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AN ACT

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

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

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

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

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

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

A. It is unlawful for a person to:

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

(2) knowingly advertise, describe, label or  
offer for sale chile peppers, or a product containing chile

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

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

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

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

1 "25-11-4. ADMINISTRATION--AUDIT--INSPECTION.--

2 A. The board may:

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

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

9 B. Sales of twenty thousand pounds or less of  
10 chile peppers per calendar year by the person that grew the  
11 chile peppers are exempt from any recordkeeping requirement  
12 that the board may establish by rule. For the purposes of  
13 this subsection, "farmers' market" means a physical retail  
14 market open to the public at which farmers sell produce.

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

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

21 (2) enter, on a business day during the  
22 usual hours of business, a store, market or other business or  
23 place for the limited purpose of inspecting the  
24 establishment's records related to chile peppers or products  
25 containing chile peppers being advertised, described, labeled

1 or offered for sale as New Mexico chile or as containing  
2 New Mexico chile; and

3 (3) issue stop-sale, use or removal orders  
4 with respect to any violation of the New Mexico Chile  
5 Advertising Act."

6 SECTION 4. EFFECTIVE DATE.--The effective date of the  
7 provisions of this act is July 1, 2013. \_\_\_\_\_

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