



PUBLIC HEALTH  
LAW CENTER  
at Mitchell Hamline School of Law



MINNESOTA FOOD SAFETY

# Government Response to Foodborne Illness in Minnesota

Increasing access to healthy and safe food is a key focus of public health efforts to reduce chronic diseases associated with poor diet and nutrition. A major focus area is on improving the availability and affordability of healthy food such as whole grains, fruits, vegetables, and lean protein sources.<sup>1</sup> At the same time, efforts to promote access to healthy

## FOODBORNE ILLNESS

*(also referred to as foodborne disease, foodborne infection, or food poisoning)*

Illness caused by ingestion of food contaminated with disease-causing microbes, pathogens, poisonous chemicals, or other harmful substances.<sup>2</sup>

## FOODBORNE ILLNESS OUTBREAK

An occurrence of two or more people (called "cases") being sickened by ingesting a certain food,<sup>3</sup> resulting in vomiting, diarrhea, or other symptoms.<sup>4</sup> In Minnesota, a single case of illness from botulism or chemical poisoning is considered to constitute a foodborne illness outbreak.<sup>5</sup>



## Part of a series on foodborne illness in Minnesota

Please consult the other resources accompanying this guide for additional information on:

- Preventing foodborne illness
- Determining legal responsibility for foodborne illness

food can raise concerns about safety precautions surrounding how food is grown, harvested, processed, and served.<sup>6</sup>

Federal, state, and local governments protect public health by working to reduce the risk of foodborne illness by working to prevent and responding to outbreaks. Government agencies are well-positioned to prevent foodborne illness because of their regulatory oversight of the food system, which enables government agencies to more effectively identify, trace, and contain outbreaks. Minnesota's system is regarded as one of the nation's best and most effective at detecting, investigating, and responding to foodborne illness outbreaks.<sup>7</sup>

This fact sheet discusses the legal basis and procedures for government agencies to respond to foodborne illness outbreaks in Minnesota with a particular focus on the key roles of the Minnesota Departments of Health and Agriculture. Some federal statutes and regulations are referenced, but the information primarily focuses on Minnesota's state and local laws that address how government agencies respond to foodborne illness complaints and outbreaks. Please note, this resource is a broad overview of several different agencies and their roles, and provides references to resources and relevant contact information to aid individuals that are seeking additional information.\*

### **Q: Why are food safety laws important?**

**A:** The United States has a complex system of food regulation. The food protection system involves several government entities at the federal, state, and local level

\* Food regulation is tied to several other regulatory systems with other public protection or regulatory functions that can be closely related to food protection or illness prevention. Some examples are licensing, permitting, zoning, planning, building, public works, fire, environmental protection, and community development.

that investigate and respond to foodborne illness. Food producers, those selling and serving food, public health officials, and community members can better assess and respond to foodborne illness risks and outbreaks in Minnesota if they understand the legal basis for the authority of relevant government entities.

While state, local and federal laws, government entities, and public protocols exist to prevent outbreaks of foodborne illness, outbreaks still occur due to a variety of factors. When foodborne illness outbreaks occur, these laws have created a system through which specific government entities respond to stop the outbreak and minimize the impact on the public. The nature of the response to a foodborne illness outbreak is very case specific and is determined in part on location, severity, type,



## THE FOOD SYSTEM



SOURCE: THE MINNESOTA FOOD CHARTER, AVAILABLE AT <http://mnfoodcharter.com/the-charter>.

and timing of the outbreak. Laws provide authority for swift governmental response to an outbreak and provide a framework for essential coordination between federal, state, and local agencies.<sup>8</sup>

### Q: How prevalent is foodborne illness in the United States and Minnesota?\*

**A:** While the food system in the United States is regarded as one of the safest in the world, foodborne illness remains a significant problem in the country.<sup>9</sup> The Centers for Disease Control and Prevention (CDC) estimates that each year roughly 1 in 6 Americans (or 48 million people) get sick, 128,000 are hospitalized, and 3,000 die of foodborne diseases.<sup>10</sup> The United States Department of Agriculture (USDA) estimates that foodborne illnesses cost the U.S. economy more than \$15.6 billion each year.<sup>11</sup> Norovirus is the leading cause of foodborne illness. Infected food workers (e.g., cooks, food servers, etc.), who are typically not given paid sick leave,<sup>12</sup> cause about 70% of reported norovirus outbreaks from contaminated food.<sup>13</sup> According to the CDC, about 20 million people get sick from norovirus each year.<sup>14</sup>

\* The USDA has identified 15 pathogens that are believed to cause 95% of all foodborne illness in the United States. See Cost Estimates of Foodborne Illness, United States Department of Agriculture, Economic Research Service, <http://www.ers.usda.gov/data-products/cost-estimates-of-foodborne-illnesses.aspx> (last visited Oct. 27, 2015 1:19 PM).

### Q: How are Minnesota's government agencies involved in responding to outbreaks of foodborne illness?

**A:** The State of Minnesota responds to the majority of foodborne illness outbreaks in Minnesota through the Minnesota Departments of Health (MDH) and Agriculture (MDA); some local health agencies

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The Centers for Disease Control and Prevention Foodborne Outbreak Tracking and Reporting system recorded, during the time period of 2011–2015, 289 outbreaks, 6,893, illnesses, 887 hospitalizations and 27 deaths in Minnesota. Fifty percent of the outbreaks were associated with Norovirus.<sup>15</sup>

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## What is the Minnesota Food Code?

**A:** Minnesota's Food Code is a consolidation of regulations establishing food safety requirements that govern food establishments licensed and inspected by MDA, MDH, and local authorities.<sup>16</sup> The Food Code, which was jointly drafted by MDH and MDA, is based on the federal model food code, and emphasizes food sanitation and safety measures that are intended to prevent foodborne illnesses.<sup>17</sup>

The Minnesota Food Code is incorporated into Minnesota Rules, and is available online at <https://www.revisor.mn.gov/rules>.<sup>18</sup> Minnesota's Food Code addresses a wide range of food safety considerations, including food handler health habits<sup>19</sup> and hygiene,<sup>20</sup> as well as food quality,<sup>21</sup> protection against contamination,<sup>22</sup> proper cooking techniques, cooling practices and temperatures,<sup>23</sup> the use and quality of water,<sup>24</sup> storage practices,<sup>25</sup> equipment requirements,<sup>26</sup> and inspection policies.<sup>27</sup>

## Minnesota Food Code revisions<sup>28</sup>

The Minnesota Departments of Health and Agriculture periodically revise Minnesota's Food Code to incorporate new information, regulatory approaches, and evolving technological advances. MDH and MDA are revising Minnesota's Food Code in 2016, with final revisions anticipated to go into effect in 2017. Food safety and sanitation subject matter to be addressed includes:

- Management and Personnel
- Food Characteristics, Protection from Contamination, Destroying Organisms, Food Identity, and Contaminated Food
- Equipment, Utensils, and Linens
- Water, Plumbing, and Waste
- Physical Facilities
- Poisonous or Toxic Materials
- Compliance and Enforcement
- Temporary and Portable Food Establishments
- Food Manager Certification
- Other related items that may surface during the rulemaking process as time permits

Public participation adds validity and value to the rule making process. The Food Code revision effort has provided a variety of opportunities for citizen involvement, including those impacted by the rule revisions. For more information on the basics on the rule making process in Minnesota please visit: <http://www.health.state.mn.us/divs/eh/food/code/2009revision/rulebasics.html>.

Additional information about the current status of revisions to Minnesota's Food Code is available at: <http://www.health.state.mn.us/divs/eh/food/code/2009revision/index.html>.

with delegated authority are also involved. These agencies receive their authority to take action through legislation passed by the Minnesota Legislature. The Legislature creates the laws that require these agencies to take certain actions. The Legislature can change current regulations and laws in response to changing needs and scientific understanding of how best to assess and respond to foodborne illness outbreaks. Notably, MDH and MDA have distinct and separate regulatory authority over different aspects of the food system; however, these two agencies coordinate efforts during foodborne illness outbreaks.

### **Q: How are outbreaks of foodborne illness identified?**

**A:** Potential outbreaks of foodborne illness are identified by MDH, in coordination with local public health agencies, in a number of different ways. The most common way that foodborne outbreaks are detected is through consumer illness complaints made to the Minnesota Foodborne Illness Hotline (1-877-FOOD-ILL), which enables individuals to notify MDH of illness symptoms and foods eaten in the four days leading up to illness.<sup>29</sup> The second primary way that foodborne outbreaks are detected is the reportable illness system. In this system, health care providers report patients who test positive for a reportable pathogen (e.g., *Salmonella*, *E. coli* O157:H7), and the clinical laboratory forwards the information about the pathogen to the MDH Public Health Laboratory (PHL). However, this system only detects individuals who seek medical treatment for an illness.<sup>30</sup>

### **Q: How is the cause of a foodborne illness identified?**

**A:** The individual reporting a potential foodborne illness often does not know the source of the illness. MDH uses a sophisticated evaluation process through scientific and laboratory analysis, social



history, environmental factors, and patient reporting to determine the cause of an outbreak.<sup>31</sup> The initial stages of foodborne illness investigations involve several different actors, including the public, health care providers, government agencies, and others, who are working to identify the cause of the foodborne illness and to minimize the potential risk to the public.

### **Q: How does MDH respond to reports of foodborne illness?**

**A:** After a potential foodborne illness outbreak is identified, MDH (specifically, MDH's Foodborne Diseases Unit) contacts the local departments of health or community members impacted.<sup>32</sup> MDH then assigns a principal epidemiologist to lead the investigation, or to assist with communication and

coordination if a local health board has an adequately sophisticated epidemiological response system (such as Hennepin County or the City of Bloomington, discussed below).<sup>33</sup> In outbreaks detected through the Minnesota Foodborne Illness Hotline, detailed illness and food consumption histories are obtained from affected individuals by staff from MDH or a local health department (depending on the location of the outbreak).

**Q: How does the MDA respond to reports of foodborne illness?**

**A:** The MDA is also often involved in investigating foodborne illness outbreaks to determine if the original source of the pathogen derives from a source regulated by MDA.<sup>34</sup> MDA has authority over licensing and inspection of nearly all food handlers that are not restaurants and lodging establishments in

ROLE OF MDH AND MDA IN RESPONDING TO OUTBREAKS OF FOODBORNE ILLNESS			
Agency	Source of Food	Preventing Foodborne Illness	Responding to Foodborne Illness
<b>MDH</b>	<ul style="list-style-type: none"> <li>■ Cafes</li> <li>■ Restaurants</li> <li>■ Coffee shops</li> <li>■ Sandwich shops/delis</li> <li>■ Bars</li> <li>■ Hotels &amp; motels</li> <li>■ Cafeterias</li> <li>■ School food service &amp; concessions</li> <li>■ Child care centers</li> <li>■ Food trucks</li> </ul>	<ul style="list-style-type: none"> <li>■ Licenses and inspects food establishments.<sup>35</sup></li> <li>■ Enforces Minnesota Food Code.<sup>36</sup></li> <li>■ Provides food safety and food handling education and training.<sup>37</sup></li> </ul>	<ul style="list-style-type: none"> <li>■ Investigates outbreaks.<sup>38</sup></li> <li>■ Tracks and monitors foodborne illness.<sup>39</sup></li> <li>■ Operates the Minnesota Foodborne Illness Hotline.<sup>40</sup></li> <li>■ Releases reports and summaries of foodborne illness outbreaks in Minnesota.<sup>41</sup></li> <li>■ Coordinates response to foodborne illness outbreak with other state and local government agencies.<sup>42</sup></li> </ul>
<b>MDA</b>	<ul style="list-style-type: none"> <li>■ Grocery stores</li> <li>■ Butcher shops</li> <li>■ Convenience stores</li> <li>■ Food shelves</li> <li>■ Bakeries</li> <li>■ Egg handlers</li> <li>■ Dairy farms</li> <li>■ Farmers’ markets</li> <li>■ Grocery delis and bakeries</li> <li>■ Food manufacturers</li> <li>■ Wholesale food dealers</li> <li>■ Meat and poultry processors</li> <li>■ Mobile groceries, markets, and food shelves</li> </ul>	<ul style="list-style-type: none"> <li>■ Licenses and inspects certain food retailers, dairies, and meat processors.</li> <li>■ Licenses and inspects food manufacturers and wholesalers.<sup>43</sup></li> <li>■ Enforces Minnesota Food Laws and the Minnesota Food Code.<sup>44</sup></li> <li>■ Enforces state standards relating to food quality, labeling, and advertising.<sup>45</sup></li> </ul>	<ul style="list-style-type: none"> <li>■ Investigates complaints regarding questionable food products or food sales practices.<sup>46</sup></li> <li>■ Cooperates in foodborne illness outbreak investigation when it involves MDA-regulated facilities or food that is commercially distributed in Minnesota.<sup>47</sup></li> <li>■ Tests food products and environmental samples for the presence of pathogens or deleterious substances.</li> </ul> <p><i>Please note, there are a number of areas that MDA is involved in responding to foodborne illness beyond those mentioned in this resource. Please see <a href="http://www.mda.state.mn.us">http://www.mda.state.mn.us</a> for more information about the agency’s specific role.</i></p>

Minnesota. This includes certain food retailers, such as grocery stores, delis and bakeries; food wholesalers; food processors and manufacturers; egg handlers; dairy processors; and slaughterhouses. MDA will become involved in a foodborne illness investigation if it is determined that the outbreak was caused by a commercially distributed food or an entity regulated by MDA. The investigation process typically includes inspections, sampling of food products or the environment in which the food is processed or stored, and tracing food back through the supply chain to identify the source of contamination.

### **Q: How are Minnesota's local governments involved in responding to foodborne illness outbreaks?**

**A:** The level of involvement that Minnesota's local governments have in responding to foodborne illness outbreaks in Minnesota depends on whether MDH or MDA has delegated authority to that local government. MDH and MDA have the authority to delegate certain licensing and inspection activities to local governments.<sup>48</sup> As MDH and MDA have separate and distinct licensing and inspection authority, a local government only has authority over those activities specifically granted by

each agency. Depending on the authority granted by MDH and MDA, a local health department may also provide technical assistance to food establishments and communicate with the public on food safety issues.<sup>49</sup>

As most local health departments do not have the resources to carry out the epidemiological components of foodborne illness investigations, MDH has the key responsibility of responding to foodborne illness outbreaks that occur throughout Minnesota. In jurisdictions that have a delegation agreement, local public health provides the environmental component of the investigation. If an illness spreads across multiple cities or counties, MDH is the lead responder, even if a local health department has delegated authority in the impacted area.<sup>50</sup> In all cases, both MDH and MDA are made aware of the investigation and are poised to become involved if requested, if protocol dictates, or if the investigation leads outside of local jurisdictions.

For more information about local health departments and delegated authority, please visit the Minnesota Department of Health, <http://www.health.state.mn.us/divs/eh/food/license/delegation.html>, or the Minnesota Department of Agriculture, <http://www.mda.state.mn.us/about/divisions/mnitservices/gis/territories.aspx>.

## **DELEGATION AGREEMENT BETWEEN MDH,<sup>51</sup> MDA,<sup>52</sup> AND LOCAL HEALTH AGENCIES**

Local health agencies will only be involved in responding to foodborne illness if that agency has entered into a delegation agreement with MDH, MDA, or both state agencies.

<b>Agency</b>	<b>Role</b>
<b>Minnesota's local health agencies</b>	<ul style="list-style-type: none"> <li>■ Conduct surveillance.</li> <li>■ Communicate with local health care professionals.</li> <li>■ Regulate and inspect food-service operations.</li> <li>■ Coordinate with state and federal agencies.</li> <li>■ Inform the public.</li> <li>■ Receive, investigate, and maintain log of complaints about potential incidents of foodborne illness.</li> </ul>

**Q: How is the federal government involved in responding to foodborne illness outbreaks?**

**A:** Responding to foodborne illness usually happens at the local or state level, but depending on the location, severity, and fact pattern, the federal

government may become involved. Several food safety surveillance systems, such as PulseNet,<sup>62</sup> help government agencies share information, thereby aiding detection and facilitating investigations of outbreaks of foodborne illnesses.

PRIMARY FEDERAL ENTITIES INVOLVED IN RESPONDING TO OUTBREAKS OF FOODBORNE ILLNESS <sup>53</sup>			
Entity	Authority	Resources	Relationship To Minnesota Agencies
<b>Centers for Disease Control and Prevention (CDC)</b>	Coordinates and conducts national surveillance, including running PulseNet database; develops expertise, facilitates coordination between overlapping jurisdictions and provides assistance to state and local health agencies, and improves and standardizes testing methods for foodborne illness.	<ul style="list-style-type: none"> <li>Centralized data collection and analysis.</li> <li>Advanced laboratory testing.</li> <li>Clinical, epidemiologic, and environmental health experts.</li> </ul>	<ul style="list-style-type: none"> <li>MDH and MDA utilize PulseNet to detect potential outbreaks.</li> </ul>
<b>Food and Drug Administration (FDA)</b>	Becomes involved when an FDA-regulated product is implicated in an outbreak. <sup>54</sup> Tests food products, inspects food-processing plants, mandates food product recalls, and helps with identification of the source and distribution of a product once suspected as the source of an outbreak.	<ul style="list-style-type: none"> <li>Thousands of inspection personnel nationwide.</li> <li>Three field laboratories.</li> <li>Inspection, traceback, enforcement, and food safety science experts.</li> </ul>	<ul style="list-style-type: none"> <li>The Minnesota Food Code is enforced by MDH and MDA. This is based on the FDA model food code.</li> <li>Since 2008, MDA has received funding from the FDA in order to rapidly respond to food safety emergencies such as to more quickly trace contaminated foods back to grocery stores and other contamination points.<sup>55</sup></li> </ul>
<b>U.S. Department of Agriculture (USDA)*</b>	Food Safety Inspection Service (FSIS) uses microbiological approaches to detect and prevent foodborne contaminations. Contributes to FoodNet. Monitors recalls of meat and poultry products.	<ul style="list-style-type: none"> <li>USDA Meat and Poultry Hotline.</li> <li>Laboratory testing.</li> <li>Inspection, traceback, enforcement, and food safety science experts.</li> </ul>	<ul style="list-style-type: none"> <li>USDA, FDA, and MDA coordinate food recall efforts.<sup>56</sup></li> <li>MDA participates in the USDA's "equal to" inspection program for meat plants and is regularly audited to ensure federal equivalency.</li> </ul>

\* Information from "Foodborne Illness and Diseases," U.S. Dept. of Agriculture, available at <http://www.fsis.usda.gov/wps/portal/fsis/topics/food-safety-education/get-answers/food-safety-fact-sheets/foodborne-illness-and-disease>.

## PRIMARY MINNESOTA AGENCIES INVOLVED IN RESPONDING TO OUTBREAKS OF FOODBORNE ILLNESS

### Minnesota Department of Health has authority to:

- Suspend, place conditions on, or revoke food licenses, permits, registrations, or certificates after providing written notification to licensee.<sup>57</sup>
- Deny renewal of an application for a permit, license, registration, or certificate under certain circumstances.<sup>58</sup>
- Issue administrative penalties for violations of laws and regulations that MDH has been charged with enforcing, including the Food Code.<sup>59</sup>

### Minnesota Department of Agriculture has authority to:

- Stop the production and distribution of unsafe food through cease and desist orders, embargo, seizure, or condemnation.
- Assess administrative financial penalties, after consideration of the gravity of the violation, the potential damage to human or animal health, the willingness of the violator, and other appropriate factors.<sup>60</sup>
- Seek civil or criminal penalties for legal violations, which may include financial penalties or jail time.
- Revoke or suspend permits, licenses or certifications after giving notice and an opportunity to be heard to permittee, licensee, or certificate holder.<sup>61</sup>

### Q: What actions can MDH and MDA take to ensure food safety laws are followed?

**A:** Minnesota law gives MDA and MDH, or other local health departments with delegated authority, the ability to take action if a regulated

food establishment does not follow food safety requirements. In Minnesota, these administrative actions range in severity from a small penalty to condemnation, forced sale, the revocation of a food license, or other administrative penalty.<sup>63</sup>





## Increased federal authority in foodborne illness outbreaks through the Food Safety Modernization Act

The FDA Food Safety Modernization Act is the most comprehensive reform of U.S. food safety laws in over 70 years, and reflects a shift in strategy towards prevention.<sup>64</sup> The FDA must balance creating regulations that protect the food supply, are practical to implement, and are not unduly burdensome for the food system supply chain.<sup>65</sup> By balancing these considerations, the FDA works to support their public health mission of ensuring access to safe and nutritious foods.<sup>66</sup>

Largely in response to the increasing frequency of large, widespread foodborne illness outbreaks, the United States Congress passed the Food Safety Modernization Act (FSMA)<sup>67</sup> in 2011 to give the FDA more tools to prevent and respond to foodborne illness. All food facilities — those that manufacture/process, pack, or hold food — will be required under FSMA to implement preventive control plans to significantly minimize or prevent food contamination hazards. FSMA gives the FDA increased capacity to issue mandatory recalls of contaminated or adulterated food, hold food that may be unsafe, and increase the traceability of food believed to be at high risk of causing foodborne illness through recordkeeping requirements and technology development.

The FDA is required to give a food producer the opportunity to issue a voluntary recall of a product suspected to have contributed to foodborne illness. If, however, the producer does not comply, FSMA gives the FDA the authority to order a mandatory recall.<sup>68</sup> FSMA also preserves the FDA authority to “administratively detain,” or hold, food that it has reason to believe may be unsafe.<sup>69</sup> Finally, FSMA creates rules intended to increase the traceability of foods suspected to be at high risk of causing of foodborne illness. Specifically, the FDA is required to develop and set recordkeeping requirements for foods considered to be “high risk,” and to collaborate with the USDA, state agencies, and the food industry to develop pilot projects that test methods and technologies for rapid and effective tracing of foods.<sup>70\*</sup>

More information about the Food Safety Modernization Act and federal regulations implementing FSMA, is available on the FDA’s website at: <http://www.fda.gov/Food/GuidanceRegulation/FSMA/default.htm>.

\* The development of federal regulations and guidance implementing FSMA is ongoing, with the issuance of new regulations and protocol. For additional information regarding the latest developments with the implementation of FSMA, see the FDA’s Food Safety Modernization Act website at: <http://www.fda.gov/Food/GuidanceRegulation/FSMA/default.htm>.

Outbreaks of foodborne illness provide a series of challenges for regulators. Government agencies, for example, are identifying new challenges in response to community efforts to increase access to healthy food. This is complicated by the simultaneous localization and globalization of the food supply, which makes “production, processing, and distribution more complex.”<sup>71</sup> As a result, identifying the source of a foodborne outbreak can be more difficult. State and federal agencies are working to address these issues in collaboration with consumers, businesses, and medical professionals.<sup>72</sup>

For more information, please review the following resources:

- “Procedures for Responding to Foodborne Disease Outbreaks in Food Service Establishments in Minnesota,” Minnesota Department of Health, <http://www.health.state.mn.us/divs/eh/food/pwdu/fboprotocol.pdf>.
- Minnesota Department of Health, <http://www.health.state.mn.us/foodsafety>.
- Minnesota Department of Agriculture Food Safety Page, <http://www.mda.state.mn.us/food/safety.aspx>.
- “Starting a Food Business” (2008), Minnesota Department of Health, <http://www.mda.state.mn.us/~media/Files/food/business/startingfoodbiz.ashx>.
- Food and Drug Administration, “Bad Bug Book: Foodborne Pathogenic Microorganisms and Natural Toxins,” Second Edition, 2012, <http://www.fda.gov/downloads/Food/FoodborneIllnessContaminants/UCM297627.pdf>.
- Council to Improve Foodborne Outbreak Response (CIFOR), <http://www.cifor.us>.

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The Public Health Law Center provides information and technical assistance on issues related to public health. The Public Health Law Center does not provide legal representation or advice. This document should not be considered legal advice.

## Endnotes

- <sup>1</sup> PUBLIC HEALTH LAW CENTER *Access to Healthy Food: Challenges and Opportunities* at 6, (2012), [http://www.publi-  
chealthlawcenter.org/sites/default/files/resources/PHLC%20Access%20to%20Healthy%20Food%20-%20Challeng-  
es%20and%20Opportunities%202012.pdf](http://www.publi-<br/>chealthlawcenter.org/sites/default/files/resources/PHLC%20Access%20to%20Healthy%20Food%20-%20Challeng-<br/>es%20and%20Opportunities%202012.pdf) (last visited June 2, 2016 9:31 a.m.) [hereafter *Access to Healthy Food*].
- <sup>2</sup> *What is Foodborne Illness? — Food Safety*, CENTERS FOR DISEASE CONTROL AND PREVENTION, [http://www.cdc.gov/  
foodsafety/foodborne-germs.html](http://www.cdc.gov/<br/>foodsafety/foodborne-germs.html) (last visited June 6, 2016 9:15 a.m.).
- <sup>3</sup> Food Safety Modernization Act, 21 U.S.C. § 2224 (a) (2011).
- <sup>4</sup> See FOOD AND DRUG ADMIN., *Foodborne Illness-causing Organisms in the U.S.: What You Need to Know*, [http://www.fda.  
gov/downloads/Food/ResourcesForYou/Consumers/UCM187482.pdf](http://www.fda.<br/>gov/downloads/Food/ResourcesForYou/Consumers/UCM187482.pdf) (last visited June 2, 2016 9:27a.m.); William  
Schafer, *Food Safety—Sanitation and Illness, Is It Food Poisoning?*, UNIVERSITY OF MINNESOTA EXTENSION, [http://  
www1.extension.umn.edu/food/food-safety/sanitation/is-it-food-poisoning](http://<br/>www1.extension.umn.edu/food/food-safety/sanitation/is-it-food-poisoning) (last visited June 2, 2016 9:29 a.m.).
- <sup>5</sup> MINN. R. 4626.0020 (Subp. 31)(B).
- <sup>6</sup> *Access to Healthy Food*, *supra* note 5, at 11-18.
- <sup>7</sup> See Julie Schmit & Elizabeth Weise, *When Food Illnesses Spread, Minnesota Team Gets the Call*, USA TODAY,  
(Mar. 6, 2009), [http://usatoday30.usatoday.com/money/industries/food/2009-03-04-food-illness-detection\\_N.htm](http://usatoday30.usatoday.com/money/industries/food/2009-03-04-food-illness-detection_N.htm)  
(last visited June 2, 2016 10:00 a.m.); see also, *All Over the Map*, *supra* note 14, at 3.
- <sup>8</sup> Cookson Beecher, *Surveillance Key to Tackling Outbreaks*, FOOD SAFETY NEWS (Feb. 22, 2010), [http://www.foodsafe-  
tynews.com/2010/02/surveillance-key-to-tackling-outbreaks/#.V1BDmsArK70](http://www.foodsafe-<br/>tynews.com/2010/02/surveillance-key-to-tackling-outbreaks/#.V1BDmsArK70) (last visited June 2, 2016 9:33 a.m.).
- <sup>9</sup> Renee Johnson, *Food Safety Issues for the 112th Congress* 1, CONG. RES. SERV., R41629 1 (Feb. 10, 2011), [http://www.  
fas.org/sgp/crs/misc/R41629.pdf](http://www.<br/>fas.org/sgp/crs/misc/R41629.pdf). (last visited June 2, 2016 9:38 a.m.).
- <sup>10</sup> *CDC Estimates of Foodborne Illness in the United States*, CENTERS FOR DISEASE CONTROL AND PREVENTION, [http://www.  
cdc.gov/foodborneburden/PDFs/FACTSHEET\\_A\\_FINDINGS\\_updated4-13.pdf](http://www.<br/>cdc.gov/foodborneburden/PDFs/FACTSHEET_A_FINDINGS_updated4-13.pdf). (last visited June 2, 2016 9:39 a.m.).
- <sup>11</sup> *Cost Estimates of Foodborne Illness*, UNITED STATES DEP’T. OF AGRIC., [http://www.ers.usda.gov/data-products/  
cost-estimates-of-foodborne-illnesses.aspx](http://www.ers.usda.gov/data-products/<br/>cost-estimates-of-foodborne-illnesses.aspx) (for individual cost break down of different pathogens)(last visited June  
2, 2016 9:40 a.m.); see also Dan Flynn, *USDA: U.S. Foodborne Illnesses Cost More Than \$15.6 Billion Annually*, FOOD  
SAFETY NEWS (Oct. 09, 2014), [http://www.foodsafetynews.com/2014/10/foodborne-  
illnesses-cost-usa-15-6-bil-  
lion-annually/#.V1BFb8ArK70](http://www.foodsafetynews.com/2014/10/foodborne-<br/>illnesses-cost-usa-15-6-bil-<br/>lion-annually/#.V1BFb8ArK70) (last visited June 2, 2016 9:41 a.m.)
- <sup>12</sup> Support Paid Sick Days. ROC United, <http://rocunited.org/support-paid-sick-days/>, (last visited June 2, 2016 9:43 a.m.).
- <sup>13</sup> *Vital Signs—Preventing Norovirus Outbreaks*, CENTERS FOR DISEASE CONTROL AND PREVENTION, [http://www.cdc.  
gov/vitalsigns/norovirus/](http://www.cdc.<br/>gov/vitalsigns/norovirus/) (last visited June 2, 2016 9:44 a.m.) [hereinafter *Vital Signs*].
- <sup>14</sup> *Vital Signs*, *supra* note 13, at 1.
- <sup>15</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION. “Food Outbreak Online Database (FOOD Tool). [http://  
www.cdc.gov/foodborneoutbreaks](http://<br/>www.cdc.gov/foodborneoutbreaks). August 25, 2016. (Visited October 14, 2016).
- <sup>16</sup> MINN. R. 4626.0017.
- <sup>17</sup> MINN. DEP’T OF HEALTH & MINN. DEP’T OF AGRICULTURE, *Statement of Need and Reasonableness: Proposed Rules  
Governing the Minnesota Food Code, Minnesota Rules, Chapter 4626* (1998), [http://www.health.state.mn.us/divs/eh/  
food/code/sonar1998.pdf](http://www.health.state.mn.us/divs/eh/<br/>food/code/sonar1998.pdf) (last visited November 2, 2016).
- <sup>18</sup> MINN. R. 4626.0010 – 4626.1870.
- <sup>19</sup> MINN. R. 4626.0065 – 4626.0100.
- <sup>20</sup> MINN. R. 4626.0105 – 4626.0120.
- <sup>21</sup> MINN. R. 4626.0125 – 4626.0220.
- <sup>22</sup> MINN. R. 4626.0025 3-301.11 – 4626.0030 3-301.12.
- <sup>23</sup> MINN. R. 4626.0340 3-401.11 – 4626.0420 3-502.12.
- <sup>24</sup> MINN. R. 4626.0980 5-101.11 et. sec.
- <sup>25</sup> MINN. R. 4626.1225 5-501.10 et. sec.
- <sup>26</sup> MINN. R. 4626.0840 4-601.11 et. sec.

- <sup>27</sup> MINN. R. 4626.1785 8-401.10 et. sec.
- <sup>28</sup> MINN. DEP'T OF HEALTH, *Minn. Food Code Rule Revision*, (October 2016), <http://www.health.state.mn.us/divs/eh/food/code/2009revision/index.html> (last visited October 5, 2016).
- <sup>29</sup> MINN. DEP'T OF HEALTH, REPORTING SUSPECTED FOODBORNE AND WATERBORNE ILLNESS. <http://www.health.state.mn.us/divs/idepc/dtopics/foodborne/reporting.html> (last visited June 2, 2016).
- <sup>30</sup> *All Over the Map: A 10-Year Review of State Outbreak Reporting*, at 3 (Jan. 2011), CENTER FOR SCIENCE IN THE PUBLIC INTEREST, <http://docplayer.net/71859-All-over-the-map-a-10-year-review-of-state-outbreak-reporting.html> (last visited June 2, 2016 9:52 a.m.) [hereinafter *All Over the Map*].
- <sup>31</sup> MINN. DEP'T OF HEALTH, *Procedures for Responding to Foodborne Disease Outbreaks in Food Service Establishments in Minnesota* at 1 (Apr. 16, 2009), <http://www.health.state.mn.us/divs/eh/food/pwdu/fboprotocol.pdf> (last visited June 2, 2016 9:56 a.m. . [hereinafter *Procedures*].
- <sup>32</sup> *Procedures*, *supra* note 31, at 2.
- <sup>33</sup> *Procedures*, *supra* note 31, at 3; For more information see Minnesota Foodborne Illness Hotline brochure, <http://www.health.state.mn.us/divs/idepc/dtopics/foodborne/hotline.pdf>. (last visited June 2, 2016 10:01 a.m.).
- <sup>34</sup> *Food Safety*, Minn. Dep't of Agric., <http://www.mda.state.mn.us/food/safety.aspx> (last visited June 2, 2016, 10:03 a.m.).
- <sup>35</sup> MINN. STAT. § 28A.04 (1)(a)
- <sup>36</sup> MINN. R. 4626.
- <sup>37</sup> *Teaching Food Safety*, MINN. DEP'T OF HEALTH, <http://www.health.state.mn.us/foodsafety/education.html> (last visited June 2, 2016 10:10 a.m.).
- <sup>38</sup> MINN. R. 4626.0017; MINN. STAT. § 144.05 (1)(a).
- <sup>39</sup> MINN. R. 4626.0017; MINN. STAT. § 144.05 (1)(a).
- <sup>40</sup> *Reporting Suspected Foodborne Illness*, MINN. DEP'T OF HEALTH, <http://www.health.state.mn.us/divs/idepc/dtopics/foodborne/reporting.html> (last visited June 2, 2016 10:29 a.m.).
- <sup>41</sup> *Disease Control Newsletter*, MINN. DEP'T OF HEALTH, <http://www.health.state.mn.us/divs/idepc/newsletters/dcn/index.html> (last visited June 2, 2016 10:30 a.m.).
- <sup>42</sup> *See generally*, *Procedures*, *supra* note 31.
- <sup>43</sup> MINN. R. 4626.1785.
- <sup>44</sup> MINN. STAT. §§ 31.101; 31.11.
- <sup>45</sup> MINN. R. 4626.1785.
- <sup>46</sup> *See generally Food, Dairy, Meat & Eggs*, MINN. DEP'T OF AGRIC., <http://www.mda.state.mn.us/licensing/inspections.aspx> (last visited June 2, 2016 10:32 a.m.); *see also, Food & Feed Quality Complaint Form*, MINN. DEP'T OF AGRIC., <http://www.mda.state.mn.us/en/food/safety/foodcomplaint.aspx> (providing an example of the different types of food products that MDA regulates) (last visited June 2, 2016 10:32 a.m.).
- <sup>47</sup> *See generally*, *Procedures*, *supra* note 31.
- <sup>48</sup> MINN. STAT. § 145A.07; MINN. STAT. § 28A.075.
- <sup>49</sup> FOOD AND DRUG ADMIN., *What You Should Know about Government Response to Foodborne Illness Outbreaks*, at 1 (Jan. 2009), available at <http://www.fda.gov/downloads/Food/ResourcesForYou/Consumers/UCM180355.pdf> (last visited June 2, 2016 10:35 a.m.) [hereinafter *What You Should Know*].
- <sup>50</sup> *See generally, Outbreak Investigations*, MINN. DEP'T OF HEALTH, <http://www.health.state.mn.us/divs/idepc/dtopics/foodborne/outbreak/investigation.html> (last visited June 2, 2016 10:36 a.m.).
- <sup>51</sup> MINN. STAT. § 145A.07.
- <sup>52</sup> MINN. STAT. § 28A.0752.
- <sup>53</sup> *See generally*, Selected Federal Agencies with a Role in Food Safety, U.S. DEP'T OF HEALTH AND HUMAN SERV., <http://www.foodsafety.gov/about/federal/> (last visited June 2, 2016 10:38 a.m.).
- <sup>54</sup> *What You Should Know*, *supra* note 49, at 2.

- <sup>55</sup> Denton, Newman Jr., *MDA Receives New Grants To Bolster Food Safety Capabilities*, BRAINERD DISPATCH (Sept. 14, 2012), <http://www.brainerddispatch.com/content/mda-receives-new-grants-bolster-food-safety>. (last visited June 2, 2016 10:44 a.m.)
- <sup>56</sup> *Food Recalls and Consumer Advisories in Minnesota*, MINN. DEP'T OF AGRIC., <http://www.mda.state.mn.us/food/safety/recalls.aspx> (last visited June 2, 2016 10:45 a.m.).
- <sup>57</sup> MINN. STAT. § 144.99 (subds. 9-10).
- <sup>58</sup> MINN. STAT. § 144.99 (subd. 8).
- <sup>59</sup> MINN. STAT. § 144.989 – 144.993. (*See e.g.*, Health Enforcement Consolidation Act of 1993).
- <sup>60</sup> MINN. STAT. § 34A.07.
- <sup>61</sup> MINN. STAT. § 34A.06 (2)(d).
- <sup>62</sup> *See generally, PulseNet*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <http://www.cdc.gov/pulsenet/> (September 9, 2013) (last visited June 2, 2016 10:37 a.m.).
- <sup>63</sup> MINN. STAT. §§ 144.99 (subd. 9), 34A.06; MINN. R. 4626.1715 – 1810.
- <sup>64</sup> FOOD AND DRUG ADMIN., FDA Food Safety Modernization Act, *available at* <http://www.fda.gov/Food/Guidance-Regulation/FSMA/default.htm> (last visited October 17, 2016).
- <sup>65</sup> Timothy J. Jenkins, Elizabeth A. Bihn, Nathan M. Anderson, Atef W. Idriss, Mary L. Tortorellon, *Food Safety or Food Availability: Do We Have to Choose?*, 36 (1) Food Protection Trends. 72-78 (2016).
- <sup>66</sup> FOOD AND DRUG ADMIN., FDA Food Safety Modernization Act, *available at* <http://www.fda.gov/Food/Guidance-Regulation/FSMA/default.htm> (last visited October 17, 2016); Timothy J. Jenkins, Elizabeth A. Bihn, Nathan M. Anderson, Atef W. Idriss, Mary L. Tortorellon, *Food Safety or Food Availability: Do We Have to Choose?*, 36 (1) Food Protection Trends. 72-78 (2016).
- <sup>67</sup> FDA Food Safety Modernization Act, Pub. L. No. 111- 353, 124 Stat. 3885 (2011).
- <sup>68</sup> 21 U.S.C § 350L (2011).
- <sup>69</sup> 21 U.S.C§ 334 (g) (2011).
- <sup>70</sup> 21 U.S.C§ 2223 (2011).
- <sup>71</sup> *What You Should Know*, *supra* note 49.
- <sup>72</sup> *All Over the Map*, *supra* note 30, at 11-14.