

§2157. Misbranded food

A food shall be deemed to be misbranded:

- 1. False or misleading label.** If its labeling is false or misleading in any particular;
- 2. Sale under another name.** If it is offered for sale under the name of another food or under a name not permitted by Title 12, section 6112, for products containing or consisting of surimi; [PL 1985, c. 622, §3 (AMD).]
- 3. Imitation of another food.** 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;
- 4. Misleading container.** If its container is so made, formed or filled as to be misleading;
- 5. Label for package form.** If in package form, unless it bears a label containing:
 - A. The name and place of business of or sufficient information to identify the manufacturer, packer or distributor;
 - B. An accurate statement of the quantity of the contents in terms of weight, measure or numerical count. Reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the commissioner;
- 6. Statements on label placed conspicuously.** If any word, statement or other information, required by or under authority of this subchapter 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;
- 7. Conformity with prescribed definition and standard.** 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 section 2154, unless it conforms to such definition and standard, and, in so far as may be required by such regulations, the common names of optional ingredients, other than spices, flavoring and coloring, present in such food;
- 8. Quality below standard.** If it purports to be or is represented as:
 - A. A food for which a standard of quality has been prescribed by regulations as provided by section 2154 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 standards; or
 - B. A food for which a standard or fill of container has been prescribed by regulations as provided by section 2154, and it falls below the standard or 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;
- 9. Name of food and ingredients.** If it is not subject to subsection 7, unless it bears labeling clearly giving:
 - A. The common or usual name of the food, if any there be, and
 - B. In case it is fabricated from 2 or more ingredients, the common or usual name of each such ingredient, except that spices, flavoring and colorings, other than those sold as such, may be designated as spices, flavoring and colorings without naming each. To the extent that compliance with the requirements of this paragraph is impractical or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Commissioner of Agriculture, Conservation and Forestry. The requirements of this paragraph shall not apply to a carbonated beverage, the ingredients of which have been fully and correctly disclosed in an affidavit subscribed

and sworn to by the manufacturer or bottler thereof and filed with the commissioner; [PL 1979, c. 731, §19 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]
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10. Dietary properties. 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 Commissioner of Agriculture, Conservation and Forestry determines to be, and by regulation prescribed as necessary in order to fully inform purchasers as to its value for such uses;
[PL 1985, c. 676, §1 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

11. Artificial flavoring and coloring. If it bears or contains any artificial flavoring, artificial coloring or chemical preservative, unless it bears labeling stating the fact. If the artificial flavoring and artificial coloring declaration does not refer to the entire contents of the package, the words "artificial flavoring" and "artificial coloring" must follow immediately each of the ingredients of the package containing one or more of these substances. The common or usual name of any chemical preservative must be immediately followed by the words "chemical preservation." To the extent that compliance with the requirements of this subsection is impracticable, exemptions must be established by rules adopted by the Commissioner of Agriculture, Conservation and Forestry. This subsection, and subsections 7 and 9, with respect to artificial coloring, do not apply in the case of butter, cheese or ice cream;
[PL 2019, c. 528, §7 (AMD).]

12. Sulfite.
[PL 1985, c. 676, §3 (NEW); MRSA T. 22 §2157, sub-§12 (RP).]

13. Monosodium glutamate, MSG. If a person sells, offers for sale or serves in any retail store, hotel, restaurant or other public eating place any food or food product, whether or not in package form, to which that person has added monosodium glutamate directly in crystal form, unless:

A. The package in which that food or food product is offered for sale conspicuously bears a label or stamp indicating that the food or food product contains monosodium glutamate; [PL 1989, c. 115 (NEW).]

B. When the food or food product is offered for consumption and is not packaged, a conspicuous label or sign is placed on the food, immediately next to the food, immediately next to the food's listing on the menu, or in an open manner where the food order or food product is obtained, indicating that the food or food product contains monosodium glutamate; or [PL 1989, c. 115 (NEW).]

C. There is a conspicuously displayed directory to which customers can refer for information on the contents of unpackaged products offered for sale; [PL 2019, c. 528, §8 (AMD).]
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14. Post-harvest treatments. If it is fresh produce that is sold or offered for sale at a retail outlet, whether or not it is packaged or in a container, and has been treated with a post-harvest treatment, without meeting the requirements in paragraphs A to C.

For purposes of this section, "post-harvest treatment" means a treatment added or applied to fresh produce after harvest and identified by rule as a post-harvest treatment and waxes that contain one or more post-harvest treatments.

A. The owner or manager of a retail outlet shall ensure that one conspicuous sign is displayed that reads: "Produce in this store may have been treated after harvest with one or more post-harvest treatments." [PL 1991, c. 506, §5 (AMD).]

B. The owner or manager of a retail outlet shall ensure that information identifying the specific post-harvest treatments used, and the specific items of produce that were treated, is available to the public within 48 hours of a request. [PL 1989, c. 339, §§1, 2 (NEW).]

C. The owner or manager of a retail outlet shall ensure that produce without post-harvest treatment, as determined by the commissioner, is identified by a sign contiguous to the specific produce; [RR 2019, c. 1, Pt. A, §21 (COR).]
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15. Hemp or cannabidiol derived from hemp. If it contains hemp or cannabidiol derived from hemp unless:

A. The package in which the food, food additive or food product is offered for sale conspicuously bears a label or stamp that:

- (1) Indicates that the food, food additive or food product contains hemp or cannabidiol derived from hemp;
- (2) Describes the cannabidiol content by weight or volume;
- (3) Includes the source of the hemp from which the cannabidiol was derived;
- (4) In the case of extracts or tinctures, indicates the batch number; and
- (5) Includes a disclosure statement that the food, food additive or food product has not been tested or evaluated for safety; or [PL 2019, c. 528, §10 (NEW).]

B. In the case of food, food additives or food products sold, offered for sale or served for consumption unpackaged:

- (1) A conspicuous label or sign indicating that the food, food additive or food product contains cannabidiol is placed on or immediately next to the food, food additive or food product or immediately next to the food's listing on the menu or in an open manner where the food order or food product is served; and
- (2) The retail store, hotel, restaurant or other public eating place conspicuously displays a directory for use by customers that contains information on the contents of all unpackaged products sold, offered for sale or served that contain cannabidiol derived from hemp. [PL 2019, c. 528, §10 (NEW).]

For the purposes of this subsection, "hemp" has the same meaning as in Title 7, section 2231, subsection 1-A, paragraph D;
[PL 2023, c. 74, §1 (AMD).]

REVISOR'S NOTE: (Subsection 15 as enacted by PL 2019, c. 455, §1 is REALLOCATED TO TITLE 22, SECTION 2157, SUBSECTION 16)

16. (REALLOCATED FROM T. 22, §2157, sub-§15) Mislabeling poultry and meat. If it is poultry, a poultry product, meat or a meat product offered for sale, sold or distributed within the State and labeled or advertised as "Maine-raised" or by a similar designation unless the poultry or animal was raised in Maine. A determination that poultry, a poultry product, meat or a meat product is misbranded may be waived by the commissioner upon application if the commissioner finds a waiver warranted due to economic factors, including, but not limited to, the proximity of processing facilities to the in-state poultry producer or meat producer and the availability of poultry processing facilities or meat processing facilities in the State. For purposes of this subsection, "raised in Maine" means:

A. For poultry and poultry products, that the poultry was raised solely in the State from no later than the 7th day after hatching and processed solely in the State; and [PL 2019, c. 455, §1 (NEW); RR 2019, c. 1, Pt. A, §22 (RAL).]

B. For meat and meat products, that the animal was born, raised and processed solely in the State. [PL 2019, c. 455, §1 (NEW); RR 2019, c. 1, Pt. A, §22 (RAL).]

As used in this subsection, "poultry," "poultry product," "meat" and "meat product" have the same meanings as in section 2511; or [PL 2023, c. 74, §2 (AMD).]

17. Grass-fed claims. If a person sells, offers for sale or distributes within the State or sells, offers for sale or serves in any retail food establishment or eating establishment as defined in section 2491, subsection 7 any meat or meat product as defined in section 2511 labeled or advertised as "grass-fed" or by similar designation unless the ruminant animal was grass-fed.

For purposes of this subsection, the following terms have the following meanings.

A. "Acceptable additional feed" means hay, haylage, baleage, silage, crop residue without grain and other sources of roughage as well as routine mineral and vitamin supplementation. [PL 2023, c. 74, §3 (NEW).]

B. "Forage" means annual or perennial grasses, forbs and other browse. "Forage" also includes cereal grain crops in the vegetative stage of growth. [PL 2023, c. 74, §3 (NEW).]

C. "Grass-fed" means, with respect to meat or a meat product, that the ruminant animal from which the meat was derived:

(1) Consumed only forage and acceptable additional feed during its lifetime with the exception of milk consumed prior to its weaning; and

(2) Had continuous access to pasture during each growing season until slaughter. [PL 2023, c. 74, §3 (NEW).]

A determination that meat or a meat product is misbranded may be waived by the commissioner upon application if the commissioner finds a waiver warranted due to inadvertent exposure of the animal to nonforage feedstuffs or because incidental supplementation with nonforage feedstuffs was necessary to ensure the well-being of the animal during adverse environmental or physical conditions. [PL 2023, c. 74, §3 (NEW).]

SECTION HISTORY

PL 1979, c. 731, §19 (AMD). PL 1981, c. 470, §A88 (AMD). PL 1985, c. 622, §5 (AMD). PL 1985, c. 676, §§1-3 (AMD). PL 1989, c. 115 (AMD). PL 1989, c. 339, §§1,2 (AMD). PL 1991, c. 230, §1 (AMD). PL 1991, c. 506, §5 (AMD). RR 2011, c. 2, §26 (COR). PL 2011, c. 657, Pt. W, §6 (REV). PL 2019, c. 455, §1 (AMD). PL 2019, c. 528, §§7-10 (AMD). RR 2019, c. 1, Pt. A, §§21-23 (COR). PL 2023, c. 74, §§1-3 (AMD).

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