

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
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As Engrossed: H2/12/19
A Bill

HOUSE BILL 1407

By: Representative Hillman

By: Senator Maloch

For An Act To Be Entitled

AN ACT TO REQUIRE TRUTH IN LABELING OF AGRICULTURAL PRODUCTS THAT ARE EDIBLE BY HUMANS; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE TRUTH IN LABELING OF AGRICULTURAL PRODUCTS THAT ARE EDIBLE BY HUMANS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 2, Chapter 1, is amended to add an additional subchapter to read as follows:

Subchapter 3 – Truth in Labeling of Agricultural Products that are Edible by Humans

2-1-301. Legislative Purpose.

The purpose of this subchapter is to protect consumers from being misled or confused by false or misleading labeling of agricultural products that are edible by humans.

2-1-302. Definitions.

As used in this subchapter:

(1) “Agricultural product” means a horticultural, viticultural, forestry, dairy, livestock, poultry, or bee product or any other farm, ranch, plantation, or range product;



(2) "Beef" means the flesh of a domesticated bovine, such as a steer or cow, that is edible by humans;

(3) "Beef product" means an agricultural product that is edible by humans and produced in whole or in part from beef, including without limitation beef jerky, beef patties, chopped beef, fabricated steak, hamburger, ground beef, ribs, and roast;

(4) "Label" means a display of written, printed, or graphic matter upon or affixed to the container or wrapper in which an agricultural product that is edible by humans is offered for direct retail sale;

(5) "Labeling" means the act of identifying, describing, or advertising an agricultural product that is edible by humans by means of the label or through other means;

(6) "Livestock" means swine, bovines, sheep, and goats;

(7)(A) "Meat" means a portion of a livestock, poultry, or cervid carcass that is edible by humans.

(B) "Meat" does not include a:

(i) Synthetic product derived from a plant, insect, or other source; or

(ii) Product grown in a laboratory from animal cells;

(8) "Meat product" means an agricultural product that is edible by humans and made wholly or in part from meat or another portion of a livestock, poultry, or cervid carcass;

(9) "Misbrand" means to identify an agricultural product edible by humans in a false or misleading way;

(10) "Misrepresent" means to use any untrue, misleading, or deceptive oral or written statement, advertising, label, display, picture, illustration, or sample;

(11) "Person" means an individual, partnership, limited liability company, limited liability partnership, corporation, firm, company, or other entity doing business in Arkansas;

(12) "Pork" means the flesh of a domesticated swine that is edible by humans;

(13) "Pork product" means an agricultural product that is edible by humans and produced in whole or in part from pork, including without limitation bacon, bratwurst, ground pork, ham, pork chops, ribs, roast, and

sausage;

(14) "Poultry" means domestic birds that are edible by humans;

and

(15) "Rice" means the whole, broken, or ground kernels or by-products obtained from the species *Oryza sativa L.* or *Oryza glaberrima*, or wild rice, which is obtained from one (1) of the four (4) species of grasses from the genus *Zizania* or *Porteresia*.

2-1-303. Applicability.

This subchapter applies only to a person that places a label on an agricultural product that is edible by humans.

2-1-304. Administration.

The Director of the Arkansas Bureau of Standards shall:

(1) Administer and enforce this subchapter;

(2) Promulgate rules to implement the purposes and requirements of this subchapter; and

(3) Receive and investigate complaints regarding alleged violations of this subchapter and the rules promulgated by the director.

2-1-305. Prohibited activities.

A person shall not misbrand or misrepresent an agricultural product that is edible by humans, including without limitation by:

(1) Affixing a label that is false or misleading;

(2) Selling the agricultural product under the name of another food;

(3) Omitting information required under § 20-56-209 from the label;

(4) Placing information on the label in a way that does not conform with the requirements under § 20-56-209;

(5) Representing the agricultural product as a food for which a definition and standard of identity has been provided by regulations under § 20-56-219 or by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq., as it existed on January 1, 2019, unless:

(A) The agricultural product conforms to the definition and standard; and

(B) The label of the agricultural product bears the name of the food specified in the definition and standard and includes the common names of optional ingredients other than spices, flavoring, and coloring present in the food as regulations require;

(6) Representing the agricultural product as meat or a meat product when the agricultural product is not derived from harvested livestock, poultry, or cervids;

(7) Representing the agricultural product as rice when the agricultural product is not rice;

(8) Representing the agricultural product as beef or a beef product when the agricultural product is not derived from a domesticated bovine;

(9) Representing the agricultural product as pork or a pork product when the agricultural product is not derived from a domesticated swine;

(10) Utilizing a term that is the same as or similar to a term that has been used or defined historically in reference to a specific agricultural product; or

(11) Affixing a label that uses a variation of rice in the name of the agricultural product when the agricultural product is not rice or derived from rice.

2-1-306. Civil penalty.

(a)(1) A person that violates § 2-1-305 shall be fined an amount not to exceed one thousand dollars (\$1,000) for each violation.

(2) Each item that violates § 2-1-305 constitutes a separate violation subject to the civil penalty provided in subdivision (a)(1) of this section.

(b)(1) A person subject to a civil penalty under subsection (a) of this section may request an administrative hearing within ten (10) calendar days after receipt of the notice of the penalty.

(2) Upon request, the Director of the Arkansas Bureau of Standards shall conduct a hearing after giving appropriate notice to the person, and the decision of the director is subject to appropriate judicial review.

(3)(A) If a person subject to a civil penalty under subsection

(a) of this section has exhausted all administrative appeals and the civil penalty has been upheld, the person or entity shall pay the civil penalty within twenty (20) calendar days after the effective date of the final decision.

(B) If the person fails to pay the civil penalty as required under this section, a civil action may be brought by the director in a court of competent jurisdiction to recover the civil penalty.

(C) A civil penalty collected under this section shall be deposited into the Plant Board Fund.

(c) The director may waive a civil penalty for a violation of § 2-1-305 if:

(1) He or she determines that the violation was accidental, erroneous, or unintentional; or

(2) The person that violated § 2-1-305 publically acknowledges the violation and issues a voluntary recall for the mislabeled products.

SECTION 2. DO NOT CODIFY. SEVERABILITY CLAUSE. If any provision of this act or the application of this act to any person or circumstance is held invalid, the invalidity shall not affect the other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end, the provisions of this act are declared severable.

/s/Hillman