

UPDATED
SESSION OF 2020

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2437

As Amended by House Committee on
Agriculture

Brief*

HB 2437, as amended, would amend the Kansas Food, Drug and Cosmetic Act (Act) to include several new terms, including “meat analog” and “identifiable meat term,” and specify when such foods would be deemed misbranded under provisions of the Act. The bill would also make technical changes.

Definitions

The bill would create the following definitions in the Act:

- “Meat analog” would mean any food that approximates the aesthetic qualities or chemical characteristics of any specific type of meat, meat food product, poultry product, or poultry food product, but does not contain any meat, meat food product, poultry product, or poultry food product; and
- “Identifiable meat term” would include, but not be limited to, terms such as meat, beef, pork, poultry, chicken, turkey, lamb, goat, jerky, steak, hamburger, burger, ribs, roast, bacon, bratwurst, hot dog, ham, sausage, tenderloin, wings, breast, and other terms for food that contain any meat,

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

meat food product, poultry product, or poultry food product.

In addition, definitions for meat, meat food product, poultry product, and poultry food product would be added to the Act and would have the same definitions as provided for in the Code of Federal Regulations (C.F.R.), as of January 1, 2020.

The bill would also amend the definition of “imitation” in the definition section of the Act (KSA 65-656) to make clear this definition is different from the definition in the misbranding section of the Act (KSA 65-665).

New Misbranding Provisions

The bill would clarify the word “imitation” would mean the same in the provisions of the Act as provided for in the C.F.R., which prescribes when a food shall be deemed misbranded. In the federal regulation, “imitation” means if it is a substitute for and resembles another food, but is nutritionally inferior. The same federal regulation includes in the definition of “nutritionally inferior” a substitute that contains less protein or potassium or a lesser amount of any essential vitamin or mineral than is contained in the food being substituted.

The bill would also stipulate that in situations when a meat analog’s labeling utilizes an identifiable meat term, and does not have a disclaimer in the exact font, style, and size immediately before or after the identifiable meat term stating the product does not contain meat, is meatless, or meat-free, it would be deemed mislabeled under the Act. The bill would also clarify that these provisions would not apply to a menu or menu board or to food that can be defined as “imitation” and is in compliance with the Act.

Severability

The bill also contains a severability clause, which states if any provision of Section 2 is held to be invalid or unconstitutional, it shall be conclusively presumed the Legislature would have enacted the remainder of this section without the unconstitutional provisions.

Background

The bill was introduced by Representative Highland.

In the House Committee on Agriculture hearing, representatives of the Kansas Livestock Association and Kansas Pork Association provided proponent testimony. The proponents stated manufacturers of meat analogs should be required to accurately label and advertise their products, and the bill would require a disclaimer on a meat analog label, rather than banning the use of an “identifiable meat term.”

Written-only proponent testimony was provided by representatives of the Kansas Corn, Dairy, Soybean, and Grain Sorghum Associations; Kansas Farm Bureau; and Kansas Farmers Union.

Representatives of the Good Food Institute, Kansas Justice Institute, and Kansas Restaurant and Hospitality Association provided opponent testimony. Opponents generally stated the bill would compel the use of certain words in labels and advertisements and require the creation of Kansas specific labels. Written-only opponent testimony was provided by the Consumer Brands Association.

Neutral testimony was provided by a representative of the Kansas Department of Agriculture (KDA). The representative stated any action or enforcement that would be required by the bill would be conducted by the KDA’s Food Safety and Lodging Program, which is tasked with enforcing

the Act. Written-only neutral testimony was provided by Americans for Prosperity Kansas.

The House Committee amended the bill on February 3, 2020, to remove references to advertising, add “meatless” and “meat free” to the acceptable terms allowed on a disclaimer for meat analog products, and add menus and menu board to the listed items to which the misbranding provisions would not apply.

On February 26, 2020, the bill, as amended by the House Committee, was withdrawn from the House Calendar and referred to the House Committee on Appropriations. On March 5, 2020, the bill was withdrawn from the Committee on Appropriations and rereferred to the House Committee on Agriculture. On March 10, 2020, the House Committee reported the bill be passed with the amendments previously recommended.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the KDA states enactment of the bill would have no fiscal effect on agency operations.