

食品安全民事責任之分析

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關鍵詞：金錢賠償、懲罰性賠償金、舉證責任、非財產賠償、損益相抵、過失相抵

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摘 要

本論文旨在介紹損害賠償之概念與要件，其次就食品安全之損害賠償方法與範圍加以析述，再就食品安全衛生管理法舉證反轉之特殊立法及消保法懲罰性賠償之意義、性質，及立法理由做詳細分析，以供消費者遭受損害時，知道如何對生產者、經營者或廣告業者從事追償。末就民法、食安法、消保法等之競合適用問題說明，並提出民事賠償優先等修法之建議，俾他日修法之參考。

Analysis on Civil Liability for Food Safety

Franklin Chiu, Jin-Tian Chiu

Abstract

This paper would mainly discuss the issues of the following four aspects. At first, it would introduce the concepts and the requirements of compensation for damages. Secondly, it would analyze the method and scope of compensation of damages regarding the food safety, and then it would analyze in details about the meaning, nature, and the special "reversal of the burden of proof" pattern regulated by the Act Governing Food Safety and Sanitation, and the "Punitive damages" provided by the Consumer Protection Act, so the consumers would then know how to claim compensations from producers, operators or advertisers in recovery when they suffered from damages. At last, it would discuss about choice of the applicable law among the concurrence of the Civil law, the Act Governing Food Safety and Sanitation, and the Consumer Protection Law, and this paper would also suggest a proposal for law amendment that the Civil Law should prevail.