State Legislation Regarding Food Additives

Key Takeaways

- This year, the 114th Tennessee General Assembly considered legislation which would limit or ban certain food additives in Tennessee. Other southern states, such as Texas and Louisiana, have also considered or passed similar legislation with much broader sweeping impact.
- According to the Federal Food, Drug, and Cosmetic Act, a food additive refers to any substance for the intended use of which results or may reasonably be expected to result (directly or indirectly), in becoming a component or otherwise affecting the characteristic of any food.
- Currently, the Food and Drug Administration (FDA) has regulatory oversight of the safety of ingredients added directly to food and substances which come into contact with food, such as those added to packaged materials, cookware or food storage containers.

Questions

1. Historically, TFBF has expressed concern around state food labeling and restrictions because of concerns around interstate commerce. Should this same level of concern apply to food additives?
2. Should state legislatures consider bans on food additives, such as Red 40?
3. Should farm inputs, including fertilizer and crop protection products, be considered a food additive?

Background

The 114th Tennessee General Assembly was one of a handful of states amongst the Southeast region to consider legislation concerning food additives, such as synthetic dye. Ultimately, the legislation was signed by Governor Lee on May 21, 2025. As amended, a local education agency (LEA) is prohibited from including food or beverage items which contain "Allura Rec AC", also known as Red 40, from being sold, offered for sale, or provided to students on school property through the school nutrition program provided by the LEA, public charter school, or third party expressly authorized by the LEA or public charter school. This legislation will be implemented in schools on August 1, 2027.

Scan to read Public Chapter 476 of 2025:

Initial legislation was much broader and expanded to vending machines and any other school provided supply – it's anticipated there will be additional efforts to broaden this prohibition in future General Assemblies.

Other states passing legislation which includes language relative to food additives include Texas and Louisiana. The Texas General Assembly passed SB25, one of the most debated bills in Texas history, which requires food manufacturers to include warning labels on products containing specific substances. Similarly, Louisiana passed SB14, which will require food manufacturers to include warning labels on products containing certain substances deemed harmful, such as artificial colors, additives, and specific banned chemicals. Aside from food additives, some of the legislation considered by other states also includes label requirements if a product was treated with a crop protection product such as atrazine or glyphosate.

Motivation behind legislation being filed in state legislatures is perceived to come from the "Make America Healthy Again" (MAHA) movement. The MAHA Commission established by President Trump and led by U.S. Department of Health and Human Services Secretary Robert F. Kennedy Jr., is working to establish data and make policy suggestions which would make America's children healthy again, one of those points of research including food additives such as synthetic dyes like Red 40.

For more information about the MAHA Commission and their report, read the 2025 Policy Development paper entitled, The MAHA Movement.

What is considered a food additive? According to the Federal Food, Drug, and Cosmetic Act, a food additive refers to any substance for the intended use of which results or may reasonably be expected to result (directly or indirectly), in becoming a component or otherwise affecting the characteristic of any food. Direct food additives are those which are intentionally added to food for a specific purpose. For example, adding xanthan gum to chocolate milk or salad dressing to add texture.

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For more information on how the FDA considers food additive petitions and maintains oversight on these products:

Currently, the Food and Drug Administration (FDA) has regulatory oversight over the safety of ingredients added directly to food and substances which come into contact with food, such as those added to packaged materials, cookware or food storage containers. Before a product can be used on a food in the market, a food additive must be authorized by the FDA through a submitted petition by the manufacturer. Food additive petitions must provide evidence the substance is safe for the ways in which it will be used – including the foods it will be used in and the intended levels of use. The FDA consults with the U.S. Department of Agriculture during the review process for food additives which are proposed for use in meat and meat products.

When evaluating the safety of an ingredient submitted in a food additive, the FDA considers:

- What is the food ingredient?
- How will the food ingredient be made?
- How much of the ingredient will be in the food?
- What types of food will the ingredient be used in?
- How much of the food ingredient will consumers eat?
- How does the body metabolize the food ingredient (including absorption, digestion, metabolism, and excretion)?
- What are the results of relevant scientific studies on the safety of the ingredient?

As more states individually address food additives through legislation to add additional regulations or ban the use of certain additives entirely, it's possible there could be inconsistencies and contradictions in the law and oversight of food from one state to another.

Policy

Tennessee Farm Bureau
Food Safety (Partial)

America's food supply is the safest, highest quality, most abundant, and most affordable in the world. Farmers recognize a safe food supply is important to the integrity of the agricultural industry but most importantly to the well-being and health of the consumer.

With changing technology, the process of maintaining a safe product from the field to the table can always be improved. Policies and procedures that build trust and reliability in agriculture should reflect the latest in technology and research. Regulatory oversight should not impede farmers' ability to produce. The risks versus the benefits should be considered in any food safety legislation or regulatory proposals. On-farm authority of government agencies should not be expanded. Quality assurance programs, research from agricultural colleges, and education of food handlers throughout the food supply chain should take priority over expansion of the regulatory process. Increased costs to producers from on-farm inspections and standards should be a last resort of any legislative or regulatory initiative to improve food safety.

Integrity in food labeling is a vital element in maintaining food safety. Food labeling requirements should remain a function of the federal government. We oppose separate state level labeling requirements of foods sold through interstate commerce. Likewise, we also oppose any statewide ban of food products. We support consumer friendly, science-based labeling of agricultural products providing consumers with useful information concerning the ingredients, nutritional value, and country of origin. Labels should not be required to contain information on production practices not affecting nutrition or safety of the product. Agricultural products produced using approved technologies should not be required to farm designate individual inputs or specific technologies on the product label. We oppose misleading labeling statements such as “bST free milk” implying food produced using certain production practices is superior and safer than food using other approved production practices.

Foods manufactured to imitate conventional agricultural products should meet the same safety standards and have separate label requirements that signify the difference of the imitation food. With the increasing availability of lab-grown, cell-derived, and plant-based protein being introduced into the marketplace, we believe proteins designed to imitate conventionally raised meat should not use commonly known and industry recognized “meat” terms and be properly labeled and advertised to signify their differences. We oppose the use of environmental claims about lab grown, cell-derived, and plant-based proteins in the marketing of the product which is not verified by USDA as a regulatory agency and based on peer-reviewed, sound science. We oppose the false labeling or “greenwashing” of non-meat products as having less impact on the environment. Jurisdiction over lab-grown, cell-derived, and plant-based protein should be assigned to USDA’s Food Safety and Inspection Service (FSIS). We acknowledge FDA’s role in determining the product’s safety, but the day-to-day primary regulation and oversight for the product should reside with USDA FSIS.

American Farm Bureau
341 / Food Quality and Safety

1. The American food supply is the safest, most abundant and affordable in the world. Agricultural chemicals and other technological advances play a major role in maintaining both the quality and quantity of our food supply.

2. We will monitor initiatives to improve and streamline food safety to ensure that policies and procedures are in place that build trust and reliability in U.S. agriculture.

3. We believe food safety issues at the producer level should be handled through "quality assurance programs."

8. We support:

8.3. Voluntary guidelines rather than federal or state mandates.

8.4. The establishment and promotion of sound scientific research criteria which ensure the safety of food additives.

8.12. Cooperative efforts with food processors, chemical companies, government agencies, scientists and other to provide factual information on the safety of our food supply.

8.33. Continued research about the impacts of consuming synthetic dyes and expanding options for synthetic dye-free foods in the American food system.