



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/05/04, by Linda Chapa LaVia

SYNOPSIS AS INTRODUCED:

410 ILCS 620/3.23 new
410 ILCS 620/5

from Ch. 56 1/2, par. 505

Amends the Illinois Food, Drug and Cosmetic Act. Provides that if the packaging for a food containing gluten does not provide a label warning of the presence of gluten in the food, the retailer of the food must place a warning sign regarding the presence of gluten on the shelf or in close proximity to the food product. Provides for civil penalties for violations.

LRB093 20835 RXD 46760 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning public health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Food, Drug and Cosmetic Act is
5 amended by adding Section 3.23 and changing Section 5 as
6 follows:

7 (410 ILCS 620/3.23 new)

8 Sec. 3.23. Gluten warning. If the packaging for a food
9 containing gluten does not provide a label warning of the
10 presence of gluten in the food, a person who sells that food at
11 retail must place a warning sign regarding the presence of
12 gluten on the shelf or in close proximity to the food. The
13 warning sign shall be in the following form: "This food product
14 may contain gluten, whether naturally occurring or added, to
15 which some people may be allergic.". The Department of Public
16 Health shall enforce this Section. The Department shall issue a
17 warning to any person who violates this Section for the first
18 time at a retail establishment. For any subsequent violation at
19 the same retail establishment, the Department may impose a
20 civil penalty against the person violating this Section in an
21 amount not to exceed \$500 for each day in which a violation
22 occurs. The civil penalty imposed under this Section may not
23 exceed \$500 per day with respect to a single retail
24 establishment, regardless of the number of violations found at
25 the retail establishment.

26 (410 ILCS 620/5) (from Ch. 56 1/2, par. 505)

27 Sec. 5. (a) A person who violates any of the provisions of
28 this Act, other than Sections 3.22, 3.23, and 6, is guilty of a
29 Class C misdemeanor; but if the violation is committed after a
30 conviction of such person under this Section has become final,
31 the person shall be guilty of a Class A misdemeanor. A person

1 who violates the provisions of Section 6 of this Act is guilty
2 of a Class A misdemeanor; but if the violation is committed
3 after a conviction of such person under this Section has become
4 final, the person shall be guilty of a Class 4 felony.

5 (b) No person is subject to the penalties of subsection (a)
6 of this Section for (1) violating Section 3.1 or 3.3 if he
7 establishes a guaranty or undertaking signed by and containing
8 the name and address of the person residing in the State of
9 Illinois from whom he received the article in good faith, to
10 the effect that the article is not adulterated or misbranded
11 within the meaning of this Act, designating this Act; or (2)
12 for having violated clause (2) of Section 3.16 if such person
13 acted in good faith and had no reason to believe that the use
14 of the punch, die, plate, stone or other thing involved would
15 result in a drug being a counterfeit drug, or for having
16 violated clause (3) of Section 3.16 if the person doing the act
17 or causing it to be done acted in good faith and had no reason
18 to believe that the drug was a counterfeit drug.

19 (c) No publisher, radio-broadcast licensee, agency or
20 medium for the dissemination of an advertisement, except the
21 manufacturer, packer, distributor or seller of the article to
22 which a false advertisement relates is liable under this
23 Section for the dissemination of such false advertisement
24 unless he has refused on the request of the Director to furnish
25 the Director the name and post office address of the
26 manufacturer, packer, distributor, seller or advertising
27 agency residing in the State of Illinois who causes him to
28 disseminate such advertisement.

29 (d) No person shall be subject to the penalties of
30 subsection (a) of this Section for a violation of Section 3
31 involving misbranded food if the violation exists solely
32 because the food is misbranded under subsection (c) of Section
33 11 because of its advertising, and no person shall be subject
34 to the penalties of subsection (a) of this Section for such a
35 violation unless the violation is committed with the intent to
36 defraud or mislead.

1 (Source: P.A. 86-704; 87-754.)