

1 **SENATE FLOOR VERSION**

2 February 28, 2019

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL NO. 392

By: Bergstrom of the Senate

and

Hasenbeck of the House

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

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

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

18 As used in this act:

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

21 a. "side of beef" means chuck and rib with plate and  
22 brisket removed,

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

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

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

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

1 4. "Livestock" means cattle, calves, sheep, swine, ratite birds  
2 including but not limited to ostrich and emu, aquatic animal  
3 products, llamas, alpaca, buffalo, bison, elk documented as obtained  
4 from a legal source and not from the wild, goats, horses, other  
5 equines or rabbits raised in confinement for human consumption;

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

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

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

13 8. "Poultry" means any domestic bird intended for human  
14 consumption;

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

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

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

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

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

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

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

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

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

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

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

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

1           9. Referring to a quality grade other than the United States  
2 Department of Agriculture quality grade, unless the grade name is  
3 preceded by the seller's name in type at least as large and  
4 conspicuous as the grade name;

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

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

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

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

- 23           a. yield grade one (1), extra lean,
- 24           b. yield grade two (2), lean,

- c. yield grade three (3), average waste,
- d. yield grade four (4), wasty, and
- e. yield grade five (5), exceptionally wasty;

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

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

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

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

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

18. Representing any part of a carcass as a "half" or "side" unless it consists exclusively of a front quarter and hindquarter.

1 Sides or halves must consist of only anatomically natural  
2 proportions of cuts from front quarters or hindquarters;

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

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

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

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

21 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM  
22 February 28, 2019 - DO PASS AS AMENDED  
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