

1 ENGROSSED SENATE
2 BILL NO. 392

By: Bergstrom of the Senate

3 and

4 Hasenbeck and Sanders of
5 the House

6
7 An Act relating to product labeling; providing
8 definitions; prohibiting persons advertising or
9 selling food plans or carcasses from engaging in
10 certain misleading or deceptive practices; providing
11 for codification; and providing an effective date.

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12 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

13 SECTION 1. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 316 of Title 63, unless there is
15 created a duplication in numbering, reads as follows:

16 As used in this act:

17 1. "Bulk meat" means beef sold by hanging weight, consisting of
18 whole carcasses and the following primal cuts:

19 a. "side of beef" means chuck and rib with plate and
20 brisket removed,

21 b. "front quarter of beef" means the forward portion of a
22 side, back to and including the twelfth rib,

23 c. "back of beef" means chuck and rib with plate and
24 brisket removed,

- 1 d. "arm chuck of beef" means arm chuck with brisket
2 removed, back to and including the fifth rib,
3 e. "rib of beef" means from the sixth to the twelfth rib,
4 inclusive, not to exceed ten inches from tip of chine
5 bone to top of rib without plate,
6 f. "hindquarter of beef" means the rear section of a side
7 from and including the thirteenth rib, consisting of
8 round, loin and flank,
9 g. "trimmed loin of beef" means short loin and hip or
10 sirloin, and that section of hindquarter including
11 thirteenth rib and separated one (1) inch to two (2)
12 inches below aitchbone, without flank or kidney,
13 h. "full loin of beef" means loin of beef, including
14 flank and kidney, and
15 i. "round of beef" means that portion of hindquarter
16 separated from loin one (1) inch to two (2) inches
17 below aitchbone back to shin bone;

18 2. "Buyer" means both actual and prospective purchasers but
19 does not include persons purchasing for resale;

20 3. "Food plan" means any plan offering meat for sale or the
21 offering of such product in combination with each other or with any
22 other food or nonfood product or service for a single price;

23 4. "Livestock" means cattle, calves, sheep, swine, ratite birds
24 including but not limited to ostrich and emu, aquatic animal

1 products, llamas, alpaca, buffalo, bison, elk documented as obtained
2 from a legal source and not from the wild, goats, horses, other
3 equines or rabbits raised in confinement for human consumption;

4 5. "Meat" means any edible portion of livestock, poultry or
5 captive cervid carcass or part thereof;

6 6. "Misrepresent" means the use of any untrue, misleading or
7 deceptive oral or written statement, advertisement, label, display,
8 picture, illustration or sample;

9 7. "Person" means an individual, partnership, firm,
10 corporation, association or other entity;

11 8. "Poultry" means any domestic bird intended for human
12 consumption;

13 9. "Represent" means the use of any form of oral or written
14 statement, advertisement, label, display, picture, illustration or
15 sample; and

16 10. "Seller" means any person league, franchise, franchisee,
17 franchisor or any authorized representative or agent thereof who
18 offers meat or combinations of such items, for retail purchase to
19 the public for preparation and consumption off the premises where
20 sold or for direct purchase by an individual at his or her
21 residence.

22 SECTION 2. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 317 of Title 63, unless there is
24 created a duplication in numbering, reads as follows:

1 No person advertising, offering for sale or selling all or part
2 of a carcass or food plan shall engage in any misleading or
3 deceptive practices, including, but not limited to, any one or more
4 of the following:

5 1. Disparaging or degrading any product advertised or offered
6 for sale by the seller, displaying any product or depiction of a
7 product to any buyer in order to induce the purchase of another
8 product or representing that a product is for sale when the
9 representation is used primarily to sell another product, or
10 substituting any product for that ordered by the buyer without the
11 buyer's consent. Nothing in this paragraph shall be construed to
12 prohibit the enhancement of sales of any product by the use of a
13 gift;

14 2. Failing to have available a sufficient quantity of the
15 product represented as being for sale to meet reasonable anticipated
16 demands, unless the available amount is disclosed fully and
17 conspicuously;

18 3. Using any price list or advertisement subject to changes
19 without notice unless so stated, and which contains prices other
20 than the seller's current billing prices, unless changes are subject
21 to consumer's advance acceptance or rejection at or before the time
22 of order or delivery;

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1 4. Misrepresenting the amount of money that the buyer will save
2 on purchases of any products which are not of the same grade or
3 quality;

4 5. Failing to disclose fully and conspicuously in any printed
5 advertisement and invoice in at least ten-point type any charge for
6 cutting, wrapping, freezing, delivery, annual interest rate or
7 financing and other services;

8 6. Representing the price of any product to be offered for sale
9 in units larger than one pound in terms other than price per single
10 pound. Nothing in this section shall be construed to prevent the
11 price of such units from also being represented by individual
12 serving, by fluid measure or by other meaningful description;

13 7. Misrepresenting the cut, grade, brand or trade name, or
14 weight or measure of any product, or misrepresenting a product as
15 meat that is not derived from harvested production livestock or
16 poultry; provided product packaging for plant-based items shall not
17 be considered to be in violation of the provisions of this paragraph
18 so long as the packaging displays that the product is derived from
19 plant-based sources;

20 8. Using the abbreviation "U.S." in describing a product not
21 graded by the United States Department of Agriculture, except that a
22 product may be described as "U.S. Inspected" when true;

23 9. Referring to a quality grade other than the United States
24 Department of Agriculture quality grade, unless the grade name is

1 preceded by the seller's name in type at least as large and
2 conspicuous as the grade name;

3 10. Misrepresenting a product through the use of any term
4 similar to a government grade;

5 11. Failing to disclose in uniform ten-point type, when a
6 quality grade is advertised, a definition of the United States
7 Department of Agriculture quality grade in the following terms:

- 8 a. prime,
- 9 b. choice,
- 10 c. select,
- 11 d. good,
- 12 e. standard,
- 13 f. utility,
- 14 g. commercial,
- 15 h. canner, and
- 16 i. cutter;

17 12. Failing to disclose in uniform ten-point type, when a yield
18 grade within a quality grade is advertised, a definition of the
19 United States Department of Agriculture yield grade in the following
20 terms:

- 21 a. yield grade one (1), extra lean,
- 22 b. yield grade two (2), lean,
- 23 c. yield grade three (3), average waste,
- 24 d. yield grade four (4), wasty, and

1 e. yield grade five (5), exceptionally wastey;

2 13. Advertising or offering for sale carcasses, sides or primal
3 cuts as such, while including disproportionate numbers or amounts of
4 less expensive components of those cuts, or offering them in tandem
5 with less expensive components from other carcasses, sides or primal
6 cut parts;

7 14. Failing to disclose fully and conspicuously the correct
8 government grade for any product if the product is represented as
9 having been graded;

10 15. Failing to disclose fully and conspicuously that the yield
11 of consumable meat from any carcass or part of a carcass will be
12 less than the weight of the carcass or part of the carcass. The
13 seller shall, for each carcass or part of carcass advertised, use
14 separately and distinctly in any printed matter, in at least ten-
15 point type, the following disclosure: "Sold gross weight subject to
16 trim loss";

17 16. Misrepresenting the amount or proportion of retail cuts
18 that a carcass or part of carcass will yield;

19 17. Failing to disclose fully and conspicuously whether a
20 quarter of a carcass is the front quarter or hindquarter;

21 18. Representing any part of a carcass as a "half" or "side"
22 unless it consists exclusively of a front quarter and hindquarter.
23 Sides or halves must consist of only anatomically natural
24 proportions of cuts from front quarters or hindquarters;

1 19. Representing primal cuts in a manner other than described
2 in Section 1 of this act;

3 20. Using the words "bundle", "sample order" or words of
4 similar import to describe a quantity of meat unless the seller
5 itemizes each type of cut and the weight of each type of cut which
6 the buyer will receive; and

7 21. Advertising or offering a free, bonus or extra product or
8 service combined with or conditioned on the purchase of any other
9 product or service unless the additional product or service is
10 accurately described including, whenever applicable, grade, net
11 weight or measure, type and brand or trade name. The words "free",
12 "bonus" or other words of similar import shall not be used in any
13 advertisement unless the advertisement clearly and conspicuously
14 sets forth the total price or amount which must be purchased to
15 entitle the buyer to the additional product or service.

16 SECTION 3. This act shall become effective in accordance with
17 the provisions of Section 58 of Article V of the Oklahoma
18 Constitution.

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Passed the Senate the 11th day of March, 2019.

Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____,
2019.

Presiding Officer of the House
of Representatives