

State of California

SENATE BILL NO. 634

Chapter 694

An act to amend Sections 112895, 112910, and 112915 of, to add Sections 112891 and 112893 to, to add Article 1 (commencing with Section 112875) to, to add the heading of Article 2 (commencing with Section 112891) to, Chapter 9 of Part 6 of Division 104 of, and to repeal Sections 112875, 112880, 112885, 112890, and 112900 of, the Health and Safety Code, relating to food labeling.

[Approved by Governor September 30, 2008. Filed with Secretary of State September 30, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

SB 634, Wiggins. Food labeling: olive oil.

- (1) Existing law requires the State Department of Public Health to enforce various provisions of existing law regarding the manufacture, blending, production, and sale of olive oil. Existing law makes the violation of these provisions a crime. Existing law requires the department to issue a license to package, manufacture, or distribute olive oil on receipt of an application.

This bill would repeal the licensure provisions. It would require any olive oil labeled for sale to be consistent with the provisions of existing law regarding olive oil and this bill. By revising the definition of a crime, this bill would impose a state-mandated local program.

- (2) Existing law defines olive oil to mean the edible oil obtained from the fruit of an olive tree. Existing law makes it a crime to manufacture, sell, offer for sale, give away, or possess imitation olive oil, as defined. Existing law excludes from this prohibition the blending of olive oil with other edible oils if the blend is not labeled as olive oil or imitation olive oil, and if the contents and proportions of the blend are prominently displayed on the container's label.

This bill would define olive oil to mean the edible oil obtained solely from the fruit of the olive tree to the exclusion of oils obtained using solvents or reesterification processes and of any mixture with oils derived of other kinds except in the making of flavored olive oil.

This bill would also define olive oil grades and provide that olive oil grades are to be in a specified order. It would authorize the addition of alpha-tocopherol to specified olive and olive pomace-oils.

Existing law prohibits reuse of any olive oil container, can, or drum for repacking any fixed oil intended to be used for food purposes, except on a processor's premises.

This bill would also exempt the filling of a clean container by a consumer, as specified, from the reuse prohibition.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1.

The Legislature hereby finds and declares all of the following:

- (a) Extra virgin olive oil has been shown by numerous scientific studies to be associated with fighting cardiovascular disease and providing other health benefits.
- (b) California grows and processes more than 99 percent of the extra virgin olive oil produced in the United States, and more than 90 percent of California olive oil meets the international standards for top-grade "extra virgin" as established by the International Olive Council.
- (c) The quality of California olive oil is comparable to other producers internationally.
- (d) It is the intent of the Legislature that California's definitions of olive oil be consistent with international standards.

SEC. 2. Article 1 (commencing with Section 112875) is added to Chapter 9 of Part 6 of Division 104 of the Health and Safety Code, to read:

Article 1. Olive Oil Grades

§112875.

"Olive oil," as used in this chapter means the edible oil obtained solely from the fruit of the olive tree (*olea europea L.*) to the exclusion of oils obtained using solvents or reesterification processes and of any mixture with oils derived of other kinds except in the making of flavored olive oil.

§112876.

Olive oil grades shall be in the following order of quality:

- (a) Virgin olive oils.
 - (1) Extra virgin olive oil.
 - (2) Virgin olive oil.
 - (3) Ordinary virgin olive oil.
- (b) Olive oil.
- (c) Refined olive oil.
- (d) Olive-pomace oils.
 - (1) Olive-pomace oil.
 - (2) Refined olive-pomace oil.
 - (3) Crude olive-pomace oil.

§112877.

Olive oil grades are defined as follows:

- (a) "Virgin olive oils" means those oils fit for consumption as they are, obtained from the fruit of the olive tree solely by mechanical or other physical means under conditions, particularly thermal conditions, that do not lead to alterations in the oil, and which have not undergone any treatment other than washing, decanting, centrifuging, and filtration. Virgin olive oils fit for consumption as they are include:
 - (1) "Extra virgin olive oil" means virgin olive oil which has a free acidity, expressed as oleic acid, of not more than 0.8 grams per 100 grams, has a peroxide value of not more than 20 milliequivalent peroxide oxygen per kilogram oil and meets the sensory standards of extra virgin olive oil as determined by a taste panel certified by the International Olive Council, or, if the International Olive Council ceases to certify taste panels, meets the sensory standards of a taste panel that is operated by the University of California or California State University according to guidelines adopted by the International Olive Council as of 2007.
 - (2) "Virgin olive oil" means virgin olive oil which has a free acidity, expressed as oleic acid, of not more than 2 grams per 100 grams oil and has a peroxide value of not more than 20 milliequivalent peroxide oxygen per kilogram oil.
 - (3) "Ordinary virgin olive oil" means virgin olive oil which has a free acidity, expressed as oleic acid, of not more than 3.3 grams per 100 grams oil and has a peroxide value of not more than 20 milliequivalent peroxide oxygen per kilogram oil.
- (b) "Olive oil" is the oil consisting of a blend of refined olive oil and virgin olive oils fit for consumption as they are as defined in this section. It has a free acidity, expressed as oleic acid, of not more than 1 gram per 100 grams.

- (c) "Refined olive oil" means the olive oil obtained from virgin olive oils by refining methods which do not lead to alterations in the initial glyceridic structure. It has a free acidity, expressed as oleic acid, of not more than 0.3 grams per 100 grams oil.
- (d) "Olive-pomace oils" means oils obtained by treating olive pomace with solvents or other physical treatments, to the exclusion of oils obtained by reesterification processes and of any mixture with oils of other kinds. They shall be labeled and marketed with the following designations and definitions:
 - (1) "Olive-pomace oil" is the oil comprising the blend of refined olive-pomace oil and virgin olive oils fit for consumption as they are. It has a free acidity, expressed as oleic acid, of not more than 1 gram per 100 grams oil. In no case shall this blend be called or labeled "olive oil."
 - (2) "Refined olive-pomace oil" is the oil obtained from crude olive-pomace oil by refining methods which do not lead to alterations in the initial glyceridic structure. It has a free acidity, expressed as oleic acid, of not more than 0.3 grams per 100 grams oil.
 - (3) "Crude olive-pomace oil" means olive-pomace oil that is intended for refining for use for human consumption or that is intended for technical use.

§112878.

"Flavored olive oil," as used in this chapter, means extra virgin olive oil, virgin olive oil, or olive oil, that is mixed with a flavoring, or olives that are processed into oil with any fruit, vegetable, herb, nut, seed, or spice and the product resulting from either process contains not less than 90 percent extra virgin olive oil, virgin olive oil, or olive oil, and is labeled for sale as an olive oil that has been flavored.

§112879.

"Imitation olive oil," as used in this chapter, means the mixture of any edible oil artificially colored or flavored to resemble olive oil.

SEC. 3. Section 112875 of the Health and Safety Code is repealed.

SEC. 4. Section 112880 of the Health and Safety Code is repealed.

SEC. 5. Section 112885 of the Health and Safety Code is repealed.

SEC. 6. The heading of Article 2 (commencing with Section 112891) is added to Chapter 9 of Part 6 of Division 104 of the Health and Safety Code, immediately preceding Section 112890, to read:

Article 2. Olive Oil Manufacture and Marketing

SEC. 7. Section 112890 of the Health and Safety Code is repealed.

SEC. 8. Section 112891 is added to the Health and Safety Code, to read:

§112891.

Any olive oil labeled for sale shall be consistent with this chapter.

SEC. 9. Section 112893 is added to the Health and Safety Code, to read:

§112893.

Alpha-tocopherol may be added to refined olive oil, olive oil, refined olive-pomace oil, and olive-pomace oil to restore natural tocopherol lost in the refining process. The concentration of alpha-tocopherol in the final product shall not exceed 200 milligrams per kilogram.

SEC. 10. Section 112895 of the Health and Safety Code is amended to read:

§112895.

- (a) It is unlawful to manufacture, sell, offer for sale, give away, or to possess imitation olive oil in California.
- (b) This section does not prohibit the blending of olive oil with other edible oils, if the blend is not labeled as olive oil or imitation olive oil, is clearly labeled as a blended vegetable oil, and if the contents and proportions of the blend are prominently displayed on the container's label, or if the oil is a flavored olive oil.
- (c) Any olive oil produced, processed, sold, offered for sale, given away, or possessed in California, that indicates on its label "California Olive Oil," or uses words of similar import that indicate that California is the source of the oil, shall be made of oil derived solely from olives grown in California.
- (d) Any olive oil produced, processed, sold, offered for sale, given away, or possessed in California, that indicates on its label that it is from an area that is one of the approved American Viticultural Areas as set forth in Part 9 (commencing with Sec. 9.1) of Title 27 of the Code of Federal Regulations shall be made of oil 75 percent of which is derived solely from olives grown in that approved American Viticultural Area.

SEC. 11. Section 112900 of the Health and Safety Code is repealed.

SEC. 12. Section 112910 of the Health and Safety Code is amended to read:

§112910.

All records of those operating under the provisions of this chapter that concern the amounts of olive oil produced, purchased, or produced and purchased, or the sale, distribution, or sale and distribution of any olive oil, shall be open to inspection upon demand of any agent of the department.

SEC. 13. Section 112915 of the Health and Safety Code is amended to read:

§112915.

It is unlawful to reuse any olive oil container, can, or drum for repacking any fixed oil intended to be used for food purposes, except on the premises of the processor or when a consumer fills a clean container from a sanitary olive oil dispenser at a retail outlet.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.