

STATE OF WISCONSIN)
)
DEPARTMENT OF AGRICULTURE,) SS.
TRADE & CONSUMER PROTECTION)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Norman E. Kirschbaum, Administrator, Food Division, State of Wisconsin Department of Agriculture, Trade and Consumer Protection, and custodian of the official records of said Division, do hereby certify that the annexed order corrects a typographical error by deleting the fraction "1/26" and substituting the fraction "1/16" on page 4, line 17 of the order adopting Chapter Ag 56, Wis. Adm. Code, which was duly approved and adopted by the Department and filed with the Revisor of Statutes and Secretary of State on March 7, 1983.

I further certify that said copy has been compared by me with the original on file in the Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Department offices, in the city of Madison, this 28th day of March, 1983.

Norman E. Kirschbaum
Norman E. Kirschbaum
Administrator
Food Division

RECEIVED

MAR 29 1983
11:20 am
Revisor of Statutes
Bureau

ORDER OF THE
STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
ADOPTING, AMENDING AND REPEALING RULES

1 To create Chapter Ag 56 relating to label requirements for
2 food products made to resemble a dairy product.

Analysis Prepared by the Department of Agriculture,
Trade and Consumer Protection

Chapter Ag 56 is an entirely new rule. It has been developed to aid in the administration and enforcement of Chapter 345, Laws of 1981. Authority to adopt the rule is provided for in this new law.

The new law repeals the existing section 97.48(1), Wisconsin Statutes, which prohibited the sale of food products that purport to be or are represented to be dairy products, but where the milkfat has been replaced by a vegetable fat or oil. This law is commonly referred to as Wisconsin's "Filled Dairy Product Law". The new law, which becomes effective January 1, 1983, sets forth certain specific labeling requirements for these food products made to resemble dairy products. It also provides authority to the Department to adopt rules to implement and administer the law.

Chapter Ag 56 sets forth definitions that the Department feels are necessary to implement and administer the law. These definitions include an attempt to clarify the "dairy products" included in Chapter 345, Laws of 1981, as set forth in 21 CFR Part 131-135. The specific requirement for labeling of these food products made to resemble dairy products as "artificial dairy products" is provided for in the rule. Also, the basic federal labeling requirements that are applicable to these food products are included in this rule for proper interpretation and application. Exemption of certain products where the principal or characterizing ingredient is a milk or milk derived ingredient, and are sold under a common or usual name, is provided for in the rule. In addition, an exemption of small sized packages from the type size requirement is provided for.

The new rule also sets forth the procedure for declaring on the label, the major difference in the basic ingredients between the food product and the dairy product it resembles. The rule also provides that the nutritional information required by the new law shall be set forth in comparative columns.

3 Pursuant to authority vested in the State of Wisconsin
4 Department of Agriculture, Trade and Consumer Protection by

1 s. 93.07(1), 93.09(1) and 97.48(1)(d), Stats., the State of Wisconsin
2 Department of Agriculture, Trade and Consumer Protection adopts rules
3 interpreting s. 97.48(1), Stats. (as adopted under Chapter 345, Laws
4 of 1981), as follows:

5 Section 1. Chapter Ag 56 is created to read:

6 LABEL REQUIREMENTS FOR FOOD PRODUCTS

7 MADE TO RESEMBLE A DAIRY PRODUCT

8 Ag 56.01 DEFINITIONS.

9 (1) "Department" means the State of Wisconsin Department of
10 Agriculture, Trade and Consumer Protection.

11 (2) "Dairy product" includes all of the following food or food
12 products:

13 (a) Milk, acidified milk, cultured milk, concentrated milk,
14 sweetened condensed milk, sweetened condensed skim milk, lowfat dry
15 milk, nonfat dry milk, nonfat dry milk fortified with vitamins A and
16 D, evaporated milk, evaporated skim milk, lowfat milk, acidified
17 lowfat milk, cultured lowfat milk, skim milk, acidified skim milk,
18 cultured skim milk, dry whole milk, dry cream, heavy cream, light
19 cream, light whipping cream, sour cream, acidified sour cream,
20 eggnog, half and half, sour half and half, acidified sour half and
21 half, yogurt, lowfat yogurt and nonfat yogurt as described in 21 Code
22 of Federal Regulations, Part 131.

23 (b) All cheese varieties including asiago, blue, brick,
24 caciocavallo, cheddar, colby, cook cheese, cottage cheese, cream
25 cheese, washed curd, edam, gammelost, gorgonzala, gouda, granular
26 and grated, gruyere, hard, limburgger, monterey, monterey jack,
27 mozzarella, scamorza, muenster, neufachatel, nuworld, parmesan,

1 reggiano, pasteurized, blended and processed cheeses, pasteurized
2 cheese spreads, provolone, pasta filata, romano, roquefort, samsoe,
3 sap sago, semi-soft and skim milk, spiced, Swiss and emmentaler as
4 described in 21 Code of Federal Regulations, Part 133.

5 (c) Ice cream, frozen custard, ice milk and sherbert as
6 described in 21 Code of Federal Regulations, Part 135.

7 (d) Any manufactured food which:

8 1. Uses milk or a milk ingredient as the principal or
9 characterizing constituent of the food product;

10 2. Does not contain ingredients added for the purpose of
11 replacing milk or milk ingredients;

12 3. Does not contain milk derived ingredients at levels in
13 excess of those permitted in similar standardized dairy products;

14 4. Does not contain any vegetable derived ingredients unless
15 the ingredients are used as carriers or function as stabilizers or
16 emulsifiers; and

17 5. Has no standard of identity.

18 (3) "Milk ingredient" includes milk, skim milk, milkfat, cream,
19 lowfat milk and nonfat milk used in fluid, concentrated or dry form.

20 (4) "Milk-derived ingredient" includes buttermilk, whey,
21 modified whey products, casein, caseinates, lactose, lactalbumins and
22 lactoglobulins used in fluid, concentrated or dry form.

23 (5) "Artificial dairy product", means any food manufactured,
24 packaged or labeled so as to purport to resemble the identity,
25 intended use, composition, physical and sensory properties of a dairy
26 product as defined in sub (2).

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1 Ag 56.02 LABELING FOOD PRODUCTS MADE TO RESEMBLE DAIRY

2 PRODUCTS. (1) The statement "this is an artificial dairy product"
3 or "an artificial dairy product" shall be placed in the upper 30% of
4 the principal display panel of the package or container of all
5 artificial dairy products as defined in s. Ag 56.01(5). The print
6 size shall be not less than one-half the size of the product name,
7 but in no case less than 18 point type, and the letters shall be of
8 the same color and on the same contrasting background as the product
9 name.

10 (2) The product name shall be in bold face type on the
11 principal display panel and in lines generally parallel to the base
12 of the container or package.

13 (3) The type size requirement of this chapter shall not apply
14 to individual serving size packages of artificial dairy products of
15 one ounce or less served with meals in restaurants, institutions or
16 on passenger carriers provided all required information is on the
17 label in type of at least 1/16 inch in height.

18 Ag 56.03 INGREDIENT AND NUTRITIONAL VALUES. (1) A food

19 product made to resemble a dairy product as defined in s. Ag 56.01(2)
20 shall include on the principal display panel a statement which will
21 provide the major ingredient differences between the food product and
22 the dairy product it resembles.

23 (a) The information shall state the difference in the basic
24 ingredients used to replace any "milk ingredient" as defined in
25 s. Ag 56.01(3).

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1 (b) The information regarding major ingredient differences
2 shall be in type size which is 25% of the name of the food product,
3 but not less than 1/8-inch in height.

4 (2) A nutritional panel shall be provided and shall indicate in
5 comparative columns the nutritional differences between the
6 artificial dairy product and the dairy product it resembles.

7 (a) The comparison shall include calories, protein,
8 carbohydrates and fat in grams per serving and nutrients as a per
9 cent of the U.S. RDA for protein, Vitamin A, Vitamin C, thiamine,
10 riboflavin, niacin, calcium and iron in that order. The following
11 optional nutrients may also be declared: Vitamins D, B₆ and B₁₂,
12 phosphorus, iodine, magnesium, zinc, biotin, and pantothenic acid.
13 If any optional nutrients are declared, the comparison panel shall
14 list all of the optional nutrients and the amount present for each,
15 expressed as a percent of the U.S. RDA.

16 (b) The nutritional panel is not required on individual serving
17 size packages of artificial dairy products of one ounce or less
18 served with meals in restaurants, institutions or on passenger
19 carriers.

20 The rules contained in this order shall take effect on the first
21 day of the month following publication in the Wisconsin
22 Administrative Register, as provided in s. 227.026(1), Stats.

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1 Dated: March 28, 1983

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3 STATE OF WISCONSIN
4 DEPARTMENT OF AGRICULTURE,
5 TRADE AND CONSUMER PROTECTION

6 By N. E. Kirschbaum
7 N. E. Kirschbaum, Administrator
8 Food Division

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MAR 7 1983
11:00 am
Revisor of Statutes
Bureau

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DEPARTMENT OF AGRICULTURE,) SS.
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TRADE & CONSUMER PROTECTION)

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I, Norman E. Kirschbaum, Administrator, Food Division, State of Wisconsin Department of Agriculture, Trade and Consumer Protection, and custodian of the official records of said Division, do hereby certify that the annexed order amending rules relating to label requirements for food products made to resemble a dairy product, Chapter Ag 56, Wis. Adm. Code, was duly approved and adopted by the Department on March 7, 1983.

I further certify that said copy has been compared by me with the original on file in the Department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Department offices in the city of Madison, this 7th day of March, 1983.

Norman E. Kirschbaum
Norman E. Kirschbaum
Administrator
Food Division

RECEIVED

MAR 7 1983

ORDER OF THE
STATE OF WISCONSIN

Revisor of Statutes
Bureau

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26 and grated, gruyere, hard, limburg, monterey, monterey jack,
27 mozzarella, scamorza, muenster, neufachatel, nuworld, parmesan,

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1 Dated: March 7, 1983

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3 STATE OF WISCONSIN
4 DEPARTMENT OF AGRICULTURE,
5 TRADE AND CONSUMER PROTECTION

6 By N. E. Kirschbaum
7 N. E. Kirschbaum, Administrator
8 Food Division

9 KWM/T2/1/R/ADMN2
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