

# Major Changes Brought by New Food Safety Law in China – Lawyer Perspective

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## An Overview of JunHe LLP

- JunHe, founded in Beijing in **1989**, is one of the first private partnership law firms in China.
- A team comprised of more than **730** professionals, including over **220** partners and legal counsel, as well as over **510** associates and legal translators.
- Our attorneys are **multilingual**, with fluency in Chinese as well as English, German, Japanese and several other languages.
- **12 offices:** Beijing, Shanghai, Shenzhen, Guangzhou, Dalian, Haikou, Tianjin, Qingdao and Chengdu, Hong Kong, New York and Silicon Valley.
- The only Chinese law firm to be accepted for membership in **Lex Mundi** and **Multilaw**, two leading associations of independent law firms around the world.
- Awarded the **Best Chinese Firm of the Year** for many times by ALB, China Law & Practice, ILASA, etc.

# Table of Contents

- 1. What are Major Changes of the New Food Safety Law in China?
- 2. How the New Law Affects Foreign Food Manufacturers Targeting China Market?
- 3. What Legal Assistance Could be Important for Foreign Food Manufacturers?
- 4. Q&A

# **1. What are Major Changes of the New Food Safety Law in China?**

# 1. What are Major Changes of the New Food Safety Law in China?

- 🏛️ Administration power is centralized by CFDA (which is now part of State Administration of Market Regulation - SAMR)
- 🏛️ Food additive is covered by mandatory food safety standards
- 🏛️ Entire food production and operation process is under supervision to enhance traceability
- 🏛️ Special regulatory system for special food products
  - Dietary supplements
  - Infant formula
  - Formula food for special medical purpose
- 🏛️ More severe sanctions against violations

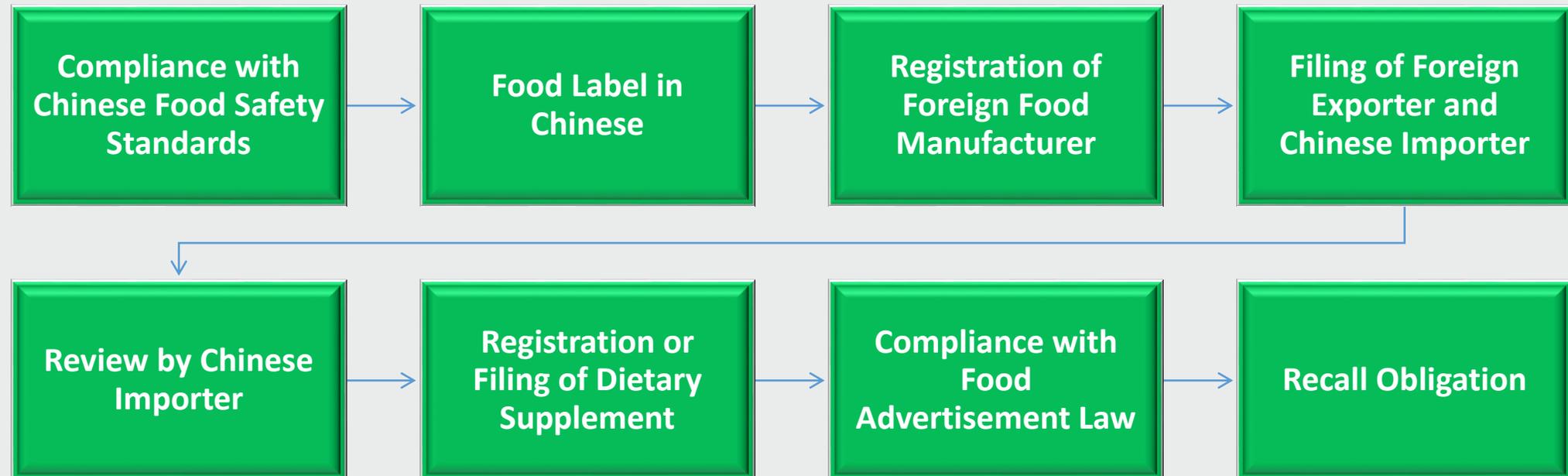


**Fine:** max. **30** times of goods value (new law) **vs.** max. **10** times of goods value (old law)

## **2. How the New Law Affects Foreign Food Manufacturers Targeting China Market?**

## 2. How the New Law Affects Foreign Food Manufacturers?

### Overview of important factors for foreign food manufacturers to consider



## 2. How the New Law Affects Foreign Food Manufacturers?

商 Food exported to China must comply with Chinese **mandatory food safety standards**

*Question: How to deal with the situation in which no applicable Chinese food safety standards exist for the food to be exported to China?*

### General food

- Temporary permit to apply home country standard or international standard

### Novel food

- Safety assessment procedure by hygiene authority

### New food additive

- Safety assessment procedure by hygiene authority

### New food related product

- Safety assessment procedure by hygiene authority

## 2. How the New Law Affects Foreign Food Manufacturers?

### Requirement on food label in Chinese for imported food

*Question: Should the Chinese translation be consistent with the food label in foreign language?*

*Question: How to deal with the situation in which the contents in foreign language do not contain all information required by Chinese food safety law?*

*Comment: Flaws of labels: most vulnerable target for professional counterfeit hunters in China.*

### Registration of foreign food manufacturer with Entry-Exit Inspection and Quarantine Department (which is now under the General Administration of Customs)

### Filing of foreign food exporter and Chinese food importer with Entry-Exit Inspection and Quarantine Department



A **credit record** is established by the Entry-Exit Inspection and Quarantine Department, and such credit record is available to the public. Any Chinese food importer with bad credit record will be subject to stricter monitoring (Article 100 of FSL)

## 2. How the New Law Affects Foreign Food Manufacturers?

🏢 Review by Chinese importer

🏢 Registration or filing of dietary supplement



## 2. How the New Law Affects Foreign Food Manufacturers?

### Compliance with food advertisement requirements

- Food advertisement is subject to PRC Advertisement Law
- Special requirements for advertisement for dietary supplements
  - Express statement of “*this product is not a substitute of drugs*”
  - Subject to the approval of the food and drug authority at the provincial level
- Advertisement for special formula food for medical purpose is subject to the special regulatory regime for drug advertisement.

## 2. How the New Law Affects Foreign Food Manufacturers?

### 🏠 Recall obligation

- Conditions that may trigger recall of imported food:
  - The imported food is discovered to not comply with the Chinese **national** food safety standards.
  - There is evidence showing the imported food may be harmful for people's health.
- Primary responsible party: **Chinese food importer**
- Remedial measures for resale: Only applicable to the food whose recall is caused by the non-compliance with food safety standards in respect of **label, mark** or **instruction** and after such non-compliance has been rectified.
- Legal consequence of failure to perform recall obligation:
  - Confiscation of illegal revenues
  - Fine up to 20 times of the goods value

### **3. What Legal Assistance Could be Important for Foreign Food Manufacturers?**

### 3. What Legal Assistance Could be Important ?

- 商 Assistance on general understanding of Chinese food safety regulatory regime
- 商 Review of the Chinese translation of the food label
- 商 Review of the food advertisement to be used in China
- 商 Review of the contract with Chinese food importer/distributor
- 商 Analysis of circumstance that may trigger recall
- 商 Assistance on communication with food regulatory authority
- 商 Assistance on dispute with Chinese importer, distributor or customers

## 4. Q & A

**THANK YOU!**