
**Rural Development, Agriculture, &
Natural Resources Committee**

HB 2651

Brief Description: Addressing food waste by standardizing labels communicating the freshness or expiration of food.

Sponsors: Representatives Doglio, Fitzgibbon, Ramel, Ryu, Tharinger, Macri, Shewmake, Peterson, Hudgins, Walen, Mead, Tarleton, Gregerson and Riccelli.

Brief Summary of Bill

- Requires certain phrasing for any food safety and quality date labels of food products that are manufactured, distributed, or sold in intrastate commerce.
- Requires retail spaces of over 10,000 square feet that sell food to post at least three signs explaining the quality and safety date labels to consumers.
- Establishes a civil penalty of no more than \$500 per day for labeling violations.

Hearing Date: 1/24/20

Staff: Rebecca Lewis (786-7339).

Background:

Food Labeling Requirements.

Federal.

The United States Food and Drug Administration (FDA) establishes regulations for the labeling of foods produced within the United States except meat and poultry, which are regulated by the United States Department of Agriculture (USDA). Types of food labeling the FDA requires include nutritional labeling, ingredients and possible allergens, and quantity or volume. Federal law generally does not require products to be marked with a quality or safety date; however, the

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FDA requires a "use by" date on infant formula, and the USDA requires a "pack date" for poultry products and canned products to enable product tracking in interstate commerce.

Meat, poultry, and egg products under the jurisdiction of the USDA Food Safety and Inspection Service may be voluntarily labeled with a use-by date. If a product is labeled, the date must express the month and day of the month, and the date must be accompanied by a phrase that explains the meaning of the date, such as "best if used by."

State.

States may establish food labeling requirements that are not in conflict with federal law. In Washington, all perishable packaged foods in intrastate commerce with a projected shelf life of 30 days or fewer must state a pull date on the product packaging. The pull date must be in a format that is readily decipherable to consumers. "Pull date" means the latest date a perishable packaged food may be offered for sale to the public. The Washington State Department of Agriculture (WSDA) may impose a civil penalty of no more than \$500 for a violation of pull date requirements.

Local Health Jurisdictions.

A local health jurisdiction is either a county or multicounty local health agency operated by local government, with oversight and direction from a local board of health, that provides public health services throughout a defined geographic area. Services include drinking water testing, food safety inspections, and food worker training.

Summary of Bill:

The phrase "sell by" may not be used on the labels of any food offered for sale in intrastate commerce. Pull dates on the labels of perishable foods may not include the phrases "pull date" or "pull by." Beginning January 1, 2022, any food that is manufactured, distributed, or sold in intrastate commerce that contains a label to indicate the quality or safety date of the food may only contain the following phrases:

- Quality label: "best if used by" or "best if used or frozen by."
- Safety label: "use by" or "use or freeze by."

Products are not required to contain a quality label or a safety label, except for infant formula as already required by federal law. The new food labeling requirements do not apply in any case where they are incompatible with federal food labeling requirements. A severability clause is included.

Retail spaces of over 10,000 square feet that sell food must post at least three signs explaining the quality and safety date labels to consumers. The text on the signs must be in 48 point font and must read as follows:

"In an effort to minimize wasted food, Washington law requires food products that are labeled with an expiration date to include one of two types of labeling:

Safety Dates: Dates on a product preceded by the words "Use By" or "Use By or Freeze By" indicate that a product must be consumed by those dates in order to avoid potential negative safety implications.

Quality Dates: Dates on a product preceded by the words "Best if Used By" or "Best if Used or Frozen By" indicate a manufacturer's suggestion that the product will retain its highest quality if consumed before that date."

The Washington State Department of Agriculture (WSDA) may enforce the labeling requirements or may delegate enforcement responsibilities to a local health jurisdiction through a contractual agreement. Enforcement must be based primarily on complaints filed with the enforcement authority. The WSDA and local health jurisdictions may include a form on their website or establish a hotline to receive complaints. The requirements may be enforced at any point in the supply chain. A civil penalty of no more than \$500 per day is established for a labeling violation. For each day of noncompliance, a violation is the sale of a noncompliant product.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.