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FAIR Labels Act of 2024

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📌 Categorized Biotechnology (<https://nationalaglawcenter.org/category/biotechnology/>), Emily Stone (<https://nationalaglawcenter.org/category/author/emily-stone/>), Food Labeling (<https://nationalaglawcenter.org/category/food-labeling/>), Food Safety and Inspection Service (<https://nationalaglawcenter.org/category/agencies/food-safety-and-inspection-service/>), United States Department of Agriculture (<https://nationalaglawcenter.org/category/agencies/united-states-department-of-agriculture/>)

In the past few years, the definition of “meat” has become a hot topic for debate. With the popularity of meat alternative food products, such as tofu, and the introduction of cell-cultured products into the U.S. food supply, stakeholders have grown increasingly concerned with the terminology used to label and market these products to consumers. In response, on January 30, 2024, Congressman Mark Alford introduced the **Fair and Accurate Ingredient Representation on Labels Act of 2024** (<https://www.agri-pulse.com/ext/resources/pdfs/FAIR-Labels-Act-of-2024--Rep.-Alford.pdf>) (Fair Labels Act). The bipartisan legislation would authorize the United States Department of Agriculture (USDA) to regulate labeling standards for both “cell-cultured” and “imitation” meat and poultry products. “Cell-cultured” refers to food products that are produced in a lab through the process of culturing samples of animal tissue, muscle, or stem cells. “Imitation meat and poultry” refers to food products that are created

to look like meat or poultry products but are typically derived from non-meat or poultry alternatives, such as plants. The Fair Labels Act would create standard definitions and requirements clearing up what some allege is confusing terminology used on food packaging.

Background

In the United States, there are two agencies responsible for regulating most food production – the Food and Drug Administration (FDA) and the USDA. The USDA regulates meat, poultry, catfish and unshelled-egg products, while FDA regulates the remaining 80% of food products. The USDA specifically regulates food labeling through its agency, the Food Safety and Inspection Service (FSIS) which operates under authority from the **Federal Meat Inspection Act (FMIA)** (<https://www.law.cornell.edu/uscode/text/21/chapter-12>), **Poultry Products Inspection Act (PPIA)** (<https://www.law.cornell.edu/uscode/text/21/chapter-10>), and the **Egg Products Inspection Act (EPIA)** (<https://www.law.cornell.edu/uscode/text/21/chapter-15>). The Fair Labels Act would amend the FMIA and PPIA to address the labeling of both imitation meat and poultry and cell-cultured meat and poultry products.

Imitation Meat and Imitation Poultry

The Fair Labels Act addresses both “imitation meat” and “imitation poultry” by creating definitions for the two terms and establishing labeling requirements for food products containing them. Traditionally, non-meat alternatives, such as plant-based meat and poultry alternatives, fall under the category of food regulated by the FDA. However, this legislation would create definitions for both imitation meat and poultry within the FMIA and the PPIA, respectively. Additionally, the Fair Labels Act would give authority to USDA through the FMIA and the PPIA to regulate certain labeling requirements on imitation meat and poultry. Under the FMIA, PPIA, and EPIA, FSIS requires meat, poultry, catfish and unshelled-egg products to receive pre-approval from the USDA for labels before the product enters commerce; however, the FDA does not have a pre-approval requirement. With the regulation of imitation meat and poultry being given to the USDA, the labels for imitation meat and poultry would now require pre-approval from the USDA. Thus, the companies that produce these food products will have to create an additional step for submitting labels to the USDA for pre-approval in their production process.

In the Fair Labels Act, imitation meat is defined as food which uses “a market name, descriptors, or iconography for, or is otherwise represented as, meat or meat food product, but does not contain meat, meat food product, or meat byproduct ingredients.” Imitation meat can also be a food product that was manufactured to appear as meat or approximates the aesthetic qualities or chemical characteristics of specific types of meat, but does not contain any meat, meat food product, or meat byproduct ingredients. In the Fair Labels Act, aesthetic qualities refer to the primary texture, flavor, and appearance of a food product. An example of imitation meat is a tofu burger created to look like a typical patty made of ground beef yet containing no meat which uses the word “burger,” a term typically associated with meat, in its marketing.

Similar to imitation meat, imitation poultry is defined as any food using names, descriptors, or icons representing itself as a poultry product that does not actually contain any poultry or poultry product. The definition of imitation poultry also includes food manufactured to appear as a poultry product or food that approximates the aesthetic qualities or the chemical characteristics of specific types of poultry product but does not contain any poultry or poultry product. Like the tofu burger, a plant-based “chicken nugget,” which is marketed and labeled with the word chicken and created to aesthetically appear like a typical chicken nugget but contains no poultry would qualify as imitation poultry.

This section also establishes labeling requirements for imitation meat and poultry. This provision will require food products with imitation meat and imitation poultry to indicate in a prominent and conspicuous manner the word “imitation” or a statement that the imitation meat or poultry is derived from a source other than meat or poultry “in type of uniform size and prominence, immediately adjacent to the name of the food on the label.” Additionally, the packaging of imitation meat and poultry will be required to bear a disclaimer clearly indicating on the label that the imitation meat does not contain meat nor is derived from meat. For example, the tofu burger and the plant-based chicken nuggets will be required to bear either the word “imitation” or a statement indicating their imitation status immediately adjacent to the food’s name on the label, and their packaging must also include a disclaimer to indicate the food product is without meat or poultry. No exceptions to these requirements are permitted under the Fair Labels Act.

Cell-cultured Meat and Poultry Products

The next section of the Fair Labels Act addresses cell-cultured meat and poultry products. This section defines both of those terms and establishes labeling requirements for their packaging. While meat and poultry are traditionally regulated exclusively by the USDA, cell-cultured meat and poultry are regulated by both USDA and FDA. After years of debate, in 2019 USDA and FDA announced a **formal agreement** (https://www.fsis.usda.gov/sites/default/files/media_file/2020-07/Formal-Agreement-FSIS-FDA.pdf) outlining their joint oversight of cell-cultured food products. Under the memorandum of understanding (MOU), FDA is responsible for the regulation of cell-cultured products before harvest. This includes inspecting companies involved in the cell collection processes and ensuring the companies follow current Good Manufacturing Practices and other control regulations to prevent adulteration in cell-cultured meat products. USDA provides oversight for the harvest process – where the cultivated meat products are removed from the sealed growing environment and transferred to the food processing stage. The USDA inspects the facilities where harvested cells are produced for human consumption to verify the facilities meet FMIA and PPIA sanitation standards and Hazard Analysis and Critical Control Points plans. Additionally, USDA ensures the cell-cultured food products are labeled according to compliance with the provisions of both the FMIA and the PPIA. In July 2023, after undergoing years of evaluation, consultation, and inspection by the USDA and FDA, the **first cell-cultivated chicken** (<https://www.cnn.com/2023/07/01/business/lab-grown-chicken-san-francisco/index.html>) in the United States was sold at a restaurant in San Francisco. To learn more about the division of cell-cultured meat regulation click [here](https://nationalaglawcenter.org/wp-content/uploads/assets/articles/rollins-rumley-Cell-cultured-meat.pdf) (<https://nationalaglawcenter.org/wp-content/uploads/assets/articles/rollins-rumley-Cell-cultured-meat.pdf>) to view NALC Publication “The Regulation of ‘Cell-Cultured Meat.’”

The Fair Labels Act amends both the FMIA definition of “meat food product” to include “cell-cultured meat product,” and the PPIA definition of “poultry food product” to include “cell-cultured poultry product.” The section further defines “cell-cultured meat product” as “any product capable for use as human food that is made wholly or in part from any cell culture or the DNA of an amendable species; and is grown or cultivated outside of the live animal from which the cell culture or DNA was acquired.” Additionally, “cell-cultured poultry product” is defined as “any product capable of use as human food that is made wholly or in part from any cell culture or the DNA of a live bird; and is grown or cultivated outside of the live bird from which the cell culture or DNA was acquired.” Labeling requirements for cell-cultured meat and poultry products are also outlined. Both cell-cultured meat and cell-cultured poultry products sold in commerce will be required to include the words ‘cell-cultured’ or ‘lab-grown’ in a prominent and conspicuous manner and immediately adjacent to the name of the food on the label.

State Labeling Legislation

The Fair Labels Act comes amid a number of state legislatures passing provisions regarding the labeling of cell-cultured and alternative meat products. Alabama (<https://legiscan.com/AL/text/HB518/id/2002766>), Arkansas (<https://aglaw.psu.edu/wp-content/uploads/2020/05/Act501.pdf>), Georgia (<https://legiscan.com/GA/text/SB211/id/1951867>), Kansas (<https://aglaw.psu.edu/wp-content/uploads/2022/11/Kansas-2021-SB261-Enrolled.pdf>), Kentucky (<https://aglaw.psu.edu/wp-content/uploads/2021/06/Kentucky-An-Act-relating-to-cultured-animal-tissue.pdf>), Louisiana (<https://legiscan.com/LA/text/SB152/2019>), Maine (<https://legiscan.com/ME/text/LD351/id/2042774>), Mississippi (<https://aglaw.psu.edu/wp-content/uploads/2020/05/SB2922SG.pdf>), Missouri (<https://aglaw.psu.edu/wp-content/uploads/2020/05/SB627.pdf>), Montana (<https://aglaw.psu.edu/wp-content/uploads/2020/05/ch0186.pdf>), North Dakota (<https://aglaw.psu.edu/wp-content/uploads/2020/05/19-0356-07000.pdf>), Oklahoma (<https://aglaw.psu.edu/wp-content/uploads/2020/06/HB3806-ENR.pdf>), South Carolina (<https://www.scstatehouse.gov/code/t47c017.php>), South Dakota (<https://aglaw.psu.edu/wp-content/uploads/2020/05/SB68ENR.pdf>), Texas (<https://aglaw.psu.edu/wp-content/uploads/2023/06/Texas-Cell-Cultured-Bill-5.15.23.pdf>), and Wyoming (<https://aglaw.psu.edu/wp-content/uploads/2020/05/SF0068.pdf>) have all passed various pieces of legislation addressing the use of the term “meat” in labeling. States such as Arkansas and Mississippi enacted legislation prohibiting the labeling of cell-cultured, plant-based, or insect-based food products as meat. Others such as Montana and Texas required the inclusion of a statement indicating the food contains cell-cultured products and consider food products without the statement to be misbranded. While some like North Dakota, simply prohibit the use of the word meat for cell-cultured meat products. Though the Fair Labels Act does not address these state provisions, when state laws interfere or conflict with federal law, they are preempted by the federal law. This means the Fair Labels Act would be enforced over the state law because the Supremacy Clause of the Constitution of the United States gives greater dignity to federal law. To learn more about preemption, visit NALC blog post “Procedures: Federal Preemption.” (<https://nationalaglawcenter.org/procedures-federal-preemption/>)

Additionally, some of the state provisions have been the subject of litigation. Specifically, the lawsuits allege the provisions violate the First Amendment’s free speech protections. To view the NALC’s series of articles on the litigation, click [here](https://nationalaglawcenter.org/category/author/nalc-staff/truth-in-labeling-lawsuits/) (<https://nationalaglawcenter.org/category/author/nalc-staff/truth-in-labeling-lawsuits/>).

Conclusion

The Fair Labels Act addresses the labeling of both cell-cultured and imitation meat and poultry products. This provision would create definitions and establish labeling requirements for cell-cultured and imitation meat and poultry. If the Fair Labels Act becomes law, it could result in more consistent labeling for cell-cultured and meat and poultry alternative food products. The Fair Labels Act was introduced by Congressman Alford on January 30, 2024, and has received bipartisan and bicameral support (<https://alford.house.gov/news/documentsingle.aspx?DocumentID=330>) with 11 co-sponsors, and a companion measure (<https://www.congress.gov/bill/118th-congress/senate-bill/3693?q=%7B%22search%22%3A%22%22%7D&s=1&r=4>) being introduced in the Senate. Senator Roger Marshall introduced (<https://www.marshall.senate.gov/newsroom/press-releases/sen-marshall-rep-alford-introduce-bipartisan-bicameral-legislation-to-ensure-fair-labels-on-imitation-meat/>) the Senate companion measure stating, “consumers deserve to be able to easily understand what products they are putting in their grocery cart. . . if food is represented as meat or poultry but is either lab-grown or made from a plant protein, it should be prominently displayed on the label.” The Fair Labels Act has been referred to the House Committee on Agriculture.

For more information on Food Labeling generally, visit NALC’s Food Labeling Reading Room (<https://nationalaglawcenter.org/overview/food-labeling/>).

For more information on cell-cultured food products, visit NALC’s Biotechnology Reading Room (<https://nationalaglawcenter.org/overview/biotechnology-overview/>).

To read Congressional Research Service Report “Cell-Cultivated Meat: An Overview,” click [here](https://crsreports.congress.gov/product/pdf/R/R47697) (<https://crsreports.congress.gov/product/pdf/R/R47697>).

To view PennState Law’s Center for Agricultural and Shale Law’s Meat Labeling Law Issue Tracker, click [here](https://aglaw.psu.edu/research-by-topic/issue-tracker/meat-labeling-law-2018-present/) (<https://aglaw.psu.edu/research-by-topic/issue-tracker/meat-labeling-law-2018-present/>).