

SENATE BILL NO. 1362

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

4678S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 196.025, 196.050, and 196.075, RSMo, and to enact in lieu thereof three new sections relating to food labeling, with penalty provisions.

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

Section A. Sections 196.025, 196.050, and 196.075, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 196.025, 196.050, and 196.075, to read as follows:

196.025. 1. Any person who violates any of the provisions of section 196.015 shall, on conviction, be adjudged guilty of a misdemeanor, and punished by a fine of [not more than] one thousand dollars **for each incident or for each prohibited product offered for sale in Missouri**, or imprisonment for not more than one year, or by both such fine and imprisonment.

2. No person shall be subject to the penalties of subsection 1 of this section for having violated **subdivision (1) or (3) of** section [196.015(1) or 196.015(3)] **196.015**, if he establishes a guaranty or undertaking signed by the person from whom he purchased the food, drug, device, or cosmetic; if a resident of this state, that the food, drug, device, or cosmetic is not adulterated or misbranded within the meaning of sections 196.010 to 196.120, designating it, or, if a nonresident of this state residing in the United

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

17 States, or a resident of this state engaged in interstate
18 commerce with reference to the product involved, that the
19 food, drug, device, or cosmetic is not adulterated or
20 misbranded within the meaning of an act of congress entitled
21 "An act to prohibit the movement in interstate commerce of
22 adulterated and misbranded food, drugs, devices, and
23 cosmetics, and for other purposes" approved June 25, 1938,
24 and the supplements and amendments thereto.

25 3. No publisher, radio broadcast licensee, or agency
26 or medium for the dissemination of an advertisement, except
27 the manufacturer, packer, distributor, or seller of the
28 article to which a false advertisement relates shall be
29 liable under this section by reason of the dissemination by
30 him of such false advertisement, unless he has refused, on
31 the request of the department of health and senior services
32 to furnish the said department the name and post-office
33 address of the manufacturer, packer, distributor, seller, or
34 advertising agency, residing in the state of Missouri, or in
35 the United States, who caused him to disseminate such
36 advertisement.

196.050. **Unless otherwise provided for in sections**
2 **196.010 to 196.120**, in no event shall the said department of
3 health and senior services prescribe or promulgate any
4 regulation fixing or establishing any definitions or
5 standards which are more rigid or more stringent than those
6 prescribed by the federal act applying to any commodity
7 covered by sections 196.010 to 196.120 and if any product or
8 commodity covered by said sections shall comply with the
9 definitions and standards prescribed by the federal act for
10 such product or commodity, such product or commodity shall
11 be deemed in all respects to comply with sections 196.010 to
12 196.120.

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

2 (1) If its labeling is false or misleading in any
3 particular;

4 (2) If it is offered for sale under the name of
5 another food;

6 (3) If it is an imitation of another food, unless its
7 label bears, in type of uniform size and prominence, the
8 word, "imitation", and, immediately thereafter, the name of
9 the food imitated;

10 (4) If its container is so made, formed or filled as
11 to be misleading;

12 (5) If in package form, unless it bears a label
13 containing:

14 (a) The name and place of business of the
15 manufacturer, packer or distributor;

16 (b) An accurate statement of the quantity of the
17 contents in terms of weight, measure, or numerical count;
18 provided, that under [clause (b) of] this [subdivision]
19 **paragraph** reasonable variations shall be permitted, and
20 exemptions as to small packages shall be established, by
21 regulations prescribed by the department of health and
22 senior services;

23 (6) If any word, statement, or other information
24 required by or under authority of sections 196.010 to
25 196.120 to appear on the label or labeling is not
26 prominently placed thereon with such conspicuousness, as
27 compared with other words, statements, designs, or devices,
28 in the labeling, and in such terms as to render it likely to
29 be read and understood by the ordinary individual under
30 customary conditions of purchase and use;

31 (7) If it purports to be or is represented as a food
32 for which a definition and standard of identity has been

33 prescribed by regulations as provided by section 196.050,
34 unless it conforms to such definition and standard, and its
35 label bears the name of the food specified in the definition
36 and standard, and, insofar as may be required by such
37 regulations, the common names of optional ingredients, other
38 than spices, flavoring, and coloring, present in such food;

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

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

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

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

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

56 (b) In case it is fabricated from two or more
57 ingredients, the common or usual name of each such
58 ingredient, except that spices, flavorings, and colorings,
59 other than those sold as such, may be designated as spices,
60 flavorings, and colorings, without naming each; provided,
61 that, to the extent that compliance with the requirements of
62 [paragraph (b) of] this [subdivision] **paragraph** is
63 impractical or results in deception or unfair competition,
64 exemptions shall be established by regulations promulgated

65 by the department of health and senior services; provided
66 further, that the requirements of [paragraph (b) of] this
67 [subdivision] **paragraph** shall not apply to any carbonated
68 beverage the ingredients of which have been fully and
69 correctly disclosed, to the extent prescribed by [said] **this**
70 paragraph [(b)] to the department of health and senior
71 services in an affidavit;

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

79 (11) If it bears or contains any artificial flavoring,
80 coloring, or chemical preservative, unless it bears labeling
81 stating that fact; provided, that to the extent that
82 compliance with the requirements of this subdivision is
83 impracticable, exemptions shall be established by
84 regulations promulgated by the department of health and
85 senior services; and provided further, that **this** subdivision
86 [(11)] shall not apply to artificial coloring in butter,
87 cheese or ice cream;

88 (12) **If it bears or contains any bioengineered**
89 **substance, as such term is defined in 7 CFR 66.1, or**
90 **advertises or claims to contain natural flavoring, as such**
91 **term is defined in 21 CFR 101.22, unless it bears labeling**
92 **containing a website link, quick-response code, or similar**
93 **resource identifying the bioengineered substance or specific**
94 **natural flavoring, notwithstanding the provisions of**
95 **paragraph (b) of subdivision (9) of this subsection to the**
96 **contrary;**

97 (13) If it is a fruit or vegetable bearing or
98 containing any edible coating, including any wax, resin,
99 ester, or other compound regulated by 21 CFR 172, unless the
100 label of such food or any display placed at the point of
101 sale for such food contains a disclosure of such coating or
102 a website link, quick-response code, or similar resource
103 directs the consumer to such disclosure;

104 (14) If it contains, in whole or in part, cell-
105 cultivated, lab-grown, or insect-based meat or meat
106 alternatives, unless such product is clearly labeled on the
107 front of the package, in at least fifteen-point uniform bold
108 type, "LAB-CREATED" or "INSECT-BASED" or a comparable
109 qualifier determined by the department in rule. A product
110 package determined to be in compliance with comparable
111 regulations promulgated by the department of agriculture
112 implementing the provisions of subdivision (7) of section
113 265.494 shall satisfy the requirements of this subdivision;
114 or

115 (15) If it contains, in whole or in part, meat food
116 products derived from an animal vaccinated with a messenger
117 ribonucleic acid-based vaccine, unless the product packaging
118 states, in at least fifteen-point uniform bold type, "MRNA
119 VACCINATED".

120 2. The department is hereby directed to promulgate
121 regulations exempting from any labeling requirement of
122 sections 196.010 to 196.120 small open containers of fresh
123 fruits and vegetables and food which is, in accordance with
124 the practice of the trade, to be processed, labeled, or
125 repacked in substantial quantities at establishments other
126 than those where originally processed or packed, on
127 condition that such food is not adulterated or misbranded

128 under the provisions of said sections upon removal from such
129 processing, labeling or repackaging establishment.

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