Legal Aspects of Food Safety

CP-FS Review
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Overview

- The Intent of Public Health Laws
- 3 Key Concepts of Public Health Law
- Knowledge of Food Safety Laws and Regulations
- Procedures
- Permit to Operate
- Definitions & Enforcement Tools
- Privacy Protection
- References

Intent of Federal, State, and Local Public Health Laws

- Environmental Conditions provide good health.
- Stop the spread of disease.
- Provide services & finances for programs that advance good health for the population.
3 Key Concepts

- The ultimate goal of Public health law is to provide consumers with safe food.
- Public Health Officials have a range of enforcement tools.
- The inspection goal is to determine the level of compliance with public health law.

Hierarchies of Law

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Laws vs. Regulation

- Laws state the authority given to the agency or specified body, by the Legislature
  - Promulgate regulations
  - Inspection & Sampling
  - Embargo/Condemnation

Example: Federal Food Drug Cosmetic Act
Laws vs. Regulation

- Regulations
  - Add specificity or exactness to powers to help implement laws.
  - Cannot broaden the scope of law

Example: US Code of Federal Regulations

Laws vs. Regulation

- After Rules and Regulations have been adopted, agencies may then adopt policies and procedures

Example: Standardized inspections

Enforcement and Inspection

- Enforcement is provided by the implementation of standards adopted by the legislature or an administrative unit of government

- Inspection by law provides regulators the ability to make a visitation or survey used to determine whether conditions detrimental to health exist.
Bill of Rights – US Constitution

- Inspections fall under the 4th Amendment of the Bill of Rights U.S. Constitution and provide protection against unreasonable searches.

- Each state’s “Bill of Rights” and the 14th amendment of the U.S. Constitution provides U.S. citizens dual citizenship and protection.

Enforcement of Law

- Police Power

- Due Process

- Equal Protection

Permits to Operate

- Permits are a written license issued by federal, state & local agencies to protect health & welfare of public.

- Permit application must be submitted at least 30 days before opening and meeting all requirements.
Procedures

Access an Establishment

- After official credentials, notice of purpose, & intent to conduct an inspection are provided, the person in charge shall allow access.

Denied Access

- The permit holder is required to allow access by law.
- Access is a condition of the acceptance and responsibility of the permit holder.
- By law, an inspection order can be issued by the appropriate authority allowing access.

Ceasing Operations

- If an imminent health hazard exists the permit holder must discontinue operations and notify Regulatory Authority.
- A permit holder need not to discontinue operations in an area that is unaffected.
Procedures

Resuming Operations

- Before the establishment can resume operations, the Regulatory Authority must provide approval by inspection.
- All critical violations must be corrected and implemented.

Definitions

Adulteration, Misbranding, Contamination

Adulteration
- It bears any poisonous, insanitary, or deleterious ingredients
- Absence, substitution, or addition of constituents
- Color Additives
- Confectionary containing alcohol or nonnutritive substance
- Oleomargarine containing fitfully putrid matter
- Reoffer of food previously denied admission
- Unsanitary transport

Misbranding of Food

- False or misleading label
- Offer for sale under another name
- Imitation of another food
- Misleading container
- Package Form
- Prominence of information on label
Definitions

Contamination

- The presence in food of any harmful or objectionable substance or object.
- Biological, Physical, Chemical Hazards

Enforcement Tools

- Embargo – Prohibits the removal or uses of an item. The product generally remains at the facility or other agrees upon location.

- Search – The activity of looking for conditions that violate law, items used to commit a crime, or items gained during the commission of the crime.
Enforcement Tools

- **Seizure**: Product is generally taken by the Agency until testing proves the product is misbranded or adulterated. At that time the product is returned, voluntarily destroyed, or a destruction order issued.

Enforcement Tools

- **Condemnation**: Destruction and disposal. Authority is generally limited and may require a court order or voluntary destruction by the firm.

Enforcement Tools

- **Recall**: A firm's removal or correction of a marketed product that FDA considers to be in violation of the laws it administers, and against which the agency would initiate legal action (e.g. seizure).
Enforcement Tools

- **Nuisance Abatement** - This is used in a nuisance situation where a prohibited activity is order to terminate. The head of agency issues an order to do or refrain from doing a specific act. Similar to Cease and desist.

Enforcement Tools

- **Summary Abatement** – The direct immediate taking of action without prior hearing or authorization. This severe action bypasses due process as well as the opportunity to be heard through the process of admin law.

Privacy Protection

**Permit Holders & Employees**

- Always secure a confidential medical history of staff.
- You may require appropriate medical examination including specimens for laboratory analysis.
- Hippa Compliance
References

- CP-FS Study Guide, Certified Professional of Food Safety Credential Examination Review Guide
- Food Code: Food and Drug Administration, U.S. Department of Health and Human Services
- Federal Food, Drug and Cosmetic Act
- Investigation Operations Manuel
- ORAU - Basic Food Law for State Regulators FDA35
- http://www.fda.gov/

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