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§21–210.

(a) For purposes of this subtitle, a food is considered to be misbranded under any condition specified in this section.

(b) A food is misbranded if:

(1) Its labeling or packaging is false or misleading in any way;

(2) It is an imitation of another food, and it does not have a label that bears, in type of uniform size and prominence, the word “imitation” followed immediately by the name of the food imitated;

(3) It is in package form and it does not bear a label that contains the name and place of business of the manufacturer, packer, or distributor;

(4) Any word, statement, or other information required under this subtitle to appear on its labeling is not placed prominently on the labeling in a manner that is:

(i) Conspicuous, as compared with other words, statements, designs, or devices on the labeling; and

(ii) In terms likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(5) It purports to be or is represented as a food for which a definition and standard of identity has been set by a rule or regulation as provided under § 21-237 of this subtitle and:

(i) The food does not conform to the definition or standard; or

(ii) Its label either does not bear the name of the food specified in the definition and standard or, contrary to the rule or regulation, it does not bear the common name of an optional ingredient, other than spices, flavoring, and coloring, that is in the food;

(6) It purports to be or is represented as a food for which a standard of quality has been set by a rule or regulation under § 21-237 of this subtitle and its quality falls below that standard, unless its label bears, in the manner and form that the rule or regulation specifies, a statement that the food falls below the standard;

(7) It is not subject to item (5) of this subsection and does not bear labeling that clearly gives:

(i) The common or usual name of the food, if there is such a name;

and

(ii) Except as provided under subsections (d) and (e) of this section, if the food is made from 2 or more ingredients, the common or usual name of each ingredient;

(8) It purports to be or is represented for special dietary uses, unless its label bears the information about its vitamin, mineral, and other dietary properties that the Secretary determines by a rule or regulation adopted under § 21-213 of this subtitle to be necessary to inform purchasers fully of its value for those uses;

(9) Except as provided under subsections (c) and (e) of this section, it contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling that states that fact;

(10) It is a color additive and its packaging and labeling do not conform to the applicable requirements of the federal act;

(11) After it was manufactured, processed, or packaged, the food was in a frozen state and it then is offered for sale in an unfrozen state, unless its labeling clearly and conspicuously states that the food was previously frozen and should not be refrozen;

(12) It is a product that:

(i) Is intended to be used as an ingredient of another food; and

(ii) If used according to the directions of the supplier, would result in the final food product being adulterated or misbranded; or

(13) It is offered for sale under the name of another food.

(c) As they relate to the use of artificial coloring, the provisions of subsection (b)(7), (9), and (10) of this section do not apply to butter, cheese, or ice cream.

(d) Notwithstanding the provisions of subsection (b)(7)(ii) of this section, regarding the labeling requirements for a food that is made from 2 or more ingredients, spices, flavorings, and coloring ingredients may be designated as “spices”, “flavorings”, and “colorings”, without naming each specific item. However, this exception does not apply if the food product itself is sold as a spice, flavoring, or food coloring.

(e) (1) If, as applied to a particular food, compliance with the requirement that each of the 2 or more ingredients in the food be set forth in its labeling is impractical or results in deception or unfair competition, the Secretary shall adopt a rule or regulation that exempts that food product from the provisions of subsection (b)(7)(ii) of this section.

(2) If, as applied to a particular food product, it is impractical to comply with the requirement that the labeling disclose the presence of an artificial flavoring, an artificial coloring, or a chemical preservative, the Secretary shall adopt a rule or regulation that, to the extent appropriate, exempts that food product from any appropriate provision of subsection (b)(9) of this section.

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