

SECOND REGULAR SESSION

SENATE BILL NO. 1279

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CLEMENS.

Read 1st time February 28, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

5364S.011

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Section A. Section 196.075, RSMo, is repealed and one new section
2 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:

- 2 (1) If its labeling is false or misleading in any particular;
3 (2) If it is offered for sale under the name of another food;
4 (3) If it is an imitation of another food, unless its label bears, in type of
5 uniform size and prominence, the word, "imitation", and, immediately thereafter,
6 the name of the food imitated;
7 (4) If its container is so made, formed or filled as to be misleading;
8 (5) If in package form, unless it bears a label containing:
9 (a) The name and place of business of the manufacturer, packer or
10 distributor;
11 (b) An accurate statement of the quantity of the contents in terms of
12 weight, measure, or numerical count; provided, that under clause (b) of this
13 subdivision reasonable variations shall be permitted, and exemptions as to small
14 packages shall be established, by regulations prescribed by the department of
15 health and senior services;
16 (6) If any word, statement, or other information required by or under
17 authority of sections 196.010 to 196.120 to appear on the label or labeling is not
18 prominently placed thereon with such conspicuousness, as compared with other
19 words, statements, designs, or devices, in the labeling, and in such terms as to

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 render it likely to be read and understood by the ordinary individual under
21 customary conditions of purchase and use;

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

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

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

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

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

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

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

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

56 purchasers as to its value for such uses;

57 (11) If it bears or contains any artificial flavoring, coloring, or chemical
58 preservative, unless it bears labeling stating that fact; provided, that to the
59 extent that compliance with the requirements of this subdivision is impracticable,
60 exemptions shall be established by regulations promulgated by the department
61 of health and senior services; and provided further, that **this** subdivision [(11)]
62 shall not apply to artificial coloring in butter, cheese or ice cream;

63 (12) **If, for all dairy products except those produced through**
64 **organic farming as defined by rules promulgated under section 261.110,**
65 **RSMo:**

66 (a) **A compositional claim cannot be confirmed through**
67 **laboratory analysis; or**

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

70 (c) **The label contains a statement which is false or misleading;**
71 **or**

72 (d) **The label contains the following statement: "this milk was**
73 **produced from cows not supplemented with rbST", or a substantially**
74 **equivalent claim; or**

75 (e) **The label makes any claims regarding the composition of**
76 **milk, as opposed to the manner in which milk is produced, such as "No**
77 **Hormone", "Hormone Free", "rbST-free", "rbGH-free", and "bST-free". The**
78 **department of agriculture shall not permit such statements on any**
79 **dairy product labels;**

80 **For purposes of this subdivision, a statement may be considered false**
81 **and misleading if it indicates the absence of a compound not permitted**
82 **by the United States Food and Drug Administration to be present in**
83 **any dairy product.**

84 **2. As used in this section the following terms mean:**

85 **(1) "rbST", recombinant bovine somatotropin;**

86 **(2) "rbGH", recombinant bovine growth hormone;**

87 **(3) "bST", bovine somatotropin.**

88 **3. The department is hereby directed to promulgate regulations exempting**
89 **from any labeling requirement of sections 196.010 to 196.120 small open**
90 **containers of fresh fruits and vegetables and food which is, in accordance with the**
91 **practice of the trade, to be processed, labeled, or repacked in substantial**
92 **quantities at establishments other than those where originally processed or**

93 packed, on condition that such food is not adulterated or misbranded under the
94 provisions of said sections upon removal from such processing, labeling or
95 repackaging establishment.

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Unofficial

Bill

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