



# INDUSTRY BULLETIN

## for Florida's Food Service Industry



ATTENTION: **DBPR Licensed Public Food Service Establishments**

Number: 2004-01

Date: 2004 July 07

SUBJECT: Menu Item Misrepresentation and Product Substitution

This is to remind all DBPR licensed Public Food Service Establishments that Florida law prohibits misrepresentation or undisclosed substitution of food. Particular attention should be focused on menu descriptions and "blackboard" or "specials" items. Menus or any other manner used to promote or advertise items for sale must be accurate and truthful.

Seafood is a category that should be handled with extreme diligence. Species of seafood cannot be substituted for one another, and must be accurately and truthfully promoted. Seafood must be sold using its correct species name as specified by the US Food and Drug Administration's *HACCP Guide*.

Failure to accurately and truthfully identify food items for sale, such as undisclosed substitution of one type of fish for another, is a violation of Florida law. Violators are subject to penalties of up to \$1000 per occurrence, and license suspension or revocation. DBPR food sanitation and safety inspectors are actively enforcing the following provisions of Florida law:

### **Chapter 509.292, F.S. Misrepresenting food or food product; penalty,**

- (1) An operator may not knowingly and willfully misrepresent the identity of any food or food product to any of the patrons of such establishment. The identity of food or a food product is misrepresented if:
- (a) The description of the food or food product is false or misleading in any particular;
  - (b) The food or food product is served, sold, or distributed under the name of another food or food product; or
  - (c) The food or food product purports to be or is represented as a food or food product that does not conform to a definition of identity and standard of quality if such definition of identity and standard of quality has been established by custom and usage.
- (2) If the food or food product is a fruit or fruit juice, its identity is misrepresented if:
- (a) The description of the fruit or fruit juice is false or misleading in any particular;
  - (b) The fruit or fruit juice is served, sold, or distributed under the name of another fruit or fruit juice; or
  - (c) A synthetic or flavored drink is sold purporting to be fruit juice.
- The term "fresh juice" refers to a juice without additives and prepared from the original fruit within 12 hours or less of sale.

(3) Any person who violates any provision of this section is guilty of a misdemeanor of the second degree, punishable as provided in §775.082(4) or §775.083(1)(e).

The penalty for conviction of a misdemeanor of the second degree is a term of imprisonment not exceeding 60 days, and/or a fine of \$500.

For further information on proper and safe seafood marketing, contact the Southeastern Fisheries Association at [www.southeasternfish.org](http://www.southeasternfish.org) or 850.224.0612. The Division of Hotels & Restaurants website also has extensive useful information to assist operators in maintaining safe, compliant establishments. View our site at [www.myflorida.com/dbpr](http://www.myflorida.com/dbpr) or call 850.487.1395 for more information.

## FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Jeb Bush, *Governor*

Division of Hotels and Restaurants

Diane Carr, *Secretary*

[www.MyFlorida.com](http://www.MyFlorida.com) OR [HospitalityEducation.org](http://HospitalityEducation.org)