

REENGROSSED LEGISLATIVE BILL 246

Introduced by DeKay, 40; at the request of the Governor; Dorn, 30; Holdcroft, 36; Jacobson, 42; Lippincott, 34; Lonowski, 33; McKeon, 41; Sanders, 45; Brandt, 32.

A BILL FOR AN ACT relating to adulterated food; to amend sections 81-2,239, 81-2,240, 81-2,282, and 87-302, Reissue Revised Statutes of Nebraska; to define a term; to prohibit certain conduct related to adulterated food including cultivated-protein food products under the Nebraska Pure Food Act; to provide a deceptive trade practice; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 81-2,239, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,239 Sections 81-2,239 to 81-2,292 and section 3 of this act and the provisions of the Food Code and the Current Good Manufacturing Practice In Manufacturing, Packing, or Holding Human Food adopted by reference in sections 81-2,257.01 and 81-2,259, shall be known and may be cited as the Nebraska Pure Food Act.

Sec. 2. Section 81-2,240, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,240 For purposes of the Nebraska Pure Food Act, unless the context otherwise requires, the definitions found in sections 81-2,241 to 81-2,254 and section 3 of this act shall be used. In addition, the definitions found in the code and practice adopted by reference in sections 81-2,257.01 and 81-2,259 shall be used.

Sec. 3. Cultivated-protein food product means a food product 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, including processes in which one or more stem cells that were initially isolated from an agricultural food animal, are grown in vitro, and may be manipulated, as part of a manufacturing

operation.

Sec. 4. Section 81-2,282, Reissue Revised Statutes of Nebraska, is amended to read:

81-2,282 (1) No person shall adulterate any food or manufacture, produce, import, distribute, promote, display for sale, offer for sale, attempt to sell, or sell any adulterated food.

(2) Food shall be deemed to be adulterated if:

(a) It bears or contains any substance which may render it injurious to health, considering the quantity of such substance in or on the food;

(b) It consists in whole or in part of any diseased, contaminated, filthy, putrid, or decomposed substance or is otherwise unsafe for use as food;

(c) It has been manufactured, processed, packaged, stored, or held under insanitary conditions where it may have become unsafe for use as food;

(d) It is the product of a diseased animal or one that has died by any means other than slaughter;

(e) It is a cultivated-protein food product;

(f) Its container is so constructed as to render the food unsafe or otherwise injurious to health; or

(g) Any valuable constituent of the food has been wholly or partially omitted or abstracted.

(3)(a) Any violation of this section that is committed in the course of business, vocation, or occupation shall, additionally and separately, constitute a deceptive trade practice.

(b) This section shall not be construed to affect the liability for any action that violates the Uniform Deceptive Trade Practices Act.

Sec. 5. Section 87-302, Reissue Revised Statutes of Nebraska, is amended to read:

87-302 (a) A person engages in a deceptive trade practice when, in the course of his or her business, vocation, or occupation, he or she:

(1) Passes off goods or services as those of another;

(2) Causes likelihood of confusion or of misunderstanding as to the

source, sponsorship, approval, or certification of goods or services;

(3) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or association with, or certification by, another;

(4) Uses deceptive representations or designations of geographic origin in connection with goods or services;

(5) Represents that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he or she does not have;

(6) Represents that goods or services do not have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they have or that a person does not have a sponsorship, approval, status, affiliation, or connection that he or she has;

(7) Represents that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used, or secondhand, except that sellers may repair damage to and make adjustments on or replace parts of otherwise new goods in an effort to place such goods in compliance with factory specifications;

(8) Represents that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;

(9) Disparages the goods, services, or business of another by false or misleading representation of fact;

(10) Advertises goods or services with intent not to sell them as advertised or advertises the price in any manner calculated or tending to mislead or in any way deceive a person;

(11) Advertises goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity;

(12) Makes false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

(13) Uses or promotes the use of or establishes, operates, or participates in a pyramid promotional scheme in connection with the solicitation of such scheme to members of the public. This subdivision shall not be construed to prohibit a plan or operation, or to define a plan or operation as a pyramid promotional scheme, based on the fact that participants in the plan or operation give consideration in return for the right to receive compensation based upon purchases of goods, services, or intangible property by participants for personal use, consumption, or resale so long as the plan or operation does not promote or induce inventory loading and the plan or operation implements an appropriate inventory repurchase program;

(14) With respect to a sale or lease to a natural person of goods or services purchased or leased primarily for personal, family, household, or agricultural purposes, uses or employs any referral or chain referral sales technique, plan, arrangement, or agreement;

(15) Knowingly makes a false or misleading statement in a privacy policy, published on the Internet or otherwise distributed or published, regarding the use of personal information submitted by members of the public;

(16) Uses any scheme or device to defraud by means of:

(i) Obtaining money or property by knowingly false or fraudulent pretenses, representations, or promises; or

(ii) Selling, distributing, supplying, furnishing, or procuring any property for the purpose of furthering such scheme;

(17) Offers an unsolicited check, through the mail or by other means, to promote goods or services if the cashing or depositing of the check obligates the endorser or payee identified on the check to pay for goods or services. This subdivision does not apply to an extension of credit or an offer to lend money;

(18) Mails or causes to be sent an unsolicited billing statement, invoice, or other document that appears to obligate the consumer to make a payment for services or merchandise he or she did not order;

(19)(i) Installs, offers to install, or makes available for installation

or download a covered file-sharing program on a computer not owned by such person without providing clear and conspicuous notice to the owner or authorized user of the computer that files on that computer will be made available to the public and without requiring intentional and affirmative activation of the file-sharing function of such covered file-sharing program by the owner or authorized user of the computer; or

(ii) Prevents reasonable efforts to block the installation, execution, or disabling of a covered file-sharing program;

(20) Violates any provision of the Nebraska Foreclosure Protection Act;

(21) In connection with the solicitation of funds or other assets for any charitable purpose, or in connection with any solicitation which represents that funds or assets will be used for any charitable purpose, uses or employs any deception, fraud, false pretense, false promise, misrepresentation, unfair practice, or concealment, suppression, or omission of any material fact;

(22)(i) In the manufacture, production, importation, distribution, promotion, display for sale, offer for sale, attempt to sell, or sale of a substance:

(A) Makes a deceptive or misleading representation or designation, or omits material information, about a substance or fails to identify the contents of the package or the nature of the substance contained inside the package; or

(B) Causes confusion or misunderstanding as to the effects a substance causes when ingested, injected, inhaled, or otherwise introduced into the human body.

(ii) A person shall be deemed to have committed a violation of the Uniform Deceptive Trade Practices Act for each individually packaged product that is either manufactured, produced, imported, distributed, promoted, displayed for sale, offered for sale, attempted to sell, or sold in violation of this section. A violation under this subdivision (a)(22) shall be treated as a separate and distinct violation from any other offense arising out of acts alleged to have been committed while the person was in violation of this section;

(23)(i) Manufactures, produces, publishes, distributes, monetizes, promotes, or otherwise makes publicly available any visual depiction of sexually explicit conduct, any obscene material, or any material that is harmful to minors in which any person depicted as a participant or observer:

(A) Is under eighteen years of age;

(B) Is a trafficking victim;

(C) Has not expressly and voluntarily consented to such person's depiction; or

(D) Participated in any act depicted without consent.

(ii) This subdivision (a)(23) does not apply to any telecommunications service.

(iii) For purposes of this subdivision (a)(23):

(A) Harmful to minors has the same meaning as in 47 U.S.C. 254, as such section existed on January 1, 2024;

(B) Obscene material has the same meaning as in section 28-807;

(C) Promote means to use any mechanism or publication, or take any action, that suggests, highlights, advertises, markets, curates, backlinks, hashtags, or otherwise directs, attempts to direct, or encourages traffic toward specific materials, including acts carried out affirmatively, through automation, algorithmically, and via other technical means both known and unknown at this time;

(D) Publish means to communicate or make information available to another person via an Internet website, regardless of whether the person consuming, viewing, or receiving the material gives any consideration for the published material;

(E) Trafficking victim has the same meaning as in section 28-830;

(F) Visual depiction of sexually explicit conduct has the same meaning as in section 28-1463.02; and

(G) Without consent has the same meaning as in section 28-318;

(24) Offers or enters into a right-to-list home sale agreement as defined in section 81-885.01; or

(25) Violates section 81-2,282.

(b) In order to prevail in an action under the Uniform Deceptive Trade Practices Act, a complainant need not prove competition between the parties.

(c) This section does not affect unfair trade practices otherwise actionable at common law or under other statutes of this state.

Sec. 6. Original sections 81-2,239, 81-2,240, 81-2,282, and 87-302, Reissue Revised Statutes of Nebraska, are repealed.

PRESIDENT OF THE LEGISLATURE

*THIS IS TO CERTIFY that the within LB 246 was passed by the One Hundred Ninth
Legislature of Nebraska at its First Session on the day
of 20.....*

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR