

Senate File 404 - Introduced

SENATE FILE 404

BY CARLIN

A BILL FOR

1 An Act providing for the regulation of certain food products by
2 using the term meat.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 137F.7A Suspension or revocation of
2 licenses — advertising and sale of food products falsely using
3 the term "meat".

4 A regulatory authority may suspend or revoke a license
5 issued to a person under this chapter if the person is a
6 food product vendor as defined in section 137G.1 and the
7 food product vendor violates section 137G.2. The regulatory
8 authority shall take such action in accordance with rules
9 adopted by the department of inspections and appeals in
10 consultation with the attorney general and the department of
11 agriculture and land stewardship.

12 Sec. 2. NEW SECTION. 137G.1 Definitions.

13 As used in this chapter, unless the context otherwise
14 requires:

15 1. *a.* "Advertise" means to present a commercial message by
16 auditory or visual means, including but not limited to verbal
17 articulation or by any print or electronic medium.

18 *b.* "Advertise" includes but is not limited to a message
19 conveyed by a printed sign, label, tag, or by radio,
20 television, or computer transmission.

21 2. "Animal" means a nonhuman species of mammal, bird, or
22 fish.

23 3. "Department" means the department of inspections and
24 appeals.

25 4. "Federal food product agency" means the United States
26 department of agriculture or the United States food and drug
27 administration.

28 5. "Food product" means food as defined in section
29 137F.1, including an ingredient in food, that is presented,
30 prepared, manufactured, or otherwise processed, preserved, or
31 packaged for sale and which is ordinarily purchased for human
32 consumption in accordance with applicable state or federal
33 law, including but not limited to regulations promulgated by
34 a federal food product agency.

35 6. *a.* "Food product vendor" means a person engaged in the

1 sale of a food product to the public in the ordinary course of
2 the person's business, regardless of whether such food product
3 is ordinarily purchased for human consumption on or off the
4 premises where the sale occurred.

5 *b.* "Food product vendor" includes but is not limited to a
6 grocery store as defined in section 137F.1, market, restaurant,
7 cafeteria, delicatessen, bakery, or other eat-in, delivery, or
8 carry-out service.

9 7. "Sale" or "sell" means any transfer of title or
10 possession of a food product to the ultimate consumer by
11 agreement or any other means in exchange for consideration,
12 including but not limited to by currency, exchange, or barter.

13 Sec. 3. NEW SECTION. 137G.2 Prohibition.

14 1. A food product vendor shall not advertise for sale or
15 sell a food product by using the term "meat" including any
16 variation of that term, unless such food product derives from
17 an animal's muscle tissue, fat, gland, or organ.

18 2. The department may exempt from the provisions of
19 subsection 1 any advertising for sale or the selling of a food
20 product if the department determines that the advertisement
21 would not mislead a reasonable consumer purchasing the food
22 product on a retail basis.

23 3. Subsection 1 does not apply to advertising for sale
24 or selling a food product by describing the food product as
25 comparable to meat or as a substitute to meat. However, such
26 a description must be presented in a manner that would not
27 mislead a reasonable consumer purchasing the food product on a
28 retail basis.

29 4. Subsection 1 does not apply if a food product vendor
30 could not have reasonably known that a food product as
31 advertised did not derive from an animal's muscle tissue, fat,
32 gland, or organ.

33 Sec. 4. NEW SECTION. 137G.3 Administration and enforcement
— general.

35 The department shall administer and enforce this chapter in

1 consultation with the attorney general and the secretary of
2 agriculture.

3 Sec. 5. NEW SECTION. 137G.4 Investigations, complaints,
4 inspections, and examinations.

5 1. The department may conduct an investigation to determine
6 if a food product vendor is complying with the requirements of
7 section 137G.2.

8 2. The department may receive a complaint from any person
9 regarding a violation of this chapter. The department may
10 adopt procedures for persons filing complaints. The department
11 may establish procedures for processing complaints including
12 requiring minimum information to determine the verifiability
13 of a complaint.

14 3. The department may conduct an examination of a food
15 product in order to determine if the food product is advertised
16 in compliance with section 137G.2. The department may enter
17 upon the premises of a food product vendor during regular
18 business hours for purposes of carrying out an inspection of
19 food products, including as provided under section 808.14.

20 Sec. 6. NEW SECTION. 137G.5 Legal proceedings.

21 1. The department may commence a contested case proceeding
22 under chapter 17A to enforce a violation of section 137G.2.
23 The attorney general may commence legal proceedings in district
24 court at the request of the department or upon the attorney
25 general's own initiative to enforce a provision of section
26 137G.2.

27 2. The department or the attorney general is not required to
28 commence an action to enforce a violation of section 137G.2 if
29 the department or attorney general concludes that the public
30 interest will be best served by a suitable notice of warning
31 in writing.

32 Sec. 7. NEW SECTION. 137G.6 Civil penalty.

33 1. The department shall establish, by rule, civil penalties
34 for a violation of this chapter. The amount of the civil
35 penalty shall not exceed one thousand five hundred dollars.

1 Each day that a violation continues shall constitute a
2 separate violation. Moneys collected in civil penalties by the
3 department or the attorney general shall be deposited in the
4 general fund of the state.

5 2. A civil penalty shall be administratively assessed only
6 after an opportunity for a contested case hearing under chapter
7 17A. The department may be represented in an administrative
8 hearing or judicial proceeding by the attorney general.

9 Sec. 8. NEW SECTION. 137G.7 **Stop sale order and injunctive**
10 **relief.**

11 1. *a.* The department may issue a written stop sale order
12 to stop a food product vendor from advertising or selling a
13 food product in violation of this chapter. The food product
14 vendor named in the order shall not advertise or sell the food
15 product until the department determines that the food product
16 is advertised or sold in compliance with section 137G.2.

17 *b.* Paragraph "a" shall not apply to any type of perishable
18 food product that is subject to contamination or spoilage if
19 not sold within five calendar days of being first offered for
20 sale.

21 2. Upon request by the department, the attorney general may
22 petition district court for an order temporarily or permanently
23 enjoining a violation of section 137G.2, without notice or
24 bond.

25 3. Proceedings under this section shall be in addition to,
26 and not in lieu of, the imposition and assessment of penalties
27 provided in section 137G.6.

28 Sec. 9. NEW SECTION. 137G.8 **Implementation.**

29 If necessary to implement a provision of this chapter,
30 the department shall submit a request to the appropriate
31 federal food product agency for a waiver or other exception
32 from regulations as deemed feasible by the department. The
33 department shall regularly report the status of such request to
34 the legislative services agency.

35 Sec. 10. Section 159.5, Code 2019, is amended by adding the

1 following new subsection:

2 NEW SUBSECTION. 8A. Cooperate with the department of
3 inspections and appeals in the administration and enforcement
4 of chapter 137F.

5 EXPLANATION

6 The inclusion of this explanation does not constitute agreement with
7 the explanation's substance by the members of the general assembly.

8 GENERAL. This bill creates new Code chapter 137G
9 prohibiting a food product vendor (e.g., market, restaurant,
10 cafeteria, delicatessen, bakery, or other eat-in, delivery,
11 or carry-out service) from advertising a food product (food
12 or an ingredient in food) for sale on a retail basis by using
13 the term "meat" unless it derives from the muscle tissue,
14 fat, gland, or organ of an animal (e.g., nonhuman mammal,
15 bird, or fish). There are several exceptions in cases in
16 which an advertisement would not mislead a reasonable consumer
17 purchasing the food product on a retail basis.

18 ADMINISTRATION AND ENFORCEMENT. The provisions of the bill
19 are administered and enforced by the department of inspections
20 and appeals (DIA) in consultation with the attorney general and
21 the secretary of agriculture. DIA may conduct an investigation
22 to determine if a food product vendor is complying with the
23 requirements of the bill. It may also receive complaints
24 from any person reporting a violation. DIA may commence
25 an administrative proceeding and the attorney general may
26 commence legal proceedings in district court to enforce the
27 bill's provisions. A food product vendor who violates the
28 bill's provisions is subject to a civil penalty of not more
29 than \$1,500, with each day of a violation constituting a
30 separate offense. DIA may issue a temporary stop sale order
31 and the attorney general may petition the district court for a
32 temporary or permanent injunction.

33 IMPLEMENTATION. If necessary to implement the provisions
34 of the bill, DIA is required to submit a request to the
35 appropriate federal food product agency for a waiver or

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1 other exception from regulations as deemed feasible by the
2 department. The department shall regularly report the status
3 of such request to the legislative services agency.