

# INDUSTRY BULLETIN

## for Florida's Food Service Industry



**SUBJECT: Emerging Issues and Trends – Truth in Menu**

Bulletin 2016\_01

July 1, 2016

*This bulletin is provided to aid in compliance with Florida law, and is not intended to be legal advice. While care has been taken to ensure its accuracy, in the event of conflict the actual statute or administrative rule will prevail.*

Consumers are embracing the concept of eating foods marketed as “local”, “organic”, or “farm to table”. Recent published studies have highlighted how the misrepresentation of food or the describing of food in a way that misleads or misinforms consumers can be a public health risk and financial fraud. Florida law prohibits the misrepresentation of food. This includes the false or misleading description of food or food product, serving or selling food or food product under the name of another food or food product, misleading or misinforming the consumer about food, and misrepresenting the appearance, color, or quality of a food. Instances of these prohibited activities have risen along with the increased consumer demand for “local”, “organic”, and “farm to table” food.

Menus or any other manner used to promote or advertise items for sale must be accurate and truthful. Particular attention should be focused on food descriptions placed on menus, blackboards or specials flyers, including specific ingredients and where ingredients are originally sourced. Establishments that serve these types of foods are especially vulnerable to violations due to the seasonal availability of many of these items or availability of items from particular sources. It is important for operators to inform customers if the establishment runs out of an item ordered by the customer, and what, if any, food item is substituted.

Failure to accurately and truthfully identify food items for sale, such as substituting tomatoes grown out of the country as tomatoes from a nearby farm, is a violation of Florida law. Violators are subject to fines of up to \$1000 per occurrence, license suspension, or license revocation. DBPR sanitation and safety inspectors actively enforce 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.

### **Section 3-601.12, Food Code (2009) – Honestly Presented**

- (A) Food shall be offered for human consumption in a way that does not mislead or misinform the consumer.
- (B) Food or color additives, colored overwraps, or lights may not be used to misrepresent the true appearance, color, or quality of a food.

Consumers who wish to file a complaint against public food service establishments engaged in misrepresentation, misbranding, or false or misleading presentation of food or food products may do so via the Customer Contact Center at 850.487.1395 or at [www.myfloridalicense.com/DBPR/hotels-Restaurants/](http://www.myfloridalicense.com/DBPR/hotels-Restaurants/)

## **FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

Rick Scott, *Governor*

Division of Hotels and Restaurants

Ken Lawson, *Secretary*