

1 AN ACT

2 RELATING TO NEW MEXICO CHILE PEPPERS; EXPANDING VIOLATIONS OF
3 THE NEW MEXICO CHILE ADVERTISING ACT; PROVIDING AN EXCEPTION
4 TO POTENTIAL RULE-MAKING; PROVIDING FOR STOP-SALE, USE OR
5 REMOVAL ORDERS TO BE ISSUED BY THE NEW MEXICO DEPARTMENT OF
6 AGRICULTURE.

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

9 SECTION 1. Section 25-11-1 NMSA 1978 (being Laws 2011,
10 Chapter 57, Section 1) is amended to read:

11 "25-11-1. SHORT TITLE.--Chapter 25, Article 11 NMSA
12 1978 may be cited as the "New Mexico Chile Advertising Act"."

13 SECTION 2. Section 25-11-3 NMSA 1978 (being Laws 2011,
14 Chapter 57, Section 3) is amended to read:

15 "25-11-3. UNLAWFUL ADVERTISING, LABELING OR SELLING OF
16 NON-NEW MEXICO CHILE.--

17 A. It is unlawful for a person to:

18 (1) knowingly advertise, describe, label or
19 offer for sale chile peppers as New Mexico chile, or to
20 advertise, describe, label or offer for sale a product as
21 containing New Mexico chile, unless the chile peppers or
22 chile peppers in the product were grown in New Mexico; or

23 (2) knowingly advertise, describe, label or
24 offer for sale chile peppers, or a product containing chile
25 peppers, using the name of any city, town, county, village,

1 pueblo, mountain, river or other geographic feature or
2 features located in New Mexico in a misleading or deceptive
3 manner that states or reasonably implies that the chile
4 peppers are, or the product contains, New Mexico chile,
5 unless the chile peppers or chile peppers in the product were
6 grown in New Mexico.

7 B. The prohibitions in this section do not apply
8 to a person whose business name, brand name or trademark was
9 used in advertising, product descriptions, labels or offers
10 for sale and was established prior to the effective date of
11 the New Mexico Chile Advertising Act; provided that, on and
12 after July 1, 2013, the person, in all advertising,
13 descriptions and labels containing that business name, brand
14 name or trademark, shall include in a prominent location and
15 in a prominent typeface a disclaimer stating "NOT GROWN IN
16 NEW MEXICO" if the product contains chile peppers that were
17 not grown in New Mexico.

18 C. The prohibitions in this section do not apply
19 to a restaurant that describes a menu item using a geographic
20 name provided for in Paragraph (2) of Subsection A of this
21 section; provided that the origin of any chile in the menu
22 item is not misrepresented."

23 SECTION 3. Section 25-11-4 NMSA 1978 (being Laws 2011,
24 Chapter 57, Section 4) is amended to read:

25 "25-11-4. ADMINISTRATION--AUDIT--INSPECTION.--

1 A. The board may:

2 (1) enforce and administer the New Mexico
3 Chile Advertising Act through the New Mexico department of
4 agriculture; and

5 (2) promulgate rules, in consultation with
6 the New Mexico chile industry, necessary for the
7 administration of the New Mexico Chile Advertising Act.

8 B. Sales of twenty thousand pounds or less of
9 chile peppers per calendar year by the person that grew the
10 chile peppers are exempt from any recordkeeping requirement
11 that the board may establish by rule.

12 C. The New Mexico department of agriculture
13 through its authorized inspectors or agents is authorized to:

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

18 (2) enter, on a business day during the
19 usual hours of business, a store, market or other business or
20 place for the limited purpose of inspecting the
21 establishment's records related to chile peppers or products
22 containing chile peppers being advertised, described, labeled
23 or offered for sale as New Mexico chile or as containing
24 New Mexico chile; and

25 (3) issue stop-sale, use or removal orders

