CHAPTER 190

ADULTERATION OF FOODS

Referred to in §189.11, 191.2, 191.4, 192.107, 192.108, 192.146

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190.1 Definitions and standards.

For the purpose of this subtitle, except chapters 192, 203, 203C, 203D, 207, and 208, the following definitions and standards of food are established:

1. *Butter.* Butter is the clean, nonrancid product made by gathering in any manner the fat of fresh or ripened milk or cream into a mass, with or without the addition of salt, or harmless coloring matter, and containing at least eighty percent, by weight, of milk fat.

2. *Flavoring extract.* A flavoring extract is a solution in ethyl alcohol or other suitable medium of the sapid and odorous principles derived from an aromatic plant, or parts of the plant, with or without its coloring matter, and conforms in name to the plant used in its preparation.

a. Almond extract. Almond extract is the flavoring extract prepared from oil of bitter almonds, free from hydrocyanic acid, and contains not less than one percent by volume of oil of bitter almonds.

b. Anise extract. Anise extract is the flavoring extract prepared from oil of anise, and contains not less than three percent by volume of oil of anise.

c. Cassia extract. Cassia extract is the flavoring extract prepared from oil of cassia, and contains not less than two percent by volume of oil of cassia.

d. Celery seed extract. Celery seed extract is the flavoring extract prepared from celery seed or the oil of celery seed, or both, and contains not less than three-tenths percent by volume of oil of celery seed.

e. Cinnamon extract. Cinnamon extract is the flavoring extract prepared from oil of cinnamon, and contains not less than two percent by volume of oil of cinnamon.

f. Clove extract. Clove extract is the flavoring extract prepared from oil of cloves, and contains not less than two percent by volume of oil of cloves.

g. Ginger extract. Ginger extract is the flavoring extract prepared from ginger, and contains in each one hundred cubic centimeters the alcohol-soluble matters from not less than twenty grams of ginger.

h. Lemon extract. Lemon extract is the flavoring extract prepared from oil of lemon, or from lemon peel, or both, and contains not less than five percent by volume of oil of lemon.

i. Terpeneless extract of lemon. Terpeneless extract of lemon is the flavoring extract prepared by shaking oil of lemon with dilute alcohol, or other suitable medium, or by dissolving terpeneless oil of lemon in such medium, and contains not less than two-tenths percent by weight of citral derived from oil of lemon.

j. Nutmeg extract. Nutmeg extract is the flavoring extract prepared from oil of nutmeg, and contains not less than two percent by volume of oil of nutmeg.

k. Orange extract. Orange extract is the flavoring extract prepared from oil of orange, or from orange peel, or both, and contains not less than five percent by volume of oil of orange.

l. Terpeneless extract of orange. Terpeneless extract of orange is the flavoring extract prepared by shaking oil of orange with dilute alcohol, or other suitable medium, or by dissolving terpeneless oil of orange in such medium, and corresponds in flavoring strength to orange extract.

m. Peppermint extract. Peppermint extract is the flavoring extract prepared from oil of peppermint, or from peppermint, or both, and contains not less than three percent by volume of oil of peppermint.

n. Rose extract. Rose extract is the flavoring extract prepared from attar of roses, with or without red rose petals, and contains not less than four-tenths percent by volume of attar of roses.

o. Savory extract. Savory extract is the flavoring extract prepared from oil of savory, or from savory, or both, and contains not less than thirty-five hundredths percent by volume of oil of savory.

p. Spearmint extract. Spearmint extract is the flavoring extract prepared from oil of spearmint, or from spearmint, or both, and contains not less than three percent by volume of oil of spearmint.

q. Star anise extract. Star anise extract is the flavoring extract prepared from oil of star anise, and contains not less than three percent by volume of oil of star anise.

r. Sweet basil extract. Sweet basil extract is the flavoring extract prepared from oil of sweet basil, or from sweet basil, or both, and contains not less than one-tenth percent by volume of oil of sweet basil.

s. Sweet marjoram extract. Sweet marjoram extract is the flavoring extract prepared from the oil of marjoram, or from marjoram, or both, and contains not less than one percent by volume of oil of marjoram.

t. Thyme extract. Thyme extract is the flavoring extract prepared from oil of thyme, or from thyme, or both, and contains not less than two-tenths percent by volume of oil of thyme.

u. Tonka extract. Tonka extract is the flavoring extract prepared from tonka bean, with or without sugar or glycerin, and contains not less than one-tenth percent by weight of coumarin extracted from the tonka bean, together with a corresponding proportion of the other soluble matters thereof.

v. Vanilla extract. Vanilla extract is the flavoring extract prepared from vanilla bean, with or without sugar or glycerin, and contains in one hundred cubic centimeters the soluble matters from not less than ten grams of the vanilla bean, and contains not less than thirty percent by volume of absolute ethyl alcohol, or other suitable medium.

w. Wintergreen extract. Wintergreen extract is the flavoring extract prepared from oil of wintergreen, and contains not less than three percent by volume of oil of wintergreen.

3. *Food.* Food shall include any article used by humans or domestic animals for food, drink, confectionery, or condiment, or which enters into the composition of the same, whether simple, blended, mixed, or compound. The term *"blended"* shall be construed to mean a mixture of like substances.

4. *Honey.* Honey is the secretion of floral nectar collected by the honeybee and stored in wax combs constructed by the honeybee, or the liquid derived therefrom.

5. *Lard.* Lard is the fat rendered from fresh, clean, sound, fatty tissues from hogs in good health at the time of slaughter, with or without lard stearin or a hardened lard. The tissues do not include bones, detached skin, head fat, ears, tails, organs, windpipes, large blood vessels, scrap fat, skimmings, settlings, pressings and the like and are reasonably free from muscle tissue and blood.

6. *Oleomargarine.* Oleo, oleomargarine or margarine includes all substances, mixtures and compounds known as oleo, oleomargarine or margarine, or all substances, mixtures and compounds which have a consistence similar to that of butter and which contain any edible oils or fats other than milk fat if made in imitation or semblance of butter.

7. *Oysters.* Oysters shall not contain ice, nor more than sixteen and two-thirds percent by weight of free liquid.

8. *Rendered pork fat.* Rendered pork fat is the fat other than lard, rendered from clean, sound carcasses, parts of carcasses, or edible organs from hogs in good health at the time of slaughter, except that stomachs, tails, bones from the head and bones from cured or cooked pork are not included. The tissues rendered are usually fresh, but may be cured, cooked, or otherwise prepared and may contain some meat food products. Rendered pork fat may be hardened by the use of lard stearin or hardened lard or rendered pork fat stearin or hardened rendered pork fat or any combination.

9. *Renovated butter.* Renovated butter is butter produced by taking original packing stock butter, or other butter, or both, and melting the same so that the milk fat can be extracted, then by mixing the said milk fat with skimmed milk, milk, cream, or some milk product, and rechurning or reworking the said mixture; or butter made by any method which produces a product commonly known as boiled, processed, or renovated butter.

10. *Sorghum syrup.* Sorghum syrup is liquid food derived by the concentration and heat treatment of the juice of sorghum cane including sorgo and sorghum vulgare. Sorghum syrup must contain not less than seventy-four percent by weight of soluble solids derived solely from juices of sorghum cane.

11. *Substitute for sugar.* Where sugar is given as one of the ingredients in a food product when the definition is established by law or by regulation, the following products may be used as optional ingredients: Dextrose (corn sugar) or corn syrup.

12. *Vinegar.* Vinegar is the product made by the alcoholic and subsequent fermentation of fruits, grain, vegetables, sugar, or syrups without the addition of any other substance and containing an acidity of not less than four percent by weight of absolute acetic acid. The product may be distilled, but when not distilled it shall not carry in solution any other substance except the extractive matter derived from the substances from which it was made.

a. Cider or apple vinegar. Cider or apple vinegar is a similar product made by the same process solely from the juice of apples. Such vinegar which during the course of manufacture has developed in excess of four percent acetic acid may be reduced to said strength.

b. Corn sugar vinegar. Corn sugar vinegar is a similar product made by the same process solely from solutions of starch sugar.

c. Malt vinegar. Malt vinegar is a similar product made by the same process solely from barley malt or cereals whose starch has been converted by malt.

d. Sugar vinegar. Sugar vinegar is a similar product made by the same process solely from sucrose.

[C73, §4042; C97, §2516, 2518, 4989 – 4991; S13, §2515-b, -d; SS15, §4999-a31, -a31c; C24, 27, 31, 35, 39, §**3058;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §190.1; 81 Acts, ch 72, §1]

88 Acts, ch 1195, §1; 89 Acts, ch 151, §2; 91 Acts, ch 74, §2, 3; 94 Acts, ch 1023, §41; 2003 Acts, ch 69, §45

Referred to in §189.14, 191.6
Further definitions, see §189.1
"Person" also defined, §191.4

190.2 Additional standards — milk and dairy products.

1. The department may establish and publish standards for foods when such standards are not fixed by law. The standards shall conform with standards for foods adopted by federal agencies including, but not limited to, the United States department of agriculture.

2. The department shall adopt rules specifying standards for milk and dairy products which are consistent with the "Pasteurized Milk Ordinance", as provided in chapter 192, and applicable federal standards of identity.

[S13, §4999-a18; C24, 27, 31, 35, 39, §**3059;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §190.2]

91 Acts, ch 74, §4; 98 Acts, ch 1032, §6; 2016 Acts, ch 1011, §121

190.3 Food adulterations.

1. For the purposes of this chapter, any food shall be deemed to be adulterated:

a. If any substance has been mixed or packed with it so as to reduce or injuriously affect its quality.

b. If any substance has been substituted to any extent.

c. If any valuable constituent has been removed to any extent.

d. If it has been mixed, colored, powdered, coated, or stained whereby damage or inferiority is concealed.

e. If it contains formaldehyde, sulphites or boron compound, or any poisonous or other ingredients injurious to health.

f. If it consists to any extent of a diseased, filthy, or decomposed animal or vegetable substance, whether manufactured or otherwise.

g. If it consists to any extent of an animal that has died otherwise than by slaughter.

h. If it is the product of or obtained from a diseased or infected animal.

i. If it has been damaged by freezing.

j. If it does not conform to the standards established by law or by the department.

2. The provisions of subsection 1, paragraphs *"a"* and *"b"*, shall not apply to the addition of vitamins approved by the United States Pharmacopoeia or the removal of milk fat from milk.

[C73, §4042; C97, §4989, 4990; S13, §2515-b, -d; SS15, §4999-a31e; C24, 27, 31, 35, 39, §**3060;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §190.3]

91 Acts, ch 74, §5; 2009 Acts, ch 41, §263

Referred to in §190.4, 190.9

190.4 Adulterations of dairy products.

In addition to the adulterations enumerated in section 190.3, milk, cream, or skimmed milk shall be deemed to be adulterated:

1. If it contains visible dirt or is kept or placed at any time in an unclean container.

2. If obtained from a cow within fifteen days before or five days after calving.

3. If obtained from a cow stabled in an unhealthful place, or fed upon any substance in a state of putrefaction or of unhealthful nature.

4. If obtained from a cow which has consumed chemical, medicinal, or radioactive agents capable of being secreted in milk.

5. If obtained from a cow in a mastitic condition.

[C97, §4989, 4990; S13, §2515-b, -d; C24, 27, 31, 35, 39, §**3061;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §190.4]

190.5 Adulterated milk or milk products.

Any milk or milk product shall further be deemed to be adulterated:

1. If it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health.

2. If it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by state or federal regulation, or in excess of such tolerance if one has been established.

3. If it consists, in whole or in part, of any substance unfit for human consumption.

4. If it has been produced, processed, prepared, packed, or held under insanitary conditions.

5. If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

6. If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

[C71, 73, 75, 77, 79, 81, §190.5]

190.6 Adulteration with fats and oils.

No milk, cream, skimmed milk, buttermilk, condensed or evaporated milk, powdered or desiccated milk, condensed skimmed milk, ice cream, or any fluid derivatives of any of them shall be made from or have added thereto any fat or oil other than milk fat, and no product so made or prepared shall be sold, offered or exposed for sale, or possessed with the intent to sell, under any trade name or other designation of any kind. Provided however, that it shall be lawful to produce and sell a condensed or evaporated milk product in which the milk fat has been replaced by an edible vegetable fat made from soybean oil. Such a product shall be given a distinctive name to distinguish it from natural, condensed, or evaporated milk, which name shall not include the words "milk" or "milk products" or any derivative thereof, and the label under which such a product is sold at retail shall clearly state the vegetable fat content of the product.

[C24, 27, 31, 35, 39, §**3062;** C46, 50, 54, 58, 62, 66, §190.5; C71, 73, 75, 77, 79, 81, §190.6]

190.7 Coloring imitation cheese.

No imitation cheese shall be colored with any substance and no such imitation cheese shall be made by mixing animal fats, vegetable oils, or other substances for the purpose or with the effect of imparting to the mixture the color of yellow cheese.

[C97, §2518; C24, 27, 31, 35, 39, §**3063;** C46, 50, 54, 58, 62, 66, §190.6; C71, 73, 75, 77, 79, 81, §190.7]

190.8 Coloring vinegar.

Vinegar shall not be colored with coloring matter and distilled vinegar shall not have a brown color in imitation of cider vinegar.

[SS15, §4999-a31; C24, 27, 31, 35, 39, §**3064;** C46, 50, 54, 58, 62, 66, §190.7; C71, 73, 75, 77, 79, 81, §190.8]

190.9 Adulteration of candies.

In addition to the adulterations enumerated in section 190.3, candy shall be deemed to be adulterated if it contains terra alba, barytes, talc, paraffin, chrome yellow, or other mineral substance.

[SS15, §4999-a31e; C24, 27, 31, 35, 39, §**3065;** C46, 50, 54, 58, 62, 66, §190.8; C71, 73, 75, 77, 79, 81, §190.9]

190.10 Sale by false name.

No person shall offer or expose for sale, sell, or deliver any article of food which is defined in this chapter under any other name than the one herein specified or offer or expose for sale, sell, or deliver any article of food which is not defined in this chapter under any other name than its true name, trade name, or trademark name.

[C24, 27, 31, 35, 39, §**3066;** C46, 50, 54, 58, 62, 66, §190.9; C71, 73, 75, 77, 79, 81, §190.10]

190.11 Artificial sweetening — labeling.

Where any approved artificial sweetening product such as saccharin or sulfamate is used by any person in the manufacture or sale of any article of food intended for human consumption, the container in which any such food or beverage is sold or offered for sale to the public shall be clearly, legibly and noticeably labeled with the name of the sweetening product used. The portion of the store, display counter, shelving, or other place where such food or beverage is displayed or offered for sale, shall be clearly and plainly identified by an appropriate sign reading:

FOR DIETARY PURPOSES.

[C54, 58, 62, 66, §190.10; C71, 73, 75, 77, 79, 81, §190.11]
2015 Acts, ch 29, §30

190.12 Standards for frozen desserts.

1. Frozen desserts and the pasteurized dairy ingredients used in the manufacture thereof, shall comply with the following standards:

Milk, cream, and fluid dairy ingredient	Temperature	Storage at 45 degrees Fahrenheit.
	Bacterial limit	50,000 per milliliter
	Coliform limit	10 per milliliter
Frozen dessert mixes, frozen desserts (plain)	Temperature	Storage at 45 degrees Fahrenheit.
	Bacterial limit	50,000 per gram
	Coliform limit	10 per gram
Dry dairy ingredient	Extra grade or better as defined by U. S. Standards for grades for the particular product.	
Dry powder mix	Bacterial limit	50,000 per gram
	Coliform limit	10 per gram

2. The bacteria count and coliform determination shall not exceed these standards in three out of the last five consecutive samples taken by the regulatory agency.

3. This section shall not preclude holding mix at a higher temperature for a short period of time immediately prior to freezing where applicable to the particular manufacturing or processing practices.

4. This section shall not apply to sterilized mix in hermetically sealed containers.

5. The coliform determination for bulky flavored frozen desserts shall not be more than twenty per gram.

[C71, 73, 75, 77, 79, 81, §190.12]

2009 Acts, ch 133, §74; 2013 Acts, ch 30, §41

190.13 Frozen desserts — edible containers.

Notwithstanding any other labeling provision of the Code, frozen dessert of any kind or flavor may be dispensed and sold at retail in edible containers or as a part of any food preparation intended for consumption without further preparation, including but not limited to the preparations commonly termed milk shakes, malted milks, sundaes, and floats.

[C71, 73, 75, 77, 79, 81, §190.13]

190.14 Administration — milk and dairy products.

1. The department shall administer this chapter consistent with the provisions of the "Grade 'A' Pasteurized Milk Ordinance", as provided in section 192.102.

2. The department, as provided in section 192.108, may contract with a person qualified by the department to perform inspection of dairy farms, milk plants, receiving stations, or transfer stations to ensure compliance with this chapter.

91 Acts, ch 74, §6; 94 Acts, ch 1198, §37; 97 Acts, ch 33, §4

190.15 Violations — injunction.

The department may restrain a person violating this chapter or a rule adopted by the department under this chapter by petitioning the district court where the violation occurs for injunctive relief. Each day that a violation continues constitutes a separate violation.

91 Acts, ch 74, §7