



National Environmental Health Association

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2022 State Food Safety Enacted Legislation

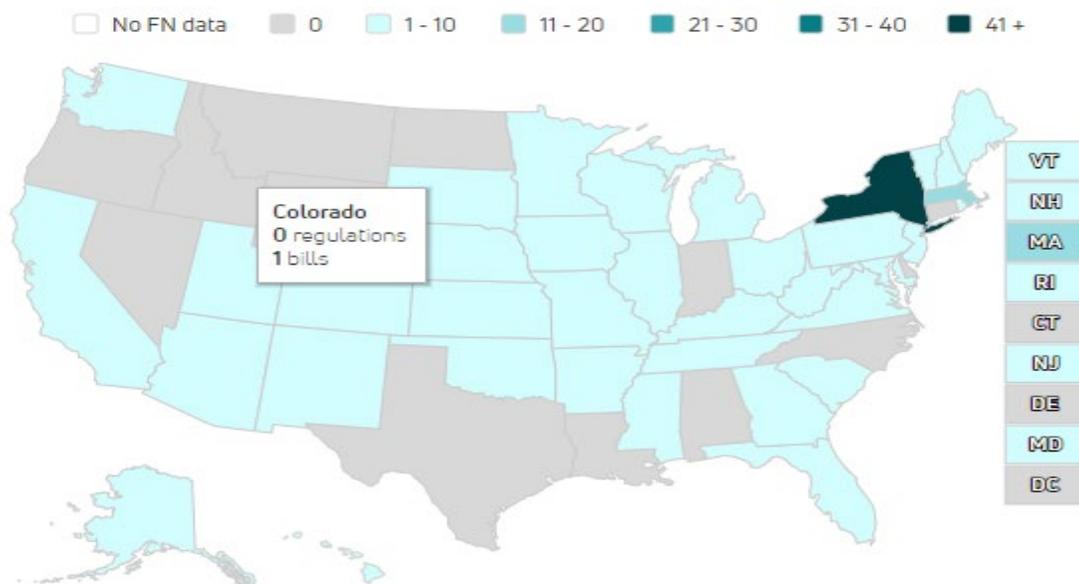
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Of the 348 bills introduced in 2021–2022 legislative sessions regarding food safety, 69 were passed into law. Most every state legislature introduced bills related to food and food safety, and legislatures in 38 states introduced food safety legislation (Figure 1). California and New York enacted the most bills.

The foremost food safety issue was related to retail foods, with 53 bills introduced and 3 passed to date. Bills related to meat were the second most popular issue with 51 bills introduced and 7 passed to date. Food freedom (i.e., cottage foods, microenterprise kitchens) was the third most popular issue with 45 bills introduced but with the most enacted at 9 bills. Figure 2 shows all the bills introduced and enacted by state legislatures by food safety topic.

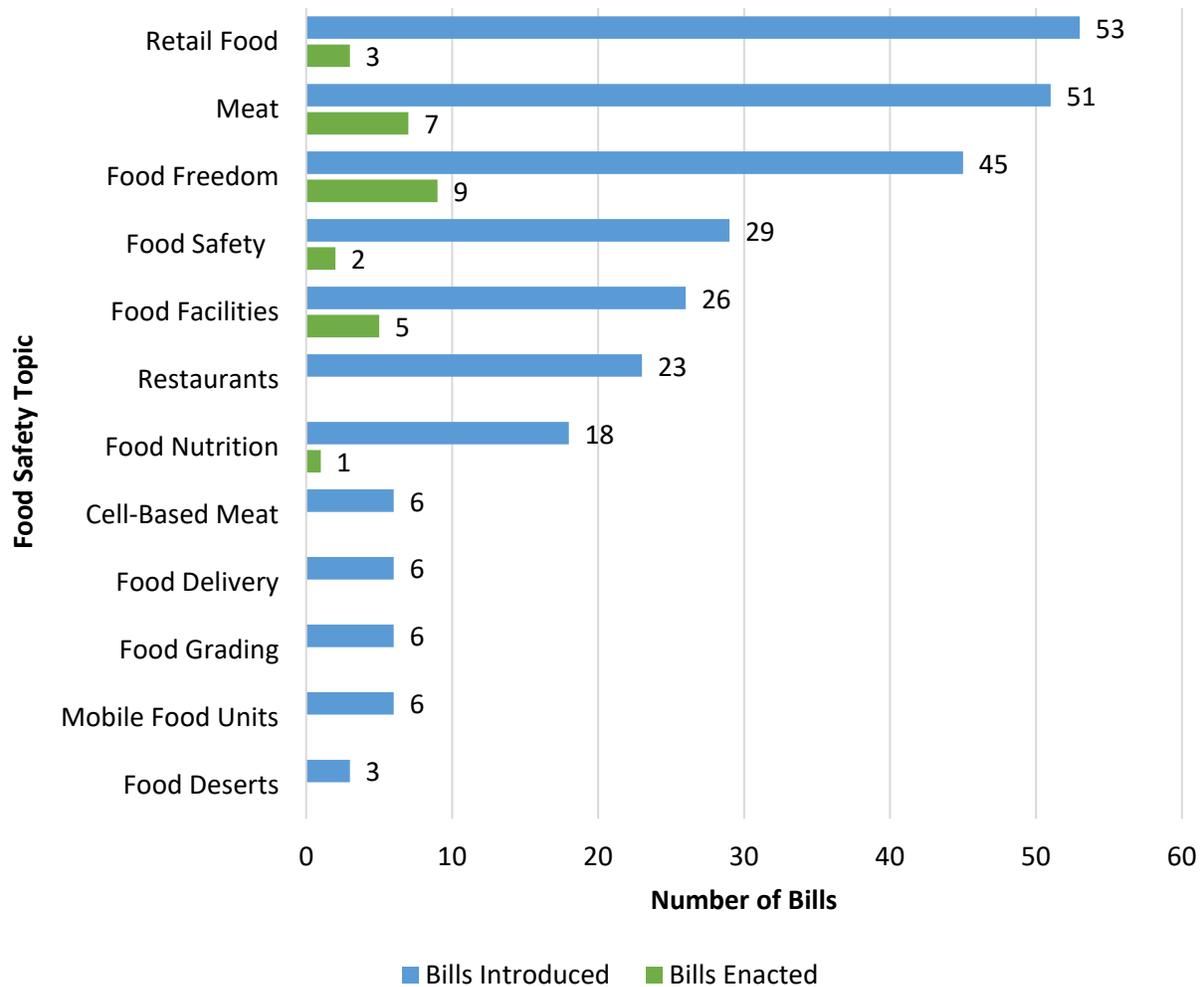
Other popular issues related to food included food safety (29 introduced and 2 passed), nutrition (18 introduced and 1 passed), restaurants and food facilities (26 introduced and 5 passed), food deserts (30 introduced and 2 passed), and mobile food trucks (6 introduced with none passed).

Figure 1: Number of Introduced Food Safety Legislation by State Within the United States



Note. Fiscal Note, 2022.

Figure 2: Number of Bills Introduced and Enacted by State Legislatures by Food Safety Topic



Specific Food and Food Safety Legislation

Food Freedom

Laws that exempt certain food production or food sales from state regulatory oversight use different terms depending on the angle of the specific exemption. These terms include cottage foods, microenterprise kitchens, and food freedom. Furthermore, allowances for raw milk that provide exemptions from regulatory oversight were introduced.

All these exemptions are being considered food freedom bills—laws that provide regulatory relief from food safety oversight. Although each law varies, they all provide an exemption from state or local oversight of food safety, allowing unregulated foods to be sold to the public.

In 2022, 45 bills were introduced related to food freedom, including expanding sales caps on cottage food laws, expanding access to raw milk dairy products, and allowing private homes to prepare, sell, and serve foods. Of these, nine bills were enacted into law.

South Carolina enacted SB 506 (Act No. 208) that amends the state's home-based food production law to allow nonpotentially hazardous food be sold directly to retail stores through online sales or mail order directly to consumers. The bill also allows labeling provided by the Department of Health and Environmental Control instead of requiring the home address of the producer.

Maryland's HB 178 (Chap. 406) increases the annual revenue on cottage food operation from \$25,000 to \$50,000.

Utah amended its microenterprise home kitchen law (HB 292).

The Tennessee legislature enacted two bills related to food freedom. The Tennessee Food Freedom Act SB 693/HB 813 (Pub. Chap. 862) allows vendors of homemade food products to sell without permitting or licensing. Its purpose is to recognize the right of individuals to produce, procure, and consume homemade foods of their choice free from unnecessary and anticompetitive regulations, and to foster small businesses, innovation, and economic growth.

South Dakota passed HB 1322 (H.J. 688) to expand its Food Freedom Law to allow for the direct sale of certain home-produced or home-processed foods and food products.

In Georgia, the legislature enacted the Georgia Raw Dairy Act (HB 1175). The bill addresses standards, labeling, and adulteration of raw milk to authorize and regulate the production, handling, transporting, and sale of raw milk and raw milk products for human consumption. The bill also provides standards for safety, cleanliness, and health for these products and the animals used to produce them. The bill authorizes the state commissioner of agriculture to enforce these standards.

Kansas enacted SB 346 that allows for the on-farm retail sale of milk and milk products. The bill authorizes the state secretary of agriculture to declare an imminent health hazard in cases emerging from on-farm milk sales. The bill also extends certain milk and dairy license fees and establishes certain standards for milk.

New Hampshire passed HB 95 (Chap. 6) that allows for the sale of ice cream or frozen yogurt made from raw milk without a milk producer–distributor license.

The Indiana legislature enacted HB 1149 (Pub. L. 49) that specifies the requirements for the preparation and sale of food products as a home-based vendor. This bill reorganizes provisions concerning the sale of certain food products by an individual vendor at a farmers market or roadside stand and allows the sale of poultry, rabbits, and eggs at a farmers market or roadside stand if the vendor complies with certain requirements.

In Maine, the legislature amended the state's Food Sovereignty Act (HP 519; LD 574) to recognize that a county may adopt ordinances regarding direct producer-to-consumer transactions within one or more unorganized territories within that county. The state food safety agency must recognize such an ordinance by not enforcing those laws or implementing rules with respect to those direct producer-to-consumer transactions that are governed by the ordinance.

Maine also amended its constitution regarding the right to food. The amendment states that “[a]ll individuals have a natural, inherent, and unalienable right to save and exchange seeds and the right to

grow, raise, harvest, produce, and consume the food of their own choosing for their own nourishment, sustenance, bodily health, and well-being, as long as an individual does not commit trespassing, theft, poaching, or other abuses of private property rights, public lands, or natural resources in the harvesting, production, or acquisition of food.” (Maine Constitution, Art. I, §25)

Food Safety and Food Codes

State legislatures introduced 40 bills related to food safety and/or food codes in 2022; however, only 3 bills have passed to date.

The California legislature made substantial clarifying changes (AB 831, Chap. 155) to the California Retail Food Code (CRFC):

- The law allows limited food preparation at charitable events, defines the retail food requirements for a charitable feeding operation, and allows mobile food facilities or temporary food facilities to use wood burning ovens when operating as part of a community event.
- It allows satellite operations that are temporary in nature, such as guacamole stations that are common practice throughout the state, to have a food service operation inside food facilities, like grocery stores.
- It authorizes the use of double gloving and eliminates the need for industry to obtain a variance for this widely used practice by adding it into the description of approved handwashing and glove-use procedures in the CRFC.
- It requires a food facility that packages potentially-hazardous foods using a cook-chill or sous vide process to meet the requirements of the Food and Drug Administration (FDA) *Food Code*.
- It proposes to allow local enforcement agencies to exempt pushcarts from the ventilation requirements of the CRFC since pushcarts are primarily outdoors and venting is the same as the ambient air.
- It proposes that for purpose of advertising to the public (through websites, social media platforms, newspapers, newsletters, or other public announcements), a cottage food operator must include the following on the advertisement: the county of approval, permit, or registration number and a statement that the food prepared is “Made in a Home Kitchen” or “Repackaged in a Home Kitchen.” These changes are necessary to verify that the operation has been permitted and to trace-back any unsafe product.
- It clarifies that fishers can process and sell packaged fish from their booth, subject to prescribed safe handling requirements.
- It provides local enforcement agencies flexibility for plan check requirements for limited-service charitable feeding organizations.

Other bills include New York AB 10607 that establishes a food supply working group; North Carolina HB 735 that authorizes the commission for public health to adopt rules incorporating all or part of the most recent edition of the FDA *Food Code*; and New Hampshire SB 133 that establishes program rules within the Department of Health and Human Services for sanitary production and distribution of food.

Meat and Cell-Based Meat

Legislatures enacted 12 bills regarding meat in 2022. For this session, the foremost issue was regulatory streamlining, with bills passed in California, Illinois, Iowa, Mississippi, Nebraska, New Hampshire, and Virginia. Cell-based meat (i.e., meat grown in labs) was the foremost issue during the 2021 session.

Arkansas SB 22 (Act 14) funds the Beef Council for 2022–2023.

In California, the legislature enacted SB 815 (Chap. 392) that extends to January 1, 2027, provisions in current law that allow the California Department of Food and Agriculture to collect fees for initial licensing and renewal of licenses for livestock meat inspectors, poultry meat inspectors, and processing inspectors. These provisions were set to expire on January 1, 2022.

The Iowa legislature enacted SF 2245 that provides a personal use exemption from state licensing for a person who slaughters, processes, or prepares livestock or poultry of the person's own raising, exclusively for the person's household, nonpaying guests, or nonpaying employees.

Illinois enacted SB 3838 (Public Act 102-0862) that enables a farmer who sells meat, poultry, eggs, or dairy products from the farmer's farm to be exempt from licensing by the farmer's local health department under specified conditions.

In Mississippi, the legislature enacted HB 1130 that separates the combined Seafood Dealer and Processor License into two separate licenses.

The North Dakota legislature passed a resolution (HCR 3024) on cell-based meats. This concurrent resolution urges Congress to amend federal law, policies, and regulations related to food safety and labeling to allow for standards and criteria to differentiate food products derived from animal products from those derived from laboratory-produced, cell-cultured meat products.

Nebraska LB 324 changes provisions of the Nebraska Meat and Poultry Inspection Law.

The legislature in New Hampshire enacted HB 437 that establishes a committee to study the shortage of animal slaughter and meat processing facilities and the implementation of a meat inspection program in the state.

The Virginia legislature enacted three bills relating to meat. HB 830 and SB 726 relate to slaughter and meat processing facilities. These bills encourage, expand, and promote the development of slaughter and meat processing facilities through strategic planning and financial incentive programs. They also direct the Department of Agriculture and Consumer Services to develop a 5-year strategic plan to increase total combined throughput capacity of slaughter and meat processing facilities.

Virginia SB 358 (Chap. 406) relates to the seafood industry. This bill directs the governor or the secretary of labor to designate a liaison to address seafood industry workforce needs by 1) promoting the interests of seafood industry employees and employers; 2) assisting employees and employers in understanding the rights and processes available to them, including those related to temporary worker visas; 3) answering inquiries; 4) providing referrals to public and private agencies upon request; and 5) reporting annually on the liaison's activities to the House Committees on Commerce and Energy and Agriculture.

Retail Food and Food Facilities

Legislatures introduced 88 bills related to retail food, food facilities, and restaurants during the 2022 legislative session. Bills were enacted in Illinois, Georgia, Mississippi, Ohio, Pennsylvania, Virginia, and Wisconsin.

In Georgia, the legislature enacted SB 396 (Act 600) that renames the State Nutrition Assistance Program (SNAP) to the Georgia Grown Farm to Food Bank (F2FB) Program. This bill requires food procured pursuant to the SNAP program to be Georgia grown, requires annual reporting to identify and list Georgia grown farmers who supplied food, and authorizes persons who provide services to the SNAP program or the Department of Agriculture to receive food from the program if qualified as a recipient.

The Illinois legislature enacted SB 3838 (Pub. Act 102-0862) regarding farmers markets retail permits. This law amends the Food Handling Regulation Enforcement Act by providing that local health departments may issue farmers market retail permits for the sale of products at farmers markets and semipermanent events not to exceed 100 days of operation in a calendar year.

Illinois also enacted HB 3490 (Pub. Act 102-0681) to provide that a restaurant shall include a specified type of water, milk, milk alternative, or juice with a children's meal sold by the restaurant, or may include another beverage with a children's meal upon request. The bill states that the health officer or health inspector of a local health department who conducts inspection of the restaurant shall determine whether these provisions have been met.

Mississippi enacted HB 1132 related to private food service contracts for the state's Department of Finance and Administration.

Ohio enacted HB 169 to provide grants and appropriations to bars, restaurants, and the lodging industry to support recovery from the COVID-19 pandemic.

The Pennsylvania legislature enacted SB 434 regarding labeling. This bill amends the state's food protection law by providing that milk must have a labelling for both sell-by and best-by dates.

Virginia enacted HB 837 (Chap. 204) that requires any food manufacturer, food storage warehouse, and retail food establishment to obtain a permit from the commissioner of Agriculture and Consumer Services prior to operating. Any retail food establishment issued a permit is exempt from any other license, permit, or inspection required for the sale, preparation, or handling of food. The legislature also passed SB 146 regarding on-site certified food protection managers. This bill provides that regulations adopted by the State Board of Health shall not require an establishment that sells only prepared food to have a certified food protection manager on-site during all hours of operation.

In Wisconsin, the legislature enacted SB 298 that allows dogs on the premises of certain food establishments. The legislature also adopted AJR 116 that declared February 22, 2022, as Supermarket Employee Day to celebrate the hardworking individuals in the retail food industry in Wisconsin and across the nation.

Food Delivery

30 bills in Colorado, Illinois, Iowa, Kansas, Michigan, Missouri, Oklahoma, and Wisconsin looked at food delivery; however, only bills on food delivery in California, New Hampshire, and New York were passed. One bill in California was subsequently vetoed by the governor. Food delivery legislation remains pending in California, Illinois, Michigan, and Oklahoma.

California AB 1444 Food Delivery Platforms would require agreements between a food delivery platform and a food facility to be written, require such agreements when food delivery platforms arrange for the

pickup of an order from food facilities, and would require specified disclosures in agreements entered into or modified on or after January 1, 2022.

California AB 286 (Chap. 513) relates to food delivery. This bill would make it unlawful for a food delivery platform to charge a customer any purchase price for food or beverage that is higher than the price posted on the food delivery platform's internet website by the food facility at the time of the order.

New York SB 1630 (Chap. 693) requires third-party delivery services to have a valid agreement with a merchant before they advertise, promote, or sell the merchant's products on their platform, and prohibits the inclusion of an indemnity clause in such agreements.

The New Hampshire legislature enacted HB 539 (Chap. 144) that requires a food delivery service to enter into an agreement with a food service establishment or food retail store before offering delivery service from that restaurant.

Food Deserts

During the 2022 legislative session, 30 bills were introduced regarding food deserts, a vast increase over past sessions when no bills on this topic were introduced. Legislatures in Missouri, Mississippi, New York, and West Virginia all introduced and reviewed legislation related to food deserts; however, only bills in Maine and Maryland were passed.

The legislature in Maryland enacted HB 680 (Chap. 338) that authorizes Baltimore County to grant a property tax credit towards supermarket corporations that complete the construction of a new supermarket or any substantial renovation of an existing supermarket located in a food desert retail incentive area.

In Maine, the legislature passed the Support Farms and Address Food Insecurity bill (LD 691, Chap. 468). This bill provides incentives to federal food and nutrition assistance program participants for the purchase of locally grown fruits and vegetables. The bill also supports outreach for administration of programs that offer nutrition incentives to participants of federal food and nutrition assistance programs.