AN ACT concerning agriculture; relating to the labeling of certain foods; prohibiting the use of identifiable meat terms on labels of meat analogs without use of proper qualifying language; amending K.S.A. 65-656 and 65-665 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-656 is hereby amended to read as follows: 65-656. For the purpose of this act:

(a) "Secretary" means the secretary of agriculture or the secretary's authorized representatives.

(b) "Person" means an individual, partnership, governmental entity, corporation, or association of persons.

(c) "Food" means: (1) Articles used for food or drink for humans or other animals; (2) chewing gum; and (3) articles used for components of any such article.

(d) "Drug" means: (1) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; (2) articles intended for use in diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals; (3) articles, other than food, intended to affect the structure or any function of the body of humans or other animals; and (4) articles intended for use as a component of any article specified in paragraph (1), (2); or (3); but does not include devices or their components, parts or accessories. The term "drug" shall not include amygdalin (laetrile).

(e) "Device," except as used in subsection (j) of K.S.A. 65-657(j), subsection (f) of K.S.A. 65-665(f), subsections (c) and (o) of K.S.A. 65-669(c), subsection (c) of K.S.A. 65-671(c), and amendments thereto, means instruments, apparatus and contrivances, including their components, parts and accessories, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals or to affect the structure or any function of the body of humans or other animals.

(f) "Cosmetic" means: (1) Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleaning, beautifying, promoting
attractiveness or altering appearance; and (2) articles intended for use as a
cOMPONENT OF any such articles, except that such term—shall does not
include soap.
(g) "Official compendium" means the official United States
pharmacopoeia, official homeopathic pharmacopoeia of the United States,
official national formulary or any supplement to any of them.
(h) "Label" means a display of written, printed or graphic matter upon
the immediate container of any article; and a requirement made by or
under authority of this act that any word, statement, or other information
appearing on the label shall not be considered to be complied with unless
such word, statement, or other information also appears on the outside
container or wrapper, if any there be, of the retail package of such article,
or is easily legible through the outside container or wrapper.
(i) "Immediate container" does not include package liners.
(j) "Labeling" means all labels and other written, printed or graphic
matter upon an article or any of its containers or wrappers or
accompanying such article.
(k) "Advertisement" means all representations disseminated in any
manner or by any means other than by labeling, for the purpose of
inducing, or—which that are likely to induce, directly or indirectly, the
purchase of food, drugs, devices or cosmetics.
(l) "New drug" means: (1) Any drug the composition of which is such
that such drug is not generally recognized, among experts qualified by
scientific training and experience to evaluate the safety and effectiveness
of drugs, as safe and effective for use under the conditions prescribed,
recommended; or suggested in the labeling thereof; or (2) any drug the
composition of which is such that such drug, as a result of investigations to
determine its safety and effectiveness for use under such conditions, has
become so recognized, but—which that has not, otherwise than in such
investigations, been used to a material extent or for a material time under
such conditions. The term "new drug"—shall does not include amygdalin
(laetrile).
(m) "Contaminated with filth" applies to any food, drug, device or
cosmetic not securely protected from dust, dirt, and as far as may be
necessary by all reasonable means, from all foreign or injurious
contaminations.
(n) "Pesticide chemical" means any substance—which that, alone, in
chemical combination, or in formulation with one or more other
substances is a "pesticide" within the meaning of the agricultural
chemicals act, K.S.A. 2-2202, and amendments thereto, and—which that is
used in the production, storage or transportation of raw agricultural
commodities.
(o) "Raw agricultural commodity" means any food in its raw or
natural state, including all fruits that are washed, colored; or otherwise treated in their unpeeled natural form prior to marketing.

(p) "Food additive" means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including "Food additive" includes any source of radiation intended for any such use, if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures, or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food, to be safe under the conditions of its intended use. "Food additive" does not include: (1) A pesticide chemical in or on a raw agricultural commodity; (2) a pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity; (3) a color additive; or (4) any substance used in accordance with a sanction or approval granted prior to the enactment of the food additive amendment of 1958, pursuant to the federal act.

(q) (1) "Color additive" means a material which that: (A) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated; or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral; or other source; or (B) when added or applied to a food, drug or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with another substance, of imparting color thereto; except that such term does not include any material which has been or hereafter is exempted under the federal act.

(2) The term "color" includes black, white and intermediate grays.

(3) Nothing in this subsection shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

(r) "Imitation" means, except for imitation food as provided in K.S.A. 65-665, and amendments thereto, any article made in the semblance of another, consisting of similar or dissimilar ingredients and being capable of being substituted for the imitated article without the knowledge of the consumer.

(s) "Federal act" means the federal food, drug and cosmetic act, title

(t) "Department" means the Kansas department of agriculture.

(u) "Distribution" means the provision of food, drug, cosmetic or
device to another person and includes selling, offering for sale, giving,
supplying, transporting, applying and dispensing.

(v) "Food establishment" means any place in which food is prepared,
served or offered for sale or service on the premises or elsewhere. "Food
establishment" does not include roadside markets that offer only whole
fresh fruits, nuts and vegetables for sale. "Food establishment" includes,
but is not limited to:

(1) Eating or drinking establishments, fixed or mobile restaurants,
coffee shops, cafeterias, short-order cafes, luncheonettes, tea rooms, grills,
sandwich shops, soda fountains, taverns, private clubs, roadside stands,
industrial-feeding establishments, catering kitchens, commissaries and any
other private, public or nonprofit organizations routinely serving food; and

(2) grocery stores, convenience stores, bakeries and locations where
food is provided for the public with or without charge.

(w) "Food processing plant" means a commercial operation that
processes or stores food for human consumption and provides food for
distribution to other business entities at other locations, including other
food processing plants and food establishments. "Food processing plant"
do not include any operation or individual beekeeper that produces and
distributes honey to other business entities if the producer does not process
the honey beyond extraction from the comb.

(x) "Food vending machine" means any self-service device, which,
that, upon payment, dispenses unit servings of food, either in bulk or in
packages. Such device shall not necessitate replenishing between each
vending operation. "Food vending machine" does not include any vending
machine dispensing only canned or bottled soft drinks or prepackaged
food that does not require temperature control for safety.

(y) "Food vending machine company" means any person in the
business of operating and servicing food vending machines.

(z) "Location" means a physical address, or absent an address, the
geographical area within 300 feet of a food establishment or food
processing plant. In the case of a mobile food establishment housed in a
trailer, such trailer shall be considered a food establishment with its own
location. In the case of a mobile food establishment that is not housed in a
trailer, the equipment used for storage, preparation or offering of food shall
be considered a food establishment with its own location.

(aa) "Municipality" means any city or county of this state.

(bb) "Processing" means the handling of a food, drug, cosmetic or
device, including the production, manufacturing, packaging, packing and
labeling of such item.
(cc) "Sample" means a small quantity of food and does not include a meal or entree.
(dd) "Storage" means holding for distribution or processing.
(ee) "Meat analog" means any food that approximates the aesthetic qualities, primarily texture, flavor and appearance, or the chemical characteristics of any specific type of meat, meat food product, poultry product or poultry food product, but does not contain any meat, meat food product, poultry product or poultry food product.
(jj) "Identifiable meat term" includes, but is not limited to, terms such as meat, beef, pork, poultry, chicken, turkey, lamb, goat, jerky, steak, hamburger, burger, ribs, roast, bacon, bratwurst, hot dog, ham, sausage, tenderloin, wings, breast and other terms for food that contain any meat, meat food product, poultry product or poultry food product.
(gg) "Meat" means the same as provided in 9 C.F.R. § 301.2, as in effect on January 1, 2022.
(hh) "Meat food product" means the same as provided in 9 C.F.R. § 301.2, as in effect on January 1, 2022.
(ii) "Poultry product" means the same as provided in 9 C.F.R. § 381.1, as in effect on January 1, 2022.
(jj) "Poultry food product" means the same as provided in 9 C.F.R. § 381.1, as in effect on January 1, 2022.
(kk) "Close proximity to the identifiable meat term" means:
(1) Immediately before or after the identifiable meat term;
(2) in the same line of the label containing the identifiable meat term;
(3) in the line of the label that is immediately preceding or subsequent to the line containing the identifiable meat term; or
(4) within the same phrase or sentence that uses the identifiable meat term.

Sec. 2. K.S.A. 65-665 is hereby amended to read as follows: 65-665.
A food shall be deemed to be misbranded:
(a) If its labeling is false or misleading in any particular.
(b) If it is offered for sale under the name of another food.
(c) If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word; "imitation;" and, immediately thereafter, the name of the food imitated. For the purposes of this section, "imitation" means the same as provided in 21 C.F.R. § 101.3(e), as in effect on January 1, 2022. In such definition, references to section 403(c) of the federal food, drug, and cosmetic act mean this subsection (c), and references to the commissioner mean the Kansas secretary of agriculture.
(d) If its container is so made, formed, or filled as to be misleading.
(e) If in package form, unless it bears a label containing: (1) The name and place of business of the manufacturer, packer; or distributor; and
(2) an accurate statement of the quantity of the contents in terms of weight,
measure; or numerical count. Reasonable variations shall be permitted, and 
exemptions as to small packages shall be established, by rules and 
regulations prescribed by the secretary of agriculture.

(f) If any word, statement, or other information required by or under 
authority of this act to appear on the label or labeling is not prominently 
placed thereon with such conspicuousness—(as compared with other 
words, statements, designs; or devices, in the labeling), and in such terms 
as to render it likely to be read and understood by the ordinary individual 
under customary conditions of purchase and use.

(g) If it purports to be or is represented as a food for which a 
definition and standard of identity has been prescribed by regulations as 
provided by K.S.A. 65-663, as amended and amendments thereto, unless:
(1) It conforms to such definition and standard; and (2) its label bears the 
name of the food specified in the definition and standard, and insofar as 
may be required by such regulations, the common names of optional 
ingredients (other than spices, flavorings, and colorings), present in such 
food.

(h) If it purports to be or is represented as: (1) A food for which a 
standard of quality has been prescribed by regulations as provided in 
K.S.A. 65-663, as amended and amendments thereto, and its quality falls 
below such standard unless its label bears, in such manner and form as 
such regulations specify, a statement that it falls below such standard; or 
(2) a food for which a standard or standards of fill of container has been 
prescribed by regulations as provided by K.S.A. 65-663, as amended and 
amendments thereto, and it falls below the standard of fill of container 
applicable thereto, unless its label bears, in such manner and form as such 
regulations specify a statement that it falls below such standard.

(i) If it is not subject to the provisions of paragraph subsection (g) of 
this section, unless it bears labeling clearly giving: (1) The common or 
usual name of the food, if any—there be; and (2) in case it is fabricated 
from two or more ingredients, the common or usual name of each such 
ingredient; except that spices, flavorings, and colorings, other than those 
sold as such, may be designated as spices, flavorings, and colorings, 
without naming each. Except that to the extent that compliance with the 
requirements of clause paragraph (2) of this paragraph is impractical or 
results in deception or unfair competition, exemptions shall be established 
by rules and regulations promulgated by the secretary.

(j) If it purports to be or is represented for special dietary uses, unless 
its label bears such information concerning its vitamin, mineral; and other 
dietary properties as the secretary determines to be, and by regulations 
prescribes, as necessary, in order to fully inform purchasers as to its value 
for such uses.

(k) If it bears or contains any artificial flavoring, artificial coloring; or
chemical preservatives, unless it bears labeling stating that fact. Except that to the extent that compliance with the requirements of this paragraph subsection is impracticable, exemptions shall be established by rules and regulations promulgated by the secretary.

(l) If it is a product intended as an ingredient of another food and when used according to the directions of the purveyor will result in the final food product being adulterated or misbranded.

(m) If it is a meat analog and: (1) Its labeling utilizes an identifiable meat term; and (2) the labeling does not have a disclaimer in the same font, style and size, in close proximity to the identifiable meat term, stating one of the following: (A) "This product does not contain meat"; (B) "meatless"; (C) "meat-free"; (D) "vegan"; (E) "veggie"; (F) "vegetarian"; (G) "vegetable"; (H) "plant-based"; or (I) a disclaimer equivalent to (A) through (H), as determined by the secretary through rules and regulations. The provisions of this subsection shall not apply to a menu or menu board or to food that can be defined as "imitation" under subsection (c) and complies with the provisions of such subsection.

If any provision of this section is held to be invalid or unconstitutional, it shall be conclusively presumed that the legislature would have enacted the remainder of this section without such invalid or unconstitutional provision.

Sec. 3. K.S.A. 65-656 and 65-665 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.