

On the Crime of Dereliction of Duty of Food Safety

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Abstract. Food safety is one of the basic requirements of livelihood, however, with the development of the socialist market economy, many problems exist in the food safety field. Therefore the governments have enacted a series of policies and regulations to supervise food safety, one of which is the crime of dereliction of duty of food safety, which is put forward to improve and perfect the food safety supervision and management and food security. This paper aims to study the necessity of the crime of dereliction of duty in food safety and current situation of the crime of dereliction of duty to provide some feasible ideas of improving the food safety.

Keywords. crime of dereliction of duty of food safety; necessity; supervision

1 Introduction

The law of the People's Republic of China criminal law amendment (eight) article 49 has add new charges which is called food regulation of malpractice. The provisions of this crime expressed as: "if the national office working personnel who should be responsible for the supervision and administration of food safety abuse of power or dereliction of duty, causing a major food safety accidents or other serious consequences, shall be sentenced to fixed-term imprisonment of not more than five years or criminal detention; if the consequences are especially serious, shall be sentenced to imprisonment of not more than five years but not more than ten years." "Practice favoritism commits the crime, be given a heavier punishment."

Although our country has such a clear rules for food regulation of malpractice, under the action of the market economy, many food safety problems emerge in endlessly, the existence of these problems seriously affected the normal operation of market economy in our country and national safety and health. Therefore, in this context to strengthen the research and discussion of food regulation of malpractice has important practical significance. This paper studies the necessity of the food safety of malpractice in our country, analysis for the food safety crimes of malfeasance, for our country in the field of food safety of malpractice further perfect.

2 The necessity of adding food regulation of malpractice

2.1 To ensure food safety and public health legislation

In recent years, along with the continuous development of market economy in our country, the food safety problems than ever before showing a trend of high incidence, the occurrence of food safety accidents not only destroyed the good market order, but bring potential safety hazard to the masses of

the people's normal life. Food safety accidents are not only related to low food hazards personnel moral, lack of integrity, but also related to food safety regulatory functions dereliction of duty, regulation is inevitable. China's criminal law has no law on food safety of malpractice ever, just some favouritism fraud, crime of abuse of power, and so on, these charges due to the lack of pertinence to crackdown on food safety is not strong enough, also failed to prevent the occurrence of food safety graft. The establishment of " the law of the People's Republic of China criminal law amendment (eight) ", to fill the gaps in our country law on food safety of malpractice, better able to guarantee food safety in China, the supervision of food safety supervision department personnel actions, to ensure the safety of the people's basic life.

2.2 Legal requirements to provide food malpractice cases

When does not have a food safety of malpractice, the judicial organs when handling the events about food safety accident do not have a unified legal basis, particularly for food safety regulation related functional departments graft, judicial organs may, according to different identity crime subject convicted and punished in accordance with the different responsibility, resulting in the country about food malpractice law enforcement unfair justice phenomenon. The establishment of food safety of malpractice changed this injustice, makes about the food safety of malpractice has the conviction of a unified standard, to a certain extent, to satisfy the legal requirements to provide food malpractice cases. It not only ensures the principle of everyone is equal before the criminal law, but also ensure the justice of judicial implementation of fair, lighten the burden of handling the judicial personnel, reduce the difficulty of the judicial case. "The law of the People's Republic of China criminal law amendment (eight)" add food regulation of malpractice, has realized the unification the standard, for the convenience of the judicial practice.

2.3 Legislative precedents for reference at home and abroad

Food regulation of malpractice not only exists in the country , and exist in every country of the world, it is enough to see that countries concern about food safety, more manifests the country care for people's livelihood. In foreign countries, "the penal code of the republic of Macedonia "the 214th regulation is not careful testing consumer products, which essentially is a kind of food regulation of malpractice, "the penal code of the republic of Macedonia" regulation, if meat products hazard to the human body health circulation on the market, generally speaking, in the following six months or more but less than three years of fixed-term imprisonment, and for meat products shall be confiscated. Especially, our country's food with regulation of malpractice shares a feature of "the penal code of the republic of Macedonia "regulation. Therefore, the law of the People's Republic of China criminal law amendment (eight) additional food for the domestic and foreign about the legislation on food safety regulation of malpractice provides precedent and using for reference.

3 On strategies for reducing malpractice of food safety

3.1 Strengthen the food safety and moral development and advocacy

Food safety in our country is so serious, the main reason lies in the market economy condition, food hazards personnel moral is low, lack of integrity, and associated with food safety regulatory functions of dereliction of duty, regulation is inevitable. Set of food regulation of malpractice mainly aimed at the latter, mainly to reduce the national food safety regulation related functional departments staff malfeasance crime food safety accident. Reduce food safety regulation related functional departments state functionaries of the food safety of malpractice, the first thing to do is to strengthen food safety regulation related functional departments state personnel moral cultivation and promote food safety, make them clear about own role on thought, and then make the corresponding food safety supervision work.

3.2 Strengthen the control and supervision and management of food safety law

Reduce the national food safety regulation related functional departments staff malfeasance crime, food safety accident and strengthen the relevant laws and regulations of their education and training, strengthen the state personnel control and supervision and management of food safety law, to make them on thought have clear understanding to food regulation of malpractice, and in the actual be impartial and honest, in the process of food safety supervision according to law enforcement, avoid the happening of food regulation of malpractice, at the same time, make food safety regulators to strengthen control of food safety accidents, increasing crackdown on food safety accidents, to ensure the safe operation of market economy in our country, in order to ensure the security of the people's life to make a due contribution.

4 Conclusion

Food safety concerns the national economy and people's livelihood, but in recent years the media has exposing the food safety events emerge in endlessly, such as "lean meat powder", "sanlu milk powder" incident, etc. From exposure, the primary problem of these events is the enterprise which lacks of good faith management idea, lack of necessary supervision and regulatory functions department. After the media exposure, and the functional departments is hindsight, which tend to be involved in food safety regulation related functional departments national staff some act or omission of malfeasance crime, or even corruption and bribery. Food regulation of malpractice by the majority of the establishment of the strong support of the people, and for food safety regulation related functional department of state personnel play a deterrent, but in the actual implementation process, many problems still exist. Therefore, the implementation of the country should strengthen the regulation of food of malpractice, increase penalties for food regulation of malpractice related personnel, and promote China's food safety, protect our people's health, provide a legal basis for the majority of people's life health and food safety.

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