

SECOND REGULAR SESSION

HOUSE BILL NO. 2283

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CUNNINGHAM (145) (Sponsor), SCHOELLER, LOEHNER, MUNZLINGER, SELF, QUINN (7), WASSON, FISHER, ROBB, DAY, POLLOCK, WILSON (119), HOBBS, DETHROW, WETER, WELLS, MOORE, SCHLOTTACH, FRANZ, KELLY, WALLACE, RICHARD, SCHAD, MAY, SANDER, BRANDOM, PARSON, SMITH (150), FAITH AND GUEST (Co-sponsors).

Read 1st time February 27, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4890L.02I

AN ACT

To repeal section 196.075, RSMo, and to enact in lieu thereof one new section relating to misbranding of food.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 196.075, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 196.075, to read as follows:

196.075. **1.** A food shall be deemed to be misbranded:

- (1) If its labeling is false or misleading in any particular;
- (2) If it is offered for sale under the name of another food;
- (3) If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word, "imitation", and, immediately thereafter, the name of the food imitated;
- (4) If its container is so made, formed or filled as to be misleading;
- (5) If in package form, unless it bears a label containing:
 - (a) The name and place of business of the manufacturer, packer or distributor;
 - (b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under clause (b) of this subdivision reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the department of health and senior services;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 (6) If any word, statement, or other information required by or under authority of sections
14 196.010 to 196.120 to appear on the label or labeling is not prominently placed thereon with such
15 conspicuousness, as compared with other words, statements, designs, or devices, in the labeling,
16 and in such terms as to render it likely to be read and understood by the ordinary individual under
17 customary conditions of purchase and use;

18 (7) If it purports to be or is represented as a food for which a definition and standard of
19 identity has been prescribed by regulations as provided by section 196.050, unless it conforms
20 to such definition and standard, and its label bears the name of the food specified in the
21 definition and standard, and, insofar as may be required by such regulations, the common names
22 of optional ingredients, other than spices, flavoring, and coloring, present in such food;

23 (8) If it purports to be or is represented as:

24 (a) A food for which a standard of quality has been prescribed by regulations as provided
25 by section 196.050 and its quality falls below such standard unless its label bears, in such manner
26 and form as such regulations specify, a statement that it falls below such standard;

27 (b) A food for which a standard or standards of fill of container have been prescribed by
28 regulation as provided by section 196.050, and it falls below the standard of fill of container
29 applicable thereto, unless its label bears, in such manner and form as such regulations specify,
30 a statement that it falls below such standard;

31 (9) If it is not subject to the provisions of subdivision (7) of this section, unless it bears
32 labeling clearly giving:

33 (a) The common or usual name of the food, if any there be; and

34 (b) In case it is fabricated from two or more ingredients, the common or usual name of
35 each such ingredient, except that spices, flavorings, and colorings, other than those sold as such,
36 may be designated as spices, flavorings, and colorings, without naming each; provided, that, to
37 the extent that compliance with the requirements of paragraph (b) of this subdivision is
38 impractical or results in deception or unfair competition, exemptions shall be established by
39 regulations promulgated by the department of health and senior services; provided further, that
40 the requirements of paragraph (b) of this subdivision shall not apply to any carbonated beverage
41 the ingredients of which have been fully and correctly disclosed, to the extent prescribed by said
42 paragraph (b) to the department of health and senior services in an affidavit;

43 (10) If it purports to be or is represented for special dietary uses, unless its label bears
44 such information concerning its vitamin, mineral, and other dietary properties as the department
45 of health and senior services determines to be, and by regulations prescribed, as necessary in
46 order to fully inform purchasers as to its value for such uses;

47 (11) If it bears or contains any artificial flavoring, coloring, or chemical preservative,
48 unless it bears labeling stating that fact; provided, that to the extent that compliance with the

49 requirements of this subdivision is impracticable, exemptions shall be established by regulations
50 promulgated by the department of health and senior services; and provided further, that **this**
51 subdivision [(11)] shall not apply to artificial coloring in butter, cheese or ice cream;

52 **(12) For all dairy products except those produced through organic farming as**
53 **defined by rules promulgated under section 261.110, RSMo:**

54 **(a) A compositional claim that cannot be confirmed through laboratory analysis;**
55 **or**

56 **(b) A compositional or production-related claim that is supported solely by sworn**
57 **statements, affidavits, or testimonials; or**

58 **(c) If the label contains a statement which is false or misleading; or**

59 **(d) If the label contains the following production statement: "this milk is from**
60 **cows not supplemented with rbST", or a substantially equivalent claim; or**

61 **(e) If the label makes any claims regarding the composition of milk, as opposed to**
62 **the manner in which milk is produced, such as "No Hormone", "Hormone Free", "rbST**
63 **Free", "rbGH Free", and "bST Free". The department of agriculture shall not permit**
64 **such statements on any dairy product labels; or**

65 **(f) A statement may be considered false and misleading if it indicates the absence**
66 **of a compound not permitted by the United States Food and Drug Administration to be**
67 **present in any dairy product.**

68 **2.** The department is hereby directed to promulgate regulations exempting from any
69 labeling requirement of sections 196.010 to 196.120 small open containers of fresh fruits and
70 vegetables and food which is, in accordance with the practice of the trade, to be processed,
71 labeled, or repacked in substantial quantities at establishments other than those where originally
72 processed or packed, on condition that such food is not adulterated or misbranded under the
73 provisions of said sections upon removal from such processing, labeling or repackaging
74 establishment.

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