

1 S.206

2 Introduced by Senator Starr

3 Referred to Committee on

4 Date:

5 Subject: Agriculture; preparation of livestock and poultry products; sale of
6 non-meat products labeled as meat

7 Statement of purpose of bill as introduced: This bill proposes to prohibit the
8 sale of a product labeled as meat, a meat food product, poultry, or a poultry
9 product, or food when the product does not contain meat.

10 An act relating to the sale of non-meat items labeled as meat

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 6 V.S.A. § 3302 is amended to read:

13 § 3302. DEFINITIONS

14 As used in this chapter, except as otherwise specified, the following terms
15 shall have the meanings stated below:

16 * * *

17 (4) "Capable of use as human food" shall apply to any livestock or
18 poultry carcass, or part or product of any livestock or poultry carcass, unless it
19 is denatured or otherwise identified as required by rules prescribed by the

1 Secretary to deter its use as human food, or ~~which~~ that is naturally inedible by
2 humans.

3 * * *

4 (11) “Federal Food, Drug, and Cosmetic Act” means the Act so entitled,
5 approved June 25, 1938 (52 Stat. 1040), and amendatory or supplementary acts
6 codified at 21 U.S.C. §§ 301-399f. It shall include as part of its meaning the
7 Vermont Food, Drug, Cosmetic and Hazardous Substance Labeling Act
8 codified at 18 V.S.A. chapter 82, subchapter 1, rules adopted under that
9 chapter, and amendatory or supplementary acts, where not inconsistent with
10 the Federal Food, Drug, and Cosmetic Act.

11 (12) “Federal Meat Inspection Act” means the Act so entitled approved
12 March 4, 1907 (34 Stat. 1260), as amended by the Wholesome Meat Act (81
13 Stat. 584); the term “Federal Poultry Products Inspection Act” means the Act
14 so entitled approved August 28, 1957 (71 Stat. 441), as amended by the
15 Wholesome Poultry Products Act (82 Stat. 791); and the term “Federal Acts”
16 ~~mean~~ means these two federal laws.

17 * * *

18 (18) “Label” means a display of written, printed, or graphic matter upon
19 any product or the immediate container, not including package liners, of any
20 product.

1 products are unadulterated and that products are not represented as meat food
2 products. This term as applied to food products of equines shall have a
3 meaning comparable to that provided in this subdivision with respect to cattle,
4 bison, sheep, swine, domestic rabbits, and goats.

5 (25) "Misbranded" shall apply to any livestock product or poultry
6 product under one or more of the following circumstances:

7 (A) if its labeling is false or misleading in any way;

8 (B) if it is offered for sale under the name of another food;

9 (C) if it is an imitation of another food, unless its label bears, in type
10 of uniform size and prominence, the word "imitation" and immediately
11 thereafter, the name of the food imitated;

12 (D) if its container is made, formed, or filled as to be misleading;

13 (E) unless it bears a label showing:

14 (i) the name and place of business of the manufacturer, packer, or
15 distributor; and

16 (ii) an accurate statement of the quantity of the product in terms of
17 weight, measure, or numerical count; provided, that under this subdivision (E),
18 exemptions as to livestock products not in containers may be established
19 by rules prescribed by the Secretary and provided, further, that under
20 subdivision (ii) of this subdivision (E), reasonable variations may be permitted,

1 and exemptions as to small packages may be established for livestock products
2 or poultry products by rule prescribed by the Secretary;

3 (F) if any word, statement, or other information required by or under
4 authority of this chapter to appear on the label or other labeling is not
5 prominently placed with such conspicuousness as compared with other words,
6 statements, designs, or devices, in the labeling and in terms as to render it
7 likely to be read and understood by the ordinary individual under customary
8 conditions of purchase and use;

9 (G) if it is represented as a food for which a definition and standard
10 of identity or composition has been prescribed by the rules of the Secretary
11 under section 3305 of this title unless:

12 (i) it conforms to the definition and standard; and

13 (ii) its label bears the name of the food specified in the definition
14 and standard and, insofar as may be required by rules, the common names of
15 optional ingredients other than spices, flavoring, and coloring present in the
16 food;

17 (H) if it is represented as a food for which a standard or standards of
18 fill of container have been prescribed by rules of the Secretary under section
19 3305 of this title and it falls below the standard of fill of container, unless its
20 label bears, in such manner and form as the rules specify, a statement that it
21 falls below the standard;

1 (I) if it is not subject to the provisions of subdivision (G) of this
2 subdivision (25), unless its label bears:

3 (i) the common or usual name of the food, if any; and

4 (ii) in case it is fabricated from two or more ingredients, the
5 common name of each ingredient, except that spices, flavorings, and colorings
6 may, when authorized by the Secretary, be designated as spices, flavorings,
7 and colorings without naming each; provided, that, to the extent that
8 compliance with the requirements of subdivision (ii) of this subdivision (I) is
9 impracticable, or results in deception or unfair competition, exemptions shall
10 be established by rules adopted by the Secretary;

11 (J) if it is represented for special dietary uses, unless its label bears
12 such information concerning its vitamin, mineral, and other dietary properties
13 as the Secretary determines to be, and by rules prescribe as, necessary in order
14 to fully inform purchasers as to its value for these uses;

15 (K) if it contains any artificial flavoring, artificial coloring, or
16 chemical preservative, unless it has a label stating that fact; provided, that, to
17 the extent that compliance with the requirements of this subdivision (K) is
18 impracticable, exemptions shall be established by rules adopted by the
19 Secretary;

20 (L) if it fails to have, directly on its containers, as the Secretary may
21 by rules prescribe, the official inspection legend and establishment number of

1 the establishment where the product was prepared, and, unrestricted by any of
2 the foregoing, such other information as the Secretary may require in rules to
3 assure that it will not have false or misleading labeling and that the public will
4 be informed of the manner of handling required to maintain the product in a
5 wholesome condition.

6 (M) if it is represented as meat or a meat food product but was not
7 derived from or harvested from a carcass of cattle, bison, sheep, swine,
8 domestic rabbits, or goats or from a poultry carcass.

9 * * *

10 (33) "Poultry" means any domesticated bird, whether live or dead.

11 (34) "Poultry product" means any poultry carcass or part of a carcass; or
12 any product ~~which~~ that is made wholly or in part from any poultry carcass or
13 part of a carcass, excepting products ~~which~~ that are exempted by the Secretary
14 from definition as a poultry product under conditions ~~which~~ that he or she may
15 prescribe to assure that the poultry ingredients in products are not adulterated,
16 and that these products are not represented as poultry products.

17 * * *

18 Sec. 2. 6 V.S.A. § 3308 is amended to read:

19 § 3308. PROHIBITED ACTS IN GENERAL

20 (a) No person shall, with respect to any livestock or poultry or any
21 livestock products or poultry products:

1 (1) slaughter any livestock or poultry or prepare any products ~~which~~ that
2 are capable of use as human food, at any establishment preparing the products
3 solely for intrastate commerce, except in compliance with the requirements of
4 this chapter and the rules adopted pursuant to this chapter;

5 (2) sell, transport, offer for sale or transportation, or receive for
6 transportation, in intrastate commerce, any products ~~which~~ that:

7 (A) are capable for use as human food; and

8 ~~(B)~~ are adulterated or misbranded at the time of the sale,

9 transportation, offer for sale or transportation, or receipt for transportation; or

10 ~~(C)~~(B) have not been inspected and passed unless they are exempt
11 from inspection pursuant to rules adopted by the Secretary; or

12 (3) do, with respect to any of these products ~~which~~ that are capable of
13 use as human food, any act while they are being transported in intrastate
14 commerce or held for sale after transportation, ~~which~~ that is intended to cause
15 or has the effect of causing the products to be adulterated or misbranded.

16 (b) No person shall sell, transport, offer for sale or transportation, or
17 receive for transportation, in intrastate commerce, or from an official
18 establishment, any slaughtered poultry from which the blood, feathers, feet,
19 head or viscera have not been removed in accordance with rules adopted by the
20 Secretary except as may be authorized by rules.

1 (c) No person shall violate any provision of this chapter, the rules adopted
2 pursuant to this chapter, or the orders of the Secretary, or of his or her
3 inspectors.

4 Sec. 3. 6 V.S.A. § 3310 is amended to read:

5 § 3310. ADDITIONAL PROHIBITED ACTS: LABELING; DENATURING;
6 DEALING IN DEAD, DYING, DISABLED, AND DISEASED
7 ANIMALS; LICENSING

8 (a) No person shall sell, transport, offer for sale or transportation, or
9 receive for transportation, in intrastate commerce, any carcasses of horses,
10 mules, or other equines or parts of these carcasses, or the meat or meat food
11 products of these carcasses, unless they are plainly and conspicuously marked
12 or labeled or otherwise identified as required by rules prescribed by the
13 Secretary to show the kinds of animals from which they were derived.

14 (b) No person shall buy, sell, transport, or offer for sale or transportation,
15 or receive for transportation, in intrastate commerce, any livestock products or
16 poultry products ~~which~~ that are not intended for use as human food unless they
17 are denatured or otherwise identified as required by the rules of the Secretary
18 or are naturally inedible by humans.

19 (c) No person engaged in the business of buying, selling, or transporting in
20 intrastate commerce, dead, dying, disabled, or diseased animals, or any parts of
21 the carcasses of any animals that died other than by slaughter, shall buy, sell,

1 transport, offer for sale or transportation, or receive for transportation in
2 commerce, any dead, dying, disabled, or diseased livestock or poultry or the
3 products of any of these animals that died other than by slaughter, unless the
4 transaction or transportation is made in accordance with rules ~~which~~ that the
5 Secretary may prescribe to assure that the animals, or the unwholesome parts
6 or products, will be prevented from being used for human food purposes.

7 (d) No person shall engage in the business of buying, selling, preparing,
8 processing, packing, storing, transporting, or otherwise handling meat, meat
9 food products, or poultry products, unless that person holds a valid license
10 issued in accordance with section 3306 of this title.

11 (e) No person shall sell or distribute in the State any product that does not
12 contain meat or poultry if:

13 (1) the product is labeled as meat, a meat product, poultry, or a poultry
14 product; or

15 (2) is labeled as a food for which a standard of identity has been adopted
16 under section 3305 of this title or under the Federal Food, Drug, and Cosmetic
17 Act and that standard of identity requires the product to consist of meat, a meat
18 food product, poultry, or a poultry product.

19 Sec. 4. 6 V.S.A. § 3117 is amended to read:

20 § 3317. PENALTIES; GENERALLY

1 (a) Any person who violates any provision of this chapter, or the rules
2 promulgated under this chapter, for which no other criminal penalty is
3 provided by this chapter shall upon conviction be subject to imprisonment for
4 not more than one year, or a fine of not more than \$1,000.00, or both.
5 However, if the violation involves intent to defraud, or any distribution or
6 attempted distribution of a product that is adulterated except as defined in
7 subdivision 3302(1)(K) of this title, the person shall be subject to
8 imprisonment for not more than three years or a fine of not more than
9 \$10,000.00, or both.

10 (b) Nothing in this chapter shall be construed as requiring the Secretary to
11 report for prosecution or for the institution of libel or injunction proceedings
12 minor violations of this chapter whenever he or she believes that the public
13 interest will be adequately served by a suitable written notice of warning.

14 (c) Any person who violates this chapter or any rule adopted by the
15 Secretary under this chapter shall be liable for a civil penalty not to exceed
16 \$1,000.00 for each violation. A civil penalty may be imposed by the
17 Washington Superior Court, or by any other Superior Court. The Superior
18 Court shall consider the size of the business of the person charged, the effect
19 on the person's ability to continue in business, and the gravity of the violation
20 in assessing a civil penalty. Whenever the Secretary finds that the violation

1 occurred despite the exercise of due care, he or she may issue a warning
2 instead of seeking a penalty.

3 (d) A person who violates subsection 3310(d) of this title shall upon
4 conviction be subject to imprisonment for not more than two years, or a fine of
5 not more than \$10,000.00, or both, and shall be liable for a civil penalty not to
6 exceed \$10,000.00 for each product found to be in violation.

7 Sec. 5. EFFECTIVE DATE

8 This act shall take effect on July 1, 2020.