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SENATE BILL 576

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

INTRODUCED BY

Richard C. Martinez

AN ACT

RELATING TO AGRICULTURE; EXEMPTING NATIVE CHILE PEPPER  
VARIETIES FROM THE PROHIBITIONS OF THE NEW MEXICO CHILE  
ADVERTISING ACT.

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

SECTION 1. Section 25-11-2 NMSA 1978 (being Laws 2011,  
Chapter 57, Section 2) is amended to read:

"25-11-2. 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; and

C. "native chile pepper" means landrace varieties  
of Capsicum annuum that have become adapted to a local or

underscored material = new  
[bracketed material] = delete

1 regional environment through enduring agricultural practices."

2 SECTION 2. Section 25-11-3 NMSA 1978 (being Laws 2011,  
3 Chapter 57, Section 3, as amended by Laws 2013, Chapter 85,  
4 Section 2 and by Laws 2013, Chapter 211, Section 2) is amended  
5 to read:

6 "25-11-3. UNLAWFUL ADVERTISING, LABELING OR SELLING OF  
7 NON-NEW MEXICO CHILE.--

8 A. It is unlawful for a person to:

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

14 (2) knowingly advertise, describe, label or  
15 offer for sale chile peppers, or a product containing chile  
16 peppers, using the name of any city, town, county, village,  
17 pueblo, mountain, river or other geographic feature or features  
18 located in New Mexico in a misleading or deceptive manner that  
19 states or reasonably implies that the chile peppers are, or the  
20 product contains, New Mexico chile, unless the chile peppers or  
21 chile peppers in the product were grown in New Mexico.

22 B. The prohibitions in this section do not apply to  
23 a person whose business name, brand name or trademark was used  
24 in advertising, product descriptions, labels or offers for sale  
25 and was established prior to the effective date of the New

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[bracketed material] = delete

1 Mexico Chile Advertising Act; provided that, on and after July  
2 1, 2013, the person, in all advertising, descriptions and  
3 labels containing that business name, brand name or trademark,  
4 shall include in a prominent location and in a prominent  
5 typeface a disclaimer stating "NOT GROWN IN NEW MEXICO" if the  
6 product contains chile peppers that were not grown in New  
7 Mexico.

8 C. The prohibitions in this section do not apply to  
9 a restaurant that describes a menu item using a geographic name  
10 provided for in Paragraph (2) of Subsection A of this section;  
11 provided that the origin of any chile in the menu item is not  
12 misrepresented.

13 D. The prohibitions of this section do not apply to  
14 the advertising, description, labeling or selling of New Mexico  
15 native chile pepper varieties, or a product containing New  
16 Mexico native chile pepper varieties, which are also known as  
17 "chile nativo" or "pueblo chile" varieties."

18 SECTION 3. EFFECTIVE DATE.--The effective date of the  
19 provisions of this act is July 1, 2015.