

The Food Laws Ezine

(January-March 2014)

Courtesy:

P A V Law Offices

F-1/11, Hauz Khas Enclave

New Delhi - 110016

Phone: +91-11-26518505/506/507

Significant Developments:

LICENSING AND REGISTRATION OF FOOD BUSINESS

In exercise of the powers conferred under Section 92 of the Food Safety and Standards Act, 2006, (Act), the Food Safety and Standards Authority of India (FSSAI) had proposed a Draft of Food Safety and Standards Regulation, 2010 under which Part 3.2 made it mandatory for all Food Business Operators in the country to be registered or licensed in accordance with the procedures laid down in the aforesaid regulation.

All Food Business Operators are now required to be registered or licensed in accordance with the regulations and hence no person can commence any food business unless he has a valid license or registration, as the case maybe.

This process of registration/ licensing has been made online by the FSSAI by way of a user friendly IT based system encouraging good governance and transparency.

The deadline for obtaining the license from FSSAI was 4th February, 2014 which however the timeline has now been extended for another 6 months i.e. up to 4th August, 2014.

The food business operators who continue to stay in business without registration or a license could face imprisonment up to six months and a fine of Rs. Two Lakhs respectively.

Notification F.No. 1 /1 Enf-1/FSSAI/2012

DISPLAY OF FSSAI LOGO ALONG WITH LICENSE NUMBERS ON LABELS OF FOOD PRODUCTS

The FSSAI has amended the Food Safety and Standards (Packaging and Labeling) Regulations, 2011, according to which labels of all food products are required to display the FSSAI logo along with license number of the Food Business Operator on the principal display panel.

The display of the FSSAI logo on the label of the food product is not a mark of certification but it signifies that the Food Business Operator holds a valid license under the Act.

The FSSAI logo and license number is to be displayed on the label of the food package in color that is in contrast to the background and the time period for complying with the provisions is by or before 1st July, 2014.

Notification F.No. 4 /15015/30/2011 dated 31st Oct ,2013

In the Pipeline:

The Food Safety and Standards (Food Import) Regulations and Food Safety and Standards (Labeling Claims) Regulations are on the anvil. After final notifications of these two regulations, enforcement agencies will be empowered to enforce the labeling claims on the label of the food products.

The Food Safety and Standards (Labeling Claims) Regulations will try and control those food product manufacturers who are advertising their food products on print media, electronic media as well as on the label of the product, claiming to be the best in the market in respect of essential nutrients. These misleading claims could be i.e. fat free, healthy living, ultra refined vegetable oil, 0 gram trans fat, all natural, extra light olive oil, no added sugar, cholesterol free etc.

The Food Safety and Standards (Food Import) Regulations seek to remove the difficulties of the importers as well as the authorities responsible for clearing the food for human consumption. The aim of the aforesaid regulations is to bring in more transparency to the process of importation of food products and food ingredients.

www.fssai.gov.in

Judgments:

SALIENT PROVISIONS OF THE FSSA STAYED BY THE KARNATAKA HIGH COURT

The Hon'ble High Court of Karnataka at Bangalore has issued notice to the FSSAI in connection with a petition filed by the Karnataka Pradesh Hotel and Restaurants Association. The association had questioned a few regulations and provisions of the Act with respect to The FSS (Packaging and Labeling) Regulations, 2011; FSS (Food Product Standards and Food Additives) Regulations, 2011; certain provisions in the FSS (Licensing and Registration of Food Business) Regulations 2011 and Sections 50 to 65 of the Act (dealing with penal provisions for various offences).

The High Court has issued an interim order staying the above mentioned provisions..

Karnataka High Court in W.P. No 25756 of 2012

PRODUCT APPROVAL

The Bombay High Court has stayed an advisory issued by the FSSAI in respect of Product Approval being done on the basis of advisories issued by the FSSAI on its website.

The stay was granted on 31st January, 2014 following a writ petition filed by the Indian Drug Manufacturers Association, who felt the product approval advisory issued in May 2013 by the country's apex food safety regulator would mire them in unnecessary red tape.

The Bombay High Court has further held that because of difference of opinion between two learned Judges of Division Bench, the Writ Petition will be placed for hearing before a third learned Judge. The Hon'ble Court has ordered for continuation of the order dated 31st Jan, 2014 up to 31st March, 2014.

Vital Nutraceuticals Pvt Ltd. Vs UOI & Anr, Bombay High Court W.P No. 2746/2013

MILK ADULTERATION PUNISHABLE UPTO LIFE IMPRISONMENT:

The Supreme Court has expressed concern over milk adulteration in the country and sought response from all the states on providing harsher punishment of life imprisonment to people indulging in production and marketing of spurious milk.

A bench headed by Justice K S Radhakrishnan said that the issue is very "serious" and asked the concerned governments to take immediate steps to control the menace of milk adulteration. The court sought detailed affidavits from all the state governments on what steps they are taking to tackle the issue of adulteration and on amendment in law to make the offence punishable with up to life imprisonment as has been done by some of the states i.e. Uttar Pradesh, West Bengal and Odisha.

The Supreme Court also opined that the maximum punishment of six months or a fine which may extend to Rs.1, 000 or both for such offences under the Act was grossly inadequate.

Swami Achutyanand vs UOI W.P (C) No.159/2012

Editorial Board:

Kiron Prabhakar

kiron@pavlo.in

Mobile #91-9999258154

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