

SENATE BILL NO. 199

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY SENATOR WIELECHOWSKI

Introduced: 2/22/16

Referred: Labor and Commerce, Resources

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the labeling of food; relating to the misbranding of food; and**
2 **requiring the labeling of food containing certain color additives."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 17.20 is amended by adding a new section to read:

5 **Sec. 17.20.035. Labeling of food containing synthetic color additives.** (a)

6 Food that contains a synthetic color additive that is purchased by a retailer after
7 December 31, 2016, for retail sale in the state shall be labeled as containing the
8 synthetic color additive. Subject to (b) of this section, the label must warn as follows:

9 (1) for FD&C Red No. 40, FD&C Yellow No. 5, or FD&C Yellow No.
10 6, "WARNING: The synthetic coloring in this food contains one or more
11 contaminants that are known to cause cancer in humans, may cause allergic or
12 hypersensitivity reactions, and may cause hyperactivity and behavioral problems in
13 some children.";

14 (2) for FD&C Blue No. 2, FD&C Green No. 3, Citrus Red No. 2, or

FD&C Red No. 3, "WARNING: This food contains one or more synthetic colorings that may cause cancer and that may cause hyperactivity and behavioral problems in some children.";

(3) for FD&C Blue No. 1, "WARNING: This food contains a synthetic coloring that may cause allergic or hypersensitivity reactions and that may cause hyperactivity and behavioral problems in some children.";

(4) for Orange B, "WARNING: This food contains a synthetic coloring that may cause hyperactivity and behavioral problems in some children."

(b) Notwithstanding (a)(1) - (4) of this section,

(1) If a food contains FD&C Red No. 40, FD&C Yellow No. 5, or FD&C Yellow No. 6, and another synthetic color additive, the label must warn only as required under (a)(1) of this section;

(2) if a food contains FD&C Blue No. 2, FD&C Green No. 3, Citrus Red No. 2, or FD&C Red No. 3, and another synthetic color additive other than FD&C Red No. 40, FD&C Yellow No. 5, or FD&C Yellow No. 6, the label must warn only as required under (a)(2) of this section;

(3) if a food contains FD&C Blue No. 1 and Orange B and does not contain FD&C Red No. 40, FD&C Yellow No. 5, FD&C Yellow No. 6, FD&C Blue No. 2, FD&C Green No. 3, Citrus Red No. 2, or FD&C Red No. 3, the label must warn only as required under (a)(3) of this section.

(c) Unpackaged food required to be labeled under (a) of this section may be labeled on the shelf or bin where the food is displayed for retail sale.

(d) This section does not require the listing or identification of the synthetic color additive to modify the name or description of the food.

(e) The labeling requirements in this section do not apply to

(1) an alcoholic beverage;

(2) a medical food as defined in 21 U.S.C. 360ee.

(f) The labeling requirements of this section are in addition to the other requirements of this chapter.

(g) In this section,

(1) "alcoholic beverage" has the meaning given in AS 04.21.080;

(2) "synthetic color additive" means a color certified under 21 CFR 74.101 - 706 as FD&C Blue No. 1, FD&C Blue No. 2, FD&C Green No. 3, Orange B, Citrus Red No. 2, FD&C Red No. 3, FD&C Red No. 40, FD&C Yellow No. 5, or FD&C Yellow No. 6.

* **Sec. 2.** AS 17.20.040(a) is amended to read:

(a) Food is misbranded if

(1) its labeling is false or misleading in any particular;

(2) it is offered for sale under the name of another food;

(3) 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) its container is made, formed, or filled so as to be misleading;

(5) it is in package form unless it bears a label containing (A) the name and place of business of the manufacturer, packer, or distributor; and (B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; however, under (B) of this paragraph, reasonable variations are permitted, and exemptions for small packages shall be established by regulations prescribed by the department;

(6) a word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed with the conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in terms that make it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(7) 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 AS 17.20.010, unless (A) it conforms to the definition and standard, and (B) its label bears the name of the food specified in the definition and standard and the common names of optional ingredients other than spices, flavoring, and coloring present in the food as required by regulation;

(8) it purports to be or is represented as (A) a food for which a standard of quality has been prescribed by regulations, and its quality falls below that

1 standard, unless its label bears, in the manner and form the regulations specify, a
 2 statement that it falls below that standard; or (B) a food for which a standard of fill of
 3 container has been prescribed by regulation as provided by AS 17.20.010 and it falls
 4 below the applicable standard of fill of container, unless its label bears, in the manner
 5 and form as the regulations specify, a statement that it falls below that standard;

6 (9) it is not subject to the provisions of (7) of this subsection, unless it
 7 bears labeling clearly giving (A) the common or usual name of the food, if any, and
 8 (B) if [IN CASE] it is fabricated from two or more ingredients, the common or usual
 9 name of each ingredient; [EXCEPT THAT,] however, spices, flavorings, and
 10 colorings, other than those sold as such, may be designated as spices, flavorings, and
 11 colorings, without naming each; however, to the extent that compliance with the
 12 requirements of (B) of this paragraph is impracticable, or results in deception or unfair
 13 competition, exemptions shall be established by regulations adopted by the
 14 department, but the requirements of (B) of this paragraph do not apply to food
 15 products that are packaged at the direction of purchasers at retail at the time of sale,
 16 the ingredients of which are disclosed to the purchasers by other means in accordance
 17 with regulations adopted by the department;

18 (10) it purports to be or is represented for special dietary uses, unless
 19 its label bears information concerning its vitamin, mineral, and other dietary properties
 20 the commissioner determines to be, and by regulations prescribes as, necessary in
 21 order fully to inform purchasers as to its value for those uses;

22 (11) it bears or contains artificial flavoring, artificial coloring, or
 23 chemical preservative, unless it bears labeling stating that fact; however, to the extent
 24 that compliance with the requirements of this paragraph is impracticable, exemption
 25 shall be established by regulations adopted by the department;

26 (12) the food is a farmed halibut, salmon, or sablefish product, unless

27 (A) the product is labeled to identify the product as farmed fish
 28 raised outside the state, if the product is sold in a packaged form; or

29 (B) the product is conspicuously identified as farmed fish
 30 raised outside the state, if the product is sold in an unpackaged form;

31 (13) the labeling, advertisement, or identification of the food is

1 inconsistent with the labeling, advertisement, or identification provisions of
2 AS 17.20.035, 17.20.048, [AS 17.20.048] or 17.20.049;

3 (14) the food is a genetically modified fish or genetically modified fish
4 product unless

5 (A) the food is conspicuously labeled to identify the fish or fish
6 product as a genetically modified fish or fish product if the fish or fish product
7 is sold in a packaged form; or

8 (B) the food is conspicuously identified as a genetically
9 modified fish or fish product if the fish or fish product is sold in an unpackaged
10 form.