

## **MEMO**

TO: Chairman Schaffer & Members of the Senate Agriculture and Natural Resources Committee

FROM: Todd Thatcher, Legislative Liaison – Ohio Department of Agriculture

RE: Food Safety Modernization Language (HB 507)

Date: May 31, 2022

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In consultation with leadership of ODA's Food Safety Division, numerous Food Safety provisions of the Ohio Revised Code are outdated, no longer practical and/or would result in cost savings for the Department. The memo identifies such items with an explanation of each ORC change. We are unaware of any potential concerns or opposition to the outlined proposals.

We are thankful for the unanimous support of these proposals when they were amended into House Bill 507 in the House Agriculture and Conservation Committee and for the unanimous support of the bill on the House floor.

### **ITEM ONE**

#### CANNING AND BOTTLING: ELIMINATION OF REDUNDANCIES BETWEEN STATUTE AND RULE

ORC CHAPTER: 913

EXPLANATION: The current language in ORC 913 identifies sanitation practices that are now in rule. ORC 913.04 needs to be changed to reflect the correct citation for the federal food sanitation rule which is 21 CFR 117. ORC 913.27 identifies sanitation practices that were in place in 1953. There are now rules in place that identify sanitation practices. The elimination of ORC 913.27 and the change in 913.04 will reduce the amount of time staff spend explaining there are more current rules that must be followed for all canning, bottling and extract manufacturing.

### **ITEM TWO**

#### ELIMINATION OF COLD STORAGE AND FROZEN FOOD ESTABLISHMENT LANGUAGE

ORC CHAPTER: 915

EXPLANATION: The first change redefines food for both cold storage and frozen food establishments to match ORC 3715. In the Cold Storage portion of the statute, language will remove the sections dealing with the labeling of foods stored. There are now rules for labeling of all foods that are in commerce. Language will also eliminate the restriction on length of stay, restorage and the storage of out of state food. There are current rules that adequately address these issues. Having them in statute is confusing to the operators and requires additional time from staff to explain the differences. In the frozen food portion of the statute, language will be removed for slaughterhouses, locker rooms and lockers. Slaughterhouses fall under the ODA Meat Inspection Division while locker rooms and lockers are associated with retail activities that are now regulated by local health departments. The language removes the facilities requirements and the prohibition on animal feed. Facility requirements already exist in rule and these rules also allow for animal feed to be stored with human food. The removal of

these sections and the change in the definition of food will decrease the time staff must use to address why these statutes exist and why they do or do not regulate them. The time gained will allow the staff to redirect efforts to higher risk facilities and it will allow them to have a faster response time.

### **ITEM THREE**

#### ELIMINATION OF FEDERAL PRODUCE GRADING AND LABELING OF PRODUCE CONTAINERS

ORC CHAPTER: 925

EXPLANATION: ORC 925.26 requires the state of Ohio to adopt federal grades for produce. Ohio has never adopted the federal grading standards. ORC 925.27 list the exceptions to those federal grades and ORC 925.56 applies grading standards to produce at retail. ORC 925.61 identifies grading specifically for cucumbers. ORC 925.28 and 925.52 identify the labeling of cull produce and produce at retail. Grading is a quality issue, and all grading is done by the United States Department of Agriculture. Food safety receives inquiries frequently about coming out to grade produce and we send them to the USDA. The labeling of culls and produce containers are outdated and conflict with current labeling rules. Eliminating these statutes will reduce the amount of time staff spend explaining there are current rules that must be followed for all labeling and explaining that USDA does all grading.

### **ITEM FOUR**

#### ELIMINATION OF LABELING AND SELLING OF CANNED VEGETABLES AND FRUITS

ORC CHAPTER: 3715

EXPLANATION: Language eliminates sections of ORC 3715 that address selling and labeling of canned fruits and vegetables along with the sections dealing with labeling of soaked goods. These sections were created in 1953 and ODA now has rules that address the labeling of all foods. Food safety spends time educating staff on the meaning of these sections of code and spend time trying to explain them to industry. It will be an overall cost saving to the division to eliminate ORC 3715.14 through 3715.19. These have outlived their use and are a time drain on the division.

### **ITEM FIVE**

#### FOOD PROCESSING ESTABLISHMENT REGISTRATIONS - SUSPENSION HEARING

ORC CHAPTER: 3715.041

EXPLANATION: The current language in ORC 3715.041 requires a 119 hearing when a registration is suspended even when the registered entity does not request a hearing. Changing the language so that a hearing will only be held if the registered entity requests a hearing will result in cost savings. The department will not have to spend money to hold a hearing. ODA will not have to pay for representation from the Attorney General's office and staff from Food Safety and ODA legal will not have to postpone other duties to attend a hearing in which there is no defendant.

### **ITEM SIX**

#### ALLOW FOR USE OF ANY SANITIZER FOR APPLE WASHING

ORC CHAPTER: 3715.27

EXPLANATION: The current language in ORC 3715.27 requires cider producers to wash their apples in chlorinated water. Many cider producers would like to use other sanitizers instead of chlorine. This change will reduce the amount of time food safety specialists spend explaining the law and educating the producer when they must write a violation for using a different sanitizer.

#### **ITEM SEVEN**

##### ELIMINATION OF VINEGAR BRANDING AND INJURIOUS INGREDIENTS

ORC CHAPTER: 3715

EXPLANATION: Language will eliminate the sections of ORC 3715 that require branding of vinegar casks and stipulated injurious ingredients. These sections have outlived their use and are a time drain on the division. There is a more current section of ORC 3715 that address adulteration of all foods and there are labeling requirements in rule that address the labeling requirements for all food. Eliminating these sections of ORC 3715 will reduce the time staff spend explaining to producers that they don't have to put vinegar in a cask so that they can brand it to meet the law.