

Date of Hearing: March 15, 2023

ASSEMBLY COMMITTEE ON AGRICULTURE  
Robert Rivas, Chair  
AB 660 (Irwin) – As Introduced February 9, 2023

**SUBJECT:** Food labeling: quality dates, safety dates, and sell by dates

**SUMMARY:** This bill changes the use of sell-by and use-by date of food products from a voluntary system to a requirement for food products sold in California, starting January 1, 2025. Specifically, *this bill*:

- 1) Requires eggs, both pasteurized and unpasteurized, sell-by label to include “BEST if Used by” or “BEST if Used or Frozen by” to indicate the quality date of a product (Best if used by) and/or “USE by” or “USE by or Freeze by” to indicate the safety date of a product (Use by) starting by January 1, 2025.
- 2) Requires the California Department of Food and Agriculture (CDFA), in consultation with the California Department of Public Health (DPH), starting January 1, 2025 to assist food manufacturers, processors, and retailers responsible for the labeling of food products to use “Best if used by” and/or “USE by”.
- 3) Requires, starting January 1, 2025, that no person can sell or offer for sale food items not labeled with a “Best if used by” and/or “USE by” label.
- 4) Requires, starting January 1, 2025, that no person can sell or offer for sale food items with a “sell by” label.
- 5) Allows the use of the “sell by” date, if it is presented in a coded format that are not easily readable by consumers and that do not use the phrase “sell by.”
- 6) Requires DPH to update regulations involving the California Retail Food Code, as specified.
  - a) Allows for the donation of food after the “Best if used by” date has passed.
- 7) Requires shellfish sell-by label to include “Best if used by” and/or “Use by” to indicate the safety date of a product (Use by) starting January 1, 2025.
- 8) Requires a food facility that packages food using a reduced-oxygen packaging method and Clostridium botulinum to, before January 1, 2025, limit the refrigerated shelf life to no more than 30 calendar days from packaging to consumption, or the original manufacturer’s “sell by” or “use by” date, whichever occurs first.
  - a) Requires that after January 1, 2025, limits the refrigerated shelf life to no more than 30 calendar days from packaging to consumption or Use by date, depending on which date occurs first.

**EXISTING LAW:**

- 1) Requires CDFA in consultation with DPH, to publish information that encourages food manufacturers, processors, and retailers responsible for the labeling of food products to voluntarily use specified "best by" and "use by" labels that communicate quality and safety dates, respectively. *Food and Agriculture Code (FAC) 82001*
- 2) Requires CDFA to encourage food distributors and retailers to develop alternatives to consumer-facing "sell by" dates, defined to mean a date on a label affixed to the packaging or container of food that is intended to communicate primarily to a distributor or retailer for purposes of stock rotation and that is not a quality date or a safety date. *FAC 82001*
- 3) Provides that it is unlawful for an egg handler to sell, offer for sale, or expose for sale certain eggs that are packed for human consumption unless each container intended for sale to the ultimate consumer is labeled with certain information, including, among other information, the words "sell-by" immediately followed by the month and day in bold type, as specified. *FAC 27644, 24644.5*
- 4) Requires repackaged eggs to be labeled with the original sell by date. *FAC 27687*
- 5) Requires a food facility that packages food using a reduced-oxygen packaging method and *Clostridium botulinum* to have an approved plan limiting the refrigerated shelf life to no more than 30 calendar days from packaging to consumption, except the time product is maintained frozen, or the original manufacturer's "sell by" or "use by" date, whichever occurs first. *Health and Safety Code (HSC) 114057.1*
- 6) Requires raw shucked shellfish to be obtained in nonreturnable packages that bear a legible "sell by" date or a "best if used by" date for packages, as specified. *HSC 114039*

**FISCAL EFFECT:** Unknown

**COMMENTS:** There is no standardized date on food labels. Moreover, there are no federal, state, or local regulations on the dates, with the exception of baby formula. Instead, labels come in a variety of forms including "use by," "best before," "sell by," and "enjoy by" dates, and these simple markers are both poorly understood and surprisingly under-regulated. AB 954 (Ting) Chapter 787, Statutes of 2017 requires CDFA and DPH to encourage food manufacturers, processors, and retailers responsible for the labeling of food products to voluntarily use specified "best by" and "use by" labels that communicate quality and safety dates.

Food labels have been used for decades to estimate peak freshness. Unlike "use by" labels, which are found on perishable foods like meat and dairy, "best before" labels are not related to safety and may encourage consumers to throw away food that is perfectly fine to eat.

Major United Kingdom grocery stores have removed "best before" labels from prepackaged fruit and vegetables. The European Union is expected to announce a revamp to its labeling laws by the end of this year; it is considering abolishing "best before" labels altogether. There is growing momentum in the United States to standardize the language on date labels to help educate buyers about food waste. Other states have introduced bills streamlining date labels, including Colorado HB20-1226 (2020), Massachusetts H2327 (2021), and New Jersey S418 (2022).

The US Department of Agriculture estimates that almost one third of the American food supply is uneaten and wasted. Quantifying these losses at the household level, the average consumer spends about \$1,300 annually on food that is later discarded. Moreover, product prices have remained high due to pandemic-induced inflation, further prioritizing the need for families to make the most of their groceries.

Many Californians, especially our underserved and marginalized communities, struggle with food insecurity. These communities are harmed by unclear food labels, which lead them to throw away nutritious and quality food. Additionally many of these communities rely on food banks, pantries, and other charitable sources of food. While these charitable organizations regularly accept and distribute donated food with expired dates that may indicate that they should already be sold or past peak quality, but remain safe, it often results in recipients misunderstanding that they are being given spoiled food. This is an unnecessary scenario that could be remedied by simply using the safety dates required by this bill.

The author states that while AB 954 directed CDFG and DPH to develop voluntary standards for food manufacturers, processors, and retailers to use in labeling food products, and those standards were published and promoted, Californians have continued to see a variety of labels that use phrases other than ones selected by CDFG and DPH across a range of food products. The presence of other phrases have hampered efforts to educate consumers on the quality and safety messages meant by the uniform terms.

Supporter's state data collected from a 2018 consumer fridge study showed an estimated 43% compliance with the voluntary labeling standards endorsed by the Association, and a related 2019 store shelf study found only 36% of products displayed these recommended labels. Given recent federal and brand support towards streamlining labels, state action to reduce food waste, methane emissions, and save consumers money is crucial.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Californians Against Waste (Sponsor)  
Natural Resources Defense Council (NRDC) (Sponsor)  
Active San Gabriel Valley  
California Environmental Voters  
California Product Stewardship Council  
CALPIRG, California Public Interest Research Group  
Environmental Working Group  
Harvard Law School Food Law and Policy Clinic  
Plastic Free Future  
Save Our Shores  
Solana Center for Environmental Innovation

### **Opposition**

None on file

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