

Amended: 5/4/89

6-0886J

Offered: 4/28/89

Referred: Rules

Original sponsors: Kerttula and Rodey

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 HOUSE CS FOR CS FOR SENATE BILL NO. 209 (Resources) am H
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act relating to the sale of organic foods."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. LEGISLATIVE PURPOSE. The purpose of this Act is to pro-
9 tect the consumer and producer of organic foods, and to facilitate the
10 production and marketing of these foods by adopting uniform standards
11 relating to the use of the term "organic" and its derivatives.

12 * Sec. 2. AS 03 is amended by adding a new chapter to read:

13 CHAPTER 58. SALE OF ORGANIC FOODS.

14 Sec. 03.58.010. PROHIBITION. (a) A person may not sell or
15 offer for sale food represented as organic food if the person knows or
16 has reason to know that the food has been grown, raised, or produced
17 with the use of

18 (1) a fertilizer, except for manure and other natural
19 fertilizers;

20 (2) a manufactured pesticide, hormone, antibiotic, or
21 growth stimulant, except for *Bacillus thuringensis* and other natural
22 pesticides;

23 (3) a substance listed by the department under AS 03.58.050
24 that is similar to a substance that is restricted with regard to
25 organic food under (1) or (2) of this subsection.

26 (b) In (a) of this section, "with the use of" means

27 (1) applied to the food before a retail sale;

28 (2) fed to the animal producing the food;

29 (3) unless the substance applied is a pesticide, applied to

1 the soil or other growing medium within one year before seed planting
2 or transplanting, or, if the crops are perennial, before the appear-
3 ance of the flower bud; or

4 (4) in the case of pesticides, applied to the soil or other
5 growing medium within two years before seed planting or transplanting,
6 or, if the crops are perennial, before the appearance of the flower
7 bud.

8 Sec. 03.58.020. DISCLOSURE. (a) Except as provided in (b) of
9 this section, a person may not sell food represented as organic food
10 unless the name and address of the producer of the food are displayed
11 with the food. If the food is not displayed at the purchase site, a
12 written statement with the name and address of the producer must be
13 given to the purchaser unless the name and address are identified on a
14 package containing the purchased food. This subsection does not apply
15 to a sale for consumption on the premises.

16 (b) Advertising for the mail order sale of food represented as
17 organic food must include the name and address of the producer of the
18 food.

19 Sec. 03.58.030. SWORN STATEMENT OF COMPLIANCE. (a) A producer
20 may not sell to a vendor food represented as organic food unless
21 before the sale the producer provides the vendor with a sworn state-
22 ment that the producer has grown, raised, or otherwise produced the
23 food in compliance with AS 03.58.010. If a producer sells the food to
24 the same vendor more than one time during a calendar year, one state-
25 ment for the calendar year is sufficient to comply with this section.

26 (b) In this section, "vendor" means a person who sells food
27 represented as organic food to another person for resale or to a
28 consumer.

29 Sec. 03.58.040. RECORDS. A person who sells food represented as

1 organic food shall maintain the records relating to this chapter that
2 the department reasonably requires and shall furnish them to the
3 department when requested by the department.

4 Sec. 03.58.050. REGULATIONS. The department may adopt regula-
5 tions under AS 44.62 (Administrative Procedure Act), including a
6 regulation that lists and periodically updates substances under
7 AS 03.58.010(a).

8 Sec. 03.58.060. ENFORCEMENT. (a) If the department determines
9 that a person is violating a provision of this chapter, or a regu-
10 lation adopted under this chapter, the department shall order the
11 person to stop the violation and to refrain from future violations.

12 (b) If a person violates this chapter, a regulation adopted
13 under this chapter, or an order issued under (a) of this section, the
14 person is

15 (1) liable to the state for a civil fine that does not
16 exceed the total of \$1,000 plus the state's estimated costs of inves-
17 tigating and taking appropriate administrative and enforcement actions
18 for the violation;

19 (2) liable to the state for an additional civil penalty of
20 three times the value of the product knowingly sold in violation of
21 this chapter.

22 (c) The provisions of this section are in addition to the rem-
23 edies available under AS 45.50.471 - 45.50.561.

24 Sec. 03.58.070. DEFINITIONS. In this chapter,

25 (1) "department" means the Department of Environmental
26 Conservation when the food is meat, fish, poultry, or processed, and
27 the Department of Natural Resources when the food is not meat, fish,
28 poultry, or processed;

29 (2) "food represented as organic food" means food,

1 including fish, vegetables, fruit, meat, dairy products, and bever-
2 ages, that is marketed using the term "organic" or a derivative of
3 that term in the labeling or advertising;

4 (3) "producer" means a person who grows, raises, or pro-
5 duces food.