

2023 Kansas Statutes

- 65-665. Food deemed misbranded, when.** A food shall be deemed to be misbranded:
- (a) If its labeling is false or misleading in any particular.
 - (b) If it is offered for sale under the name of another food.
 - (c) If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated. For the purposes of this section, "imitation" means the same as provided in 21 C.F.R. § 101.3(e), as in effect on January 1, 2022. In such definition, references to section 403(c) of the federal food, drug, and cosmetic act mean this subsection (c), and references to the commissioner mean the Kansas secretary of agriculture.
 - (d) If its container is so made, formed or filled as to be misleading.
 - (e) If in package form, unless it bears a label containing: (1) The name and place of business of the manufacturer, packer or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count. Reasonable variations shall be permitted, and exemptions as to small packages shall be established, by rules and regulations prescribed by the secretary of agriculture.
 - (f) If any word, statement or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.
 - (g) If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by K.S.A. 65-663, and amendments thereto, unless: (1) It conforms to such definition and standard; and (2) its label bears the name of the food specified in the definition and standard, and insofar as may be required by such regulations, the common names of optional ingredients, other than spices, flavoring and coloring, present in such food.
 - (h) If it purports to be or is represented as: (1) A food for which a standard of quality has been prescribed by regulations as provided in K.S.A. 65-663, and amendments thereto, and its quality falls below such standard unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or (2) a food for which a standard or standards of fill of container has been prescribed by regulations as provided by K.S.A. 65-663, and amendments thereto, and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify a statement that it falls below such standard.
 - (i) If it is not subject to the provisions of subsection (g), unless it bears labeling clearly giving: (1) The common or usual name of the food, if any; and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient, except that spices, flavorings and colorings, other than those sold as such, may be designated as spices, flavorings and colorings, without naming each. Except that to the extent that compliance with the requirements of paragraph (2) is impractical or results in deception or unfair competition, exemptions shall be established by rules and regulations promulgated by the secretary.
 - (j) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral and other dietary properties as the secretary determines to be, and by regulations prescribes, as necessary, in order to fully inform purchasers as to its value for such uses.
 - (k) If it bears or contains any artificial flavoring, artificial coloring or chemical preservatives, unless it bears labeling stating that fact. Except that to the extent that compliance with the requirements of this subsection is impracticable, exemptions shall be established by rules and regulations promulgated by the secretary.
 - (l) If it is a product intended as an ingredient of another food and when used according to the directions of the purveyor will result in the final food product being adulterated or misbranded.
 - (m) If it is a meat analog and: (1) Its labeling utilizes an identifiable meat term; and (2) the labeling does not have a disclaimer in a prominent and conspicuous font size,

in close proximity to the identifiable meat term, stating one of the following: (A) "This product does not contain meat"; (B) "meatless"; (C) "meat-free"; (D) "vegan"; (E) "veggie"; (F) "vegetarian"; (G) "vegetable"; (H) "plant-based"; or (I) a disclaimer equivalent to (A) through (H), as determined by the secretary through rules and regulations. The provisions of this subsection shall not apply to a menu or menu board or to food that can be defined as "imitation" under subsection (c) and complies with the provisions of such subsection.

If any provision of this section is held to be invalid or unconstitutional, it shall be conclusively presumed that the legislature would have enacted the remainder of this section without such invalid or unconstitutional provision.

History: L. 1953, ch. 286, § 11; L. 1974, ch. 352, § 105; L. 2010, ch. 72, § 9; L. 2022, ch. 84, § 2; July 1.