

VIRGINIA ACTS OF ASSEMBLY -- 1996 SESSION

CHAPTER 728

An Act to amend and reenact §§ 3.1-394 and 3.1-396 of the Code of Virginia, relating to food labeling.

[H 568]

Approved April 6, 1996

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.1-394 and 3.1-396 of the Code of Virginia are amended and reenacted as follows:

§ 3.1-394. Commissioner authorized to make regulations as to food labeling, definition and standard of identity, standard of quality, fill of container and tolerances.

Whenever in the judgment of the Commissioner such action will promote honesty and fair dealing in the interest of consumers, the Board shall promulgate regulations fixing and establishing for any food or class of food: *labeling requirements*, a reasonable definition and standard of identity, reasonable standard of quality, fill of container, or tolerances or limits of variability. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the Board shall, for the purpose of promoting honesty and fair dealing in the interest of the consumers, designate the optional ingredients which shall be named on the label. The definitions and standards so promulgated may conform so far as practicable to the definitions and standards promulgated by the Secretary of the ~~United States Department of Agriculture~~ *Health and Human Services* under authority conferred by section 401 of the federal act.

§ 3.1-396. When food deemed misbranded.

A food shall be deemed to be misbranded:

- (a) If its labeling is false or misleading in any particular.
- (b) If it is offered for sale under the name of another food.
- (c) If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word, imitation, and immediately thereafter, the name of the food imitated.
- (d) If its container is so made, formed, or filled as to be misleading.
- (e) If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; (2) the name of the article; (3) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided, that under clause (3) of this subdivision reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Board.
- (f) If any word, statement, or other information required by or under authority of this article to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in 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.
- (g) If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by § 3.1-394 unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard, and, insofar as may be required by such regulations, the common names of optional ingredients, other than spices, flavoring, and coloring, present in such food.

(h) If it purports to be or is represented as:

(1) A food for which a standard of quality has been prescribed by regulations as provided by § 3.1-394 and its quality falls below such standard unless its label bears, in such manner and form as regulations specify, a statement that it falls below such standards; or

(2) A food for which a standard or standards of fill of container have been prescribed by regulations as provided by § 3.1-394, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

(i) ~~If it is not subject to the provisions of subdivision (g) of this section,~~ Unless its label bears:

- (1) The common or usual name of the food, if ~~there is any there be~~; and
- (2) ~~in case it~~ *If the food* is fabricated from two or more ingredients, the common or usual name of each ingredient; ~~except that however, spices, flavorings, and colorings colors not required to be certified under section 721 (c) of the federal act,~~ other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each; ~~provided, that to and~~
- (3) *If the food purports to be a beverage containing vegetable or fruit juice, a statement with appropriate prominence on the information panel of the total percentage of such fruit or vegetable juice contained in the food.*

To the extent that the Commissioner believes that compliance with the requirements of clause (2) of

this subdivision is impractical or results in deception or unfair competition, exemptions shall be established by the Commissioner; ~~provided further that~~ . The requirements of clause (2) of this subdivision shall not apply to any carbonated beverages, ingredients of which have been fully and correctly disclosed to the extent prescribed by clause (2) to the Commissioner in an affidavit.

(j) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Board determines to be, and by regulations prescribes, as necessary in order fully to inform purchasers as to its value for such uses.

(k) If it bears or contains any artificial flavoring, artificial coloring or chemical preservative, unless it bears labeling stating that fact; provided that to the extent that the Commissioner believes that compliance with the requirements of this subdivision is impracticable, exemptions shall be established by the Commissioner; provided, that the provisions of this subdivision and of subdivisions (g) and (i) with respect to artificial colorings shall not apply in the case of butter, cheese or ice cream.

(l) If it is a food intended for human consumption, it is offered for sale, and its label and labeling do not comply with the requirements of section 403 (q) of the federal act pertaining to nutrition information.

(m) If it is a food intended for human consumption, it is offered for sale, and its label and labeling do not comply with the requirements of section 403 (r) of the federal act pertaining to nutrient content claims and health claims.