

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 annum*.

**SECTION 3. UNLAWFUL ADVERTISING, LABELING OR SELLING OF NON-NEW MEXICO CHILE.**--It is unlawful for a person to 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.

**SECTION 4. ADMINISTRATION--AUDIT--INSPECTION.**--

A. The board may:

(1) enforce and administer the New Mexico

Chile Advertising Act through the New Mexico department of agriculture;

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

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

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

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

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

**SECTION 5. INJUNCTION.**--In addition to any other remedy under law, the board may apply to the district court for an injunction, and the district court may issue a temporary or permanent injunction, or both, restraining any person from

violating or continuing to violate any of the provisions of the New Mexico Chile Advertising Act or any rule promulgated pursuant to that act by the board. In issuing an injunction on the application of the board, the court shall not require a bond.

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