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Summary: Food and Beverage Labels

**HISTORY OF LEGISLATIVE ACTIONS**

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**VERSIONS OF THIS BILL**

[12/05/2024](https://www.scstatehouse.gov/sess126_2025-2026/prever/3407_20241205.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 39‑25‑220 SO AS TO PROVIDE FOR CERTAIN FOOD AND BEVERAGE LABELING.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 25, Title 39 of the S.C. Code is amended by adding:

 Section 39‑25‑220. (A)(1) At the time of sale to the consumer by a retail store of any product designated in this subsection, there must appear on the package or container of the product the date established by the processor as the date by which the product should normally be used to ensure consumer quality.

 (2) This subsection applies to the following products:

 (a) market milk;

 (b) market cream; and

 (c) any milk product that is required by law to be made from market milk or any component or derivative of market milk.

 (3) This subsection does not apply to any milk or milk products processed, packaged, and sold by distributors directly to consumers.

 (4) This subsection does not apply to any bulk shipments of milk or milk products between distributors.

 (5) The commissioner, after public hearings, shall adopt regulations pertaining to responsibility for affixing to packages or other containers the quality assurance date provided for in this subsection, the manner, style, form, and place of affixation of the date to packages and other containers in a conspicuous place in a form that is readily seen and easily understood by the buyer, and the administration and enforcement of the requirements of this subsection.

 (B)(1) After June 30, 2026, a food manufacturer, processor, or retailer responsible for the labeling of food items for human consumption that chooses, or is otherwise required by law, to display a date label to communicate a quality or safety date on a food item manufactured after June 30, 2026, must use one of the following uniform terms on the date label:

 (a) “BEST if Used by” or “BEST if Used or Frozen by” to indicate the quality date of the food item;

 (b) “USE by” or “USE by or Freeze by” to indicate the safety date of the food item;

 (c) “BB” to indicate the quality date of the food item if the food item is too small to include the uniform term described in subitem (a) or if the food item is a beverage; or

 (d) “UB” to indicate the safety date of the food item if the food item is too small to include the uniform term described in subitem (b).

 (2)(a) A person may not sell or offer for sale in this State a food item for human consumption manufactured after June 30, 2026, that displays a quality or safety date label that is not labeled in accordance with item (1).

 (b) A person may not sell or offer for sale in this State a food item for human consumption manufactured after June 30, 2026, that is labeled with the phrase “sell by.” This subitem does not prohibit the use of “sell by” dates that are presented in a coded format that are not easily readable by consumers and that do not use the phrase “sell by.”

 (3) The department may accept nonstate funds from public and private sources to, on its internet website, educate consumers about the meaning of the quality dates and safety dates specified in this subsection.

 (4)(a) This subsection does not prohibit, and may not be construed to discourage the sale, donation, or use of food after the food’s quality date pursuant to subitem (B)(1)(a). A retail food facility may donate a food item for human consumption that is not labeled in accordance with this subsection.

 (b) Unless otherwise required by law, this subsection may not be construed to require the use or display of a date label on a food item for human consumption unless the food item displays a date label.

 (c) This subsection does not prohibit the use or display of a label that allows consumers to view online information about a food item for human consumption.

 (d) Notwithstanding items (1) and (2), after June 30, 2026, a grocery store may display a label with the phrase “packed on” on a prepared food item and may sell or offer for sale in this State the prepared food item with that label if the prepared food item also displays a quality or safety date label in accordance with item (1).

 (e) This subsection does not prohibit a person from displaying on wine, a distilled spirit, or a wine‑ or distilled spirit‑based product bottled or packaged after June 30, 2026, a label with a statement that communicates the date on which the wine, distilled spirit, or wine‑ or distilled spirit‑based product was produced, manufactured, bottled, or packaged, or from selling or offering for sale in this State the wine, distilled spirit, or wine‑ or distilled spirit‑based product with that label. The statement may use date formats including, but not limited to, dates in a time, day, month, and year format and Julian dates.

 (f) To the extent that any other law or a National Shellfish Sanitation Program provision governing the labeling of shellfish authorizes or requires the use of terms that conflict, or are inconsistent, with this subsection, this subsection does not apply.

 (5) This subsection does not apply to:

 (a) infant formula;

 (b) eggs or pasteurized in‑shell eggs; or

 (c) beer and other malt beverages.

 (6) For purposes of this subsection, the following definitions apply:

 (a) “Grocery store” means a store engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, and fresh meats, fish, and poultry and any area that is not separately owned within the store where food is prepared and served, including a bakery, deli, and meat and seafood counter.

 (b) “Prepared food item” means a food item for human consumption prepared or repackaged on a grocery store’s premises, using any cooking or food preparation technique.

 (7) If and to the extent that any provision of this subsection is preempted by federal law, the provision does not apply and may not be enforced.

 (C)(1) A food facility that packages food using a reduced‑oxygen packaging method and Clostridium botulinum is identified as a microbiological hazard in the final prepackaged form must ensure that there are at least two barriers in place to control the growth and toxin formation of Clostridium botulinum.

 (2) A food facility that packages food using a reduced‑oxygen packaging method and Clostridium botulinum is identified as a microbiological hazard in the final prepackaged form must have an approved HACCP plan that does all of the following:

 (a) identifies the food to be prepackaged;

 (b) limits the food prepackaged to a food that does not support the growth of Clostridium botulinum because it complies with one of the following:

 (i) has an aw of 0.91 or less;

 (ii) has a pH of 4.6 or less;

 (iii) is a meat or poultry product cured at a food processing plant regulated by the United States Department of Agriculture and is received in an intact package; or

 (iv) is a food with a high level of competing organisms, such as raw meat or raw poultry;

 (c) specifies methods for maintaining food at forty‑one degrees Fahrenheit or below;

 (d) describes how the packages must be prominently and conspicuously labeled on the principal display panel in bold type on a contrasting background, with instructions to maintain the food at forty‑one degrees Fahrenheit or below and discard the food if within thirty calendar days of its packaging, it is not served for on‑premises consumption, or consumed if served or sold for off‑premises consumption;

 (e)(i) before July 1, 2026, limits the refrigerated shelf life to no more than thirty calendar days from packaging to consumption, except the time product is maintained frozen, or the original manufacturer’s “sell by” or “use by” date, whichever occurs first;

 (ii) after June 30, 2026, limits the refrigerated shelf life to no more than thirty calendar days from packaging to consumption, except the time the product is maintained frozen, or the original safety date is consistent with subsection (B)(1)(b), whichever occurs first;

 (f) includes operational procedures that prohibit contacting food with bare hands, identify a designated area and the method by which physical barriers or methods of separation of raw foods and ready‑to‑eat foods minimize cross‑contamination and access to the processing equipment is restricted to responsible trained personnel familiar with the potential hazards of the operation, and delineate cleaning and sanitization procedures for food‑contact surfaces; and

 (g) describes the training program that ensures that individuals responsible for the reduced‑oxygen packaging operation understand the concepts required for a safe operation, the equipment and facilities, and the procedures specified under this subitem.

 (3) Except for fish that is frozen before, during, and after packaging, a food facility may not package fish using a reduced‑oxygen packaging method.

 (4) A food facility is not required to have an HACCP plan if the food facility uses a reduced‑oxygen packaging method to package hazardous food that always complies with the following standards with respect to packaging the hazardous food:

 (a) The food is labeled with the production time and date.

 (b) The food is held at forty‑one degrees Fahrenheit or lower during refrigerated storage.

 (c) The food is removed from its package in the food facility within forty‑eight hours after packaging.

 (5) A food facility that packages potentially hazardous foods using a cook‑chill or sous vide process must meet the requirements of Section 3‑502.12 (D) of the Food Code published by the FDA.

SECTION 2. This act takes effect upon approval by the Governor.

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