

By: Buckley, Harris, Smith, Rogers,  
González of El Paso, et al.

H.B. No. 316

Substitute the following for H.B. No. 316:

By: Klick

C.S.H.B. No. 316

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the advertising and labeling of certain food products.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Section [433.003](#), Health and Safety Code, is  
5 amended by amending Subdivisions (1), (20), and (21) and adding  
6 Subdivisions (1-a), (1-b), (1-c), (2-a), (11-a), (13-a), and (19-a)  
7 to read as follows:

8 (1) "Advertising" has the meaning assigned by Section  
9 [431.002](#).

10 (1-a) "Analogue product" means a food product derived  
11 by combining processed plant products, insects, or fungus with  
12 additives to approximate the texture, flavor, appearance, or other  
13 aesthetic qualities or the chemical characteristics of any specific  
14 type of meat, meat food product, poultry, or poultry product.

15 (1-b) "Animal food manufacturer" means a person in the  
16 business of manufacturing or processing animal food any part of  
17 which is derived from a carcass, or a part or product of a carcass,  
18 of livestock.

19 (1-c) "Beef" means any edible portion of a formerly  
20 live and whole cattle carcass. The term includes any commonly  
21 understood variation or abbreviation of the term. The term does not  
22 include a cell-cultured, plant-based, or insect-based food  
23 product.

24 (2-a) "Cell-cultured product" means a food product

1 derived by engineering muscle tissue fibers from animal cells in a  
2 laboratory or similar setting.

3 (11-a) "Meat" means the part of the muscle of cattle,  
4 sheep, swine, or goats that is skeletal or is found in the tongue,  
5 diaphragm, heart, or esophagus, with or without the accompanying  
6 and overlying fat, and the portions of bone, including bone-in  
7 products, skin, sinew, nerve, and blood vessels that normally  
8 accompany the muscle tissue and that are not separated from it in  
9 the process of dressing. The term has a comparable meaning as  
10 applied to equine food products. The term does not include:

11 (A) muscle found in the lips, snout, or ears;

12 (B) animal tissue containing significant  
13 portions of bone, including hard bone and related components, such  
14 as bone marrow, or any amount of brain, trigeminal ganglia, spinal  
15 cord, or dorsal root ganglia; or

16 (C) cell-cultured, plant-based, or insect-based  
17 food products.

18 (13-a) "Misleading" means the use of a false or  
19 deceptive oral or written statement, advertisement, label,  
20 display, picture, illustration, or sample.

21 (19-a) "Pork" means any edible portion of a formerly  
22 live and whole swine carcass. The term includes any commonly  
23 understood variation or abbreviation of the term. The term does not  
24 include a cell-cultured, plant-based, or insect-based food  
25 product.

26 (20) "Poultry" means any [a] live or dead domesticated  
27 bird, including chickens, turkeys, ducks, geese, guineas, ratites,

1 or squabs.

2 (21) "Poultry product" means any [~~a~~] poultry carcass,  
3 part of a poultry carcass, or [~~a~~] product [~~any part of which is~~]  
4 made wholly or partly from a poultry carcass or part of a poultry  
5 carcass. Unless the context requires otherwise, the term includes  
6 only articles capable of use as human food. The term does not  
7 include [~~, except a product that~~]:

8 (A) a cell-cultured, plant-based, or  
9 insect-based food product [~~contains poultry ingredients only in a~~  
10 ~~relatively small proportion or that historically has not been~~  
11 ~~considered by consumers as a product of the poultry food industry~~];  
12 or [~~and~~]

13 (B) a product that is exempted from the  
14 definition of poultry product under 9 C.F.R. Section 381.15 [~~by~~  
15 ~~department rule under conditions assuring that the poultry~~  
16 ~~ingredients in the product are unadulterated and that the product~~  
17 ~~is not represented as a poultry product~~].

18 SECTION 2. Section 433.005, Health and Safety Code, is  
19 amended by amending Subsection (a) and adding Subsection (d) to  
20 read as follows:

21 (a) A livestock, [~~or~~] poultry product, analogue product, or  
22 cell-cultured product is misbranded if:

23 (1) any part of its labeling is false or misleading;

24 (2) it is offered for sale under the name of another  
25 food;

26 (3) it is an imitation of another food, unless its  
27 label bears, in prominent type of uniform size, the word

1 "imitation" immediately followed by the name of the food imitated;

2 (4) its container is made, formed, or filled so as to  
3 be misleading;

4 (5) except as provided by Subsection (b), it does not  
5 bear a label showing:

6 (A) the manufacturer's, packer's, or  
7 distributor's name and place of business; and

8 (B) an accurate statement of the quantity of the  
9 product by weight, measure, or numerical count;

10 (6) a word, statement, or other information required  
11 by or under the authority of this chapter to appear on the label or  
12 labeling is not prominently placed on the label or labeling in  
13 sufficient terms and with sufficient conspicuousness, compared  
14 with other words, statements, designs, or devices in the label or  
15 labeling, to make it likely to be read and understood by the  
16 ordinary individual under customary conditions of purchase and use;

17 (7) it purports to be or is represented as a food for  
18 which a definition and standard of identity or composition has been  
19 prescribed by department rule under Section [433.043](#) unless:

20 (A) it conforms to the definition and standard;  
21 or

22 (B) its label bears:

23 (i) the name of the food specified in the  
24 definition and standard; and

25 (ii) to the extent required by department  
26 rule, the common names of optional ingredients present in the food,  
27 other than spices, flavoring, and coloring;

1           (8) it purports to be or is represented as a food for  
2 which a standard of fill of container has been prescribed by  
3 department rule under Section 433.043 and the food does not meet the  
4 standard of fill of container, unless its label bears, in the manner  
5 and form prescribed by department rule, a statement that it does not  
6 meet the standard;

7           (9) except as provided by Subsection (c), it does not  
8 purport to be or is not represented as a food for which a standard of  
9 identity or composition has been prescribed by department rule  
10 unless its label bears:

11                   (A) any common or usual name of the food; and

12                   (B) if it is fabricated from two or more  
13 ingredients, the common or usual name of each ingredient;

14           (10) it purports to be or is represented for special  
15 dietary uses and its label does not bear the information concerning  
16 its vitamin, mineral, and other dietary properties that the  
17 department, after the executive commissioner or department  
18 consults with the United States Secretary of Agriculture, has  
19 determined, and the executive commissioner has prescribed by rule,  
20 to be necessary to fully inform purchasers of its value for those  
21 uses;

22           (11) it bears or contains artificial flavoring,  
23 artificial coloring, or a chemical preservative unless it bears  
24 labeling stating that fact, except as otherwise prescribed by  
25 department rule for situations in which compliance with this  
26 subdivision is impracticable; [~~or~~]

27           (12) it does not bear on itself or its container, as

1 prescribed by department rule:

2 (A) the inspection legend and establishment  
3 number of the establishment in which the product was prepared; and

4 (B) notwithstanding any other provision of this  
5 section, other information required by department rule to assure  
6 that the product will not have false or misleading labeling and that  
7 the public will be informed of the manner of handling required to  
8 keep the product in wholesome condition;

9 (13) for an analogue product of meat, a meat food  
10 product, poultry, or a poultry product, its label does not bear in  
11 prominent type of uniform size immediately before the name of the  
12 product any of the following terms:

13 (A) "analogue";

14 (B) "meatless";

15 (C) "plant-based";

16 (D) "made from plants"; or

17 (E) a similar qualifying term or disclaimer  
18 intended to clearly communicate to a consumer the contents of the  
19 product; or

20 (14) for a cell-cultured product, its label does not  
21 bear in prominent type of uniform size immediately before the name  
22 of the product any of the following terms:

23 (A) "cell-cultured"; or

24 (B) "lab-grown".

25 (d) If a food is alleged to be misbranded because the  
26 labeling or advertising is misleading, the department in  
27 determining whether the labeling or advertising is misleading shall

1 consider, among other characteristics:

2 (1) a representation made or suggested by a statement,  
3 word, design, image, device, sound, or any combination of these;  
4 and

5 (2) the extent to which the labeling or advertising  
6 suggests the food is:

7 (A) authentic meat or poultry if the food is not  
8 meat or poultry;

9 (B) a meat product or poultry product if the food  
10 is not a meat product or poultry product; or

11 (C) derived from livestock in any form if the  
12 food is not derived from livestock.

13 SECTION 3. As soon as practicable after the effective date  
14 of this Act, the executive commissioner of the Health and Human  
15 Services Commission shall adopt rules as necessary to implement the  
16 changes in law made by this Act.

17 SECTION 4. This Act takes effect September 1, 2021.