

### **217.037 Fair packaging and labeling.**

Fair packaging and labeling provisions:

- (1) All labels of foods and cosmetics, as defined by KRS 217.015, shall conform with the requirements for the declaration of net quantity of contents of Section 4 of the Fair Packaging and Labeling Act (15 U.S.C. secs. 1451 et seq.) and the regulations promulgated pursuant thereto. Food and cosmetics exempted from the requirements of Section 4 of the Fair Packaging and Labeling Act shall also be exempt from this subsection;
- (2) The label of any package of food which bears a representation as to the number of servings of such food contained in such package shall bear a statement of the net quantity (in terms of weight, measure, or numerical count) of each such serving;
- (3) No person shall distribute or cause to be distributed in commerce any packaged food or cosmetic if any qualifying words or phrases appear in conjunction with the separate statement of the net quantity of contents. Supplemental statements of net quantity of contents shall not include any term qualifying a unit of weight, measure or count that tends to exaggerate the amount of food or cosmetic contained in the package;
- (4) Whenever the secretary determines that regulations containing prohibitions or requirements other than those prescribed by this section are necessary to prevent the deception of consumers or to facilitate value comparisons as to any food or cosmetic, the secretary shall promulgate with respect to that food or cosmetic regulations effective to:
  - (a) Establish and define standards for the characterization of the size of a package enclosing any food or cosmetic which may be used to supplement the label statement of net quantity of contents of packages containing such food or cosmetic, but this paragraph shall not be construed as authorizing any limitation on the size, shape, weight, dimensions, or number of packages which may be used to enclose any food or cosmetics;
  - (b) Regulate the placement upon any package containing any food or cosmetic or upon any label affixed to such food or cosmetic, of any printed matter stating or representing by implication that such food or cosmetic is offered for retail sale at a price lower than the ordinary and customary retail sale price or that a retail sale price advantage is accorded to purchasers thereof by reason of the size of that package or the quantity of its contents;
  - (c) Require that the label on each package of food or cosmetic bear:
    1. The common or usual name of such food or cosmetic, if any; and
    2. In case such food or cosmetic consists of two (2) or more ingredients, the common or usual name of each such ingredient listed in order of decreasing predominance, but nothing in this paragraph shall be deemed to require that any trade secret be divulged; or
  - (d) Prevent the nonfunctional slack-fill of packages containing food or cosmetics;
  - (e) For the purpose of paragraph (d) of this subsection, a package shall be deemed to be nonfunctionally slack-filled if it is filled of substantially less than its

capacity for reasons other than:

1. Protection of the contents of such package; or
2. The requirements of machines used for enclosing the contents in such package; provided, that the secretary may adopt any regulations promulgated to comply with the Fair Packaging and Labeling Act.

**Effective:** June 17, 1978

**History:** Created 1978 Ky. Acts ch. 292, sec. 5, effective June 17, 1978.