REFERENCE TITLE: food misbranding; genetically altered ingredients

State of Arizona
Senate
Fifty-first Legislature
First Regular Session
2013

SB 1180

Introduced by
Senator Ableser

AN ACT

AMENDING SECTION 36-906, ARIZONA REVISED STATUTES; RELATING TO PURE FOOD CONTROL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 36-906, Arizona Revised Statutes, is amended to read:

36-906. Food misbranding

A. A food is misbranded if one or more of the following conditions exists:

1. Its labeling is false or misleading.

2. It is offered for sale under the name of another food with or without other descriptive words, or under any name ~~which~~ THAT is likely to be misleading.

3. Its container is ~~so~~ made, formed or filled as to be misleading.

4. It is in package form unless it bears a label containing:

(a) The name and place of business of the manufacturer, packer or distributor.

(b) An accurate statement of the quantity of the contents in terms of weight, measure or numerical count, except that reasonable variations may be permitted and exemptions as to small packages may be established by regulations prescribed by the director.

5. Any word, statement or other information required by or under authority of this article to appear on the label does not appear in the labeling prominently and conspicuously as compared with other words, statements, designs or devices 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.

6. Any word, statement or other information required by or under authority of this article to appear on the label does not also appear on the outside container or wrapper, if any, of the retail package of the food, or is not easily legible through the outside container or wrapper.

7. It purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 36-903, unless:

(a) It conforms to ~~such~~ THE definition and standard, and

(b) Its label bears the name of the food specified in the definition and standard, and, insofar as may be required by ~~such~~ regulations, the common names of optional ingredients present in ~~such~~ THE food, other than spices, flavoring and coloring.

8. It purports to be or is represented as:

(a) A food for which a standard of quality has been prescribed by regulations as provided by section 36-903 and its quality falls below ~~such~~ THE standard, unless its label bears in ~~such~~ THE manner and form as ~~such~~ THE regulations specify a statement that it falls below such standard, or

(b) A food for which a standard of fill of container has been prescribed by regulations as provided by section 36-903 and it falls below the applicable standard of fill, unless its label bears in ~~such~~ THE manner

and form as ~~such~~ THE regulations specify a statement that it falls below ~~such~~ THE standard.

9. It is a food not subject to the provisions of paragraph 7 of this section, unless it bears labeling clearly stating:

(a) The common or usual name of the food, if any, and

(b) If made from two or more ingredients, the common or usual name of each ingredient, ~~;~~ except that spices, flavorings and colorings, other than those sold as such, may be designated as spices, flavorings and colorings without naming each, provided that to the extent compliance with the requirements of subdivision (b) of this paragraph is impracticable or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the director, and that the requirements of subdivision (b) of this paragraph shall not apply to food products ~~which~~ THAT are packaged at the direction of purchasers at retail at the time of sale, the ingredients of which are disclosed to the purchasers by other means in accordance with regulations promulgated by the director.

10. It purports to be or is represented for special dietary uses unless its label bears ~~such~~ information concerning its vitamin, mineral and other dietary properties as the director prescribes by regulation as necessary to fully inform purchasers as to its value for ~~such~~ THOSE uses.

11. It bears or contains any artificial flavoring, artificial coloring or chemical preservative unless it bears labeling stating that fact, provided that to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the director.

12. It is intended as an ingredient of another food and when used according to directions will result in the final food product being adulterated or misbranded.

13. It is a color additive unless its packaging and labeling are in conformity with ~~such~~ THE packaging and labeling requirements applicable to ~~such~~ THE color additive prescribed under the provisions of the federal act.

14. It contains vegetable fat or oil unless its label prominently and conspicuously specifies ~~such~~ THE vegetable fat or oil by common name and the percentage ~~such~~ THE fat or oil constitutes of the whole food product. If a vegetable fat blend is used the label shall state the percentage the fat blend represents of the whole food product, followed by the words "vegetable fat consisting of a blend of" and a listing of each vegetable fat or oil by its common name.

15. IT IS ENTIRELY OR PARTIALLY PRODUCED WITH GENETIC ENGINEERING AND THAT FACT IS NOT DISCLOSED WITH THE CLEAR AND CONSPICUOUS WORDS "GENETICALLY ENGINEERED" ON THE FRONT OF THE PACKAGE. IN THE CASE OF A COMMODITY THAT IS NOT SEPARATELY PACKAGED OR LABELED, THOSE WORDS MUST APPEAR ON THE LABEL APPEARING ON THE RETAIL STORE SHELF OR BIN IN WHICH THE COMMODITY IS DISPLAYED FOR SALE. IN THE CASE OF A PROCESSED FOOD, THAT FACT MUST BE DISCLOSED IN CLEAR AND CONSPICUOUS LANGUAGE ON THE FRONT OR BACK OF THE

PACKAGE OF THAT FOOD, WITH THE WORDS "PARTIALLY PRODUCED WITH GENETIC ENGINEERING" OR "MAY BE PARTIALLY PRODUCED WITH GENETIC ENGINEERING".

16. IT IS PRODUCED WITH GENETIC ENGINEERING AND ITS LABEL, ACCOMPANYING SIGNAGE, IF IN A RETAIL FOOD ESTABLISHMENT, OR ANY ADVERTISING OR PROMOTIONAL MATERIAL STATES OR IMPLIES THAT THE FOOD IS NATURAL, NATURALLY MADE, NATURALLY GROWN OR ALL NATURAL.

B. THE FOLLOWING FOODS ARE NOT CONSIDERED MISBRANDED FOR THE PURPOSES OF SUBSECTION A, PARAGRAPHS 15 AND 16 OF THIS SECTION:

1. FOOD CONSISTING ENTIRELY OF, OR DERIVED ENTIRELY FROM, AN ANIMAL THAT HAS NOT ITSELF BEEN PRODUCED WITH GENETIC ENGINEERING, REGARDLESS OF WHETHER THE ANIMAL HAS BEEN FED OR INJECTED WITH ANY FOOD OR DRUG PRODUCED WITH GENETIC ENGINEERING.

2. A RAW AGRICULTURAL COMMODITY OR FOOD DERIVED FROM A RAW AGRICULTURAL COMMODITY THAT HAS BEEN GROWN, RAISED OR PRODUCED WITHOUT THE KNOWING AND INTENTIONAL USE OF FOOD OR SEED PRODUCED WITH GENETIC ENGINEERING.

3. ANY PROCESSED FOOD THAT WOULD BE SUBJECT TO THE LABELING REQUIREMENTS OF THIS SECTION ONLY BECAUSE IT INCLUDES ONE OR MORE PROCESSING AIDS OR ENZYMES PRODUCED WITH GENETIC ENGINEERING.

4. FOOD THAT AN INDEPENDENT ORGANIZATION HAS DETERMINED HAS NOT BEEN KNOWINGLY AND INTENTIONALLY PRODUCED FROM, OR COMMINGLED WITH, FOOD OR SEED PRODUCED WITH GENETIC ENGINEERING IF THAT DETERMINATION HAS BEEN MADE PURSUANT TO A SAMPLING AND TESTING PROCEDURE APPROVED BY THE DEPARTMENT BY RULE.

5. FOOD THAT HAS BEEN LAWFULLY CERTIFIED TO BE LABELED, MARKETED AND OFFERED FOR SALE AS ORGANIC PURSUANT TO THE FEDERAL ORGANIC FOOD PRODUCTION ACT OF 1990 AND THE REGULATIONS ADOPTED PURSUANT TO THAT ACT BY THE UNITED STATES DEPARTMENT OF AGRICULTURE.

6. FOOD THAT IS NOT PACKAGED FOR RETAIL SALE AND THAT EITHER:

(a) IS A PROCESSED FOOD PREPARED AND INTENDED FOR IMMEDIATE HUMAN CONSUMPTION.

(b) IS SERVED, SOLD OR OTHERWISE PROVIDED IN ANY RESTAURANT OR OTHER FOOD ESTABLISHMENT THAT IS PRIMARILY ENGAGED IN THE SALE OF FOOD PREPARED AND INTENDED FOR IMMEDIATE HUMAN CONSUMPTION.

7. MEDICAL FOOD.