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H.B. No. 316

A BILL TO BE ENTITLED

AN ACT

relating to the advertising and labeling of certain food products.

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

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

(1) "Advertising" has the meaning assigned by Section 431.002.

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

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

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

(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.