

3/7 10:42a

Chapter No. 323
13/SS26/R702
CRK / BW / SA

SENATE BILL NO. 2511

Originated in Senate *Spz Welch* Secretary

SENATE BILL NO. 2511

AN ACT TO AMEND SECTION 75-29-201, MISSISSIPPI CODE OF 1972, TO REVISE SYRUP LABELING REQUIREMENTS; TO RECODIFY CERTAIN UNLAWFUL LABELING ACTS; TO AMEND SECTION 75-29-203, MISSISSIPPI CODE OF 1972, TO CHANGE REFERENCE TO COMMISSIONER OF AGRICULTURE AND COMMERCE; TO AMEND SECTION 75-29-205, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR AN APPEAL FROM STOP SALE ORDERS; TO AMEND SECTION 75-29-211, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR ADMINISTRATIVE PENALTIES FOR VIOLATIONS; TO CREATE A NEW CODE SECTION TO REQUIRE SYRUP DISTRIBUTORS TO KEEP CERTAIN RECORDS; TO REPEAL SECTION 79-29-207, MISSISSIPPI CODE OF 1972, WHICH MADE IT UNLAWFUL TO USE A FICTITIOUS NAME ON SYRUP LABELS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 75-29-201, Mississippi Code of 1972, is amended as follows:

75-29-201. (1) Every container of syrup sold, offered, or exposed for sale, through a retail outlet, by an individual, firm or corporation in the State of Mississippi shall have on the outside of each container a paper label, permanent type stamped imprint, or embossed material on the container itself, plainly printed in the English language, and truly certifying the net contents of the packet, the name, brand, and the name and address

of the person, or processor, offering such syrup for sale, and a true statement of the contents contained therein.

(2) It shall be unlawful for any individual, firm, organization or corporation to label, sell, offer for sale or expose for sale at the retail level of trade any product as "pure syrup" that does not meet the minimum requirements established by the Mississippi Department of Agriculture and Commerce. Syrup from the juice of sugar cane or sorghum may be labeled "pure cane" or "pure sorghum" syrup to coincide with the contents therein. Any other type of syrup must show the name of all ingredients * * * with ingredients listed in descending order of predominance of weight.

(3) It shall be unlawful for any manufacturer or distributor of syrup or syrup products to use a fictitious name or address on the container label.

SECTION 2. Section 75-29-203, Mississippi Code of 1972, is amended as follows:

75-29-203. The * * * Mississippi Department of Agriculture and Commerce * * * is hereby vested with the authority and responsibility for carrying out the provisions of this article, and the Commissioner of Agriculture and Commerce, or his representative, * * * shall be furnished samples of syrup or syrup products from the individual, firm organization or corporation, upon request, and shall have * * * the products analyzed by the state chemist.

SECTION 3. Section 75-29-205, Mississippi Code of 1972, is amended as follows:

75-29-205. The Commissioner of Agriculture and Commerce is authorized, in his discretion, to issue an order to stop the sale or distribution of any syrup or syrup products found to be in violation of this article. Upon written notice by the commissioner to the manufacturer or distributor of the syrup or syrup products sold in violation of this article, * * * the syrup or syrup products shall be picked up by the manufacturer or distributor * * * and the buyer of * * * the syrup or syrup products shall be refunded the purchase price by the manufacturer or distributor. Any order to stop the sale of syrup or syrup products may be appealed to the Chancery Court of the First Judicial District of Hinds County or the chancery court in the county where the violation occurred within thirty (30) days of receipt of the order.

SECTION 4. Section 75-29-211, Mississippi Code of 1972, is amended as follows:

75-29-211. (1) Except as otherwise provided in subsection (2) of this section, any person violating the provisions of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished for such violation; and each infraction shall constitute a separate offense.

(2) Any manufacturer or distributor found to be in violation of the labeling requirements of Section 75-29-201, shall, upon

conviction therefor, be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) or imprisoned for a period of time not to exceed ninety (90) days, or both.

(3) Any person who by himself, by his agent, or as the agent of another person, commits a violation of this chapter may be assessed by the commissioner, or his designee, an administrative penalty of:

(a) Not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for a first violation;

(b) Not less than One Hundred Dollars (\$100.00) nor more than Two Thousand Dollars (\$2,000.00) for a second violation within twelve (12) months of the first violation; and

(c) Not less than One Thousand Dollars (\$1,000.00) nor more than Three Thousand Dollars (\$3,000.00) for a third violation within eighteen (18) months from the date of the first violation.

(4) Any person subject to an administrative penalty shall have a right to request an administrative hearing within thirty (30) days of receipt of the notice of the penalty. The commissioner, or his designee, shall be authorized to conduct the hearing after giving appropriate notice to the respondent. The commissioner may issue subpoenas to require the attendance of witnesses and the production of documents. The decision of the commissioner or his/her designee shall be subject to appropriate judicial review.

(5) If the respondent has exhausted his administrative appeals and the civil penalty has been upheld, he shall pay the civil penalty within thirty (30) days of the effective date of the final decision. If the respondent fails to pay the penalty, a civil action may be brought by the commissioner in any court of competent jurisdiction. Any civil penalty collected under this article shall be transmitted to the General Fund.

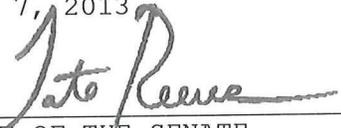
(6) In lieu of, or in addition to, the penalties provided, the commissioner shall have the power to institute and maintain in the name of the state any and all proceedings necessary or appropriate to enforce the provisions of this article and the rules and regulations, in the appropriate circuit, chancery, county or justice court in which venue may lie. The commissioner may obtain mandatory or prohibitory injunctive relief, whether temporary or permanent, and it shall not be necessary for the state to post a bond or prove that no adequate remedy is available at law.

SECTION 5. Distributors are required to keep records of the names and addresses of the manufacturers whose syrup they distribute for a period of three (3) years and to provide that information to the commissioner upon request to aid the commissioner in locating the source of adulterated syrup or syrup products.

SECTION 6. Section 75-29-207, Mississippi Code of 1972, which made it unlawful to use a fictitious name on syrup labels, is repealed.

SECTION 7. This act shall take effect and be in force from and after July 1, 2013.

PASSED BY THE SENATE
February 7, 2013



PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
February 28, 2013



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

10:48am
3/7/13