

JAN 23 2014

A BILL FOR AN ACT

RELATING TO FOOD SAFETY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 328-10, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§328-10 Foods deemed misbranded when.** A food shall be
4 deemed to be misbranded:

5 (1) If its labeling is false or misleading in any
6 particular; or if its labeling or packaging fails to
7 conform with the requirements of sections 328-2 and
8 328-19.1;

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

11 (3) If it is an imitation of another food for which a
12 definition and standard of identity has been
13 prescribed by rules as provided by section 328-8; or
14 if it is an imitation of another food that is not
15 subject to paragraph (7), unless its label bears in
16 type of uniform size and prominence, the word
17 "imitation" and, immediately thereafter, the name of
18 the food imitated;



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- 1 (4) If its container is so made, formed, or filled as to
2 be misleading;
- 3 (5) If in package form, unless it bears a label containing
4 (A) the name and place of business of the
5 manufacturer, packer, or distributor; (B) an accurate
6 statement of the quantity of the contents in terms of
7 weight, measure, or numerical count, which statement
8 shall be separately and accurately stated in a uniform
9 location upon the principal display panel of the
10 label; provided that under subparagraph (B) reasonable
11 variations shall be permitted, and exemptions as to
12 small packages shall be established, by rules adopted
13 by the department of health;
- 14 (6) If any word, statement, or other information required
15 by or under authority of this part to appear on the
16 label or labeling is not prominently placed thereon
17 with such conspicuousness (as compared with other
18 words, statements, designs, or devices, in the
19 labeling) and in such terms as to render it likely to
20 be read and understood by the ordinary individual
21 under customary conditions of purchase and use;



- 1 (7) If it purports to be or is represented as a food for
2 which a definition and standard of identity have been
3 prescribed by rules as provided by section 328-8,
4 unless (A) it conforms to such definition and
5 standard, and (B) its label bears the name of the food
6 specified in the definition and standards, and,
7 insofar as may be required by the rules, the common
8 names of optional ingredients (other than spices,
9 flavoring, and coloring) present in the food;
- 10 (8) If it purports to be or is represented as:
- 11 (A) A food for which a standard of quality has been
12 prescribed by rules as provided by section 328-8
13 and its quality falls below such standard unless
14 its label bears, in such manner and form as the
15 rules specify, a statement that it falls below
16 such standard; or
- 17 (B) A food for which a standard or standards of fill
18 of container have been prescribed by rules as
19 provided by section 328-8, and it falls below the
20 standard of fill of container applicable thereto,
21 unless its label bears, in such manner and form



1 as the rules specify, a statement that it falls
2 below such standard;

3 (9) If it is not subject to paragraph (7), unless its
4 label bears (A) the common or usual name of the food,
5 if any there be, and (B) in case it is fabricated from
6 two or more ingredients, the common or usual name of
7 each such ingredient; except that spices, flavorings,
8 and colorings, other than those sold as such, may be
9 designated as spices, flavorings, and colorings,
10 without naming each; provided that to the extent that
11 compliance with the requirements of subparagraph (B)
12 is impractical or results in deception or unfair
13 competition, exemptions shall be established by rules
14 prescribed by the department; and, provided further
15 that the requirements of subparagraph (B) shall not
16 apply to food products which are packaged at the
17 direction of purchasers at retail at the time of sale,
18 the ingredients of which are disclosed to the
19 purchasers by other means in accordance with rules
20 prescribed by the department;

21 (10) If it purports to be or is represented for special
22 dietary uses, unless its label bears such information



1 concerning its vitamin, mineral, and other dietary
2 properties as the department determines to be, and by
3 rules prescribes, as necessary in order to fully
4 inform purchasers as to its value for such uses;

5 (11) If it bears or contains any artificial flavoring,
6 artificial coloring, or chemical preservative, unless
7 it bears labeling stating that fact; provided that to
8 the extent that compliance with the requirements of
9 this paragraph is impracticable, exemptions shall be
10 established by rules prescribed by the department;
11 and, provided further that this paragraph and
12 paragraphs (7) and (9) with respect to artificial
13 coloring shall not apply in the case of butter,
14 cheese, or ice cream. The provisions of this
15 paragraph regarding chemical preservatives shall not
16 apply to a pesticide chemical when used in or on a raw
17 agricultural commodity which is the produce of the
18 soil;

19 (12) If it is a product intended as an ingredient of
20 another food and, when used according to the
21 directions of the purveyor, will result in the final
22 food product being adulterated or misbranded;



- 1 (13) If it is a color additive unless its packaging and
2 labeling are in conformity with the packaging and
3 labeling requirements applicable to the color additive
4 prescribed under the Federal Act;
- 5 (14) If it is a raw agricultural commodity which is the
6 produce of the soil, bearing or containing a pesticide
7 chemical applied after harvest, unless the shipping
8 container of such commodity bears labeling which
9 declares the presence of such chemical in or on such
10 commodity and the common or usual name and the
11 function of such chemical; provided that no such
12 declaration shall be required while such commodity,
13 having been removed from the shipping container, is
14 being held or displayed for sale at retail out of such
15 container in accordance with the custom of the trade;
- 16 (15) If it is a confectionery and contains alcohol in
17 excess of one-half of one per cent by weight and that
18 fact does not appear on the label for the food[-]; or
- 19 (16) If it is a non-seafood or non-shellfish that is sold
20 in a restaurant and has been cooked in oil that was
21 also used to cook seafood or shellfish, and that fact
22 is not disclosed to the customer by proper labeling or




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1 conspicuously posted signs or conspicuous notices on
2 menu cards and advertisements."

3 SECTION 2. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 3. This Act shall take effect upon its approval.

6

INTRODUCED BY: 

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Report Title:

Restaurants; Frying Practices; Seafood; Misbranding

Description:

Deems as misbranded any non-seafood or non-shellfish that is sold in a restaurant and has been cooked in oil that was also used to cook seafood or shellfish, and that fact is not disclosed to the customer by proper labeling or conspicuously posted signs or conspicuous notices on menu cards and advertisements.

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