

SECOND REGULAR SESSION

# HOUSE BILL NO. 1653

## 103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE STEINMEYER.

5356H.011

JOSEPH ENGLER, Chief Clerk

### AN ACT

To repeal sections 196.010, 196.015, 196.025, 196.045, 196.050, and 196.075, RSMo, and to enact in lieu thereof six new sections relating to the integrity of food products, with penalty provisions and an emergency clause.

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 196.010, 196.015, 196.025, 196.045, 196.050, and 196.075, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 196.010, 196.015, 196.025, 196.045, 196.050, and 196.075, to read as follows:

196.010. 1. For the purpose of sections 196.010 to 196.120:

(1) **The term "cell-cultured meat product" means any food product produced by cultivating animal cells in a controlled environment, including through the use of a growth medium or bioreactor, to replicate animal tissue intended for human consumption without requiring the slaughter of the animal;**

(2) The term "contaminated with filth" applies to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations;

~~(2)~~ (3) The term "cosmetic" means articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and articles intended for use as a component of any such articles, except that such term shall not include soap;

~~(3)~~ (4) The term "device" except when used in subsection 2 of this section and in sections 196.015(10), 196.075(6), 196.100(3) and 196.115(3), means instruments, apparatus,

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 and contrivances, including their components, parts, and accessories, intended for use in the  
17 diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or to  
18 affect the structure or any function of the body of man or other animals;

19 ~~[(4)]~~ (5) The term "department" shall be construed to mean the department of health  
20 and senior services;

21 ~~[(5)]~~ (6) The term "drug" means (a) articles recognized in the official United States  
22 Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official  
23 National Formulary, or any supplement to any of them; and (b) articles intended for use in the  
24 diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and  
25 (c) articles, other than food, intended to affect the structure or any function of the body of man  
26 or other animals; and (d) articles intended for use as a component of any articles specified in  
27 clause (a), (b), or (c); but does not include devices or their components, parts or accessories;

28 ~~[(6)]~~ (7) The term "federal act" means the Federal Food, Drug and Cosmetic Act  
29 (Title 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.);

30 ~~[(7)]~~ (8) The term "food" means articles used for food or drink for man or other  
31 animals, chewing gum, and articles used for components of any such article;

32 ~~[(8)]~~ (9) The term "immediate container" does not include package liners;

33 ~~[(9)]~~ (10) The term "label" means a display of written, printed, or graphic matter upon  
34 the immediate container of any article; and a requirement made by or under authority of  
35 sections 196.010 to 196.120 that any word, statement, or other information appearing on the  
36 label shall not be considered to be complied with unless such word, statement, or other  
37 information also appears on the outside container or wrapper, if any there be, of the retail  
38 package of such article, or is easily legible through the outside container or wrapper;

39 ~~[(10)]~~ (11) The term "labeling" means all labels and other written, printed, or graphic  
40 matter upon any article or any of its containers or wrappers, or accompanying such article;

41 ~~[(11)]~~ (12) **The term "livestock" means cattle, swine, sheep, goats, poultry, fish,**  
42 **and other species raised for human consumption;**

43 (13) **The term "meat" means the edible portion of livestock derived from the**  
44 **slaughter of a living animal. The term "meat" shall not include any cell-cultured meat**  
45 **product;**

46 (14) **The term "mRNA-based product" means any vaccine, treatment, or**  
47 **substance that employs messenger ribonucleic acid (mRNA) technology or another**  
48 **gene-therapy mechanism to alter or introduce genetic material within an animal or**  
49 **plant used for human food;**

50 (15) The term "new drug" means any drug the composition of which is such that such  
51 drug is not generally recognized, among experts qualified by scientific training and  
52 experience to evaluate the safety of drugs, as safe for use under the conditions prescribed,

53 recommended or suggested in the labeling thereof; or any drug the composition of which is  
54 such that such drug, as a result of investigations to determine its safety for use under such  
55 conditions, has become so recognized, but which has not, otherwise than in such  
56 investigations, been used to a material extent or for a material time under such conditions;

57 ~~[(12)]~~ **(16)** The term "official compendium" means the official United States  
58 Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National  
59 Formulary, or any supplement to any of them;

60 ~~[(13)]~~ **(17)** The term "person" includes individual, partnership, corporation, and  
61 association.

62 2. If an article is alleged to be misbranded because the labeling is misleading, then in  
63 determining whether the labeling is misleading, there shall be taken into account, among  
64 other things, not only representations made or suggested by statement, word, design, device,  
65 sound, or in any combination thereof, but also the extent to which the labeling fails to reveal  
66 facts material in the light of such representations or material with respect to consequences  
67 which may result from the use of the article to which the labeling relates under the conditions  
68 of use prescribed in the labeling thereof or under such conditions of use as are customary or  
69 usual.

70 3. The representation of a drug, in its labeling, as an antiseptic shall be considered to  
71 be a representation that it is a germicide, except in the case of a drug purporting to be, or  
72 represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or  
73 such other use as involves prolonged contact with the body.

74 4. The provisions of sections 196.010 to 196.120 regarding the selling of food, drugs,  
75 devices, or cosmetics, shall be considered to include the manufacture, production, processing,  
76 packing, exposure, offer, possession, and holding of any such article for sale and the sale,  
77 dispensing, and giving of any such article, and the supplying of any such articles in the  
78 conduct of any food, drug, or cosmetic establishment.

196.015. The following acts and the causing thereof within the state of Missouri are  
2 hereby prohibited:

3 (1) The manufacture, sale, or delivery, holding or offering for sale of any food, drug,  
4 device, or cosmetic that is adulterated or misbranded;

5 (2) The adulteration or misbranding of any food, drug, device, or cosmetic;

6 (3) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated  
7 or misbranded, and the delivery or proffered delivery thereof for pay or otherwise;

8 (4) The sale, delivery for sale, holding for sale, or offering for sale of any article in  
9 violation of section 196.080 or 196.105;

10 (5) The dissemination of any false advertisement;

11 (6) The refusal to permit entry or inspection, or to permit the taking of a sample, as  
12 authorized by section 196.055;

13 (7) The giving of a guaranty or undertaking referred to in section 196.025(2), which  
14 guaranty or undertaking is false; except by a person who relied on a guaranty or undertaking  
15 to the same effect signed by, and containing the name and address of the person residing in  
16 the state of Missouri or in the United States, from whom he **or she** received in good faith the  
17 food, drug, device, or cosmetic;

18 (8) The removal or disposal of a detained or embargoed article in violation of section  
19 196.030;

20 (9) The alteration, mutilation, destruction, obliteration, or removal of the whole or  
21 any part of the labeling of, or the doing of any other act with respect to a food, drug, device,  
22 or cosmetic, if such act is done while such article is held for sale and results in such article  
23 being misbranded;

24 (10) Forging, counterfeiting, simulating, or falsely representing, or without proper  
25 authority using any mark, stamp, tag, label, or other identification device authorized or  
26 required by regulations promulgated under the provisions of sections 196.010 to 196.120;

27 (11) The using, on the labeling of any drug or in any advertising relating to such drug,  
28 of any representation or suggestion that an application with respect to such drug is effective  
29 under section 196.105, or that such drug complies with the provisions of such section;

30 (12) The using by any person to his **or her** own advantage, or revealing, other than to  
31 the department, or to the courts when relevant in any judicial proceeding under sections  
32 196.010 to 196.120, any information acquired under authority of ~~sections~~ **section** 196.055,  
33 196.080, **or** 196.105 concerning any method or process which as a trade secret is entitled to  
34 protection; **and**

35 **(13) The manufacturing, processing, possessing for sale, distributing, offering**  
36 **for sale, or selling of any cell-cultured meat product for human consumption. The**  
37 **prohibition in this subdivision applies regardless of whether the cell-cultured meat**  
38 **product is labeled or marketed as meat, poultry, fish, or any other animal-protein**  
39 **analogue. The prohibition in this subdivision shall not apply to bona fide scientific**  
40 **research conducted in an accredited academic or government laboratory where the cell-**  
41 **cultured meat product is not sold or offered for human consumption.**

196.025. 1. Any person who violates any of the provisions of section 196.015 shall,  
2 on conviction, be adjudged guilty of a misdemeanor, and punished by a fine of not more than  
3 one thousand dollars, or imprisonment for not more than one year or by both such fine and  
4 imprisonment.

5 2. No person shall be subject to the penalties of subsection 1 of this section for having  
6 violated section 196.015(1) or 196.015(3), if he **or she** establishes a guaranty or undertaking

7 signed by the person from whom he **or she** purchased the food, drug, device, or cosmetic; if a  
8 resident of this state, that the food, drug, device, or cosmetic is not adulterated or misbranded  
9 within the meaning of sections 196.010 to 196.120, designating it, or, if a nonresident of this  
10 state residing in the United States, or a resident of this state engaged in interstate commerce  
11 with reference to the product involved, that the food, drug, device, or cosmetic is not  
12 adulterated or misbranded within the meaning of an act of congress entitled "An act to  
13 prohibit the movement in interstate commerce of adulterated and misbranded food, drugs,  
14 devices, and cosmetics, and for other purposes" approved June 25, 1938, and the supplements  
15 and amendments thereto.

16 **3. In addition to the penalties of subsection 1 of this section, the department of**  
17 **health and senior services may impose an administrative penalty of up to ten thousand**  
18 **dollars for each violation of:**

19 **(1) Subdivision (1) of section 196.015 if the violation relates to misbranding**  
20 **under subdivision (12) of section 196.075; or**

21 **(2) Subdivision (13) of section 196.015.**

22 **4.** No publisher, radio broadcast licensee, or agency or medium for the dissemination  
23 of an advertisement, except the manufacturer, packer, distributor, or seller of the article to  
24 which a false advertisement relates shall be liable under this section by reason of the  
25 dissemination by him of such false advertisement, unless he has refused, on the request of the  
26 department of health and senior services to furnish the said department the name and post-  
27 office address of the manufacturer, packer, distributor, seller, or advertising agency, residing  
28 in the state of Missouri, or in the United States, who caused him to disseminate such  
29 advertisement.

196.045. 1. The authority to promulgate regulations for the efficient enforcement of  
2 sections 196.010 to 196.120 is hereby vested in the department of health and senior services  
3 **and, for the purposes described in subsection 3 of this section, in the department of**  
4 **agriculture. Except as otherwise provided in this section,** the department shall make the  
5 regulations promulgated under said sections conform, insofar as practicable, with those  
6 promulgated under the federal act.

7 2. Hearings authorized or required by sections 196.010 to 196.120 shall be conducted  
8 by the department of health and senior services or such officer, agent, or employee as the  
9 department may designate for the purpose.

10 3. **The department of agriculture and the department of health and senior**  
11 **services shall jointly promulgate rules to implement subdivision (13) of section 196.015**  
12 **and subdivision (12) of section 196.075. The rules promulgated in accordance with this**  
13 **subsection may impose requirements that are not imposed under federal law, and**  
14 **compliance with subdivision (13) of section 196.015 and subdivision (12) of section**

15 **196.075 and the corresponding rules shall be required regardless of whether the federal**  
16 **act or the rules promulgated under the federal act impose such requirements. The rules**  
17 **promulgated under this subsection shall include, but not be limited to, rules to:**

18 (1) **Establish verification and inspection procedures for identifying mRNA-based**  
19 **exposure in livestock or crops;**

20 (2) **Define uniform labeling and disclosure standards consistent with state and**  
21 **federal law; and**

22 (3) **Coordinate enforcement with the United States Department of Agriculture**  
23 **and the Food and Drug Administration regarding interstate food safety to the extent**  
24 **practicable.**

25 4. Regulations shall be promulgated pursuant to the requirements of this section and  
26 chapter 536. No rule or portion of a rule promulgated under the authority of this chapter shall  
27 become effective unless it has been promulgated pursuant to the provisions of section  
28 536.024.

196.050. **Except as otherwise provided in section 196.045**, in no event shall the said  
2 department of health and senior services prescribe or promulgate any regulation fixing or  
3 establishing any definitions or standards which are more rigid or more stringent than those  
4 prescribed by the federal act applying to any commodity covered by sections 196.010 to  
5 196.120 and if any product or commodity covered by said sections shall comply with the  
6 definitions and standards prescribed by the federal act for such product or commodity, such  
7 product or commodity shall be deemed in all respects to comply with sections 196.010 to  
8 196.120.

196.075. A food shall be deemed to be misbranded:

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

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

4 (3) If it is an imitation of another food, unless its label bears, in type of uniform size  
5 and prominence, the word, "imitation", and, immediately thereafter, the name of the food  
6 imitated;

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

8 (5) If in package form, unless it bears a label containing:

9 (a) The name and place of business of the manufacturer, packer or distributor;

10 (b) An accurate statement of the quantity of the contents in terms of weight, measure,  
11 or numerical count; provided, that under clause (b) of this subdivision reasonable variations  
12 shall be permitted, and exemptions as to small packages shall be established, by regulations  
13 prescribed by the department of health and senior services;

14 (6) If any word, statement, or other information required by or under authority of  
15 sections 196.010 to 196.120 to appear on the label or labeling is not prominently placed

16 thereon with such conspicuousness, as compared with other words, statements, designs, or  
17 devices, in the labeling, and in such terms as to render it likely to be read and understood by  
18 the ordinary individual under customary conditions of purchase and use;

19 (7) If it purports to be or is represented as a food for which a definition and standard  
20 of identity has been prescribed by regulations as provided by section 196.050, unless it  
21 conforms to such definition and standard, and its label bears the name of the food specified in  
22 the definition and standard, and, insofar as may be required by such regulations, the common  
23 names of optional ingredients, other than spices, flavoring, and coloring, present in such food;

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

25 (a) A food for which a standard of quality has been prescribed by regulations as  
26 provided by section 196.050 and its quality falls below such standard unless its label bears, in  
27 such manner and form as such regulations specify, a statement that it falls below such  
28 standard;

29 (b) A food for which a standard or standards of fill of container have been prescribed  
30 by regulation as provided by section 196.050, and it falls below the standard of fill of  
31 container applicable thereto, unless its label bears, in such manner and form as such  
32 regulations specify, a statement that it falls below such standard;

33 (9) If it is not subject to the provisions of subdivision (7) of this section, unless it  
34 bears labeling clearly giving:

35 (a) The common or usual name of the food, if any there be; and

36 (b) In case it is fabricated from two or more ingredients, the common or usual name  
37 of each such ingredient, except that spices, flavorings, and colorings, other than those sold as  
38 such, may be designated as spices, flavorings, and colorings, without naming each; provided,  
39 that, to the extent that compliance with the requirements of paragraph (b) of this subdivision  
40 is impractical or results in deception or unfair competition, exemptions shall be established by  
41 regulations promulgated by the department of health and senior services; provided further,  
42 that the requirements of paragraph (b) of this subdivision shall not apply to any carbonated  
43 beverage the ingredients of which have been fully and correctly disclosed, to the extent  
44 prescribed by said paragraph (b) to the department of health and senior services in an  
45 affidavit;

46 (10) If it purports to be or is represented for special dietary uses, unless its label bears  
47 such information concerning its vitamin, mineral, and other dietary properties as the  
48 department of health and senior services determines to be, and by regulations prescribed, as  
49 necessary in order to fully inform purchasers as to its value for such uses;

50 (11) If it bears or contains any artificial flavoring, coloring, or chemical preservative,  
51 unless it bears labeling stating that fact; provided, that to the extent that compliance with the  
52 requirements of this subdivision is impracticable, exemptions shall be established by

53 regulations promulgated by the department of health and senior services; and provided  
54 further, that subdivision (11) shall not apply to artificial coloring in butter, cheese or ice  
55 cream;

56 **(12) If it is a meat, poultry, fish, or agricultural product derived from an animal**  
57 **or plant that has been treated with, injected with, or otherwise exposed to any mRNA-**  
58 **based product or gene-therapy substance and purports to be or is represented for**  
59 **human consumption unless the use of the mRNA-based product or gene-therapy**  
60 **substance is clearly disclosed on the product label in print not smaller than the print**  
61 **used for the ingredients list. Any conventional, non-gene-altering vaccine or biologic**  
62 **traditionally used for animal health and approved under state or federal law shall be**  
63 **exempt from this subdivision;**

64 **(13)** The department is hereby directed to promulgate regulations exempting from  
65 any labeling requirement of sections 196.010 to 196.120 small open containers of fresh fruits  
66 and vegetables and food which is, in accordance with the practice of the trade, to be  
67 processed, labeled, or repacked in substantial quantities at establishments other than those  
68 where originally processed or packed, on condition that such food is not adulterated or  
69 misbranded under the provisions of said sections upon removal from such processing,  
70 labeling or repackaging establishment.

Section B. Because immediate action is necessary to protect Missouri's livestock  
2 industry and food supply integrity and ensure consumer transparency, section A of this act is  
3 deemed necessary for the immediate preservation of the public health, welfare, peace, and  
4 safety, and is hereby declared to be an emergency act within the meaning of the constitution,  
5 and section A of this act shall be in full force and effect upon its passage and approval.

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