

HOUSE BILL 222

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

INTRODUCED BY

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AN ACT

RELATING TO FOOD; PROHIBITING A FOOD FROM BEING LABELED AS MEAT  
OR POULTRY IF THE FOOD IS NOT DERIVED FROM HARVESTED PRODUCTION  
LIVESTOCK OR POULTRY.

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

**SECTION 1.** Section 25-2-11 NMSA 1978 (being Laws 1951,  
Chapter 169, Section 11) is amended to read:

"25-2-11. WHEN FOOD DEEMED MISBRANDED.--A food shall be  
deemed to be misbranded:

~~[(a)]~~ A. if its labeling is false or misleading in  
any particular;

~~[(b)]~~ B. if it is offered for sale under the name  
of another food;

~~[(c)]~~ C. if it is an imitation of another food,  
unless its label bears, in type of uniform size and prominence,

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underscored material = new  
[bracketed material] = delete

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1 the word "imitation" and, immediately thereafter, the name of  
2 the food imitated;

3 [~~(d)~~] D. if its container is so made, formed or  
4 filled as to be misleading;

5 [~~(e)~~] E. if in package form, unless it bears a  
6 label containing:

7 (1) the name and place of business of the  
8 manufacturer, packer or distributor; or

9 (2) an accurate statement of the quantity of  
10 the contents in terms of weight, measure or numerical count;  
11 provided that under [~~clause (2) of~~] this paragraph reasonable  
12 variations shall be permitted and exemptions as to small  
13 packages shall be established by regulations prescribed by the  
14 board;

15 [~~(f)~~] F. if any word, statement or other  
16 information required by or under authority of [~~this~~] the New  
17 Mexico Food Act to appear on the label or labeling is not  
18 prominently placed [~~thereon~~] with such conspicuousness, as  
19 compared with other words, statements, designs or devices in  
20 the labeling, and in such terms as to render it likely to be  
21 read and understood by the ordinary individual under customary  
22 conditions of purchase and use;

23 [~~(g)~~] G. if it purports to be or is represented as  
24 a food for which a definition and standard of identity has been  
25 prescribed by regulations as provided by Section [9] 25-2-9

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1 NMSA 1978 unless:

2 (1) it conforms to such definition and  
3 standard; and

4 (2) its label bears the name of the food  
5 specified in the definition and standard and, insofar as may be  
6 required by such regulations, the common names of optional  
7 ingredients, other than spices, flavoring and coloring, present  
8 in such food;

9 [~~(h)~~] H. if it purports to be or is represented as:

10 (1) a food for which a standard of quality has  
11 been prescribed by regulations as provided by Section [9]  
12 25-2-9 NMSA 1978 and its quality falls below [~~such~~] that  
13 standard unless its label bears in such manner and form as  
14 [~~such~~] the regulations specify a statement that it falls below  
15 [~~such~~] the standard; or

16 (2) a food for which a standard [~~or standards~~]  
17 of fill of container [~~have~~] has been prescribed by regulation  
18 as provided by Section [9] 25-2-9 NMSA 1978 and it falls below  
19 the standard of fill of container applicable [~~thereto~~] to it,  
20 unless its label bears in such manner and form as [~~such~~] the  
21 regulations specify a statement that it falls below [~~such~~] the  
22 standard;

23 [~~(i)~~] I. if it is not subject to the provisions of  
24 [~~paragraph (g)~~] Subsection G of this section, unless it bears  
25 labeling clearly giving:

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1 (1) the common or usual name of the food, if  
2 any ~~[there be]~~; and

3 (2) in case it is fabricated from two or more  
4 ingredients, the common or usual name of each ~~[such]~~  
5 ingredient, except that spices, flavorings and colorings, other  
6 than those sold as such, may be designated as spices,  
7 flavorings and colorings without naming each; provided that to  
8 the extent that compliance with the requirements of ~~[clause (2)~~  
9 ~~of]~~ this paragraph is impractical or results in deception or  
10 unfair competition, exemptions shall be established by  
11 regulations promulgated by the board; and provided further that  
12 the requirements of ~~[Clause (2) of]~~ this paragraph shall not  
13 apply to any carbonated beverage, the ingredients of which have  
14 been fully and correctly disclosed in an affidavit filed with  
15 the board;

16 ~~[(j)]~~ J. if it purports to be or is represented for  
17 special dietary uses, unless its label bears such information  
18 concerning its vitamin, mineral and other dietary properties as  
19 the board determines to be, and by regulations ~~[prescribed]~~  
20 prescribes as, necessary in order to fully inform purchasers as  
21 to its value for such uses;

22 ~~[(k)]~~ K. if it bears or contains any artificial  
23 flavoring, artificial coloring or chemical preservative, unless  
24 it bears labeling stating that fact; provided that to the  
25 extent that compliance with the requirements of this

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1 [paragraph] subsection is impracticable, exemptions shall be  
2 established by regulations promulgated by the board; and  
3 L. if it is labeled or represented as meat, poultry  
4 or a meat or poultry product but the food is not derived from  
5 harvested production livestock or poultry."

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