

**Second Regular Session  
Seventy-second General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-0610.01 Richard Sweetman x4333

**HOUSE BILL 20-1226**

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**HOUSE SPONSORSHIP**

**Cutter,**

**SENATE SPONSORSHIP**

**(None),**

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**House Committees**  
Rural Affairs & Agriculture

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING DATE LABELING ON FOODS, AND, IN CONNECTION**  
102                    **THEREWITH, ENCOURAGING THE USE OF ELEVATED RISK DATES**  
103                    **AND QUALITY DATES ON CERTAIN FOODS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill encourages each food manufacturer to affix a label indicating an elevated risk date on each product that poses a high level of risk to an individual who consumes the food product after the elevated risk date. On and after July 1, 2023, food that is offered for sale with such a label must:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.

! Display the elevated risk date preceded by the phrase "USE BY" unless the executive director of the department of public health and environment (department) promulgates rules establishing a different phrase; and

! Express the date by the first 3 letters of the month, followed by numerals designating the calendar day and year, or by the numerical calendar month followed by numerals designating the calendar day and year.

On and after July 1, 2023, if a food manufacturer or retail food facility includes a quality date on a food product, the quality date must be:

! Displayed preceded by the phrase "BEST IF USED BY" unless the executive director promulgates rules establishing a different phrase; and

! Expressed by the first 3 letters of the month followed by numerals designating the calendar day and year, or by the numerical calendar month followed by numerals designating the calendar day and year.

The bill requires the department to make publicly available on its website information indicating the distinction between elevated risk dates and quality dates on food labels.

The executive director may promulgate rules to implement the new labeling requirements.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 finds that:

4 (a) Discarded food is a huge drain on our national economy,  
5 costing consumers and industry billions of dollars each year;

6 (b) The dumping of uneaten food and other organic waste into  
7 landfills results in the release of tons of greenhouse gases each year; and

8 (c) Consumers' misinterpretations of date labels on foods is a key  
9 factor leading to food waste in American households because consumers  
10 discard enormous amounts of food prematurely.

11 (2) Therefore, the general assembly declares that the use of  
12 uniform and accurate expiration date labeling on food products will  
13 greatly benefit the economy and natural environment of the state.

1           **SECTION 2.** In Colorado Revised Statutes, 25-5-402, **add** (9.5)  
2 and (20.5) as follows:

3           **25-5-402. Definitions.** As used in this part 4, unless the context  
4 otherwise requires:

5           (9.5) "ELEVATED RISK DATE" MEANS A DATE THAT IS INDICATED  
6 ON A LABEL AFFIXED TO THE PACKAGING OR CONTAINER OF A FOOD  
7 PRODUCT, AFTER WHICH DATE THERE IS A HIGH LEVEL OF RISK ASSOCIATED  
8 WITH THE CONSUMPTION OF THE FOOD PRODUCT.

9           (20.5) "QUALITY DATE" MEANS A DATE INDICATED ON THE LABEL  
10 AFFIXED TO THE PACKAGING OR CONTAINER OF A FOOD PRODUCT, AFTER  
11 WHICH DATE THE FOOD'S QUALITY MAY BEGIN TO DETERIORATE.

12           **SECTION 3.** In Colorado Revised Statutes, **add** 25-5-427 as  
13 follows:

14           **25-5-427. Food date labeling - elevated risk dates - quality**  
15 **dates - rules.** (1) (a) EACH FOOD MANUFACTURER IS ENCOURAGED TO  
16 AFFIX A LABEL INDICATING AN ELEVATED RISK DATE ON EACH FOOD  
17 PRODUCT THAT POSES A HIGH LEVEL OF RISK TO AN INDIVIDUAL WHO  
18 CONSUMES THE FOOD PRODUCT AFTER THE ELEVATED RISK DATE.

19           (b) ON AND AFTER JULY 1, 2023, A FOOD PRODUCT THAT IS  
20 OFFERED FOR SALE IN COLORADO WITH A LABEL AFFIXED THAT INDICATES  
21 AN ELEVATED RISK DATE MUST:

22           (I) DISPLAY THE ELEVATED RISK DATE PRECEDED BY THE PHRASE  
23 "USE BY" UNLESS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT  
24 PROMULGATES RULES, PURSUANT TO SUBSECTION (7) OF THIS SECTION,  
25 ESTABLISHING A DIFFERENT PHRASE; AND

26           (II) EXPRESS THE DATE BY THE FIRST THREE LETTERS OF THE  
27 MONTH FOLLOWED BY NUMERALS DESIGNATING THE CALENDAR DAY AND

1 YEAR, OR BY THE NUMERICAL CALENDAR MONTH FOLLOWED BY  
2 NUMERALS DESIGNATING THE CALENDAR DAY AND YEAR.

3 (2) ON AND AFTER JULY 1, 2023, IF A FOOD MANUFACTURER OR  
4 RETAIL FOOD FACILITY INCLUDES A QUALITY DATE ON A FOOD PRODUCT,  
5 THE QUALITY DATE MUST BE:

6 (a) DISPLAYED PRECEDED BY THE PHRASE "BEST IF USED BY"  
7 UNLESS THE EXECUTIVE DIRECTOR OF THE DEPARTMENT PROMULGATES  
8 RULES, PURSUANT TO SUBSECTION (7) OF THIS SECTION, ESTABLISHING A  
9 DIFFERENT PHRASE; AND

10 (b) EXPRESSED BY THE FIRST THREE LETTERS OF THE MONTH  
11 FOLLOWED BY NUMERALS DESIGNATING THE CALENDAR DAY AND YEAR,  
12 OR BY THE NUMERICAL CALENDAR MONTH FOLLOWED BY NUMERALS  
13 DESIGNATING THE CALENDAR DAY AND YEAR.

14 (3) (a) A RETAIL FOOD FACILITY MAY DONATE A FOOD PRODUCT  
15 THAT IS NOT LABELED IN ACCORDANCE WITH THIS SECTION.

16 (b) THIS SECTION DOES NOT PROHIBIT AND SHALL NOT BE  
17 CONSTRUED TO DISCOURAGE THE SALE, DONATION, OR USE OF A FOOD  
18 PRODUCT AFTER THE FOOD PRODUCT'S QUALITY DATE HAS PASSED.

19 (4) NOTHING IN THIS SECTION CREATES A LEGAL REQUIREMENT  
20 FOR A RETAIL FOOD PROVIDER TO ENSURE THAT A FOOD MANUFACTURER  
21 HAS LABELED A FOOD PRODUCT IN ACCORDANCE WITH THIS SECTION.

22 (5) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE  
23 CONTRARY, THE REQUIREMENTS OF THIS SECTION DO NOT APPLY TO ANY  
24 PRODUCT THAT IS REGULATED AS A DIETARY SUPPLEMENT UNDER THE  
25 "FEDERAL FOOD, DRUG, AND COSMETIC ACT", 21 U.S.C. SEC. 301 ET SEQ.,  
26 AS AMENDED.

27 (6) ON OR BEFORE JULY 1, 2023, THE DEPARTMENT SHALL MAKE

1 AVAILABLE ON ITS PUBLIC WEBSITE INFORMATION INDICATING THE  
2 DISTINCTION BETWEEN ELEVATED RISK DATES AND QUALITY DATES ON  
3 FOOD LABELS.

4 (7) AFTER CONSULTING WITH STAKEHOLDERS IN AN OPEN PUBLIC  
5 PROCESS IN ACCORDANCE WITH PART 1 OF ARTICLE 4 OF TITLE 24, THE  
6 EXECUTIVE DIRECTOR OF THE DEPARTMENT MAY PROMULGATE RULES TO  
7 ADD OR EXEMPT FOOD PRODUCTS TO OR FROM THE PROVISIONS OF THIS  
8 SECTION OR TO OTHERWISE MODIFY THE REQUIREMENTS OF THIS SECTION.

9 **SECTION 4.** In Colorado Revised Statutes, 25-5-411, **amend** (1)  
10 introductory portion and (1)(b) as follows:

11 **25-5-411. Definitions of "misbranding".** (1) A food ~~shall be~~ IS  
12 deemed to be misbranded:

13 (b) If its labeling or packaging fails to conform to the  
14 requirements of section 25-5-419 OR 25-5-427;

15 **SECTION 5. Act subject to petition - effective date.** This act  
16 takes effect July 1, 2023; except that, if a referendum petition is filed  
17 pursuant to section 1 (3) of article V of the state constitution against this  
18 act or an item, section, or part of this act within the ninety-day period  
19 after final adjournment of the general assembly, then the act, item,  
20 section, or part will not take effect unless approved by the people at the  
21 general election to be held in November 2020 and, in such case, will take  
22 effect July 1, 2023.