

Dairy Labeling Regulation

Dairy Labeling History

Kansas lawmakers could not foretell in 1951 the many claims that milk sellers would use to appeal to consumers, but they recognized the need to ensure that claims are accurate. Therefore, the 1951 Kansas Legislature passed a bill that made it unlawful to label a milk container with words that are in any way misleading.

In 2001, additional legislation was passed assigning responsibility to the secretary of agriculture to prohibit the production and sale of misbranded milk, milk products, or dairy products. Misbranded means it bears a label that is misleading in a particular manner.

Senate Bill 595

Senate Bill 595 was introduced in 2008, and it would have made it unlawful to label any agricultural product with a claim that cannot be confirmed through laboratory analysis, or is supported solely by sworn statements, affidavits or testimonials. The impact of the proposed legislation would have been far-reaching and could have prohibited using a production-related label claim like organic.

Senate Bill 595 signaled the need for the Kansas Department of Agriculture to provide more detailed guidance on what are truthful, accurate label claims for milk and milk products.

What is in the proposed regulation?

The proposed regulation identifies which label claims are prohibited because they are misleading. It also requires additional language, based on guidance from the U.S. Food and Drug Administration, for certain label claims that may not be understood by all consumers. And, it establishes a time line for entities to abide by the terms of the regulation.

The regulation states that milk, milk products and dairy product labels must contain accurate information. Products will be deemed mislabeled if the label contains false or misleading statements.

If a label contains a statement indicating the milk or dairy product is free of something already prohibited by the U.S. Food and Drug Administration, like antibiotics and pesticides, the label will be considered false and misleading. These statements will not be permitted.

The following statements are considered false and misleading in all circumstances, and they will not be permitted:

- ◇ no hormone
- ◇ hormone free
- ◇ rbST free
- ◇ rbGH free
- ◇ BST free

Products that contain a production claim that “this milk is from cows not supplemented with rbST,” or an equivalent statement, will be considered misleading unless:

- ◇ The dairy manufacturing plant owner or operator verifies the claim is accurate, that it has in its possession a milk producer’s affidavit that the milk is from cows not supplemented with rbST, and it possesses any other written records that support the claim;
- ◇ The label contains, on the same label panel, immediately after the production claim, and in the same font, style, case, size and color, the qualifying statement “the FDA has determined that no significant difference has been shown between milk derived from rbST-supplemented and non-rbST supplemented cows.”

The regulation will take effect Jan. 1, 2010, for all one-time use containers for milk and dairy products.

Milk bottling operations that re-use containers and also use the production claim that “this milk is from cows not supplemented with rbST,” or an equivalent statement, may affix to the container the statement “the FDA has determined that no significant difference has been shown between milk derived from rbST-supplemented and non-rbST supplemented cows.” This applies to all reusable containers purchased on or before Jan. 1, 2011. The

qualifying statement does not have to be in the same font, style, case, size and color as used in the production claim. The regulation will be in full force and effect on all reusable containers purchased after Jan. 1, 2011.

Clear Labeling is Good for Consumers and Milk Producers

Consumers are showing more interest in the origin of their food, and they need to be able to make educated decisions about buying food. Clear labeling regulations will ensure that consumers are not misled by label claims and that milk producers will be operating on a level playing field when it comes to labeling choices.

Who determines what is misleading?

The Kansas Department of Agriculture decides whether a label claim is misleading. It's a factual determination based on the label statement in the context of the entire label. We also look at guidance provided by FDA.

What is rbST?

bST is an abbreviation for bovine somatotropin, or bovine growth hormone, which all cows produce. The term rbST refers to recombinant bST, which is produced using fermentation technology. rbST can be injected into a cow to boost milk production.

The Food and Drug Administration approved rbST use in 1993, stating there are no significant differences in milk from cows that receive rbST and those that do not.

In addition, studies on the safety of meat and milk from cows that received rbST and those that did not have been reviewed and the conclusions supported by:

- ◇ National Institutes of Health
- ◇ World Health Organization
- ◇ Department of Health and Human Services
- ◇ Journal of the American Medical Association
- ◇ Journal of the American Dietetic Association

Why add hormones?

All milk contains the bST hormone because all cows produce it naturally. rbST is a synthetic hormone given

to cows to boost milk production. It is not added to milk. Vitamin D, however, is a hormone that has been safely used to fortify milk since the 1930s.

Where can I learn more?

To learn more about rbST, we recommend the following reports:

"Cornell University -- rbST Fact Sheet," U. S. Food and Drug Administration, Center for Food Safety and Applied Nutrition
www.cfsan.fda.gov/~ear/CORBST.html

"Report on the Food and Drug Administration's review of the safety of recombinant bovine somatotropin," U.S. Food and Drug Administration
www.fda.gov/cvm/RBRPTFNL.htm

"Dairy product consumption and the risk of breast cancer," Journal of the American College of Nutrition
www.jacn.org/cgi/content/full/24/suppl_6/556S

"Survey of retail milk composition as affected by label claims regarding farm-management practices," Journal of the American Dietetic Association (for purchase or free for members)
[www.adajournal.org/article/S0002-8223\(08\)00513-0/abstract](http://www.adajournal.org/article/S0002-8223(08)00513-0/abstract)

Where can I get more information about the proposed regulation?

The proposed regulation, an economic impact statement and a notice of hearing are on the Kansas Department of Agriculture website at www.ksda.gov/includes/statute_regulations/dairy/website.pdf.

What if I want to comment on the regulation?

Comments may be made online at www.ksda.gov/dairy/statutes/id/160, in writing to the Kansas Department of Agriculture, ATTN: Leslie Garner, 109 SW 9th Street, 4th Floor, Topeka, KS 66612, or in person at a public hearing at 10 a.m. Tuesday, Dec. 2, 2008, in the fourth floor training room of the Kansas Department of Agriculture, 109 SW 9th Street, in Topeka.

