

By: Buckley

H.B. No. 3799

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Subtitle A, Title 6, Health and Safety Code, is amended by adding Chapter 433A to read as follows:

CHAPTER 433A. TEXAS MEAT AND IMITATION FOOD ACT

Sec. 433A.0001. DEFINITIONS. In this chapter:

(1) "Advertising" means a representation disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or that is likely to induce, directly or indirectly, the purchase of food.

(2) "Beef" means any edible portion of a formerly live and whole cattle carcass, not derived by synthetic or artificial means.

(3) "Chicken" means any edible portion of a formerly live and whole poultry carcass, not derived by synthetic or artificial means.

(4) "Food" means:

(A) articles used for human food or drink; and
(B) articles used as components for those articles.

(5) "Label" means a display of written, printed, or other graphic matter on an article or the immediate container,

1 other than a package liner, of an article.

2 (6) "Labeling" means:

3 (A) a label; or

4 (B) other written, printed, or graphic material
5 on an article or any container or wrapper of an article, or
6 accompanying an article.

7 (7) "Livestock" means cattle, sheep, swine, goats, and
8 poultry.

9 (8) "Meat" means any edible portion of a livestock
10 carcass that does not contain lab-grown, cell cultured, insect, or
11 plant-based food products.

12 (9) "Misrepresent" means the use of a false,
13 misleading, or deceptive oral or written statement, advertisement,
14 label, display, picture, illustration, or sample.

15 (10) "Pork" means any edible portion of a formerly
16 live and whole swine carcass, not derived by synthetic or
17 artificial means.

18 Sec. 433A.0002. RULES. The executive commissioner shall
19 adopt rules as necessary to implement and enforce this chapter. A
20 violation of a rule adopted under this chapter is a violation of
21 this chapter.

22 Sec. 433A.0003. MISBRANDED FOOD. A food advertised or
23 labeled as containing or imitating meat shall be considered
24 misbranded if:

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

26 (2) the food is misrepresented as harvested meat
27 through the use of any misleading or deceptive advertising or

1 labeling;

2 (3) any portion of the food's advertising or labeling
3 suggests or implies that the food imitates meat, beef, chicken, or
4 pork when the food does not;

5 (4) the food includes a label stating "meat," "beef,"
6 "chicken," "pork," or any common variation of those terms, if the
7 food does not contain the products listed on the label; and

8 (5) the food's label includes a claim comparing the
9 food's nutritional value to that of meat without disclosing the
10 human benefit of the food.

11 Sec. 433A.0004. DETERMINATION OF MISLEADING LABELING OR
12 ADVERTISING. If a food is alleged to be misbranded because the
13 labeling or advertising is misleading, the department in
14 determining whether the labeling or advertising is misleading shall
15 consider, among other characteristics:

16 (1) a representation made or suggested by a statement,
17 word, design, device, sound, or any combination of these; and

18 (2) the extent to which the labeling or advertising
19 suggests the food is:

20 (A) authentic meat;

21 (B) a meat product; or

22 (C) derived from livestock in any form.

23 Sec. 433A.0005. CERTAIN ACTIVITIES PROHIBITED. A person
24 may not:

25 (1) adulterate or misbrand food that is subject to
26 this chapter;

27 (2) introduce or deliver for introduction into

1 commerce food that is adulterated or misbranded under this chapter;
2 or
3 (3) receive in commerce any food that is adulterated
4 or misbranded under this chapter with the intent to deliver or
5 introduce the food into commerce for payment.

6 Sec. 433A.0006. INJUNCTION. (a) The department, or
7 attorney general on the department's request, may petition a
8 district court for a temporary restraining order to restrain a
9 continuing violation of this chapter or a threat of a continuing
10 violation of this chapter if the department finds that:

11 (1) a person has violated, is violating, or is
12 threatening to violate this chapter; and

13 (2) the violation or threatened violation creates an
14 immediate threat to public health and safety.

15 (b) A district court, on petition of the department or
16 attorney general, and on a finding by the court that a person is
17 violating or threatening to violate this chapter, shall grant any
18 injunctive relief warranted by the facts.

19 (c) Venue for a suit brought under this section is in the
20 county in which the violation or threat of violation is alleged to
21 have occurred or in Travis County.

22 (d) The department and the attorney general may each recover
23 reasonable expenses incurred in obtaining injunctive relief under
24 this section, including investigative costs, court costs,
25 reasonable attorney's fees, witness fees, and deposition expenses.
26 The expenses recovered by the department may be used by the
27 department for the administration and enforcement of this chapter.

1 The expenses recovered by the attorney general may be used by the
2 attorney general.

3 Sec. 433A.0007. DETAINED, EMBARGOED, OR REMOVED FOOD. (a)
4 The department shall affix to a food subject to this chapter a tag
5 or other appropriate marking that gives notice that the food is, or
6 is suspected of being, adulterated or misbranded under this chapter
7 and that the food has been detained or embargoed if the department
8 finds or has probable cause to believe that the food:

9 (1) is adulterated under this chapter;

10 (2) is misbranded in a manner that renders the food
11 dangerous or fraudulent under this chapter; or

12 (3) violates Section 433A.0005.

13 (b) The tag or marking on a detained or embargoed food must
14 warn persons not to use the food, remove the food from the premises,
15 or dispose of the food by sale or otherwise until the department or
16 a court grants permission for the use, removal, or disposal of the
17 food.

18 (c) A person may not use a detained or embargoed food,
19 remove a detained or embargoed food from the premises, or dispose of
20 a detained or embargoed food by sale or otherwise without
21 permission of the department or a court. The department may allow
22 perishable foods to be moved to a place suitable for storage.

23 (d) The department shall remove the tag or other marking
24 from an embargoed or detained food if the department finds that the
25 food is not adulterated or misbranded under this chapter.

26 (e) If the claimant of the detained or embargoed food or the
27 claimant's agent fails or refuses to transfer the food to a secure

1 place after the tag or other appropriate marking has been affixed as
2 provided by this section, the department may order the food
3 transferred to one or more secure storage areas to prevent the
4 unauthorized use, removal, or disposal of the food.

5 Sec. 433A.0008. CORRECTION OF VIOLATION. (a) A court may
6 order the delivery of a sampled food or a detained or embargoed food
7 that is adulterated or misbranded under this chapter to the
8 claimant of the food for labeling or processing under the
9 supervision of the department if:

10 (1) the court orders the delivery in a suit
11 challenging the detention or embargo;

12 (2) the costs, fees, and expenses of the suit have been
13 paid;

14 (3) the adulteration or misbranding can be corrected
15 by proper labeling or processing; and

16 (4) a good and sufficient bond, conditioned on the
17 correction of the adulteration or misbranding by proper labeling or
18 processing, has been executed.

19 (b) The claimant shall pay the costs of the supervision
20 under this section.

21 (c) The court shall order the food returned to the claimant
22 and the bond discharged on the department's representation to the
23 court that the food no longer violates this chapter and that the
24 expenses of the supervision are paid.

25 SECTION 2. As soon as practicable after the effective date
26 of this Act, the executive commissioner of the Health and Human
27 Services Commission shall adopt rules as necessary to implement

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1 Chapter 433A, Health and Safety Code, as added by this Act.

2 SECTION 3. This Act takes effect September 1, 2019.