

STORAGE NAME: h0693.ag.doc

DATE: March 7, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
AGRICULTURE & CONSUMER AFFAIRS
ANALYSIS**

BILL #: HB 693

RELATING TO: Food product dating

SPONSOR(S): Representative(s) Meadows

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) AGRICULTURE & CONSUMER AFFAIRS (CCC)
- (2) BUSINESS REGULATION (SGC)
- (3) COUNCIL FOR COMPETITIVE COMMERCE
- (4)
- (5)

I. SUMMARY:

HB 693 requires any retail food product sold in a container, with some exceptions, to display a conspicuous expiration date of its shelf life. The seller, wholesaler, vendor or retailer may apply the expiration date.

If passed, this legislation will have a substantial fiscal impact to state government. A funding source is not identified and the fiscal impact to the private sector will also be considerable, most likely resulting in increased consumer prices.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Less Government: This bill would require sellers, wholesalers, vendors, or retailers to apply expiration dates to most food products offered for sale in the state.

Lower Taxes: The cost of implementing this legislation will ultimately be passed on to the consumer.

B. PRESENT SITUATION:

The Florida Department of Agriculture and Consumer Services (department) currently administers and enforces the Florida Food Safety Act (act). The act protects the public from "fraud, harm, adulteration, misbranding, or false advertising in the preparation, manufacture, or sale of articles of food." The act also prohibits the adulteration or misbranding of food and the alteration or destruction of labeling information which identifies the article's expiration date or similar date, date of manufacture, or manufacturing or distribution lot or branch, if such action occurs while the article of food is held for sale.

There is currently no federal or state law requiring grocery stores to put an expiration or "sell-by" date on food products sold in containers. However, many stores do put an expiration or "sell-by" date on several products to satisfy consumers and for internal inventory control. Fluid milk and milk products and baby formula are the only food products currently required to be labeled with the maximum shelf life period for which they may be offered for sale.

C. EFFECT OF PROPOSED CHANGES:

Section 1: Requires any retail food product sold in a container to display a conspicuous "best if used by" or "sell-by" date indicating the month, day, and year of the expiration of the shelf life of the product; exempts fresh fruit and vegetables and items selling for less than 25 cents apiece; and, allows the expiration date to be applied by the seller, wholesaler, vendor, or retailer.

Section 2: Provides an effective date of October 1, 2001.

D. SECTION-BY-SECTION ANALYSIS:

Please refer to Section C. (Effects of Proposed Changes).

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

	Fund	Amount Year 1 (FY 01-02)	Amount Year 2 (FY 02-03)	Amount Year 3 (FY 03-04)
1. <u>Revenues:</u>				
None				
2. <u>Expenditures:</u>				
Non-Recurring Costs:				
Other Costs of Operation (OCO)				
7 Laptop computers w/ portable printers @ \$3000 and 1 desktop PC @ \$1500	GR*	\$ 22,500		
6 Electric scales and fat testers @ \$2700	GR	16,200		
Other (Special category)				
1 vehicle	GR	<u>15,800</u>		
Total Non-recurring costs		54,000		
Recurring Costs:				
Positions (distributed statewide)**				
1 FTE – Senior word-processing systems operator, PG 12	GR	28,373	29,224	30,101
6 FTE – Sanitation and safety specialists, PG 19 @ \$37371	GR	224,226	230,953	237,882
1 FTE – Sanitation and safety supervisor, PG 22	GR	43,148	44,442	45,775
Expenses				
8 Standard expense packages @ \$9915	GR	79,320	54,820	54,820
7 DMS secure dial-up @ \$20/month	GR	1,680	1,680	1,680
Travel (mileage reimbursement For 6 specialists)	GR	<u>17,400</u>	<u>17,400</u>	<u>17,400</u>
Total Recurring costs		<u>394,147</u>	<u>378,519</u>	<u>387,658</u>
Grand Total of all costs		<u>\$448,647</u>	<u>\$378,519</u>	<u>\$387,658</u>

*General Revenue

**Salaries and benefits were increased by 3% for the second and third years in anticipation of salary increases.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This requirement will have a finite but unknown private sector cost due to the added requirement to show sell by/use by date on labeling for all products. Some products already have such labeling, but many do not. Added cost will be unavoidable if labeling requirements mandated by Florida are different than those used in the rest of the nation. Since out-of-state manufacturers/processors/bottlers, etc. are themselves not required to include a "use by" date on labeling, Florida retailers will probably have to pay an added price for such information to be included.

There will also be undetermined overhead costs incurred by distributors and grocery stores in keeping products rotated and in managing inventories to avoid overstocking, with a risk of product expiration.

Another cost to be absorbed by the retail food industry, assuming expired products must be removed from sale, is the probable need to discard food products because of age when they are actually still safe and wholesome due to processing and storage controls.

Ultimately, all of these costs will be passed on to the consumer.

D. FISCAL COMMENTS:

The Department of Agriculture and Consumer Services has a concern that, although a number of products already have shelf life dates, there are still numerous food products on the market without such marking. Also, whether coding is there or not, the shelf life of a perishable food is dependent upon the temperature in which the food is held and the sanitation under which it is processed. A food in two different stores may have an entirely different safe shelf life depending on conditions.

Funding for this legislation comes from the General Revenue Fund since there is no revenue source proposed. At this time, Chapter 500, F.S., has a maximum permit fee cap of \$350 per store. This is not adequate for the current program and the fee has not been increased since 1992. The department has over 39,000 food establishments to inspect for food safety. If the food date-code requirement is added, with enforcement by inspectors funded from the current trust fund, without additional fees and inspectors, the number of food safety inspections per establishment will go down.

The cost estimates are based on an assumption that this language will be codified as a statutory requirement into Chapter 500, F.S., and the enforcement activities will be integrated with other ongoing food safety inspection responsibilities.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce any state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

A representative of Perrier and International Bottled Water Association (IBWA) expressed concern over this legislation suggesting that if the federal and state agencies that regulate non-perishable items don't see a scientific need for this, why do it. Perrier and other members of the IBWA currently use internal coding on their products to designate shelf life and for inventory control.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS:

Prepared by:

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