A BILL FOR AN ACT

CONCERNING DATE LABELING ON FOODS, AND, IN CONNECTION THEREWITH, ENCOURAGING THE USE OF ELEVATED RISK DATES AND QUALITY DATES ON CERTAIN FOODS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill encourages each food manufacturer to affix a label indicating an elevated risk date on each product that poses a high level of risk to an individual who consumes the food product after the elevated risk date. On and after July 1, 2023, food that is offered for sale with such a label must:
Display the elevated risk date preceded by the phrase "USE BY" unless the executive director of the department of public health and environment (department) promulgates rules establishing a different phrase; and

Express the date by the first 3 letters of the month, followed by numerals designating the calendar day and year, or by the numerical calendar month followed by numerals designating the calendar day and year.

On and after July 1, 2023, if a food manufacturer or retail food facility includes a quality date on a food product, the quality date must be:

Displayed preceded by the phrase "BEST IF USED BY" unless the executive director promulgates rules establishing a different phrase; and

Expressed by the first 3 letters of the month followed by numerals designating the calendar day and year, or by the numerical calendar month followed by numerals designating the calendar day and year.

The bill requires the department to make publicly available on its website information indicating the distinction between elevated risk dates and quality dates on food labels.

The executive director may promulgate rules to implement the new labeling requirements.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds that:

(a) Discarded food is a huge drain on our national economy, costing consumers and industry billions of dollars each year;

(b) The dumping of uneaten food and other organic waste into landfills results in the release of tons of greenhouse gases each year; and

(c) Consumers' misinterpretations of date labels on foods is a key factor leading to food waste in American households because consumers discard enormous amounts of food prematurely.

(2) Therefore, the general assembly declares that the use of uniform and accurate expiration date labeling on food products will greatly benefit the economy and natural environment of the state.
SECTION 2. In Colorado Revised Statutes, 25-5-402, add (9.5) and (20.5) as follows:

25-5-402. Definitions. As used in this part 4, unless the context otherwise requires:

(9.5) "ELEVATED RISK DATE" MEANS A DATE THAT IS INDICATED ON A LABEL AFFIXED TO THE PACKAGING OR CONTAINER OF A FOOD PRODUCT, AFTER WHICH DATE THERE IS A HIGH LEVEL OF RISK ASSOCIATED WITH THE CONSUMPTION OF THE FOOD PRODUCT.

(20.5) "QUALITY DATE" MEANS A DATE INDICATED ON THE LABEL AFFIXED TO THE PACKAGING OR CONTAINER OF A FOOD PRODUCT, AFTER WHICH DATE THE FOOD'S QUALITY MAY BEGIN TO DETERIORATE.

SECTION 3. In Colorado Revised Statutes, add 25-5-427 as follows:

25-5-427. Food date labeling - elevated risk dates - quality dates - rules. (1) (a) EACH FOOD MANUFACTURER IS ENCOURAGED TO AFFIX A LABEL INDICATING AN ELEVATED RISK DATE ON EACH FOOD PRODUCT THAT POSES A HIGH LEVEL OF RISK TO AN INDIVIDUAL WHO CONSUMES THE FOOD PRODUCT AFTER THE ELEVATED RISK DATE.

(b) ON AND AFTER JULY 1, 2023, A FOOD PRODUCT THAT IS OFFERED FOR SALE IN COLORADO WITH A LABEL AFFIXED THAT INDICATES AN ELEVATED RISK DATE MUST:

(I) DISPLAY THE ELEVATED RISK DATE PRECEDED BY THE PHRASE "USE BY" UNLESS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT PROMULGATES RULES, PURSUANT TO SUBSECTION (6) OF THIS SECTION, ESTABLISHING A DIFFERENT PHRASE; AND

(II) EXPRESS THE DATE BY THE FIRST THREE LETTERS OF THE MONTH FOLLOWED BY NUMERALS DESIGNATING THE CALENDAR DAY AND
YEAR, OR BY THE NUMERICAL CALENDAR MONTH FOLLOWED BY NUMERALS DESIGNATING THE CALENDAR DAY AND YEAR.

(2) ON AND AFTER JULY 1, 2023, IF A FOOD MANUFACTURER OR RETAIL FOOD FACILITY INCLUDES A QUALITY DATE ON A FOOD PRODUCT, THE QUALITY DATE MUST BE:

(a) DISPLAYED PRECEDED BY THE PHRASE "BEST IF USED BY" UNLESS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT PROMULGATES RULES, PURSUANT TO SUBSECTION (6) OF THIS SECTION, ESTABLISHING A DIFFERENT PHRASE; AND

(b) EXPRESSED BY THE FIRST THREE LETTERS OF THE MONTH FOLLOWED BY NUMERALS DESIGNATING THE CALENDAR DAY AND YEAR, OR BY THE NUMERICAL CALENDAR MONTH FOLLOWED BY NUMERALS DESIGNATING THE CALENDAR DAY AND YEAR.

(3) (a) A RETAIL FOOD FACILITY MAY DONATE A FOOD PRODUCT THAT IS NOT LABELED IN ACCORDANCE WITH THIS SECTION.

(b) THIS SECTION DOES NOT PROHIBIT AND SHALL NOT BE CONSTRUED TO DISCOURAGE THE SALE, DONATION, OR USE OF A FOOD PRODUCT AFTER THE FOOD PRODUCT'S QUALITY DATE HAS PASSED.

(4) NOTHING IN THIS SECTION CREATES A LEGAL REQUIREMENT FOR A RETAIL FOOD PROVIDER TO ENSURE THAT A FOOD MANUFACTURER HAS LABELED A FOOD PRODUCT IN ACCORDANCE WITH THIS SECTION.

(5) ON OR BEFORE JULY 1, 2023, THE DEPARTMENT SHALL MAKE AVAILABLE ON ITS PUBLIC WEBSITE INFORMATION INDICATING THE DISTINCTION BETWEEN ELEVATED RISK DATES AND QUALITY DATES ON FOOD LABELS.

(6) AFTER CONSULTING WITH STAKEHOLDERS IN AN OPEN PUBLIC PROCESS IN ACCORDANCE WITH PART 1 OF ARTICLE 4 OF TITLE 24, THE
EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY PROMULGATE RULES TO ADD OR EXEMPT FOOD PRODUCTS TO OR FROM THE PROVISIONS OF THIS SECTION OR TO OTHERWISE MODIFY THE REQUIREMENTS OF THIS SECTION.

SECTION 4. In Colorado Revised Statutes, 25-5-411, amend (1) introductory portion and (1)(b) as follows:

25-5-411. Definitions of "misbranding". (1) A food shall be deemed to be misbranded:

  (b) If its labeling or packaging fails to conform to the requirements of section 25-5-419 OR 25-5-427;

SECTION 5. Act subject to petition - effective date. This act takes effect July 1, 2023; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect July 1, 2023.