

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

HOUSE BILL 1407

5 By: Representative Hillman
6 By: Senator Maloch
7

For An Act To Be Entitled

9 AN ACT TO REQUIRE TRUTH IN LABELING OF AGRICULTURAL
10 PRODUCTS THAT ARE EDIBLE BY HUMANS; AND FOR OTHER
11 PURPOSES.
12
13

Subtitle

15 TO REQUIRE TRUTH IN LABELING OF
16 AGRICULTURAL PRODUCTS THAT ARE EDIBLE BY
17 HUMANS.
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19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

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

24 Subchapter 3 – Truth in Labeling of Agricultural Products that are Edible by
25 Humans
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27 2-1-301. Legislative Purpose.

28 The purpose of this subchapter is to protect consumers from being
29 misled or confused by false or misleading labeling of agricultural products
30 that are edible by humans.
31

32 2-1-302. Definitions.

33 As used in this subchapter:

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



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

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

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

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

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

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

16 (B) "Meat" does not include a:

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

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

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

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

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

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

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

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

1 sausage;

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

3 and

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

8
 9 2-1-303. Applicability.

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

12
 13 2-1-304. Administration.

14 The Director of the Arkansas Bureau of Standards shall:

15 (1) Administer and enforce this subchapter;

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

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

20
 21 2-1-305. Prohibited activities.

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

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

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

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

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

31 (5) Representing the agricultural product as a food for which a
 32 definition and standard of identity has been provided by regulations under §
 33 20-56-219 or by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et
 34 seq., as it existed on January 1, 2019, unless:

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

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

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

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

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

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

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

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

22
23 2-1-306. Civil penalty.

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

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

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

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

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

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

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

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

10 (c) The director may waive a civil penalty for a violation of § 2-1-
11 305 if:

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

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

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