Thailand

Food product and safety regulation

Overview

In Thailand, the general law governing food quality and integrity is the Food Act B.E. 2522 (A.D. 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 additives, processing aids, vitamins, minerals, novel foods, nutritive substances and other substances are subject to the Food Act. Such substances may only be used in accordance with the limits set out by the Food Act.

According to the Food Act, the definition of "food" means edible things or things required for the sustenance of life which include:

1. 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
2. substances aimed to be used, or used as ingredients, in the manufacturing of foods, including food additives, colours and flavourings.

Accordingly, medicines and therapeutic goods are not regulated by the Food Act as they are subject to the Drug Act B.E. 2510 (A.D. 1967).

In addition to the Food Act, certain foods are subject to separate laws and/or regulations, i.e., among others, alcoholic beverages or liquor are subject to the Liquor Act B.E. 2493 (A.D. 1950).
Basic labelling requirements

The Notification of Ministry of Public Health (No. 367) B.E. 2557 (A.D. 2014) Re Display of Label of Food in the Container ("Notification No. 367") enacted under the Food Act provides the following minimum 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 shall be specified);
4. quantity of food using metric units;
5. 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 odour added/artificial natural odour added/synthetic odour added/natural flavour added/artificial natural flavour 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 statements (if applicable);
11. advice on storage of food (if applicable);
12. method of cooking (if applicable);
13. method of usage statement, necessary for food intended to be used with infants or children or any specific group of persons;
14. any additional statement prescribed in the Notification No. 367; and
15. any other statement prescribed by a Notification of Ministry of Public Health.

In addition to the above information, certain foods, i.e., food with nutritional claims, food using nutrition 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 Notification of Ministry of Public Health (No. 182) B.E. 2541(A.D. 1998) Re Nutrition Label ("Notification No. 182"), and Notification of Ministry of Public Health (No. 219) B.E. 2544(A.D. 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 other things, the following in 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 each person.
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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, prescribed under Notification No.367, shall be in Thai language. The statements in 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 depend on the type of statement displayed on the label.
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Country of origin labelling

Notifications No. 367 provide that the label shall include the country of manufacture of imported food.
Genetically modified foods

Genetically modified foods ("GM Foods") are not prohibited from manufacture, importation or sale in Thailand. GM Foods are governed by the Food Act B.E. 2522 (A.D. 1979).

Please note that Notification of Ministry of Public Health (No. 251) B.E. 2545(A.D. 2002) Re Display of Label of Foods Obtained from Genetic Modification or Genetic Engineering Techniques ("Notification No. 251") provides specific labelling requirements for GM Foods i.e., among others, soybean and products of soybean, corn and products of corn; in addition to the requirements under Notification No. 367 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 the statements, i.e., "free of genetically modified food", "not genetically modified food", "containing no genetically modified ingredients", "genetically modified ingredients sorted or separated", or other similar statement, is prohibited for GM Foods; and
3. the display of the above statements shall be in clearly legible characters of a size related 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.

1. Nutrient content claims are claims made about the level of nutrients or energy in the food, i.e., "source of calcium", "high in fibre and low in fat", etc.
2. 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 be of the same category or similar product only. 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 on the body. The product under this claim must have the said nutrient content in the level that can be considered as a "source of" as provided in the Notification No. 182. In addition, the said claim must be supported by reliable scientific proof and must not contain any statement or meaning to lead the consumers to understand that the consumption of such 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 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 haemoglobin", "Zinc helps body growth" etc.
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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.
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Trade measurement markings

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

The Food Act B.E. 2522 (A.D. 1979) ("Food Act") does not include 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 the:

1. manufacturer, importer, seller or advertiser of foods to cease advertising if he/she is in violation of the Food Act; or
2. 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.
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Food safety

The Food Act B.E. 2522 (A.D. 1979) ("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 Food and Drug Administration 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.
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Advertising claims

The Food Act B.E. 2522 (A.D. 1979) ("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, Notice of Food and Drug Administration Re Bases on Food Advertisement B.E. 2551 (A.D. 2008) ("Notice Re Food Advertisement") and Notice of Food and Drug Administration Re Bases on Food Advertisement (No. 2) B.E. 2555 (A.D. 2012) ("Notice Re Food Advertisement No. 2") enacted under the Food Act provide procedures and guidelines for advertising of food. Approval of advertising materials by the FDA typically takes 10 working days from the date the application is submitted to the FDA. Failure to obtain FDA approval can result in fines which, in practice, can be imposed in respect of each display of advertising materials (i.e. 5000 Baht per offence).

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 1 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 the 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 3 continents.

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

Organic claims

Notice of Food and Drug Administration Re Bases on Food Advertisement B.E. 2551 (A.D. 2008) ("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 be by 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 product). It may also occur 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

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

Fresh claims

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 3 days from the date of manufacture, such as, bread, etc.
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Licensing and approvals requirements to import/export food

Customs registration

To import or export any goods, including foods, into or from Thailand, an importer or exporter is required to register with the Thai Customs Department according to the Customs Act B.E. 2469 (A.D. 1926) (the "Customs Act").
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Import permit

To import foods for sale into Thailand, the importer is required to obtain either an import license from the Food and Drug Administration (the "FDA") under the Food Act, or an import license from the Ministry of Commerce ("MOC") under the Export and Import of Goods Act B.E. 2522 (A.D. 1979), depending on the types of products.

To obtain an import license from the FDA, it takes approximately 7 working days to process from the date of submitting the complete set of required documents. For an import license from the MOC, the timeframe would depend on the types of products being imported.

A non-resident is permitted to apply for an import license with the FDA or MOC, however, it is advisable to have a local body apply for the import license as the language used in processing the license is Thai language.
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Inspection and testing of imported foods

Foods imported for sale in Thailand are subject to inspection at the border by the Food and Drug Administration (the "FDA") and/or Customs under the Notice of Food and Drug Administration Re Inspection of Foods Imported into the Kingdom (the "Notice Re Inspection"). If the results and analysis of the inspection show that the imported foods fail to meet the applicable standards, the relevant authority is entitled to notify the importer to take the problematic foods in question back and/or consider taking legal action against the importer.

For a subsequent importation of the same kind of foods that were previously imported into Thailand, if the results and analysis of the inspection show that the recent imported foods fail to meet the standards, the said foods shall be attached at the place of importation with samples taken for analysis. If the results of the analysis show that the food meets the standards, the attachment will be lifted.

On the other hand, if the results of the analysis show that the foods continue to fail to meet the standards, the relevant authority is entitled to take legal action against the importer and/or to implement monitoring measures for subsequent imports of the same kind of food.

In case the importer has duly improved the foods to meet the standards as per the relevant authority's order, the FDA may consider lifting the monitoring measures.
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Export permits/clearances

Export requirements differ depending on the product and destination country and are subject to change from time to time.
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Other notifications/approvals/licences

The Food Act B.E. 2522 (A.D. 1979) ("Food Act") provides that setting up a factory to manufacture foods for sale, or the importation of foods for sale in Thailand are subject to license requirements. However, distribution and/or sale of foods do not require a license under the Food Act.
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Enforcement

Enforcement authorities and key responsibilities

The main bodies/agencies responsible for enforcement of food related laws in Thailand are outlined below:

Food and Drug Administration ("FDA")

The key responsibility of the FDA is to ensure that businesses comply with the Thai food laws and regulations. This includes the granting of manufacturing licenses or import licenses, quality control, advertising licenses, etc.

For the purpose of food control, and so as to ensure that food is hygienic and free from harm for consumers, the FDA is entitled to, among other things:

1. issue orders in writing for permit holders who produce or import food to modify or remedy the production premises or the premises for storing food;
2. order that the manufacture or import of food without a permit, or of food that has been approved; should not be consumed or should be stopped; and
3. announce to the public the results of food tests where it is apparent that the result of the test suggest that the food is impure, fake, substandard, or may be harmful to the health of the public, or that any container has something that may be harmful when used to contain food.

So as to perform the duties under the Food Act B.E. 2522 (A.D. 1979) ("Food Act"), the relevant authority also has the power to, among others:

1. enter upon premises used for the manufacture, storage or sale of food, or the business premises of a manufacturer, safe keeper, seller, or importer. This must occur during business or daylight hours for the purposes of inspection and control in accordance with the Food Act;
2. in the case of reasonable grounds to suspect that an offence has been committed under the Food Act, enter upon any premises or conveyances for food inspection and seize or attach food and the tools and instruments involved in the commission of the offence, as well as food containers and packages and all documents concerning the food;
3. take food in a reasonable amount as a sample for the purpose of an inspection or testing;
4. seize or attach food or containers suspected of being able to cause harm to health or be unhealthy for the public; and
5. seize or attach impure, fake or substandard food or containers that are suspected of being able to cause harm to the health of the public or of a description that is incorrect according to the quality or standard the Minister announced.

Thai Royal Police

The police are the general enforcement authority in Thailand. The FDA works and coordinates with the police to enforce compliance with the Food Act.

Customs Department

Thai Customs Officials are responsible for examining goods imported into and exported from Thailand and to determine whether the goods comply with, among others, the Customs Act B.E. 2469 (A.D. 1926) and the relevant provisions of importation and exportation of goods into and from Thailand.
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Penalties for non-compliance

Food Act B.E. 2522 (A.D. 1979)

Section 6: quality and standard of foods and container of foods.
Sections 47 - 51: maximum penalty up to 2 years imprisonment and/or a fine up to THB 30,000 (approx. USD 1,000).

Section 13: compliance with the authority order.
Section 52: imprisonment not exceeding 1 month and/or a fine not exceeding THB 1,000 (approx. USD 33).

Sections 14 - 15: manufacture and import license.
Section 53: imprisonment not exceeding 3 years and/or a fine not exceeding THB 30,000 (approx. USD 1,000).

Section 25: the manufacturing, importation for sale and sale of impure, bogus or substandard food.
Sections 53 - 61: maximum penalty of up to 10 years imprisonment and/or a fine up to THB 100,000 (approx. USD 3,333).

Section 30: failure to comply with the FDA order to cease manufacturing or importing the food without a permit.
Section 63: a fine not exceeding THB 50,000 (approx. USD 1,666) and a daily fine of THB 500 (approx. USD 16) throughout the time of failing to comply with the order.

Section 40: falsely advertise the benefits, quality or properties of food or advertise to deceive and create an unreasonable belief.
Section 70: imprisonment not exceeding 3 years and/or a fine not exceeding THB 30,000 (approx. USD 1,000).

Section 41: advertising the benefits, quality or properties of food without the FDA’s approval.
Section 71: a fine not exceeding THB 5,000 (approx. USD 166) per advertisement.