

STORAGE NAME: h1657.ccc.doc

DATE: March 1, 2002

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY
COUNCIL FOR COMPETITIVE COMMERCE
ANALYSIS**

BILL #: HB 1657

RELATING TO: Misbranded Food Products

SPONSOR(S): Representative(s) Ryan

TIED BILL(S): None

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

- (1) AGRICULTURE & CONSUMER AFFAIRS (CCC) YEAS 9 NAYS 0
- (2) GENERAL GOVERNMENT APPROPRIATIONS YEAS 12 NAYS 0
- (3) COUNCIL FOR COMPETITIVE COMMERCE
- (4)
- (5)

I. SUMMARY:

HB 1657 requires the Department of Agriculture and Consumer Services (department) to take certain actions when it determines that there has been a violation of the food labeling law relating to nutrient claims. If a product is found to be in violation of Chapter 500, F.S., the department shall retest or reexamine the product after giving the manufacturer or vendor sufficient notice to correct the violation. If the product is found in violation again, the department shall test or examine the product for the third time after sufficient notice has been given. If the product is found in violation for the third time, the department shall issue a stop-sale or stop-use order, and impose additional sanctions. If a third test or examination is needed, the manufacturer must reimburse the department for the cost of the third test or examination.

This legislation has no fiscal impact to state government. The effective date of this legislation is July 1, 2002.

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 type="checkbox"/> | N/A <input checked="" 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: The bill authorizes the Department of Agriculture and Consumer Services (department) to recover the costs of retesting, for the third time, a misbranded food product. The department is also allowed to impose additional sanctions for violations regarding misbranded food products.

B. PRESENT SITUATION:

Current statutes allow the Department of Agriculture and Consumer Services (department) to take action when a violation of the food labeling law occurs. However, this authority is permissive rather than mandatory.

C. EFFECT OF PROPOSED CHANGES:

HB 1657 requires the Department of Agriculture and Consumer Services (department) to take certain actions when it determines that there has been a violation of the food labeling law concerning nutrient claims. If a product is found to be in violation of Chapter 500, F.S., the department shall retest or reexamine the product within 90 days after notification has been made to the manufacturer and to the firm at which the product was collected. If on further inspection, the product is again found in violation, the department shall test or examine the product for a third time within 60 days after the second notification.

The product manufacturer must reimburse the department for the cost of the third test or examination. If the product is found in violation for a third time, the department shall issue a stop-sale or stop-use order. The department also has the authority to impose additional sanctions for violations relating to s. 500.121, F.S.

D. SECTION-BY-SECTION ANALYSIS:

Please see Section C., Effect of Proposed Changes.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Undetermined reduced costs due to reimbursements from manufacturers for label violations.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Manufacturers of products found for a third time to be in violation of labeling laws would be required to reimburse the Department of Agriculture and Consumer Services (department) for the cost of the test or examination.

D. FISCAL COMMENTS:

None.

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:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

An amendment traveling with HB 1681, an act relating to agriculture and consumer services, is identical to this bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE & CONSUMER AFFAIRS:

Prepared by:

Staff Director:

Debbi Kaiser

Susan D. Reese

AS REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

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