

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 485

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO FOOD; CREATING THE NEW MEXICO CHILE ADVERTISING
ACT; IDENTIFYING CERTAIN UNLAWFUL CHILE ADVERTISING PRACTICES;
PROVIDING FOR ADMINISTRATION, AUDIT AND INSPECTION BY THE NEW
MEXICO DEPARTMENT OF AGRICULTURE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. SHORT TITLE.--This act may be cited as the
"New Mexico Chile Advertising Act".

SECTION 2. DEFINITIONS.--As used in the New Mexico Chile
Advertising Act:

A. "board" means the board of regents of New Mexico
state university; and

B. "chile pepper" means the fruit from Capsicum
annuum.

SECTION 3. UNLAWFUL ADVERTISING, LABELING OR SELLING OF

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1 NON-NEW MEXICO CHILE.--It is unlawful for a person to knowingly
2 advertise, describe, label or offer for sale chile peppers as
3 New Mexico chile, or to advertise, describe, label or offer for
4 sale a product as containing New Mexico chile, unless the chile
5 peppers or chile peppers in the product were grown in New
6 Mexico.

7 SECTION 4. ADMINISTRATION--AUDIT--INSPECTION.--

8 A. The board may:

9 (1) enforce and administer the New Mexico
10 Chile Advertising Act through the New Mexico department of
11 agriculture;

12 (2) promulgate rules, in consultation with the
13 New Mexico chile industry, necessary for the administration of
14 the New Mexico Chile Advertising Act; and

15 (3) issue an order to immediately cease and
16 desist any activity in violation of the New Mexico Chile
17 Advertising Act.

18 B. The New Mexico department of agriculture through
19 its authorized inspectors or agents is authorized to:

20 (1) audit the purchase and sales records of a
21 person dealing with the sale of chile peppers or products
22 containing chile peppers that are advertised, described,
23 labeled or offered for sale as New Mexico chile; and

24 (2) enter, on a business day during the usual
25 hours of business, a store, market or other business or place

1 for the limited purpose of inspecting the establishment's
2 records related to chile peppers or products containing chile
3 peppers being advertised, described, labeled or offered for
4 sale as New Mexico chile or as containing New Mexico chile.

5 SECTION 5. INJUNCTION.--In addition to any other remedy
6 under law, the board may apply to the district court for an
7 injunction, and the district court may issue a temporary or
8 permanent injunction, or both, restraining any person from
9 violating or continuing to violate any of the provisions of the
10 New Mexico Chile Advertising Act or any rule promulgated
11 pursuant to that act by the board. In issuing an injunction on
12 the application of the board, the court shall not require a
13 bond.

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