

HOUSE BILL NO. 1382

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources

on _____)

(Patron Prior to Substitute--Delegate Garrett)

A BILL to amend and reenact § 3.2-5123 of the Code of Virginia, relating to meat; misbranding.

Be it enacted by the General Assembly of Virginia:

1. That § 3.2-5123 of the Code of Virginia is amended and reenacted as follows:

§ 3.2-5123. Misbranded food.

A. A food shall be deemed to be misbranded:

1. If its labeling is false or misleading in any particular.

2. If any word, statement, or other information appearing on the label does not also appear on the outside container or wrapper, if present, of the retail package of such article, or is not easily legible through the outside container or wrapper.

3. If any word, statement, or other information required by this article is not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

4. Unless its label bears:

a. The common or usual name of the food, if there is any;

b. When the food is fabricated from two or more ingredients, the common or usual name of each ingredient. Spices, flavorings, and colors not required to be certified under ~~section~~ § 721(c) of the federal act, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; and

25 c. When the food purports to be a beverage containing vegetable or fruit juice, a statement with
26 appropriate prominence on the information panel of the total percentage of such fruit or vegetable juice
27 contained in the food.

28 To the extent that the Commissioner believes that compliance with the requirements of subdivision
29 4 b is impractical or results in deception or unfair competition, exemptions shall be established by the
30 Commissioner. The requirements of subdivision 4 b shall not apply to any carbonated beverages,
31 ingredients of which have been fully and correctly disclosed to the extent prescribed by subdivision 4 b to
32 the Commissioner in an affidavit.

33 5. If it is offered for sale under the name of another food.

34 6. If it is an imitation of another food, unless its label bears, in type of uniform size and prominence,
35 the word, imitation, and immediately thereafter, the name of the food imitated.

36 7. If its container is made, formed, or filled as to be misleading.

37 8. If in package form, unless it bears a label containing: (i) the name and place of business of the
38 manufacturer, packer, or distributor; (ii) the name of the article; (iii) an accurate statement of the quantity
39 of the contents in terms of weight, measure, or numerical count; provided, that under clause (iii) of this
40 subdivision reasonable variations shall be permitted, and exemptions as to small packages shall be
41 established, by regulations prescribed by the Board.

42 9. If it purports to be or is represented as a food for which a definition and standard of identity has
43 been prescribed by regulations as provided by § 3.2-5101 unless: (i) it conforms to such definition and
44 standard; and (ii) its label bears the name of the food specified in the definition and standard, and, insofar
45 as may be required by such regulations, the common names of optional ingredients, other than spices,
46 flavoring, and coloring, present in such food.

47 10. If it purports to be or is represented as:

48 a. A food for which a standard of quality has been prescribed by regulations as provided by § 3.2-
49 5101 and its quality falls below such standard unless its label bears, in such manner and form as regulations
50 specify, a statement that it falls below such standards; or

51 b. A food for which a standard or standards of fill of container have been prescribed by regulations
52 as provided by § 3.2-5101, and it falls below the standard of fill of container applicable thereto, unless its
53 label bears, in such manner and form as such regulations specify, a statement that it falls below such
54 standard.

55 11. If it purports to be or is represented for special dietary uses, unless its label bears such
56 information concerning its vitamin, mineral, and other dietary properties as the Board requires through
57 regulation to fully inform purchasers as to its value for such uses.

58 12. If it bears or contains any artificial flavoring, artificial coloring or chemical preservative, unless
59 it bears labeling stating that fact;₂ provided that to the extent that the Commissioner believes that
60 compliance with the requirements of this subdivision is impracticable, exemptions shall be established by
61 the Commissioner;₂ provided, that the provisions of this subdivision and of subdivisions 4 and 9 with
62 respect to artificial colorings shall not apply in the case of butter, cheese,₂ or ice cream.

63 13. If it is a food intended for human consumption, it is offered for sale, and its label and labeling
64 do not comply with the requirements of ~~Section~~ § 403 (q) of the federal act pertaining to nutrition
65 information.

66 14. If it is a food intended for human consumption, it is offered for sale, and its label and labeling
67 do not comply with the requirements of ~~Section~~ § 403 (r) of the federal act pertaining to nutrient content
68 claims and health claims.

69 15. If it is a cell-cultured edible product derived from meat muscle cells, fat cells, connective tissue,
70 blood, or other meat components unless it contains labeling indicating it is derived from those cells,
71 tissues, blood, or components. For the purpose of this subdivision, "cell-cultured edible product" means
72 artificially created products intended to approximate the characteristics of real meat, poultry, or fish,
73 including muscle cells, fat cells, connective tissue, blood, and other components produced through cell
74 culture, 3-D printing, or other related processes, rather than from a whole slaughtered animal.

75 B. If an article is alleged to be misbranded because the label is misleading, or if an advertisement
76 is alleged to be false because it is misleading, then in determining whether the labeling or advertisement
77 is misleading, there shall be taken into account, among other things, not only representations made or

78 suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to
79 which the labeling or advertisement fails to reveal facts material in the light of such representations or
80 material with respect to consequences that may result from the use of the article to which the labeling or
81 advertisement relates under the conditions of use prescribed in the labeling or advertisement or under such
82 conditions of use as are customary or usual.

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