided with a label, instructions and packaging. The instructions shall include the information required in Article 42.1.1~6, 8 and 9 of the Law and the scope of application, dosage levels, and application methods of the food additives, and the words "Food Additive" shall be indicated on the label.

Article 48 Labels, instructions and packaging of food and food additives shall not contain false or exaggerated information, nor shall they make statements about disease prevention and treatment functions. Food producers shall undertake legal liability for declarations on the label, instructions and packaging.

Labels and instructions of food and food additives shall be clear, visible, and easy to read.

Food or food additives that are not consistent with the information indicated in the label and instructions shall not be marketed.

Article 49 Food traders shall market pre-packaged foods according to the warning mark, warning notes, or precautions on the food label.

Article 50 Food producers shall not add any medicine to food, unless the added substance is traditionally considered as both food and Chinese medicine. The catalogue of the substances traditionally considered as both food and Chinese medicine shall be developed and published by the executive department of health under the State Council.

Article 51 The State executes strict regulation over food with claims of special health functions. The relevant regulatory departments shall execute duties and assume responsibilities according to law. Detailed management measures shall be developed by the State Council.

Food with claims of special health functions shall not cause acute, sub-acute, or chronic hazard to human body. The label and instructions shall not involve in disease prevention or treatment functions, and the content must be true and indicate clearly the suitable and unsuitable groups, functional ingredients or significant ingredients and their content. Product functions and ingredients shall be consistent with that indicated in the label and instructions.

Article 52 Consolidated trading market operators, stall leasers, and trade fair organizers shall review the license of the admitted food traders, specify the food safety management responsibilities of the admitted food traders, and regularly inspect the trading environment and conditions of the admitted food traders. Upon finding of any activity in breach of this Law, they shall immediately stop the activity and report to the local industry and commerce department or food and drug administration at the county level.

Consolidated trading market operators, stall leasers, and trade fair organizers who fail to fulfill the obligations stated in the proceeding paragraph shall take a joint liability in the event of a food safety incident occurred in their respective marketplace.

Article 53 A food recall system shall be established in China. Where a food producer finds that the food being produced does not comply with food safety standards, the food producer shall immediately stop production of the food, recall the food product released to the market, notify relevant producers, traders and consumers, and create a record on recalls and notifications.

Where a food trader finds the food being traded does not comply with food safety standards, the food trader shall immediately stop trading of the food, notify relevant producers, traders and consumers, and create a record on the suspension of trading and notifications. Food that the producer deems necessary for recall shall be recalled immediately.

Food producers shall take actions such as remedy, removal of harm, or destruction of the recalled food, and report the food recall and treatment to the quality supervision department at the county level or above.

In the event that a food producer or trader fails to recall or stop trading of the food that does not comply with the food safety standards as required in the Article, the executive departments of quality supervision, industry and commerce, and food and drug administration at the county level or above may order it to recall or stop trading of the food.

Article 54 Food advertisements shall provide truthful information, shall not include any false or exaggerated information, and shall not claim any disease prevention or treatment functions.

Food safety regulatory agencies or institutions undertaking food inspection and testing, food industry associations, or customer associations shall not recommend food to customers through advertisements or in any other forms.

Article 55 Civil societies or other organizations or individuals who recommend a food to consumers in untruthful advertisements that has caused damages to the lawful rights and interests of the customers shall bear joint liabilities with the food producer and trader.

Article 56 Local people's governments at all levels shall encourage scale production and chain operation and distribution of food.

Chapter 5: Food Testing

Article 57 Food testing agencies shall perform food testing only after they have been accredited in accordance with relevant State requirements on certification and accreditation, unless otherwise specified in other laws.

The accreditation conditions and testing procedures for food testing agencies shall be determined by the executive department of health under the State Council.

Food testing agencies which have been established by competent departments of the State Council or have been accredited before the implementation of the Law may continue to perform food testing activities based on the Law.

Article 58 Food testing shall be performed independently by a food testing agency designated inspector.

The inspector shall test the food based on laws, regulations, food safety standards, and inspection and testing procedures. The inspector shall follow the science, observe professional ethics, and make sure that the testing data and conclusions are objective and fair. He or she must not issue false inspection testing reports.

Article 59 The food testing agency and the inspector shall be responsible for the food testing. Food testing reports shall bear the official seal of the food testing agency and the signature or seal of the inspector. The food testing agency and the inspector shall be held responsible for the food testing report.

Article 60 The food safety regulatory departments shall not grant exemptions on food inspection.

The executive departments of quality supervision, industry and commerce, and food and drug administration at the county level or above shall conduct sample testing regularly or irregularly on food products. They shall pay for the samples to be tested and shall not collect testing fees.

In the event that a food testing is needed while performing their regulatory duties, the executive departments of quality supervision, industry and commerce, and food and drug administration at the county level or above shall entrust and pay for food testing agencies compliant with the requirements of the Law to conduct the food testing. In the case of disputes over testing results, re-testing shall be conducted in accordance with the law.

Article 61 Food producers or traders may test the food produced by themselves or entrust testing agencies compliant with the requirements of this Law to conduct the testing.

In the event that a food industry association or consumer needs to entrust a food testing agency to for food testing, they shall choose a food testing agency compliant with the requirements of this Law.

Chapter 6: Food Import and Export

Article 62 Imported food, food additives and food-related products shall comply with China's national food safety standards.

Imported food shall be inspected and cleared by the exit-entry inspection and quarantine agencies. Customs shall release the imported food upon receipt of a clearance certificate issued by the exit-entry inspection and quarantine agency.

Article 63 Importation of food without a national food safety standard or importation of a new food additive variety or new food related product for the first time, the importer shall submit an application and relevant safety assessment materials to the executive department of health under the State Council. The executive department of health under the State Council shall decide whether to approve or reject such applications according to Article 44 of the Law and shall develop corresponding national food safety standard in a timely manner.

Article 64 In the event that a food safety incident occurs overseas and may impact China, or a major food safety problem has been detected in imported food, the national exit-entry inspection and quarantine department shall issue a risk alert or take control measures in a timely manner and notify the executive departments of health, agriculture, industry and commerce, and food and drug administration under the State Council. These departments shall take corresponding actions immediately after receiving the notification.

Article 65 Exporters or agents exporting food to China shall be put on record at the national exit-entry inspection and quarantine department. Overseas food producers exporting food to China shall get registered at the national exit-entry inspection and quarantine agency.

The national exit-entry inspection and quarantine department shall regularly publish the lists of exporters, agents or overseas food producers who have been recorded or registered.

Article 66 Imported pre-packaged food shall be provided with labels and instructions in Chinese. Labels and instructions shall comply with this Law and provisions of other laws, regulations and food safety standards of China and shall indicate country of origin and name, address, and contact information of the domestic agent. Pre-packaged food without labels or instructions in Chinese or their labels or instructions do not comply with the Law shall not be imported.

Article 67 Food importers shall establish a food import and sale record, truthfully record information such as the product name, specification, quantity, production date, production or import batch number, shelf life, name and contact information of the exporter and buyer, and delivery date.

The food import and sale record shall be true and shall be maintained for at least two years.

Article 68 Exported food shall be supervised and randomly inspected by the exit-entry inspection and quarantine agencies. The customs shall release the products upon receipt of a clearance certificate issued by the exit-entry inspection and quarantine agencies.

Producers of exported food, planting or breeding farms of raw materials for exported food shall be put on record at the national exit-entry inspection and quarantine department.

Article 69 The national exit-entry inspection and quarantine department shall collect and consolidate safety information on imported and exported food and notify it to relevant departments, institutions, and enterprises.

The national exit-entry inspection and quarantine department shall establish and publish credit records of food importers, exporters, and export food producers and shall tighten inspection and quarantine on importers, exporters, and export food producers that have an unhealthy credit record.

Chapter 7: Handling of Food Safety Incidents

Article 70 The State Council shall organize the formulation of emergency plans for national food safety incidents.

Governments at the county level or above shall formulate emergency plans for food safety incidents within their jurisdiction based on relevant laws, regulations, and the emergency plan of the higher level government and the local situation and shall submit their plans to the higher level government for the official record.

Food producers and traders shall develop a response plan for food safety incidents, regularly inspect the implementation of preventive measures related to food safety, and eliminate potential food safety risks in a timely manner.

Article 71 The organization where a food safety incident has occurred shall take immediate actions to prevent the incident from spreading. The organization where the incident has occurred and institution that receives and treats the patients shall immediately report to the executive department of health at the county of jurisdiction.

The executive departments of agriculture, quality supervision, industry and commerce, and food and drug administration shall report to the executive department of health upon discovering a food safety incident or hearing a report on food safety incident.

In the event of a major food safety accident, the executive department of health at the county level having received the report shall report to the local People's Government and the executive department of health at the higher People's Government. The People's Government of the county level and the executive department of health at the higher level shall report to higher authorities accordingly.

Any organization or individual shall not conceal, lie, delay, or intentionally destroy the evidence of any food safety accident.

Article 72 Upon receiving the food safety incident report, the executive department of health at the county level or above shall immediately work with the executive departments of agriculture, quality supervision, industry and commerce, and food and drug administration on investigation and handling of the incident and take the following measures prevent or mitigate the hazard to the public:

- 1) Deploy emergent rescue and the executive department of health shall arrange first aid and treatment to the injured persons from the food safety accident;
- 2) Seal up the food and raw materials likely causing the food safety accident and conduct immediate testing; for the confirmed food and raw material contamination, order the food producer and trader to recall, suspend operation, and destroy the product according to Article 53 of the Law;

- 3) Seal up the contaminated food tools and devices, and order for cleaning and sterilization;
- 4) Properly handle news releases on disclosing the food safety accident and the treatment, explaining and clarifying on possible hazards.

In the event of a major food safety accident, the People's Government at the county level or above shall immediately establish a commanding organization handling the food safety accident, activate the emergency plan, and handle the accident according to the above provisions.

Article 73 In the case of a major food safety incident, the executive department of health at city level with subordinate districts or above shall work immediately with relevant departments on investigation of responsible parties of the incident, urge relevant departments to perform their duties, and submit an investigation report identifying responsibilities to the local government.

In case a major food safety accident involves more than two provinces, autonomous regions, and municipalities, the executive department of health under the State Council shall organize the investigation on the responsibility of accident according to the provisions in the above paragraph.

Article 74 In the event of a major food safety incident, the disease control and prevention institutions at the county level or above shall assist the executive department of health and relevant departments in making hygiene treatment of the site and conducting the epidemiological investigation of factors related to the food safety accident.

Article 75 In addition to identifying the liabilities of the organization where the food safety incident occurred, investigation shall also cover any negligence or misconduct by regulatory agencies on supervision and certification as well as staff at certification institutions.

Chapter 8: Supervision and Administration

Article 76 The local People's Government at the county level or above shall organize the executive departments of health, agriculture, quality supervision, industry and commerce, and food and administration to develop the annual plan of supervision and management on food safety within their respective jurisdiction and implement such work according to the plan.

Article 77 The executive departments of quality supervision, industry and commerce, and food and drug administration at the county level or above have the right to take the following actions in the course of performing their respective duties of regulating food safety:

- 1) Enter production and trading sites for field inspection;
- 2) Conduct sample testing on food being produced or traded;
- 3) Review and copy relevant contracts, documents, notebooks, and other information;
- 4) Seal up and detain food proven to violate food safety standards, illegally used food raw materials, food additives, and food-related products as well as equipment and tools contaminated or used for illegal production or trading; and
- 5) Closing down places of illegal production and trading of food.

The executive department of agriculture at the county level or above shall be responsible for regulating edible agricultural products in accordance with the Law of the People's Republic of China on Agricultural Product Quality and Safety.

Article 78 The executive departments of health, quality supervision, industry and commerce, and food and drug administration at the county level or above shall record the

results of supervision, inspection and punishment in the course of overseeing and inspecting food producers and traders. Such records shall be signed by supervision and inspection officers and food producers and traders before filing.

Article 79 The executive departments of health, quality supervision, industry and commerce, and food and drug administration at the county level or above shall establish and maintain food safety credit records for food producers and traders, record issuance of licenses, results of routine supervision and inspection, and handling of illegal activities; and shall increase the frequency of supervision and inspection on food producers and traders with unhealthy credit records based on the food safety credit records.

Article 80 Upon receiving any inquiry, complaint, or information, the executive departments of health, quality supervision, industry and commerce, and food and drug administration at the county level or above shall accept, promptly verify, and handle such an inquiry, complaint, or other information. The departments shall transfer matters beyond their duty and authority to other departments empowered to deal with such issues, which shall act immediately and not push responsibility to others. Matters belong to food safety incidents shall be handled according to Article 7 of the Law.

Article 81 The executive department of health, quality supervision, industry and commerce, and food and drug administration at the county level or above shall perform the regulatory duties on food safety according to their statutory authority and procedures. They shall not impose two or more administrative penalties on the same illegal food production or trading activity. Anyone suspected of violating criminal law shall be handed to the public security authorities according to law.

Article 82 The State shall establish a unified food safety information release system. The following information shall be centrally disclosed by the executive department of health under the State Council:

- 1) Overall situation of food safety in the country;
- 2) Food safety risk assessment and food safety risk alert;
- 3) Information on major food safety incidents and the handling; and
- 4) Other important food safety information and information identified by the State Council as requiring centralized disclosure.

The information set forth in 2) and 3) may, if its impact is limited to particular regions, be disclosed by the health departments of the people's governments of relevant provinces, autonomous regions and municipalities. The executive departments of agriculture, quality supervision, industry and commerce, and food and drug administration, shall disclose information on routine supervision and administration of food safety in accordance with their respective duties and responsibilities.

The regulatory departments on food safety shall disclose information on a timely, objective, and accurate basis.

Article 83 Upon receiving information requiring central disclosure pursuant to Article 82 (1), the executive departments of health, agriculture, quality supervision, industry and commerce, and food and drug administration at the county level or above shall immediately report to their superior departments, which then shall immediately report to the executive department of health under the State Council, and, if necessary, they may directly report to the executive department of health under the State Council.

The executive departments of health, agriculture, quality supervision, industry and commerce, and food and drug administration at the county level or above shall notify each other of any food safety related information.

Chapter 9: Legal Liabilities

Article 84 Food producers or traders who violate the Law by engaging in unauthorized food production or trading activities or production of food additives shall have the illegal benefits, including food or food additives illegally produced or traded, and tools, equipment and food raw material, used for illegal production or trading confiscated by the relevant authorities according to their respective duties and responsibilities, and be subject to a fine of RMB2,000 - 50,000 if the total value of the food or food additive is less than RMB 10,000 or a fine between 5 and 10 times of the total value of the commodity if the total value of the commodity exceeds RMB10,000.

Article 85 In violation of the Law with one of the following circumstances, the food producer or trader shall have the illegal benefits, including foods or food additives illegally produced or traded, and tools, equipment and food raw material, used for illegal production or trading confiscated by the relevant authorities according to their respective duties and responsibilities, and be subject to a fine of RMB2,000 - 50,000 if the total value of the commodity is less than RMB 10,000 or a fine between 5 and 10 times the total value of the commodity if the total value of the commodity exceeds RMB10,000; and for the serious cases, be revoked the business license.

- 1) Producing food with non-food raw material or adding chemicals other than food additives or other substances possibly hazardous to human health to food, or producing food with recovered food as raw materials;
- 2) Producing or trading food which exceed food safety standard limits in content of pathogenic microorganisms, pesticide residues, animal medicine residues, heavy metals, contaminants, and other substances with possible hazardous to human health;
- 3) Producing or trading staple and supplementary food dedicated to babies or other specific populations the nutritional ingredients of which fail to comply with food safety standards;
- 4) Food which is rotten or spoiled, has rancid fat, grows with molds or insects, is dirty or contaminated, contains foreign matters, has been adulterated, or displays abnormal sensory indication;
- 5) Trading or producing meat or products of any poultry, livestock, animals, or waterborne animals which have been killed by disease, poison or any unidentified cause;
- 6) Trading or producing meat or meat products which have not been quarantined or inspected by animal health supervision authorities or fail to pass such quarantine or inspection;
- 7) Trading food exceeding the shelf life;
- 8) Producing or trading food expressly prohibited by the State from production and trading for disease prevention and control purposes;
- 9) Using new food materials to produce food, or producing new varieties of food additives and food related products without a safety assessment;
- 10) Refusing to recall or stop operations when relevant authorities order a recall or stop of operation of food that does not comply with foods safety standard.

Article 86 In violation of the Law with one of the following circumstances, the food producer or trader shall have all illegal benefits, including food or food additives illegally produced or traded, and tools, equipment and food raw material, used for illegal production or trading confiscated by the relevant authorities according to their respective duties and responsibilities, and be subject to a fine of RMB2,000 - 50,000 if the total value of the commodity is less than RMB 10,000; or a fine between 5 and 10 times the total value of the

commodity if the total value of the commodity exceeds RMB10,000; and for the serious cases, be ordered to stop production or business or even revoked the business license:

- 1) Trading the food contaminated with the packaging materials, container, transport means, etc.;
- 2) Producing or trading the pre-packaged food or food additives without label, or the food or food additives labels or instructions not in compliance with the Law;
- 3) Purchasing or using the food materials, food additives, or food related products not in compliance with food safety standards;
- 4) Adding medicine to food.

Article 87 In violation of the Law with one of the following circumstances, the food producer or trader shall be ordered to make correction or warned by the relevant authorities according to their respective duties and responsibilities; when refusing to make correction, be subject to a fine of RMB2,000 - 20,000; and for the serious cases, be ordered to stop production or business, until revoked the business license.

- 1) Fail to test the purchased food materials, produced food, food additives, and food related products;
- 2) Fail to establish and observe the inspection record system and ex-factory inspection record system;
- 3) Fail to file for record of the enterprise food safety standard according to the Law;
- 4) Fail to store or sell food or clear off food in stock according to the regulations;
- 5) Fail to check the license or relevant certificates upon receiving incoming products;
- 6) Claim the functions of disease prevention and treatment in the label and instructions for the produced food and food additives;
- 7) Allow the person with diseases listed in Article 34 of the Law to execute the work contacting the food for direct consumption.

Article 88 In violation of the Law upon occurrence of any accident, the food producer or trader failing to make disposal or reporting shall be ordered to make correction or warned by the relevant authorities according to their respective duties and responsibilities; when destroying the evidence, be ordered to suspend the production or trading and subject to a fine of RMB2,000 - 100,000; and for the serious cases, be revoked the business license

Article 89 Under any of the following circumstances, any food producer or trader in violation of the Law, shall be given the punishment according to Article 85 herein:

- 1) Importing foods not meeting the national food safety standard of China;
- 2) Importing foods without applicable national food safety standard, or the new type of food additive and food related products, without safety assessment;
- 3) Exporting foods in breach of the Law.

The importer failing to establish and maintain the food import and sales record system, in violation of the Law, shall be subject to punishment specified in Article 87 herein.

Article 90 If any operators of central trading markets, stall leasers, and organizers of trade fair permit food traders without a license for food production, distribution or provision for catering services to sell food in the market in violation of this Law, or fails to perform their inspection or reporting obligations, the relevant authorities shall impose a fine between RMB2,000 and RMB 50,000 according to their respective duties and responsibilities, and, if

serious consequences are caused, order suspension of operations for correction and revocation of its license by the original issuer.

Article 91 Where anyone or organization engages in food transportation activities in violation of this Law, the relevant authorities shall order immediate correction and give a warning; if correction is refused, order suspension of operations for correction and impose a fine between RMB 20,000 and RMB 50,000 according to their respective duties and responsibilities; and in serious circumstances, order revocation of its license by the original issuing department.

Article 92 For any organization whose license for food production, distribution or catering service has been revoked of, the direct responsible manager shall not be permitted for management of food production and/or trading activities within 5 years after the punishment.

If any organization for food production/trading engages any person not permitted for management of food production and/or trading activities, the license shall be revoked by the original issuing authority.

Article 93 If any food inspection agency or personnel issues false inspection reports in violation of this Law, the original authorities or institution granting its qualification shall revoke its certificate of qualification. The manager and personnel directly responsible shall be removed from office or dismissed.

Any food inspection personnel issuing false inspection reports in violation of this Law shall, if he/she has been subject to criminal prosecution or removed from office or dismissed, be prohibited from any food inspection work within ten (10) years thereafter. Any food inspection agency employing any person prohibited from food inspection work will be subject to revocation of its certificate of qualification by the original authorities or institution granting its qualification.

Article 94 Any advertising containing false publicity to cheat the consumers in violation of the Law shall result in punishment according to Advertising Law of the People's Republic of China.

Any food safety regulatory authorities or institution for food inspection, food industry association, or consumer association, when recommending any food to consumers via advertising or other forms, in violation of the Law, shall be subject to confiscation of the illegal benefits by the relevant authorities, and the manager and other personnel directly responsible shall be given the punishment of recording a special demerit, demotion or removal from the office.

Article 95 If any local people's government at the county or above level fails to perform its duties pursuant to this Law in the course of supervising and administrating food safety, and food safety incidents occur with serious impact on society, both the government officials that bear responsibility and the executives directly responsible shall be punished by recording a special demerit against them or demoting or removing them from office.

If the executive departments of health, agriculture, quality supervision, industry and commerce, food and drug or other executive branches of the government at the country level or above fail to perform their duties under this Law, or abuse their authority, engage in self-seeking misconduct and cause serious consequences, the authorities for supervision or appointment and dismissal shall punish the people chiefly responsible, the people directly in charge and other people directly responsible by recording a special demerit or demotion; if serious consequences are caused, the people chiefly responsible, the people directly in charge and other people directly responsible shall be removed from office or dismissed; the chief principal shall acknowledge the blame and resign.

Article 96 Anyone in violation of this Law causing personal or property damage or other damages shall be liable for compensation.

When any manufacturer produces any food not conforming to the food safety standards or sells any food knowing its nonconformity with the food safety standards, the customer can demand the manufacturer or the seller to pay a penalty 10 times of the paid amount, in addition to the compensation for the loss thereof.

Article 97 Anyone in violation of this Law shall be liable for civil compensation and payment of penalties and fines, and when the assets are not sufficient for payment, the civil compensation shall be executed first.

Article 98 Anyone in violation of this Law shall, if the crime is committed, be subject to criminal prosecution.

Chapter 10: Supplementary Provisions

Article 99 For the purpose of this Law, the following terms shall have the meaning defined hereunder:

Food means any substance that has been processed or not processed that is suitable for eating and/or drinking, including substances used as food and medicine, excluding substances solely used as medicine.

Food Safety means the assurance that the food is nontoxic, harmless, and compliant with reasonable nutritional requirement, and will not cause any acute, chronic and potential hazards to human health.

Pre-packaged Food means food which is prepackaged or made in containers or packaging materials, according to the fixed amount.

Food Additive means any synthetic or natural substance used to improve the quality, color, fragrance, flavor of food, and used to add to the food or put together with the food for corrosion proof, keeping fresh or processing technology requirements.

Food Container and Packaging Material means the products made of paper, bamboo, wood, metal, porcelain, plastic, rubber, natural fiber, chemical fiber, or glass and used to contain food or additives, or coating in direct contact with food or additives.

Food Tools and Devices mean machines, pipes, conveyer belts, containers, appliances, tableware and other objects that have direct contact with food or additives during production, distribution and use of food or additives.

Food Detergent and Disinfectant mean substances that are directly used to wash or sterilize food tableware, and tools and devices, or food containers and packaging materials that have direct contact with food.

Shelf Life means the period prior to the "best before" date when the pre-packaged food remains in good quality under the storage conditions indicated on the label.

Food Borne Disease means any infectious, toxic or other disease caused by pathogenic bacteria which enter the body through food.

Food Poisoning means acute, sub-acute or other food-borne diseases that are caused by eating food contaminated by or containing poisonous or hazardous substances.

Food Safety Incident means any incident that may be caused by food poisoning, food borne diseases, food contamination, or other incidents arising from food and hazardous to human health.

Article 100 If the food producer or trader has received the relevant license before the execution of this Law, such a license shall remain valid until expiration thereof.

Article 101 The food safety administration for dairy products, genetically modified foods, pig slaughtering, wines and common salt shall be in accordance with this Law; when there is separate regulations, such regulations shall apply.

Article 102 The measures for administration of food safety in the railway operations shall be developed by the health administration authorities under the State Council together with other relevant departments of the State Council.

The measures for administration of food safety of the special foods and self-supplied foods in the army shall be developed by the Central Military Committee according to the Law.

Article 103 The State Council can make adjustments of the supervision and administration system for food safety according to the actual requirements.

Article 104 This Law shall enter into force on June 1, 2009 and the Law of the People's Republic of China on Food Hygiene shall be abolished.