

AMENDMENTS TO LR13

Introduced by Agriculture.

1 1. Strike the original provisions and insert the following new
2 resolution:

3 WHEREAS, milk is a standardized food, described in 21 C.F.R.
4 131.110(a) as the lacteal secretion, practically free of colostrum,
5 obtained by the complete milking of one or more healthy cows; and

6 WHEREAS, further standards of identity have long been promulgated
7 for cultured milk, yogurt, butter, ice cream, cheese, and cheese-related
8 products under the Federal Food, Drug, and Cosmetic Act and regulations
9 of the federal Food and Drug Administration that require milk or cream as
10 an essential and characteristic element of the product; and

11 WHEREAS, there has been an emergence and expansion of plant-based
12 products labeled with names that include standardized dairy food terms
13 such as milk, cultured milk, and cheese that are often sold in packaging
14 mimicking that of real dairy food counterparts and often sold within or
15 adjacent to the dairy display in retail stores; and

16 WHEREAS, such plant-based milk and other dairy food analog products
17 may not have the same basic nature and characterizing composition as real
18 dairy counterparts and differ in physical properties, nutritional
19 composition, flavor characteristics, and shelf life such that they are
20 not suitable dairy food substitutes, and, except for fortified soy
21 beverages, do not meet the recommendation for dairy food group intake in
22 the 2015-2020 Dietary Guidelines for Americans published by the United
23 States Department of Agriculture and the United States Department of
24 Health and Human Services; and

25 WHEREAS, consumer demand for such plant-based dairy food analog
26 products is in part derived from cultivating consumer perceptions that
27 falsely equate such products compositionally, nutritionally, and

1 functionally with real dairy food products by utilization of the term
2 milk and other standardized dairy food product terms in non-dairy product
3 names; and

4 WHEREAS, such change in perception is eroding the market distinction
5 and the unique cultural, dietary, historical, and culinary values
6 consumers associate with high-quality dairy products supplied by
7 America's dairy farmers; and

8 WHEREAS, the Food and Drug Administration has initiated a review of
9 labeling issues associated with the use of milk and other dairy terms
10 with standardized definitions in the names of products that are derived
11 from non-dairy sources in Docket ID FDA-2018-N-3522 and has invited
12 comments regarding how consumers understanding, perception, purchase
13 practices, and consumption of plant-based milk and other dairy food
14 analog products is influenced by the use of milk and other standardized
15 dairy terms to identify non-dairy products; and

16 WHEREAS, the Legislature of North Carolina during its 2018 session
17 became the first state legislature to enact legislation through passage
18 of SB711 which directs the North Carolina Department of Agriculture to
19 prepare regulations and enforcement policies to address mislabeling of
20 plant-based milk and other dairy food analog products and to implement
21 such regulations when at least ten other states pass similar legislation;
22 and

23 WHEREAS, additional states may consider similar legislation in the
24 absence of clear federal direction and enforcement of the use of
25 standardized dairy food terms for the labeling of plant-based milk and
26 other dairy food analog products.

27 NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE ONE HUNDRED
28 SIXTH LEGISLATURE OF NEBRASKA, FIRST SESSION:

29 1. That the Legislature urges the appropriate federal agencies of
30 the United States Government responsible for food labeling to:

31 a. Establish and enforce standards for nomenclature of plant-based

1 imitation milk and dairy food products that are truthful, not misleading,
2 and sufficient to differentiate non-dairy derived beverages and food
3 products from milk and dairy products that conform to the standard of
4 identity in 21 C.F.R. part 131 and 21 C.F.R. part 133;

5 b. Enforce product labeling and statements of product identity that
6 exclusively reserve the use of the term milk and other standardized dairy
7 food product terms such as yogurt, butter, ice cream, and cheese to
8 products derived from real dairy origin that conform to the standards of
9 identity in 21 C.F.R. parts 131, 133, and 135 and the Federal Food, Drug,
10 and Cosmetic Act; and

11 c. Ensure certainty and consistency in regulation of the labeling of
12 traditional dairy milk and other real dairy food products and plant-based
13 beverages and other dairy food analog products to aid consumer
14 understanding of the distinction between such products and to avoid
15 market distortion.

16 2. That a copy of this resolution be sent to President Donald J.
17 Trump, Commissioner of Food and Drugs of the United States Department of
18 Health and Human Services Scott Gottlieb, M.D., United States Secretary
19 of Agriculture George E. (Sonny) Perdue, III, and to each member of
20 Nebraska's congressional delegation.