

1989

Finance, Food Labeling, Fraud, Telecommunication, Tobacco

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RECENT LEGISLATIVE ACTIVITY

Food Labeling

The **Food Safety Amendments of 1989** would strengthen the authority of the Environmental Protection Agency ("the EPA") under the Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 301-392 (1982 & Supp. V 1987), to allow the EPA to set standards for pesticide tolerance levels in food. Currently, the EPA considers both the risks and the benefits of pesticide-use on a particular food in establishing tolerance levels. The proposed legislation would establish a "negligible risk" standard of pesticide tolerance which would be determined for "identifiable population groups" such as infants or children. This proposed standard allows the EPA to consider only the risks of a pesticide in establishing tolerance levels. The new standard would be implemented over a four-year period. **H.R. 1725, 101st Cong., 1st Sess., 135 Cong. Rec. H980 (daily ed. Apr. 6, 1989).**

The **Food Labeling and Heart Disease Prevention Act of 1989** requires increased information about fat content, sodium, and cholesterol on food labels. The bill would amend the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 301-392 (1982 & Supp. V 1987), by requiring disclosure of: the percentage of calories from fat per serving; the amount of total fat per serving; the amount of fat that is saturated, polyunsaturated, or monounsaturated; the amount of sodium per serving; and the amount of cholesterol per serving. The above information is required to be presented on the label in a manner which allows the consumer to readily understand the information. The legislation would take effect on year after it is enacted. **H.R. 2051, 101st Cong., 1st Sess., 135 Cong. Rec. H1319 (daily ed. Apr. 18, 1989).**

Fraud

The recently introduced **Fraud Victims Restitution Act** would provide for civil and criminal forfeiture of proceeds from wire and mail fraud. The funds recovered would be returned to the consumer victims. **H.R. 2090, 101st Cong., 1st Sess., 135 Cong. Rec. H1365 (daily ed. Apr. 25, 1989).**

Telecommunications

The **Telemarketing Fraud Prevention Act of 1989** was recently introduced in the House of Representatives. The legislation directs the Federal Trade Commission ("the FTC") to issue regulations dealing with telemarketing fraud and to establish a clearinghouse for complaints regarding telemarketing fraud. The legislation also authorizes state attorneys general and private parties to seek enforcement of the FTC regulations in federal court. However, the FTC must be notified of any action filed by a private party and has the right to intervene in the lawsuit. The legislation also prohibits telemarketers from harassing customers. **H.R. 1354, 101st Cong., 1st Sess., 135 Cong. Rec. H581 (daily ed. Mar. 9, 1989).**

The **Facsimile Advertising Regulation Act** would prohibit the sending of unsolicited facsimile advertisements and would require telecommunication companies to maintain lists of customers who do not wish to receive unsolicited faxes. In addition, fax machines manufactured after the enactment date of this legislation which are used to send unsolicited faxes must identify the name and telephone number of the sender on each page. **H.R. 2184, 101st Cong., 1st Sess., 135 Cong. Rec. H1502 (daily ed. May 2, 1989).**

The **Automated Telephone Solicitation Protection Act** would regulate the use of automatic-dial recorded-message players. These devices are used for computer generated telemarketing calls. The bill would prohibit these devices from making calls to emergency telephone lines of hospitals, physicians, and fire and law enforcement agencies. However, these devices could continue to be used to call consumers who specifically requested such calls. In addition, in order to make telephone lines accessible, the legislation would require that automated-dial players be modified so that the recorded message would terminate within 5 seconds after the recipient had hung up. **H.R. 2131, 101st Cong., 1st Sess., 135 Cong. Rec. H1427 (daily ed. Apr. 26, 1989).**

Tobacco

Wisconsin prohibits the sale or gift of cigarettes or tobacco products to individuals under 18 years of age. Tobacco products include cigars, pipe tobacco and chewing tobacco. Minors are prohibited from buying or attempting to buy cigarettes or tobacco products, and from falsely representing their age for the purpose of obtaining such products. No cigarette vending machines can be located within 500 feet of a school. Existing machines must be removed within 2 months of the effective date of the statute. Retailers and vending machine operators must post signs indicating that it is illegal for minors to purchase cigarettes. Penalties for violations of the statute include fines of up to \$500, and suspension of the retailer's license to sell cigarettes for a period of 30 days for repeat violations. However, the retailer will not be liable for violation of the statute if it can prove that the minor falsely represented that he or she was 18 years old and presented an identification card, that the minor appeared to be at least 18 years old, and that the sale was made in good faith. Effective July 1, 1989. **Wis. Stat. Ann. §§ 48.983 and 134.66 (West 1989).**

Michigan enacted similar legislation to prohibit the sale or gift of cigarettes, cigars, chewing tobacco or any other type of tobacco to minors. Tobacco retailers are required to post a sign which states that it is unlawful for minors to purchase tobacco products. A retailer charged with violations can avoid liability by demonstrating that it enforces a policy which prohibits the sale of tobacco products to minors. Retailers found to have violated the statute are subject to a fine of not more than \$50 for each offense. This statute also prohibits a minor from possessing or using tobacco products in public but does not prohibit possession or use of tobacco products within the minor's residence. Minors who violate the statute are subject to a fine of not more than \$50 for each offense. In addition, offenders can be required to participate in a health promotion and risk management program or to perform up to 48 hours of community service. Effective March 30, 1989. **Mich. Comp. Laws Ann. §§ 722.641-722.644 (West 1989).**

Michigan also requires that outdoor sign advertisements for smokeless tobacco products display three different health warnings on a rotating basis. Violators are subject to imprisonment of not more than one year or a fine of not more than \$5,000 or both. Effective March 30, 1989. **Mich. Comp. Laws Ann. § 750.42a (West 1989).**

Finance

The **Basic Banking Services Access Act of 1989** would require federally insured depository institutions to provide low-cost banking services to individuals. Under the proposed legislation, all federally insured depository institutions are required to offer checking and savings accounts with a minimum balance requirement of \$25.00 to individuals who deposit less than \$1,000.00. These "lifeline" accounts would also allow up to ten withdrawals per month by check. Each depository institution would be allowed to charge a maintenance fee, established by the Board of Governors of the Federal Reserve System, which would reflect the institution's net processing costs of the customer's account. **S. 907, 101st Cong., 1st Sess., 135 Cong.Rec. S4731-32 (daily ed. May 3, 1989).**

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