

Legal Alerts

New York Legislature Passes Food Date Labeling Bill

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The New York State Legislature has passed [Senate Bill 7618-B](#) (SB 7618-B) and [Assembly Bill 7291-B](#) (AB 7291-B), which would establish uniform food date labeling requirements for food products sold in New York. SB 7618-B and AB 7291-B have passed both houses of the New York State Legislature and, as of the publication date of this alert, are awaiting delivery to or action by Governor Kathy Hochul.

If signed into law, the act would take effect 180 days after becoming law. Implementing regulations are authorized immediately upon enactment. The uniform date-labeling obligation would begin one year after the effective date, and the sale prohibitions would apply to covered food products manufactured on or after July 1, 2028.

The bill aims to reduce food waste and improve consumer understanding by replacing the current patchwork of date labels with a standardized system that clearly distinguishes between safety dates and quality dates.

What This Means for Food and Beverage Companies, Retailers and Investors

Once effective, any food manufacturer, processor or retailer that labels food products sold in New York and chooses (or is required by law) to display a date label must use one of the following standardized terms:

- (1) "USE by" or "USE by or Freeze by" - to indicate a safety date.
- (2) "BEST if Used by" or "BEST if Used or Frozen by" - to indicate a quality date.
- (3) "UB" - to indicate a safety date on small packaging where space is limited.
- (4) "BB" - to indicate a quality date on small packaging where space is limited.

Retailers may have direct labeling obligations when they apply date labels to private-label, deli, bakery, prepared-food, store-packed or other retail-labeled products. The bill also directs the Department of Agriculture and Markets to promulgate regulations requiring wholesalers, retailers, grocery stores and corner stores to conspicuously post signage explaining safety and quality dates to customers and employees.

Consumer-facing "sell by" language would be prohibited for covered food products manufactured on or after July 1, 2028. However, inventory-management or closed-code dating may remain permissible if it is

coded, not easily readable by consumers and does not use the phrase "sell by."

The bill permits a person or entity to sell or offer for sale in New York a food product acquired before the effective date until the expiration of the product's food safety or quality date.

The bill expressly provides that it does not prohibit or discourage the sale, donation or use of consumable food after a quality date has passed. A wholesaler or retail food facility may donate food that is past the quality date or not labeled in accordance with the new section.

Entities responsible for placing date labels must estimate shelf life using scientifically valid methods deemed acceptable by the New York Department of Agriculture and Markets, in consultation with the New York Department of Health, unless later regulations create a formal approval process.

The required methodology must consider product quality, characteristics, formulation, the impact of processing, packaging or container type, protective wrapping or coating, and typical transportation, storage and display conditions. Retail-store and consumer conditions must also be considered, and refrigerated food may be calculated using a home temperature storage standard at or below 40°F.

Key Exemptions

The bill features several notable exemptions. Infant formula and alcoholic beverages (as defined under the Alcoholic Beverage Control Law) are entirely exempt. Wine, distilled spirits and wine- or spirit-based products may use production or bottling dates in any format. The bill does not apply to shellfish labeling only to the extent that another law or a National Shellfish Sanitation Program provision authorizes or requires terms that conflict with, or are inconsistent with, the New York requirements. Importantly, products that did not previously require a date label are not newly required to carry one.

The bill also provides that nothing in the new section should be interpreted or applied to create a conflict with federal law or regulations pertaining to a specific industry, food or food product.

Federal Context and Multi-State Considerations

Except for infant formula, federal regulations generally do not require product date labeling. The FDA and United States Department of Agriculture (USDA) currently recommend "Best if Used By" for quality-based date labeling but do not generally prohibit other truthful, non-misleading terms such as "Sell By" or "Use By."

California has enacted a similar standardized date-labeling regime, with requirements that began on July 1, 2026. Companies selling into both California and New York should consider a coordinated packaging strategy rather than treating New York compliance as a one-off label change.

Investor and Emerging-Company Considerations

This is not just an artwork-change exercise. New date-labeling requirements may affect packaging inventory, co-manufacturer specifications, private-label arrangements, shelf-life substantiation files, supplier contracts, retailer onboarding requirements and diligence for investors in food and beverage companies.

Enforcement and Litigation Risk

SB 7618-B/AB 7291-B does not appear to create an express private right of action. Enforcement is likely to proceed principally through the New York Department of Agriculture and Markets, implementing regulations promulgated under the bill, and existing Agriculture and Markets Law penalty and Attorney General enforcement mechanisms. However, the absence of an express private right of action should not be treated as eliminating litigation risk. Allegedly non-compliant or misleading date labels could still be asserted as part of New York consumer-protection or false-advertising claims where the underlying facts support such claims. Companies should monitor the final implementing regulations and any enforcement guidance before drawing firm conclusions about the scope of private or public enforcement exposure.

What Should You Do Now?

While the July 2028 manufacturing date may seem distant, food manufacturers, processors, retailers, co-manufacturers and investors should begin preparing now. Practical steps include:

- Map current date-label language across all SKUs sold in New York and California.
- Determine whether each date communicates safety or quality.
- Identify products using "sell by," "expires on," "best by" or other nonstandard phrasing.
- Review shelf-life testing protocols and substantiation files.
- Coordinate with co-packers, suppliers, packaging vendors and retailers on labeling changes.
- Allocate responsibility for label changes and shelf-life support in commercial contracts.
- Plan sell-through of legacy packaging and inventory.
- Monitor Governor action on SB 7618-B/AB 7291-B and watch for implementing regulations from the New York Department of Agriculture and Markets.

If you need guidance regarding a product that may be affected, please contact Foster Garvey's [Food & Beverage](#) team.

The information above involves complex legal considerations and is provided for general informational purposes only. It does not constitute legal advice. For guidance on specific legal matters, you should consult with an attorney. Foster Garvey requires engagement letters to establish the attorney-client relationship for new (or returning) clients and requires written confirmation to expand the scope of representation for existing clients.

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