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FISCAL IMPACT REPORT

Ezzell/Zamora/
Anderson/Nibert/
Chatfield

SPONSOR _____

ORIGINAL DATE 2/2/19
LAST UPDATED 2/8/19

HB 222 _____

SHORT TITLE Labeling of Food as Meat _____ **SB** _____

ANALYST Glenn _____

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Indeterminate	Indeterminate	Indeterminate			See Fiscal Implications

(Parenthesis () Indicate Expenditure Decreases)

Relates to and conflicts with SB 319

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)
Department of Agriculture (NMDA)

No Response Received From

Environment Department (NMED)

SUMMARY

Synopsis of Bill

House Bill 222 amends Section 25-2-11 of the New Mexico Food Act to provide that a food shall be deemed to be misbranded if it is labeled or represented as meat or poultry, but the food is not “derived from harvested production livestock or poultry.”

FISCAL IMPLICATIONS

If enacted, HB 222 may require NMED to add staff to enforce the bill.

SIGNIFICANT ISSUES

HB 222 does not define the term “harvested production livestock or poultry,” as used in the bill. Based on similar laws proposed or adopted in other states and under consideration by the U.S.

Department of Agriculture, the term refers to animals that are born, raised and slaughtered. See Emily Sullivan, “What’s Meat Anyway? Missouri Label Law Says it Comes From an Animal, Some Disagree,” National Public Radio (Aug. 29, 2018), www.npr.org. (“NPR Article”).

The purpose of laws such as that proposed by HB 222 reportedly are intended to prohibit producers of products that are derived from plants, e.g., veggie burgers, or grown in a laboratory (also referred to as “clean meats”) from using the label “meat” to describe their products. Proponents of the laws argue that they are necessary to avoid consumer confusion in the marketplace.

According to the NPR Article, a Missouri law similar to HB 222 was challenged in federal court by producers of imitation meat products and civil rights and animal rights organizations. See *Turtle Island Foods, SPC v. Richardson*, No. 18-cv-4173 (W.D. Mo.) (complaint for declaratory & injunctive relief, filed Aug. 27, 2018). The lawsuit claims that Missouri’s law infringes on First Amendment rights, prevents the clear and accurate labeling of plant-based and clean meat products, and stifles competition for plant-based meat.

The New Mexico Food Act is administered and enforced by NMED. A person who violates the Act’s prohibition against misbranding food is guilty of a misdemeanor and, for a first offense, may be subject to imprisonment for up to 90 days or a fine of up to \$100, or both. See Sections 25-2-3(B), 25-2-5(A) NMSA 1978.

NMDA states that the amendment proposed by HB 222 might assist consumer awareness about the difference between traditional meat harvested from the production livestock or poultry and meat grown in laboratories from animal cell cultures (also known as cell cultured meat, clean meat, in vitro meat, imitation meat, synthetic meat, and fake meat).

CONFLICT, RELATIONSHIP

HB 222 relates to SB 319, Misbranding of Milk

HB 222 conflicts with SB 319 because both bills amend Section 25-2-11 NMSA 1978

TECHNICAL ISSUES

To avoid confusion or misinterpretation, HB 222 might be amended to include a definition of the term “harvested production livestock or poultry.” See discussion under Significant Issues, above.

OTHER SUBSTANTIVE ISSUES

According to NMDA, the U.S. Department of Agriculture (USDA) and federal Food and Drug Administration (FDA) have agreed to share jurisdiction within the existing federal regulatory framework over the inspection and marketing (including labeling) of lab grown meat. FDA will oversee cell collection, cell banks, and cell growth, while USDA will oversee the production and labeling of food products. The process is still being structured; unanswered questions remain (such as what the application process between the two agencies will look like, and how long the process will take) that will impact what enters the marketplace in the future.