

420-3-22-.03 Food.

(1) Enforcement deferred - For enforcement purposes, the provisions of subpart 3-501.16(A)(2)(b)(ii) of the document entitled 2005 edition of the United States Department of Health and Human Services Food Code, pertaining to cold storage temperature of 41°F, shall become effective on January 1, 2010.

(2) Exclusions and applications -

(a) Potentially hazardous foods requiring refrigeration and with a date limit placed by the manufacturer or packager shall not be used or served after the date limit. A date limit placed by the manufacturer or packager on potentially hazardous foods requiring refrigeration shall not be changed or covered, and such food with one date limit shall not be commingled with food with a different date limit *unless the shortest date limit is applied to the commingled food.*

(b) The provisions of paragraph 3-201.11(A) do not apply to rabbit processed and sold within Alabama.

(c) The provisions of subparts 3-306.13 shall not be construed to prohibit dispensing food from containers placed on tables around which consumers are seated at child day care centers or recreational camps. Such food dispensing shall be closely supervised by the person in charge to preclude the mishandling or contamination of food. Leftover food from containers placed on tables shall be discarded after one meal service.

(d) The provisions of subparts 3-401.11, 3-401.12, and 3-603.11 shall not be construed to prohibit a food establishment from serving a food item cooked to less than the specified temperature if individually ordered by the immediate consumer and it is not a food establishment that serves a highly susceptible population.

(e) Child day care facilities receiving prepared, ready-to-eat meals from outside sources shall use only catered meals obtained from a food handling establishment permitted by the Health Officer. During transportation, food shall meet the requirements of these rules relating to food protection and storage.

(f) At child day care facilities, formula and juice served in baby bottles shall be fully prepared and packaged (ready-to-feed) and identified for the appropriate child at the child's home and provided daily to the child day care facility by the parent(s)/ guardian; or provided by the child day care facility as a pre-packaged, ready-to-feed, fully prepared and packaged single-use item; or formula and juice as prescribed by the child's physician or parent(s)/guardian may be provided by the child care facility if bottles are sanitized in accordance with these rules. Any excess formula, mothers' milk, or juice shall be discarded after each feeding.

(g) Formula and juice which require refrigeration, and baby food (after opening and recovering) shall be identified for the appropriate child and shall be refrigerated according to these rules. Baby bottles used for drinking water purposes shall be properly labeled identifying the appropriate child and shall be stored and handled in such a manner as to prevent contamination.

(3) Catfish labeling requirements –

(a) A food service establishment shall not advertise or label a food item as catfish unless it is fish classified within the family of Ictaluridae.

(b) Any advertising of catfish or catfish products by food service establishments shall state the country of origin if the product was imported from a country other than the United States of America. The advertising required in this rule stating the country of origin of the product shall be displayed daily when the catfish or catfish products are from a country other than the United States of America.

(c) No catfish product shall be offered for sale at a food service establishment unless consumers are notified of the name and country of origin of the product.

(d) A food service establishment shall comply with this requirement by listing the country of origin on the menu in the same location and in the same size font as the product being offered, or by using a sign or tabletop display identifying the country of origin of the catfish offered for sale. If a sign is used, it shall be a minimum of 93 square inches with characters at least one inch in size. The sign or a series of signs shall be posted on a wall in a conspicuous location or locations in plain view of all patrons. If a tabletop display is used, it shall be at least 30 square inches and be placed on each table that is used for service.

(4) Right to Know Country of Origin of Fish Notice Requirements

(a) Any person who supplies farm-raised fish or wild fish to a food service establishment shall provide information of the country of origin of the product to the food service establishment as required by federal law. The State Health Officer, upon verified complaint and in compliance with all applicable state and federal law, shall investigate any and all reports of noncompliance with this subsection. Upon receipt of the verified complaint, a copy of the complaint shall be given to the food service establishment.

(b) If farm-raised fish or wild fish is supplied to a food service establishment and the fish or fish product is not required to be labeled with the country of origin pursuant to the requirements of federal law, the supplier of the fish or fish product or the food service establishment shall not be required to provide any additional information to comply with this article.

(c) A food service establishment serving farm-raised fish or wild fish shall place a disclaimer or notice on the menu or on a placard not smaller than 8 and one half inches by 11 inches in close proximity to the food establishment permit, in a conspicuous place specifically stating the following: "Under Alabama law, the consumer has the right to know, upon request to the food service establishment, the country of origin of farm-raised fish or wild fish." The disclaimer or notice listed on a menu shall be listed in print as large as the listing of the product.

(d) For purposes of this section, the United States is the country of origin for farm-raised fish hatched, raised, harvested, and processed in the United States and wild fish that were harvested in waters of the United States, a territory of the United States, or a state and processed in the United States, a territory of the United States, or a state, including the waters thereof.

(e) Any labeling requirements as to farm-raised fish and wild fish offered for direct retail sale for human consumption by a food service establishment may comply with this act by stating

the country of origin in lieu of the disclaimer or notice; except, that the appropriate state name or USA or United States of America, including a trade name or trademark, may be inserted in lieu thereof to accommodate similar products produced in any of the states or a territory of the United States of America.

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STATUTORY AUTHORITY: Sections 22-2-2(6) and 22-20-5, Code of Alabama, 1975, Act # 2009-582, Act # 2009-584.

HISTORY: New rule: filed November 20, 1996, effective December 25, 1996. Repealed and Replaced: Filed July 20, 2005, effective August 24, 2005. Amended: Filed March 20, 2008; effective date April 25, 2008.