

By: Perry

S.B. No. 664

A BILL TO BE ENTITLED

AN ACT

relating to the labeling of analogue and cell-cultured products.

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

SECTION 1. Subchapter D, Chapter 431, Health and Safety Code, is amended by adding Section 431.0805 to read as follows:

Sec. 431.0805. DEFINITIONS. In this subchapter:

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

(2) "Cell-cultured product" means a food product derived by harvesting animal cells and artificially replicating those cells in a growth medium in a laboratory to produce tissue.

(3) "Egg" has the meaning assigned by Section 4(g), Egg Products Inspection Act (21 U.S.C. Section 1033(g)). The term does not include an analogue product or a cell-cultured product.

(4) "Egg product" has the meaning assigned by Section 4(f), Egg Products Inspection Act (21 U.S.C. Section 1033(f)). The term does not include an analogue product or a cell-cultured product.

(5) "Fish" has the meaning assigned by Section 403 of the federal Act (21 U.S.C. Section 343(q)(4)(E)). The term does not

1 include an analogue product or a cell-cultured product.

2 (6) "Meat" has the meaning assigned by 9 C.F.R.
3 Section 301.2. The term does not include an analogue product or a
4 cell-cultured product.

5 (7) "Meat food product" has the meaning assigned by
6 Section 1(j), Federal Meat Inspection Act (21 U.S.C. Section
7 601(j)). The term does not include an analogue product or a
8 cell-cultured product.

9 (8) "Poultry" has the meaning assigned by Section
10 4(e), Poultry Products Inspection Act (21 U.S.C. Section 453(e)).
11 The term does not include an analogue product or a cell-cultured
12 product.

13 (9) "Poultry product" has the meaning assigned by
14 Section 4(f), Poultry Products Inspection Act (21 U.S.C. Section
15 453(f)). The term does not include an analogue product or a
16 cell-cultured product.

17 SECTION 2. Section [431.082](#), Health and Safety Code, is
18 amended to read as follows:

19 Sec. 431.082. MISBRANDED FOOD. A food shall be deemed to be
20 misbranded:

21 (a) if its labeling is false or misleading in any
22 particular or fails to conform with the requirements of Section
23 [431.181](#);

24 (b) if, in the case of a food to which Section 411 of
25 the federal Act applies, its advertising is false or misleading in a
26 material respect or its labeling is in violation of Section
27 411(b)(2) of the federal Act;

1 (c) if it is offered for sale under the name of another
2 food;

3 (d) if it is an imitation of another food, unless its
4 label bears, in prominent type of uniform size, the word
5 "imitation" and immediately thereafter the name of the food
6 imitated;

7 (d-1) if it is an analogue product of meat, a meat food
8 product, poultry, a poultry product, an egg product, or fish,
9 unless its label bears in prominent type of uniform size
10 immediately before the name of the product one of the following:

11 (1) "analogue";

12 (2) "meatless";

13 (3) "plant-based";

14 (4) "made from plants"; or

15 (5) a similar qualifying term or disclaimer
16 intended to clearly communicate to a consumer the contents of the
17 product;

18 (e) if its container is so made, formed, or filled as
19 to be misleading;

20 (f) if in package form unless it bears a label
21 containing:

22 (1) the name and place of business of the
23 manufacturer, packer, or distributor; and

24 (2) an accurate statement, in a uniform location
25 on the principal display panel of the label, of the quantity of the
26 contents in terms of weight, measure, or numerical count; provided,
27 that under this subsection reasonable variations shall be

1 permitted, and exemptions as to small packages shall be
2 established, by department rules;

3 (g) if any word, statement, or other information
4 required by or under the authority of this chapter to appear on the
5 label or labeling is not prominently placed thereon with such
6 conspicuousness (as compared with other words, statements,
7 designs, or devices in the labeling) and in such terms as to render
8 it likely to be read and understood by the ordinary individual under
9 customary conditions of purchase and use;

10 (h) if it purports to be or is represented as a food
11 for which a definition and standard of identity has been prescribed
12 by federal regulations or department rules as provided by Section
13 [431.245](#), unless:

14 (1) it conforms to such definition and standard;
15 and

16 (2) its label bears the name of the food
17 specified in the definition and standard, and, in so far as may be
18 required by those regulations or rules, the common names of
19 ingredients, other than spices, flavoring, and coloring, present in
20 such food;

21 (i) if it purports to be or is represented as:

22 (1) a food for which a standard of quality has
23 been prescribed by federal regulations or department rules as
24 provided by Section [431.245](#), and its quality falls below such
25 standard unless its label bears, in such manner and form as those
26 regulations or rules specify, a statement that it falls below such
27 standard; or

1 (2) a food for which a standard or standards of
2 fill of container have been prescribed by federal regulations or
3 department rules as provided by Section 431.245, and it falls below
4 the standard of fill of container applicable thereto, unless its
5 label bears, in such manner and form as those regulations or rules
6 specify, a statement that it falls below such standard;

7 (j) unless its label bears:

8 (1) the common or usual name of the food, if any;
9 and

10 (2) in case it is fabricated from two or more
11 ingredients, the common or usual name of each such ingredient, and
12 if the food purports to be a beverage containing vegetable or fruit
13 juice, a statement with appropriate prominence on the information
14 panel of the total percentage of the fruit or vegetable juice
15 contained in the food; except that spices, flavorings, and colors
16 not required to be certified under Section 721(c) of the federal
17 Act, other than those sold as such, may be designated as spices,
18 flavorings, and colors, without naming each; provided that, to the
19 extent that compliance with the requirements of this subdivision is
20 impractical or results in deception or unfair competition,
21 exemptions shall be established by department rules;

22 (k) if it purports to be or is represented for special
23 dietary uses, unless its label bears such information concerning
24 its vitamin, mineral, and other dietary properties as the executive
25 commissioner determines to be, and by rule prescribed, as necessary
26 in order to fully inform purchasers as to its value for such uses;

27 (1) if it bears or contains any artificial flavoring,

1 artificial coloring, or chemical preservative, unless it bears
2 labeling stating that fact; provided that, to the extent that
3 compliance with the requirements of this subsection is
4 impracticable, exemptions shall be established by department
5 rules. The provisions of this subsection and Subsections (h) and
6 (j) with respect to artificial coloring do not apply in the case of
7 butter, cheese, and ice cream;

8 (m) if it is a raw agricultural commodity that is the
9 produce of the soil and bears or contains a pesticide chemical
10 applied after harvest, unless the shipping container of the
11 commodity bears labeling that declares the presence of the chemical
12 in or on the commodity and the common or usual name and the function
13 of the chemical, except that the declaration is not required while
14 the commodity, after removal from the shipping container, is being
15 held or displayed for sale at retail out of the container in
16 accordance with the custom of the trade;

17 (n) if it is a product intended as an ingredient of
18 another food and if used according to the directions of the purveyor
19 will result in the final food product being adulterated or
20 misbranded;

21 (o) if it is a color additive, unless its packaging and
22 labeling are in conformity with the packaging and labeling
23 requirements applicable to the color additive as may be contained
24 in regulations issued under Section 721 of the federal Act;

25 (p) if its packaging or labeling is in violation of an
26 applicable regulation issued under Section 3 or 4 of the federal
27 Poison Prevention Packaging Act of 1970 (15 U.S.C. 1472 or 1473);

1 (q)(1) if it is a food intended for human consumption
2 and is offered for sale, unless its label or labeling bears
3 nutrition information that provides:

4 (A)(i) the serving size that is an amount
5 customarily consumed and that is expressed in a common household
6 measure that is appropriate to the food; or

7 (ii) if the use of the food is not
8 typically expressed in a serving size, the common household unit of
9 measure that expresses the serving size of the food;

10 (B) the number of servings or other units of
11 measure per container;

12 (C) the total number of calories in each
13 serving size or other unit of measure that are:

14 (i) derived from any source; and

15 (ii) derived from fat;

16 (D) the amount of total fat, saturated fat,
17 cholesterol, sodium, total carbohydrates, complex carbohydrates,
18 sugar, dietary fiber, and total protein contained in each serving
19 size or other unit of measure; and

20 (E) any vitamin, mineral, or other nutrient
21 required to be placed on the label and labeling of food under the
22 federal Act; or

23 (2)(A) if it is a food distributed at retail
24 in bulk display cases, or a food received in bulk containers, unless
25 it has nutrition labeling prescribed by the secretary; and

26 (B) if the secretary determines it is
27 necessary, nutrition labeling will be mandatory for raw fruits,

1 vegetables, and fish, including freshwater or marine finfish,
2 crustaceans, mollusks including shellfish, amphibians, and other
3 forms of aquatic animal life, except that:

4 (3)(A) Subdivisions (1) and (2) do not
5 apply to food:

6 (i) that is served in restaurants or
7 other establishments in which food is served for immediate human
8 consumption or that is sold for sale or use in those establishments;

9 (ii) that is processed and prepared
10 primarily in a retail establishment, that is ready for human
11 consumption, that is of the type described in Subparagraph (i),
12 that is offered for sale to consumers but not for immediate human
13 consumption in the establishment, and that is not offered for sale
14 outside the establishment;

15 (iii) that is an infant formula
16 subject to Section 412 of the federal Act;

17 (iv) that is a medical food as defined
18 in Section 5(b) of the Orphan Drug Act (21 U.S.C. Section 360ee(b));
19 or

20 (v) that is described in Section 405,
21 clause (2), of the federal Act;

22 (B) Subdivision (1) does not apply to the
23 label of a food if the secretary determines by regulation that
24 compliance with that subdivision is impracticable because the
25 package of the food is too small to comply with the requirements of
26 that subdivision and if the label of that food does not contain any
27 nutrition information;

1 (C) if the secretary determines that a food
2 contains insignificant amounts of all the nutrients required by
3 Subdivision (1) to be listed in the label or labeling of food, the
4 requirements of Subdivision (1) do not apply to the food if the
5 label, labeling, or advertising of the food does not make any claim
6 with respect to the nutritional value of the food, provided that if
7 the secretary determines that a food contains insignificant amounts
8 of more than half the nutrients required by Subdivision (1) to be in
9 the label or labeling of the food, the amounts of those nutrients
10 shall be stated in a simplified form prescribed by the secretary;

11 (D) if a person offers food for sale and has
12 annual gross sales made or business done in sales to consumers that
13 is not more than \$500,000 or has annual gross sales made or business
14 done in sales of food to consumers that is not more than \$50,000,
15 the requirements of this subsection do not apply to food sold by
16 that person to consumers unless the label or labeling of food
17 offered by that person provides nutrition information or makes a
18 nutrition claim;

19 (E) if foods are subject to Section 411 of
20 the federal Act, the foods shall comply with Subdivisions (1) and
21 (2) in a manner prescribed by the rules; and

22 (F) if food is sold by a food distributor,
23 Subdivisions (1) and (2) do not apply if the food distributor
24 principally sells food to restaurants or other establishments in
25 which food is served for immediate human consumption and the food
26 distributor does not manufacture, process, or repackage the food it
27 sells;

1 (r) if it is a food intended for human consumption and
2 is offered for sale, and a claim is made on the label, labeling, or
3 retail display relating to the nutrient content or a nutritional
4 quality of the food to a specific disease or condition of the human
5 body, except as permitted by Section 403(r) of the federal Act; or

6 (s) if it is a food intended for human consumption and
7 its label, labeling, and retail display do not comply with the
8 requirements of Section 403(r) of the federal Act pertaining to
9 nutrient content and health claims.

10 SECTION 3. Subchapter C, Chapter 433, Health and Safety
11 Code, is amended by adding Section 433.0415 to read as follows:

12 Sec. 433.0415. LABELING CELL-CULTURED PRODUCT. (a) In
13 this section, "cell-cultured product" has the meaning assigned by
14 Section 431.0805.

15 (b) A cell-cultured product must be labeled in prominent
16 type of uniform size immediately before the name of the product
17 using one of the following:

- 18 (1) "cell-cultured";
19 (2) "lab-grown"; or
20 (3) a similar qualifying term or disclaimer intended
21 to clearly communicate to a consumer the contents of the product.

22 (c) The provisions of this subchapter apply to a
23 cell-cultured product, as applicable.

24 SECTION 4. As soon as practicable after the effective date
25 of this Act, the executive commissioner of the Health and Human
26 Services Commission shall adopt any rules necessary to implement
27 the changes in law made by this Act.

1 SECTION 5. This Act takes effect September 1, 2023.