Asia Pacific Food Law Guide - Thailand

Food product and safety regulation

| Contents |
| --- |
| To generate table of contents, right-click here and select **Update Field.** |

# Overview

In Thailand, the general law governing food quality and integrity is the Food Act BE 2522 (AD 1979) ("**Food Act**"). The Food Act is applicable to the manufacture and importation of food for sale in Thailand. Manufacturers and importers are required to obtain licenses prior to manufacturing and/or importing food into Thailand.

The use of, among others, additives, processing aids, vitamins, minerals, novel foods, nutritive substances and other substances are subject to the Food Act. Such substances may be used in accordance with the limits set out by the Food Act. According to the Food Act, the definition of "food" means edible materials or materials required for the sustenance of life which include:

a) all kinds of substances eaten, drunk, held in the mouth or taken into the body by human beings, irrespective of the means or manner in which they are consumed, excluding medicines, psychotropic substances or narcotics which may be governed by other laws; or

b) substances aimed to be used, or used as, ingredients in the manufacture of foods, including food additives, colors and flavorings.

Accordingly, medicines and therapeutic goods are not regulated by the Food Act as they are subject to the Drug Act BE 2510 (AD 1967).

In addition to the Food Act, certain foods are subject to separate laws and/or regulations, i.e., among others, alcoholic beverages and liquor are subject to the Excise Act BE 2560 (AD 2017).

# Basic labeling requirements

The Notification of the Ministry of Public Health (No. 367) BE 2557 (AD 2014) Re Display of Food Labels on Containers ("Notification No. 367") and the Notification of the Ministry of Public Health (No. 383) BE 2560 (AD 2017) Re Display of Food Labels on Containers (No. 2) ("Notification No. 383") enacted
under the Food Act provides the following minimum pieces of information to be shown on the labels of food in a container which is manufactured for sale, imported for sale, or sold:

1. name of food;

2. food serial number;

3. name and address of manufacturer, packer or importer (for imported food, the country of manufacture should be specified);

4. quantity of food using metric units;

5. essential ingredients in approximate percentage of the weight, in order of greater to lesser quantity;

6. "information for food allergies: contains ..." or "information for food allergies: may contain ..." (if any);

7. name and number of additives pursuant to the international numbering system: INS for food additives;

8. natural odor added/artificial natural odor added/synthetic odor added/natural flavor added/artificial natural flavor added (if any);

9. date/month/year of manufacture, or date/month/year of expiry, or date/month/year by which the food should be consumed with the statement "best before;"

10. warning (if any);

11. advice on storage of food (if any);

12. method of cooking (if any);

13. method of usage statement, necessary for food intended to be used with infants or children or any group of persons specifically;

14. any additional statement prescribed in Notifications Nos. 367 and 383; and

15. any other statement prescribed by a Notification of the Ministry of Public Health.

# Nutrition information panel

In addition to the labels of food mentioned in the basic labeling requirements, certain foods, i.e., food with nutritional claims, food using nutrition characteristics for sales promotion, food for specific groups of consumers for sales promotion, and other foods prescribed by the Food and Drug Administration ("**FDA**") with the approval of the Food Board, are also subject to nutrition labels according to the Notification of the Ministry of Public Health (No. 182) BE 2541
(AD 1998) Re: Nutrition Label ("**Notification No. 182**"), and the Notification of the Ministry of Public Health (No. 219) BE 2544 (AD 2001) Re: Nutrition Label (No. 2) ("**Notification No. 219**"). Notifications Nos. 182 and 219 provide that the nutrition information panel shall be provided in the prescribed table format detailing, among others, the following in the Thai language:

1. number of servings of food in the package;
2. nutritional value per one serving;
3. percentage of daily recommended quantity;
4. percentage of daily recommended intake; and
5. information on the daily energy needs of one person.

Further to the nutrition information panel, the FDA has issued he Notification of the Ministry of Public Health (No. 374) BE 2559 (AD 2016) Re Foods Required to Display Nutrition Label and Energy, Sugar, Fat and Sodium Values in GDA Form ("**Notification No. 374**") for certain foods, i.e., snacks, chocolate and similar products, baked goods, semi-processed foods and chilled and frozen ready-to-eat meals. Notification No. 374 provides that such foods shall display the following
information in the Thai language in the prescribed format:

1. nutritional value per one serving;
2. number of servings of food in the package;
3. amount of energy value in kilocalories and percentage calculated as a percentage of maximum daily intake;
4. amount of sugar value in grams and percentage calculated as a percentage of maximum daily intake;
5. amount of fat value in grams and percentage calculated as a percentage of maximum daily intake; and
6. amount of sodium value in milligrams and percentage calculated as a percentage of maximum daily intake.

# Language and legibility requirements

The display of information on the labels of food in a container which is manufactured for sale, imported for sale, or sold, as prescribed under Notifications Nos. 367 and 383, shall be in the Thai language. The statements on the label must be set out legibly and prominently so as to afford a distinct contrast to the background, and the size of characters must be relative to the size of label area. The size of characters depends on the type of statement displayed on the label.

# Country of origin labeling

Notifications Nos. 367 and 383 provide that the label shall include the country of manufacture of imported food.

# Genetically modified (GM) foods

Genetically modified foods ("**GM Foods**") are not prohibited from manufacture, importation or sale in Thailand. GM Foods are governed by the Food Act.

Please note that the Notification of the Ministry of Public Health (No. 251) BE 2545 (AD 2002) Re Display of Label of Foods Obtained from Genetic Modification or Genetic Engineering Techniques provides specific labeling requirements for GM Foods, i.e., among others, soybean and products of soybean, corn and products of corn, in addition to the requirements under Notifications Nos. 367 and 383 as follows:

1. "genetically modified" shall be displayed incorporating the name of GM Foods, for example, among others, "genetically modified corn;"
2. the display of statements such as "free of genetically modified food," "not genetically modified food," "containing no genetically modified ingredients," "genetically modified ingredients sorted or separated," or other similar statements, is prohibited for GM Foods; and
3. the display of the above statements shall be in clearly legible characters of a size relating to the size of the label area.

# Nutrition content claims and health claims

**Nutrition claims**

Notification No. 182 divides nutritional claims into 3 categories, namely: nutrient content claim, comparative claim, and nutrient function claim.

Nutrient content claims are claims made about the level of nutrients or energy in the food, i.e., "source of calcium," "high in fiber and low in fat," etc.

Comparative claims are a comparison of nutrient content or energy in the food from two items or more, i.e., "less than," "more than," "reduced," "light," etc. However, the compared product must only be of the same category or a similar product. The display of a comparative claim must state the type of referenced food and compare the levels of nutrients of two items as a percentage or fraction per serving.

3. Nutrient function claims are claims that refer to the function of nutrients in the body. The product under this claim must have the said nutrient content to a level that can be considered as a "source of" as provided in Notification No. 182. In addition, the said claim must be supported by reliable scientific proof and must not contain any statement or meaning which would lead consumers to the understanding that the consumption of said nutrient can prevent or cure any diseases.

**Health claims**

Further to Notification No. 182, relating the function of nutrients to the body is considered a nutrient function claim, which is subject to the Notice of Food and Drug Administration Re Display of Nutrient Function Claims ("Notice Re Nutrient Function Claims"). Examples of health claims under the Notice Re Nutrient Function Claims include, among others, "Vitamin A helps promote good vision," "Copper plays a role in the creation of hemoglobin," "Zinc helps body growth," etc.

# Mandatory warnings and advisory statements

Notification No. 367 provides that if the ingredients of the food cause certain types of allergies, i.e., nuts, eggs, fish, dairy, oats, etc., the statement "information for food allergies: contains ..." or "information for food allergies: may contain ..." must be displayed on the label.

# Trade measurement markings

Notifications Nos. 367, 182, and 219 provide that the quantity of food must be indicated in metric units.

# Product recalls

The Food Act does not provide a specific provision regarding product recall. However, the Food Act does provide that, to safeguard the benefits and safety of consumers, the competent authority shall have the following powers to order:

1. the manufacturer, importer, seller or advertiser of foods to cease advertising if he/she is in violation of the Food Act; or
2. the manufacturer, importer, seller or advertiser of foods to cease manufacturing, importing, selling and/or advertising foods that the authority finds do not have the benefits, qualities or properties advertised.

# Food safety

The Food Act provides that factories for the manufacturing of food for sale as well as importers of food for sale in Thailand must obtain licenses from the FDA prior to operating their businesses. This is to ensure that the foods are manufactured or imported into Thailand in a clean and safe condition.

In addition, the Food Act does not specify a mandatory reporting regime for the reporting of illness or injury caused by the use or foreseeable misuse of foods.

# Advertising claims (general)

The Food Act prohibits advertising the benefits, qualities or efficacies of foods which are false or misleading. The advertising of benefits, qualities or efficacies of foods through radio broadcasting, television, motion picture, newspaper, printed media or by any other means for trading purposes must be submitted to the Food and Drug Administration for approval prior to advertising. Accordingly, the Notice of Food and Drug Administration Re Bases on Food Advertisement BE 2551 (AD
2008) ("**Notice Re Food Advertisement**"), the Notice of Food and Drug Administration Re Bases on Food Advertisement (No. 2) BE 2555 (AD 2012) and the Notice of Food and Drug Administration Re: Bases on Food Advertisement (No. 3) BE 2559 (AD 2016) enacted under the Food Act provide procedures and guidelines for advertising of food.

Samples of advertising claims under the Notice Re Food Advertisement include, among others:

1. "new" can be used for products which are put on sale for not more than one year;
2. "safe" can be used when there is a picture or statement displayed concerning the manufacturing process and there is evidence of HACCP certification by a certified body with standards according to ISO/IEC Guide 65 or standards governing product certification; and
3. advertisements that represent that the food is sold worldwide must be supported by evidence showing that such food has been sold in not less than 15 countries on three continents.

Please note that the Notice Re Food Advertisement prohibits the use of a statement that is a comparison to, or a defamation of, another person's product. Words such
as "excellent," "superb," "exceptional," "absolute," "sacred," "miraculous," "extremely," or other words with similar meanings, are also not permitted to be used in advertising the benefits, qualities or efficacies of foods.

# Credence claims (e.g., organic, natural, fresh)

**Organic claims**

The Notice Re Food Advertisement provides that agricultural products, which use the words "organic agricultural product," "organic product" or "organic" in the advertisement by the manufacturer, seller or importer, must be certified. This certification must meet the requirements of the International
Federation of Organic Agriculture Movement ("IFOAM"), Codex, or other foreign organic agricultural standards (if such foreign country has enforced regulations concerning production of organic agricultural products). It may also be issued by an inspection agency whose certification system has been certified pursuant to the criteria of IFOAM, ISO/IEC Guide 65 System, or has been registered by an agency of a country with regulations on organic agriculture.

**Natural claims**

The Notice Re Food Advertisement provides that the word "natural" can be used for food products that occur naturally, such as vegetables, fruit, meat, etc., and which have been passed through a primary process, conversion or manufacturing process, with no addition of food additives, colors, odors, vitamins and minerals.

**Fresh claims**

The Notice Re Food Advertisement provides that the word "fresh" can be used in relation to a natural food which is not yet converted, or can be used with food that specifies that the period of sale is not more than three days from the date of manufacture, such as bread, etc.

# Health rating schemes

The FDA has introduced a voluntary front-of-pack logo program that identifies healthier food options in Thailand pursuant to Notification of Ministry of Public Health (No. 373) B.E. 2559 (A.D. 2016) Re: Display of Nutrition Logo on Label ("**Notification No. 373**"). If the food is examined and certified by the specified organization, it is permitted to display the Healthier Choice logo on the front of the label. To grant the said logo, the FDA uses a scoring system in considering the energy, fat, sugar and sodium content of food.

In addition, the inclusion of foreign health rating scheme logos on products imported into Thailand is not prohibited. However, the food business should ensure that the evidence of all references mentioned in the label, including foreign health rating scheme logos, are readily available for submission to the FDA upon their request.

# Other

Not applicable

©Copyright © 2024 Baker & McKenzie. All rights reserved. **Ownership**: This documentation and content (Content) is a proprietary resource owned exclusively by Baker McKenzie (meaning Baker & McKenzie International and its member firms). The Content is protected under international copyright conventions. Use of this Content does not of itself create a contractual relationship, nor any attorney/client relationship, between Baker McKenzie and any person. **Non-reliance and exclusion**: All Content is for informational purposes only and may not reflect the most current legal and regulatory developments. All summaries of the laws, regulations and practice are subject to change. The Content is not offered as legal or professional advice for any specific matter. It is not intended to be a substitute for reference to (and compliance with) the detailed provisions of applicable laws, rules, regulations or forms. Legal advice should always be sought before taking any action or refraining from taking any action based on any Content. Baker McKenzie and the editors and the contributing authors do not guarantee the accuracy of the Content and expressly disclaim any and all liability to any person in respect of the consequences of anything done or permitted to be done or omitted to be done wholly or partly in reliance upon the whole or any part of the Content. The Content may contain links to external websites and external websites may link to the Content. Baker McKenzie is not responsible for the content or operation of any such external sites and disclaims all liability, howsoever occurring, in respect of the content or operation of any such external websites. **Attorney Advertising**: This Content may qualify as “Attorney Advertising” requiring notice in some jurisdictions. To the extent that this Content may qualify as Attorney Advertising, PRIOR RESULTS DO NOT GUARANTEE A SIMILAR OUTCOME. **Reproduction**: Reproduction or copying of the Content on this Site without express written authorization is strictly prohibited.