



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-0747/1
KP:skw

2021 SENATE BILL 81

February 5, 2021 - Introduced by Senators MARKLEIN, BERNIER, COWLES, FEYEN, PFAFF, RINGHAND, TESTIN, WANGGAARD and WIMBERGER, cosponsored by Representatives TRANEL, ARMSTRONG, BRANDTJEN, CABRERA, DITTRICH, GUNDRUM, KURTZ, MURPHY, MOSES, NOVAK, OLDENBURG, PETRYK, PRONSCHINSKE, ROZAR, SORTWELL, SKOWRONSKI, SUMMERFIELD, TAUCHEN, THIESFELDT, TUSLER, VANDERMEER, VRUWINK, KERKMAN, LOUDENBECK, BORN and TITTL. Referred to Committee on Agriculture and Tourism.

- 1 **AN ACT to create** 97.26 of the statutes; **relating to:** labeling food as a type of
2 dairy product or as a dairy ingredient and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Under this bill, no person may label a food product as, or sell or offer for sale a food product that is labeled as, a type of dairy product, such as cream, yogurt, or cheese, unless the food product is a dairy product. This prohibition applies to most dairy products but excludes milk and other products derived solely from the milk of cows or other hooved or camelid mammals.

Also, under the bill, no person may label a food product as, or sell or offer for sale a food product that is labeled as, a type of dairy ingredient unless the food product is derived from cow's milk, or hooved or camelid mammal's milk or a type of milk that meets certain specifications under federal law. The bill also requires the Department of Agriculture, Trade and Consumer Protection to promulgate rules to implement the bill's prohibitions.

Each prohibition in the bill applies only if at least 10 states out of a group of 15 states listed in the bill enact a similar prohibition by June 30, 2031; otherwise the prohibition does not apply.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SENATE BILL 81**SECTION 1**

1 **SECTION 1.** 97.26 of the statutes is created to read:

2 **97.26 Labeling food as a type of dairy product. (1) DAIRY PRODUCTS.**
3 Beginning 6 months after publication of the notice under sub. (4) (a), no person may
4 label a food product as, or sell or offer for sale a food product that is labeled as, a type
5 of dairy product described in s. 97.20 (1) (b) 3. to 5. or a similar term unless the food
6 product is a dairy product, as defined in s. 97.20 (1) (b).

7 **(2) DAIRY INGREDIENTS.** Beginning 6 months after publication of the notice
8 under sub. (4) (b), no person may label a food product as, or sell or offer for sale a food
9 product that is labeled as, a type of dairy ingredient unless the food product is derived
10 from at least one of the following:

11 (a) Milk, lowfat milk, skim milk, or nonfat dry milk.

12 (b) A product described in 21 CFR 131.110 to 131.147.

13 (c) Hooved or camelid mammals' milk, as defined in s. 97.20 (1) (fm).

14 **(3) RULES.** (a) The department shall promulgate rules to implement sub. (1).

15 (b) The department shall promulgate rules to implement sub. (2).

16 **(4) ENACTMENT BY OTHER STATES.** (a) As soon as possible after at least 10 states
17 out of the group of states composed of Illinois, Indiana, Iowa, Kentucky, Maryland,
18 Michigan, Minnesota, Missouri, North Dakota, North Carolina, Ohio, South Dakota,
19 Tennessee, Virginia, and West Virginia enact a prohibition that is substantially
20 similar to sub. (1), the department shall submit to the legislative reference bureau
21 for publication in the Wisconsin Administrative Register a notice specifying the date
22 that at least 10 of the states listed in this paragraph have enacted a prohibition
23 substantially similar to sub. (1). This paragraph does not apply after June 30, 2031.

24 (b) As soon as possible after at least 10 states out of the group of states
25 composed of Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota,

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1 Missouri, North Dakota, North Carolina, Ohio, South Dakota, Tennessee, Virginia,
2 and West Virginia enact a prohibition that is substantially similar to sub. (2), the
3 department shall submit to the legislative reference bureau for publication in the
4 Wisconsin Administrative Register a notice specifying the date that at least 10 of the
5 states listed in this paragraph have enacted a prohibition substantially similar to
6 sub. (2). This paragraph does not apply after June 30, 2031.

7 **(5) APPLICABILITY.** (a) Subsections (1) and (3) (a) do not apply if a notice under
8 sub. (4) (a) has not been published.

9 (b) Subsections (2) and (3) (b) do not apply if a notice under sub. (4) (b) has not
10 been published.

11 **(END)**