
HOUSE BILL 2651

State of Washington

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

Read first time 01/16/20. Referred to Committee on Rural Development, Agriculture, & Natural Resources.

1 AN ACT Relating to addressing food waste by standardizing labels
2 communicating the freshness or expiration of food; amending RCW
3 15.130.300 and 15.130.550; adding a new section to chapter 15.130
4 RCW; and prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 15.130
7 RCW to read as follows:

8 (1) Beginning January 1, 2022, food manufactured, distributed, or
9 sold in intrastate commerce that bears a label communicating
10 information related to the freshness or anticipated expiration of the
11 food, including the quality date or safety date of the food, may
12 only:

13 (a) Use the phrases "best if used by" or "best if used or frozen
14 by" to indicate the quality date of the food; and

15 (b) Use the phrases "use by" or "use by or freeze by" to indicate
16 the safety date of the food.

17 (2) A person may not offer food for sale in intrastate commerce
18 that contains a sell by date.

19 (3) Nothing in this section:

20 (a) Requires food to bear a label containing a quality date or a
21 safety date;

1 (b) Restricts the sale of food bearing a label denoting that the
2 food is best used or consumed within a specified number of days of
3 being opened; or

4 (c) Restricts the sale of food bearing a label indicating the
5 date on which it was packed or packaged.

6 (4) (a) The requirements of this section do not apply to types of
7 food for which incompatible expiration labeling requirements are
8 prescribed by federal law, including infant formula subject to the
9 requirements of 21 C.F.R. Sec. 107.20, as that regulation existed as
10 of January 1, 2019.

11 (b) For perishable packaged food, the requirements of this
12 section are in addition to the requirements of RCW 15.130.300.

13 (5) (a) The department may enforce the requirements of this
14 section or may delegate enforcement authority by contractual
15 agreement to a local health jurisdiction for purposes of enforcement
16 at locations subject to inspection by the local health jurisdiction
17 under authority specified in chapter 70.05, 70.08, or 70.46 RCW. The
18 department may enforce the requirements of this section at any point
19 in the supply chain where food is distributed or sold in Washington.

20 (b) The department or a local health jurisdiction may impose upon
21 and collect a civil penalty of up to five hundred dollars per day for
22 violations of the requirements of this section. For each day of
23 noncompliance, the sale of a noncompliant product by stock-keeping
24 unit number or unique item number constitutes a violation.

25 (c) The enforcement of this section must be based primarily on
26 complaints filed with the department or a local health jurisdiction
27 with delegated enforcement authority. The department or a local
28 health jurisdiction may include a form on appropriate agency web
29 sites or establish a telephone hotline to receive complaints that
30 allege violations. Nothing in this subsection requires the department
31 or a local health jurisdiction to investigate associated locations
32 for each filed complaint received or to investigate filed complaints
33 within a specific period of time.

34 (6) Each person that sells food in a retail space exceeding ten
35 thousand square feet must display at least three signs for purposes
36 of educating consumers regarding the requirements of this section.
37 The signs may be of a design chosen by the retailer as long as the
38 requirements of this subsection are met or may use generic signage
39 developed by the department. Signs must use a minimum of forty-eight-
40 point font and must read as follows:

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

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

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

11 (7) The department may adopt rules to implement this section.

12 (8) The definitions in this subsection apply throughout this
13 section unless the context clearly requires otherwise.

14 (a) "Local health jurisdiction" means an administrative agency
15 organized under chapter 70.05 RCW, a health district organized under
16 chapter 70.46 RCW, or a combined city-county health department
17 organized under chapter 70.08 RCW, that administers public health and
18 safety regulations and codes, including food safety and restaurant
19 inspections.

20 (b) "Quality date" means a date on a label affixed to the
21 packaging or a container of food that communicates to consumers the
22 date after which the food quality may begin to deteriorate but the
23 food may still be acceptable for consumption.

24 (c) "Safety date" means a date on a label affixed to the
25 packaging or container of food that communicates to consumers that
26 the food should be consumed or frozen, if appropriate, by the date
27 listed on the package that applies to perishable products with
28 potential safety implications over time.

29 (d) "Sell by date" means a date on a label affixed to the
30 packaging or container of food that is intended to communicate
31 primarily to a distributor or retailer for purposes of stock rotation
32 and that is not a quality date or safety date.

33 **Sec. 2.** RCW 15.130.300 and 2018 c 236 s 301 are each amended to
34 read as follows:

35 (1) All perishable packaged foods in intrastate commerce with a
36 projected shelf life of thirty days or less must state a pull date on
37 the package.

1 (2) The pull date must be stated by month and day, but may not
2 include the phrases "pull date" or "pull by," and must be in a style
3 and format that is readily decipherable by consumers.

4 (3) A person may not offer perishable packaged food for sale
5 after the pull date, except that if clearly identified as past the
6 pull date, packaged perishable food with an expired pull date may be
7 sold if still wholesome and without danger to health.

8 (4) A person may not rewrap or repackaged perishable packaged food
9 with the intention of providing a pull date different from the
10 original.

11 (5) The department may exclude the monthly requirement from the
12 pull date for perishable packaged food with a shelf life of seven
13 days or less.

14 (6) The department must consult with the secretary of the
15 department of health when appropriate in adopting rules to establish
16 uniform standards for pull date labeling and optimum storage
17 conditions for perishable packaged food.

18 **Sec. 3.** RCW 15.130.550 and 2018 c 236 s 506 are each amended to
19 read as follows:

20 (1) The department may impose upon and collect a civil penalty
21 from a person violating this chapter or the rules adopted under it.

22 (2) The civil penalty must not exceed one thousand dollars per
23 violation per day, except the civil penalty for a violation of pull
24 date requirements in RCW 15.130.300 must not exceed five hundred
25 dollars, and the civil penalty for a violation of labeling
26 requirements in section 1 of this act must not exceed five hundred
27 dollars and is subject to the provisions of section 1 of this act.

28 (3) Each violation of this section is a separate and distinct
29 offense.

30 NEW SECTION. **Sec. 4.** If any provision of this act or its
31 application to any person or circumstance is held invalid, the
32 remainder of the act or the application of the provision to other
33 persons or circumstances is not affected.

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