



Ankin Law Office LLC

Protecting the Rights of Injured Workers

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FDA Issues Results of 10-Year Study into Retail Food Establishments

The U.S. Food and Drug Administration (FDA) recently issued a report setting forth the findings of its 10-year study tracking the retail food industry's efforts to reduce certain key risk factors. Based on the study's findings, the FDA's report called for increased efforts to improve **food safety practices** in retail food establishments, specifically with respect to poor personal hygiene, improper holding of food, and contamination of surfaces and equipment. The FDA also cited a need for the presence of certified food safety managers to oversee safety practices. The FDA plans to work closely with state and local governments and restaurants, grocers and other foodservice establishments to prevent illness from **contaminating food**.

According to FDA Deputy Food Commissioner for Foods Michael A. Taylor, the data indicates that having a certified food protection manager on the job "makes a difference" and the FDA "think[s] it should become common practice" for retail food establishments to employ certified food protection managers. Specifically, the study revealed that the presence of a certified food protection manager was correlated with statistically significant higher compliance levels with food safety.

Taylor also stated that the FDA urges the uniform and complete adoption of the FDA Model Food Code by state, local and tribal regulatory agencies responsible for establishing and inspecting food safety standards and the uniform adoption of the FDA's National Retail Food Regulatory Food Program Standards by those government agencies responsible for enforcing the Food Code.

The FDA's 10-year study examined more than 800 retail food establishments from nine different categories – hospitals, nursing homes, elementary schools, fast food restaurants, full-service restaurants, deli departments/stores, meat and poultry markets, seafood markets and produce markets – with compliance data collected in 1998, 2003 and again in 2008.

The purpose of the study was to collect data at the three designated intervals in order to obtain an accurate picture of the extent to which foodservice and retail food establishments have active managerial control over the various factors that contribute to **foodborne illnesses**. The study specifically looked at the following five risk factors: (1) food from unsafe sources, (2) poor personal hygiene, (3) inadequate cooking, (4) improper holding of food, and (5) contaminated food surfaces and equipment.

Over the course of the ten-year study period, the FDA found that overall compliance improved in all nine of the categories of retail food establishments included in the study, but that improvements were particularly significant in elementary schools, fast food restaurants, full-service restaurants, meat/poultry markets, and produce markets.

Despite the overall improvements, the FDA stressed that continued improvement was needed by all types of retail food establishments with respect to three key risk factors: (1) poor personal hygiene, (2) improper holding of food and (3) contaminated food surfaces and equipment. The principle cause of poor personal hygiene was typically inadequate hand washing. Improper holding of food was especially prevalent in delis and full-service restaurants.

The FDA's study results come on the heels of several recent widespread **outbreaks of foodborne illnesses**, such as salmonella in eggs and tomatoes and E.coli in spinach, and the FDA's report comes in the midst of efforts to pass the FDA Food Safety Modernization Act. The legislation has been stalled in the Senate for more than a year and the Senate recently indicated that it will delay the food safety discussions and debate until November 29, 2010, after the

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Thanksgiving recess. Among some of the reasons for the hold-up in passing the legislation are the following: (1) controversy regarding whether to exempt small farmers and producers from some of the provisions; (2) disputes from food manufacturers that compliance would be too costly; and (3) the debate about whether increased government oversight will actually fix the problem.

Whenever the Senate resumes discussions on the Food Safety Modernization Act, the FDA's study results will likely come into play. The study indicated that all categories of retail food establishments needed to improve in the areas of poor personal hygiene, improper holding of food and contaminated food surfaces and equipment, which supports the arguments of the bill's proponents that the FDA be afforded additional authority and resources to more effectively regulate the safe manufacture and distribution of food in the United States. Given the number of people that become ill each year due to **foodborne illnesses** caused by poor compliance with FDA standards, reform is likely.

At the very least, the study hopes to encourage retail foodservice providers to assess their existing food safety management system to ensure that there are no gaps in control measures pertaining to each specific risk factor. The FDA also hopes that its study results will persuade regulatory agencies to examine current food inspection protocols and make it a priority to increase inspection efforts for those food safety practices and employee behaviors that need improvement.

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This article originally appeared on: <http://www.thechicago-injury-lawyer.com/?p=220>

By [Admin - CO](#)
December 13, 2010