

INDUSTRY BULLETIN

for Florida's Foodservice Industry

SUBJECT: Menu Item Misrepresentation and Product Substitution

Bulletin 2026-01

January 8, 2026

Florida law prohibits misrepresentation or **undisclosed** substitution of food. Common examples of misrepresenting a food include:

- Advertising a specific fish species on a menu, but serving a different fish species
- Advertising "fresh" juice on a menu, but serving juice that was not freshly squeezed, serving juice that contains additives, or serving juice that was squeezed more than 12 hours prior
- Advertising "No MSG" on a menu, but serving food containing MSG (monosodium glutamate)
- Advertising "farm to table" on a menu, but serving food acquired through distributors or other intermediaries
- Advertising "Gulf shrimp" on a menu, but serving shrimp that were not wild caught in the Gulf of America

In the past, much attention has focused on seafood substitution – specifically, the switching of one species for another without informing the consumer. Undisclosed species substitution is prohibited. Seafood must be sold using its correct species name as specified by the U.S. Food and Drug Administration's [Regulatory Fish Encyclopedia \(RFE\)](#). This reference assists in the accurate identification of fish species using common, market, scientific and family names.

Recently, there has been an increase in seafood misrepresentation involving the marketing of foods that were not harvested in the areas described on the menu. For instance, farm-raised, foreign-imported shrimp may not be advertised as Gulf shrimp on a menu. Gulf shrimp are a wild caught seafood product derived directly from the Gulf of America.

Menus, or any other manner used to promote or advertise items for sale, must be accurate and truthful. Particular attention should be focused on food descriptions placed on to-go menus, blackboards or specials flyers. Licensees are required to inform customers if the establishment runs out of an item ordered by the customer, and what, if any, food item is being substituted.

Failure to accurately and truthfully identify food items for sale, such as the undisclosed substitution of one type of seafood for another, is a violation of Florida law. Violators are subject to penalties of up to \$1,000 per occurrence and license suspension or revocation. DBPR sanitation and safety inspectors actively enforce the following provisions of Florida law:

Chapter 509.292, Florida Statutes, Misrepresenting food or food product; penalty.

(1) An operator may not knowingly and willfully misrepresent the identity of any food or food product to any of the patrons of such establishment. The identity of food or a food product is misrepresented if:

- (a) The description of the food or food product is false or misleading in any particular;
- (b) The food or food product is served, sold, or distributed under the name of another food or food product; or
- (c) The food or food product purports to be or is represented as a food or food product that does not conform to a definition of identity and standard of quality if such definition of identity and standard of quality has been established by custom and usage.

(2) If the food or food product is a fruit or fruit juice, its identity is misrepresented if:

- (a) The description of the fruit or fruit juice is false or misleading in any particular;
- (b) The fruit or fruit juice is served, sold, or distributed under the name of another fruit or fruit juice; or
- (c) A synthetic or flavored drink is sold purporting to be fruit juice. The term "fresh juice" refers to juice without additives and prepared from the original fruit within 12 hours or less of sale.

(3) Any person who violates any provision of this section is guilty of a misdemeanor of the second degree, punishable as provided in section 775.082 or section 775.083.

FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

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