

By Mr. Scaccia of Boston, petition of Angelo M. Scaccia and another relative to regulating the labelling of certain foodstuffs. Commerce and Labor.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-One.

AN ACT REGULATING THE LABELLING OF CERTAIN FOODSTUFFS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 94 of the General Laws is hereby amended by adding
2 the following sections: —

3 Section 329. Except as otherwise provided in sections 329 to
4 334 inclusive, the words “organic,” “organically grown,”
5 “naturally grown,” “wild,” “ecologically grown,” or “biologically
6 grown” shall be used after January 1, 1990, in the labeling or
7 advertising of a food only for any of the following:

8 (a) Raw agricultural commodities in the unpeeled natural
9 form, except rapid heating or chilling, and without applied
10 coloring or synthetically compounded materials by the grower,
11 processor, or other handler, and which meet the following
12 requirements:

13 (1) Are produced, harvested, distributed, stored, processed,
14 and packaged without application of synthetically compounded
15 fertilizers, pesticides, or growth regulators.

16 (2) Additionally, in the case of perennial crops, no synthetically
17 compounded fertilizers, pesticides, or growth regulators shall be
18 applied by the grower to the field or area in which the commodity
19 is grown for twelve months prior to the appearance of flower buds
20 and throughout the entire growing and harvest season of the
21 particular commodity.

22 (3) Additionally, in the case of annual crops and two-year
23 crops, no synthetically compounded fertilizers, pesticides, or
24 growth regulators shall be applied by the grower to the field or

25 area in which the commodity is grown for twelve months prior
26 to seed planting or transplanting and throughout the entire
27 growing and harvest season for the particular commodity.

28 Only microorganisms, microbiological products, and materials
29 consisting of, or derived or extracted solely from, plant, animal,
30 or mineral-bearing rock substances, may be applied by the grower,
31 processor, or other handler in the production, storing, display
32 area, processing, harvesting, or packaging of raw agricultural
33 commodities, other than seeds for planting, in order to meet the
34 requirements of this subdivision. However, before harvest, the
35 application of bordeaux mixes and trace elements for known
36 deficiencies as determined by soil testing, soluble aquatic plant
37 products, botanicals, lime-sulphur, gypsum, dormant oils,
38 summer oils, fish emulsion, soap, and detergent are permitted,
39 except that the application of aromatic petroleum solvents, diesel,
40 and other petroleum fractions, used as weed or carrot oils, are
41 prohibited. For purposes of this subdivision, "synthetically
42 compounded" means those products formulated by a process
43 which chemically changes a material or substance extracted from
44 naturally occurring plant, animal, or mineral sources, excepting
45 microbiological processes.

46 (b) Processed foods manufactured only from raw agricultural
47 commodities as described in subdivision (a). The use of ascorbic
48 acid, sodium ascorbate, calcium ascorbate, and citric acid as an
49 antioxidant or chelate is permitted in processed foods under this
50 subdivision.

51 (c) Processed foods manufactured only from raw agricultural
52 commodities as described in subdivision (a) and processed foods
53 as described in subdivision (b).

54 (d) Meat, poultry, or fish produced without the use of any
55 chemical or drug to stimulate or regulate growth or tenderness
56 and without any drugs or antibiotics administered or introduced
57 to such animal by injection or ingestion, except for treatment of
58 a specific disease or malady and in no event administered or
59 introduced within ninety days of the slaughter of such animal; at
60 least the final sixty percent of the sale weight of each animal, bird,
61 or fish shall have been raised on feed without medication which
62 complies with subdivision (a).

63 (e) Milk from animals, which are raised for at least twelve
64 months continuously and thereafter on feed without medication,

65 which feed complies with the provisions of subdivision (a) or (b)
66 and into which animal no drugs or antibiotics have been
67 administered or introduced to such animal by injection or
68 ingestion, except for treatment of a specific disease or malady and
69 in no event administered or introduced within thirty days prior
70 to the production of such milk.

71 (f) No product shall be labeled or advertised as a "wild" product
72 unless such product is wholly derived from an undomesticated or
73 uncultivated source and complies with the provisions of
74 subdivision (a).

75 (g) No claim or implication shall be made in the advertising
76 or promotion of a food product that the food product is organic,
77 organically grown, naturally grown, wild, ecologically grown, or
78 biologically grown, unless it conforms to the requirements of this
79 section.

80 (h) This section shall not apply to the term "natural" when used
81 in the labeling or advertising of a food.

82 This section shall not apply to the term "wild" when such term
83 is used to describe a flavor of a food or a plant variety.

84 Section 330. (a) Except as otherwise provided in sections 329
85 to 334, inclusive, no food product shall be labeled as "organic,"
86 "organically grown," "naturally grown," "wild," "ecologically
87 grown," or "biologically grown," which has any pesticide residue
88 in excess of ten percent of the level regarded as safe by the federal
89 Food and Drug Administration.

90 (b) Where legally mandated application of prohibited
91 substances, as defined in subdivision (a) of Section 329, are
92 applied to raw agricultural commodities, these commodities shall
93 not be labeled as "organic," "organically grown," "naturally
94 grown," "wild," "ecologically grown," or "biologically grown"
95 unless these commodities are otherwise in compliance with
96 subdivision (a).

97 Additionally, such commodities in compliance, or products
98 derived thereof, shall be prominently labeled that the known
99 substance was applied to the crop. Raw agricultural commodities
100 need not be individually labeled to meet this requirement.

101 (c) The prohibition of this section shall not apply to the term
102 "wild" when such term is used to describe a flavor of a food or
103 a plant variety.

104 The prohibition of this section shall not apply to the term
105 natural.

106 Section 331. (a) Except as otherwise provided in this division,
107 the terms “organic,” “organically grown,” “naturally grown,”
108 “wild,” “ecologically grown,” or “biologically grown” shall not be
109 used for the advertising or labeling of a raw agricultural
110 commodity, processed food product, or meat, poultry, fish, or
111 milk, unless it complies with the provisions of Section 329 and
112 is prominently labeled as follows, or with substantially similar
113 language:

114 (1) For raw agricultural food products:

115 ORGANICALLY GROWN IN ACCORDANCE WITH SEC-
116 TION 329 OF CHAPTER 94 OF THE GENERAL LAWS

117 (2) For processed food products:

118 ORGANICALLY GROWN AND PROCESSED IN
119 ACCORDANCE WITH SECTION 329 OF CHAPTER 94
120 OF THE GENERAL LAWS

121 (3) For meat, poultry, fish or milk:

122 ORGANICALLY PRODUCED IN ACCORDANCE
123 WITH SECTION 329 OF CHAPTER
124 94 OF THE GENERAL LAWS

125 (b) For unpackaged foods, the requirements of subdivision (a)
126 relating to labeling shall be deemed to have been met if such
127 labeling appears prominently on or over the bin or container
128 holding the food.

129 The prohibition of this section shall not apply to the term “wild”
130 when such term is used to describe a flavor of a food or a plant
131 variety.

132 The prohibition of this section shall not apply to the term
133 “natural.”

134 Section 332. When a food product subject to the provisions of
135 Section 329 is labeled as “certified,” the name of the person or
136 organization which provides such certification shall be listed on
137 the label.

138 Section 333. (a) All growers who sell farm products identified
139 as “organic,” “organically grown,” “naturally grown,” “wild,”
140 “ecologically grown,” or “biologically grown” shall keep accurate
141 records of the location of the acreage used for growing such
142 products and the additions, excluding water, made to the soil or

143 applied to the plants or added to irrigation water. Such records
144 shall be retained for two years after the crop is sold and delivered
145 by the grower.

146 (b) All persons who process or manufacture food products
147 which are sold identified as “organic,” “organically grown,”
148 “naturally grown,” “wild,” “ecologically grown,” or “biologically
149 grown” shall keep accurate records as to the ingredients of the
150 product and the names and addresses of persons from whom the
151 ingredients were purchased. Such records shall be retained for two
152 years after the food product is sold and delivered.

153 (c) All persons who sell such food products shall keep accurate
154 records of the names and addresses of persons from whom such
155 products were purchased. Such records shall be retained for two
156 years after the food product is sold and delivered.

157 (d) Growers, manufacturers, and sellers of such products shall
158 provide the department, upon demand, with the relevant
159 information from the records required pursuant to this section.

160 (e) The department shall, upon request, provide copies of any
161 information collected pursuant to this section to any person or
162 entity. The department shall collect information kept by a grower,
163 manufacturer, or seller pursuant to this section upon request of
164 any person or entity. In providing such copies, the department
165 may charge such requesting person or entity a fee for the cost of
166 reproducing such information.

167 (f) The provisions of this section shall not apply to the term
168 “wild” when such term is used to describe a flavor of a food or
169 a plant variety.

170 This section shall not apply to the term “natural.”

171 Section 334. The prohibitions or requirements contained in
172 Sections 329 and 330 shall not apply to persons engaged in
173 business as wholesale or retail distributors of the commodities
174 referred to in said Sections except to the extent that such persons:

175 (1) Are engaged in the manufacturing, packaging, or labeling
176 of such commodities, except that the prohibitions or requirements
177 contained in Sections 329 and 330 shall not apply to any such
178 wholesale or retail distributor who in good faith makes the same
179 representations on a package or label as have been made in writing
180 or printed advertising or labeling by the manufacturer,
181 distributor, or other person providing the product to such
182 wholesale or retail distributor.

183 (2) Prescribe or specify by the specific means in violation of
184 Sections 329 to 333, inclusive, the manner in which such
185 commodities are manufactured, packaged, or labeled.

186 (3) Have knowledge of the violation of any provisions of
187 Sections 329 to 333, inclusive, by any specific batch of such
188 commodities and continue to sell or distribute such specific batch
189 of such commodity.

190 Section 335. Any person, organization, or public or private
191 entity, may bring an action in superior court pursuant to this
192 section and such court shall have jurisdiction upon hearing and
193 for cause shown, to grant a temporary or permanent injunction
194 restraining any person from violating any provision of Sections
195 329 to 333, inclusive, such person, organization, or entity shall
196 not be required to allege facts necessary to show, or tending to
197 show, lack of adequate remedy at law, or to show, or tending to
198 show, irreparable damage or loss, or to show, or tending to show,
199 unique or special individual injury or damages.

200 (b) In addition to the injunctive relief provided in subdivision
201 (a), the court may award to such person, organization, or entity
202 reasonable attorney's fees as determined by the court.

203 (c) The provisions of this section shall not be construed to limit
204 or alter the powers of the department.

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