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CHAPTER 198

AN ACT to repeal and recreate 97.60 of the statutes, relating to the misbranding of food.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

97.60 of the statutes is repealed and recreated to read:

97.60 FOOD; MISBRANDING. (1) DEFINITIONS. (a) "Label" means a display of written or graphic matter on the food package.

(b) "Labeling" means all labels and other written or graphic matter upon or accompanying food at any time.

(c) "Package" means any closed container or wrapper in which food is kept in stock and which with its contents is sold to the public.

(2) No person shall sell any food which is misbranded.

(3) A food is misbranded:

(a) If its labeling is false or misleading in any particular. A label may be misleading by reason (among other reasons) of:

1. The order in which the names of ingredients appear thereon, or the relative prominence otherwise given such names; or

2. Its failure to reveal the proportion of or other fact with respect to, an ingredient, when such proportion or other fact is material in the light of the representation that such ingredient was used in fabricating the food.

(b) If it is sold under the name of another food.

(e) If its container is so made, formed or filled as to be misleading.

(d) If it is represented as a food for which a definition and standard of identity has been prescribed, unless it conforms to such definition and standard.

(e) If it is a food for which a standard of quality has been prescribed by the regulations of the department and approved by the legislature and its quality falls below such standard, unless its label bears in such manner and form as such regulations specify a statement that it falls below such standard.

(f) If it is a food for which a standard of fill of container has been prescribed by regulations of the department and approved by the legislature and it falls below such standard unless its label bears in such manner and form as such regulations specify, a statement that it falls below such standard.

(g) If it is in a package unless it bears a label stating:

1. The name and place of business of the manufacturer, packer or distributor. (If a food is not manufactured by the person whose name appears on the label, the connection such person has with such food shall be stated. The principal place of business may be stated in lieu of the actual place where such food is manufactured, packed or distributed, if such statement is not misleading in any particular.)

2. The quantity of the contents expressed in the terms of weight, measure, numerical count, or a combination of numerical count and weight or measure, which are generally used by consumers to express quantity of such food and which give accurate information as to the quantity thereof. (If no such general consumer usage in expressing accurate information as to the quantity of such food exists, the statement shall be in terms of liquid measure if the food is liquid, or in terms of weight if the food is solid, semisolid, viscous, or a mixture of solid and liquid; except that such statement may be in terms of dry measure if the food is a fresh fruit, fresh vegetable or other dry commodity.) The department shall establish, by regulations, reasonable variations which will be permitted, and exemptions as to small packages.

3. The name of the food. (If a definition and standard of identity have been prescribed the name shall be as specified therein; otherwise, the name shall be the common or usual name of such food, if there is one.)

4. The common or usual name of each ingredient, in case it is fabricated from 2 or more ingredients, but in case a definition and standard of identity have been prescribed, only the common names of the optional ingredients present in such food need be stated as required in such definition and standard; provided, that in either case, spices, flavoring and coloring, other than those sold as such, may be designated as spices, flavoring and coloring without naming each.

(h) If it bears or contains any artificial flavoring, artificial coloring or chemical preservative, the use of which is not otherwise prohibited in such food, unless it bears labeling stating that fact; except that:

1. A statement of artificial flavoring, artificial coloring or chemical preservative shall not be required for a food which is not in a package and the units thereof are so small that such statement cannot be placed on such units with such conspicuousness as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

2. A statement of artificial coloring shall not be required for butter, cheese, ice cream or frozen desserts.

(i) If it is represented for special dietary uses unless its label bears:

1. A statement of the dietary properties upon which such claim is based in whole or in part. Such statement shall show the presence or absence of any substance, any alteration of the quantity or character of any constituent, and any other dietary property of such food upon which such claim is so based.

2. Adequate directions for use.

3. An adequate analysis showing to what extent the product meets the dietary function and accomplishes the therapeutic purpose for which the product is recommended.

4. Such further information concerning its vitamin, mineral and other dietary properties as the department determines to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such uses. (If such food is also represented as a food for which a definition and standard of identity have been prescribed it may deviate from such definition and standard only insofar as is necessary to affect its dietary properties.)

(j) If any word, statement or other information required on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices on the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Approved May 29, 1953.