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Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Klopfenstein and Daniels

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SUMMARY

- Specifies that food is misbranded as a meat product or egg product if certain conditions exist, including the food contains a [manufactured-protein food product](#) or [fabricated-egg product](#) and the label for the food implies that it includes meat or eggs without qualification.
- Requires the Directors of Health and Job and Family Services to submit waiver requests to the U.S. Department of Agriculture (USDA) to exclude cultivated-protein food products and fabricated-egg products from SNAP and WIC program eligibility, but only if the USDA approves those products for purchase under the programs.
- Requires the Department of Education and Workforce and each public school and state institution of higher education to adopt a policy to prevent the purchase of cultivated-protein food products or food misbranded as a meat or egg product.

DETAILED ANALYSIS

Misbranding of food

Background

Current law establishes criteria for what is considered a misbranded food for purposes of specified provisions of the Pure Food and Drug Law. These criteria include:

1. The food's labeling is false or misleading in any particular;
2. The food is offered for sale under the name of another food;
3. The food's container is so made, formed, or filled as to be misleading;
4. The food 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;

5. The food bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact; provided, subject to exemptions established by rules adopted by the Director of Agriculture.¹

Misbranded meat and egg products

The bill states that food is misbranded as a [meat product](#) or [egg product](#) if all of the following apply:

1. The food is or contains a [manufactured-protein food product](#) or [fabricated-egg product](#);
2. The food is offered for sale by a [food processing establishment](#);
3. A label that is part of or placed on the package or other container storing the food includes an [identifying meat term](#) or [identifying egg term](#);
4. The label that is part of or placed on the package or other container storing the food does not contain a conspicuous and prominent [qualifying meat term](#) near an identifying meat term or a conspicuous and prominent [qualifying egg term](#) near to an identifying egg term.²

Enforcement

The bill prohibits a food processing establishment from selling food that is misbranded as a meat product or an egg product.³ Any person who violates this prohibition must pay a civil penalty of up to \$10,000 for each day a violation occurs. The Attorney General, upon written request by the Director of Agriculture, must bring an action for penalties against any person who violates the prohibition. That action is a civil action, governed by the Rules of Civil Procedure and other rules of practice and procedure applicable to civil actions. Any civil penalties collected must be paid into the General Revenue Fund.

If Department of Agriculture (ODA) has reasonable cause to believe that a food processing establishment is selling food that is misbranded as a meat product or an egg product, ODA may detain or embargo the product in accordance with current law.⁴ However, the Director may not suspend or revoke a food processing establishment registration if the food processing establishment violates the new prohibition established by the bill.⁵

In conducting a routine inspection of the premises of a food processing establishment, the ODA is not required to determine if any food located on the premises is misbranded as a meat product or an egg product. However, ODA must inspect an inventory of food offered for

¹ R.C. 3715.60.

² R.C. 3715.602(A) and (B).

³ R.C. 3715.602(C).

⁴ R.C. 3715.604.

⁵ R.C. 3715.604 and 3715.605.

sale or sold by a food processing establishment based on a credible complaint that the food is misbranded as a meat product or an egg product.

ODA must adopt rules in accordance with the Administrative Procedure Act that are necessary to administer and enforce the bill's provisions governing the misbranding of meat and egg products.⁶

WIC and SNAP waivers

The bill requires the Directors of Health and Job and Family Services (ODJFS) to each submit a waiver request to the United States Department of Agriculture (USDA) to exclude [cultivated-protein food products](#) and [fabricated-egg products](#) from eligibility under the following programs in Ohio:

1. Special Supplemental Nutrition Program for Women, Infants, and Children, or WIC; and
2. Supplemental Nutritional Assistance Program, or SNAP.

The requirement, however, applies only if the USDA approves those products for purchase under WIC or SNAP.⁷

WIC and SNAP background

WIC is a federal program that assists low-income women, infants, and children under age five who are at nutritional risk with supplemental nutritious food, nutrition education and counseling, and screening and referrals to health and other social services.⁸ Funded by grants from the federal government, WIC is administered in Ohio by the Department of Health.⁹

SNAP, formerly known as the Food Stamp Program, is a federal program administered by the states to provide low-income individuals and families benefits to pay for food at approved retailers.¹⁰ The federal government fully funds program benefits and generally pays for half of the program's administrative expenses. The ODJFS Director is responsible for administering SNAP in Ohio.¹¹

Public education institution imitation meat and egg policies

The bill requires the Department of Education and Workforce and each school district, community school, STEM school, college-preparatory boarding school, and state institution of

⁶ R.C. 3715.603.

⁷ R.C. 3701.132(E) and 5101.548.

⁸ 42 United States Code (U.S.C.) 1786.

⁹ R.C. 3701.132(B).

¹⁰ 7 U.S.C. 2013.

¹¹ R.C. 5101.54(A).

higher education to adopt a policy to prevent the purchase of [cultivated-protein food products](#) or food misbranded as a meat or egg product.¹²

Defined terms

The bill defines the following terms related to the provisions governing misbranding or meat and egg products:¹³

Term	Definition
“Agricultural food animal”	A domesticated animal belonging to the bovine, caprine, ovine, or porcine species; and any type of poultry.
“Cultivated-protein food product”	A food having one or more sensory attributes that resemble a type of tissue originating from an agricultural food animal, but that, in lieu of being derived from meat processing, is derived from manufacturing cells in which one or more stem cells are initially isolated from an agricultural food animal, are grown in vitro, and may be manipulated, as part of a manufacturing operation.
“Egg”	Food that is the reproductive output of an agricultural food animal classified as a chicken. “Egg” includes albumen and yolk encased in a calcium-based shell.
“Egg product”	Food derived from egg processing in which eggs or egg parts are the primary ingredient.
“Egg processing”	<p>The processing of eggs, including either of the following:</p> <ol style="list-style-type: none"> 1. The handling, preparation, heating, and packaging of whole shelled or unshelled eggs; or 2. The breaking of eggs and the separation of eggs; pasteurization; filtering, mixing, stabilizing, or blending parts of the egg; any cooling, freezing,

¹² R.C. 3313.8110, 3314.03(A)(11)(d), 3326.11, 3328.24, and 3345.88.

¹³ R.C. 3715.601.

Term	Definition
	or drying of parts of the egg; storage; and packaging.
“Fabricated-egg product”	Food, if it has one or more sensory attributes that resemble an egg product but that, in lieu of being the output of a laying hen, is derived from manufactured plants or other organic materials.
“Food processing establishment”	<p>A premises or part of a premises where food is processed, packaged, manufactured, or otherwise held or handled for distribution to another location or for sale at wholesale. “Food processing establishment” includes the activities of a bakery, confectionery, cannery, bottler, warehouse, or distributor, and the activities of an entity that receives or salvages distressed food for sale or use as food.</p> <p>A “food processing establishment” does not include a cottage food production operation; a processor of tree syrup who boils sap when at least 75% of the sap used to produce the syrup is collected directly from trees by that processor; a processor of sorghum who processes sorghum juice when at least 75% of the sorghum juice used to produce the sorghum is extracted directly from sorghum plants by that processor; a beekeeper who jars honey when at least 75% of the honey is from that beekeeper’s own hives; or a processor of apple syrup or apple butter who directly harvests from trees at least 75% of the apples used to produce the apple syrup or apple butter.</p>
“Identifying egg term”	<p>Any word or phrase that states, indicates, suggests, or describes an egg product, regardless of whether the word or phrase is used individually, as a portmanteau, or as a compound word. “Identifying egg term” includes any of the following:</p> <ol style="list-style-type: none"> <li data-bbox="899 1677 1386 1780">1. A common name for a type of a chicken, including laying hen, hen, or layer, cage-free, poultry, or fowl; <li data-bbox="899 1797 1409 1864">2. A common name for a characteristic of a chicken based on age, breed, or sex;

Term	Definition
	<ol style="list-style-type: none"> <li data-bbox="899 268 1414 617">3. A common name, or a comparable word or phrase approved by ODA, that a reasonable purchaser would immediately and exclusively associate with an egg product prepared for sale in normal commercial channels such as custard, eggnog, frittata, huevos rancheros, omelette, mayonnaise, meringue, sunny side up, over easy, over hard, scrambled, or quiche; or <li data-bbox="899 638 1386 701">4. Any part of the egg, including its egg, eggshell, egg white, or yolk.
<p data-bbox="204 741 488 772">“Identifying meat term”</p>	<p data-bbox="839 741 1357 951">Any word or phrase that states, indicates, suggests, or describes a meat product, regardless of whether the word or phrase is used individually, as a portmanteau, or as a compound word. “Identifying meat term” includes any of the following:</p> <ol style="list-style-type: none"> <li data-bbox="899 972 1398 1140">1. A common name for the species of an agricultural food animal subject to slaughter and processing, including a calf or cow, goat or kid, hog or pig, poultry, or lamb or sheep; <li data-bbox="899 1161 1414 1297">2. A common name for a characteristic of a species of the agricultural food animal subject to slaughter and processing based on age, breed, or sex; <li data-bbox="899 1318 1398 1423">3. Meat, beef, or veal; broiler, fryer, poulet, or yearling; cabrito or chevon; lamb or mutton; or pork; <li data-bbox="899 1444 1398 1728">4. A common name used to describe a major cut of a meat of an agricultural food animal slaughtered and processed, including a major meat cut specified in federal law; a poultry product such as breast, drumstick, giblet, thigh, or wing; or the common name of an organ or offal; or <li data-bbox="899 1749 1398 1875">5. Any other common name that a reasonable purchaser would immediately and exclusively associate with a meat product prepared for sale

Term	Definition
	in normal commercial channels such as chicken, bacon, baloney, bologna, bone, brat or bratwurst, brisket, burger or hamburger, butt, chop, chorizo, chuck, cold cut, cutlet, filet, flat iron, frank or frankfurter, ham, hock, hot dog or dog, jerky, liverwurst, loin, London broil, lunch meat, New York Strip, pepperoni, porterhouse, ribeye, roast, rib or sparerib, salami, sausage, shank, sirloin, tenderloin, or a comparable word or phrase.
“Insect-protein food product”	A food having one or more sensory attributes that resemble a type of tissue originating from an agricultural food animal but that, in lieu of being derived from meat processing, is derived from manufacturing insect parts.
“Manufactured-protein food product”	A cultivated-protein food , insect-protein food , or plant-protein food .
“Meat processing”	The handling, preparation, and slaughter of an agricultural food animal; the dressing of its carcass; or the cutting, storage, and packaging of its tissue or other parts as a food.
“Meat product”	A food derived from meat processing.
“Plant-protein food product”	A food having one or more sensory attributes that resemble a type of tissue found in a species of agricultural food animal but that, in lieu of being derived from meat processing, is derived from manufacturing plant parts.
“Qualifying egg term”	A word, compound word, or phrase that would clearly disclose to a reasonable purchaser of egg products from a food processing establishment that a food product is not an egg product. “Qualifying egg term” includes fake, imitation, egg-free, plant, plant-based, vegan, vegetable, vegetarian, veggie, or a comparable word or phrase as approved by ODA.
“Qualifying meat term”	A word, compound word, or phrase that would clearly disclose to a reasonable purchaser of

Term	Definition
	meat products from a food processing establishment that a food is not a meat product. "Qualifying meat term" includes cell-cultivated, cell-cultured, fake, grown in a lab, imitation, insect, insect-based, insect-protein, lab-created, lab-grown, meat free, meatless, plant, plant-based, vegan, vegetable, vegetarian, veggie, or a comparable word or phrase as approved ODA.

HISTORY

Action	Date
Introduced	09-03-24