

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Bell**

A Bill

SENATE BILL 761

For An Act To Be Entitled

"AN ACT TO ESTABLISH AND REGULATE THE GROWING, PRODUCTION,
LABELING AND SALE OF ORGANIC FOOD IN ARKANSAS; TO
PRESCRIBE THE AUTHORITY OF THE STATE PLANT BOARD TO
REGULATE AND INSPECT ORGANIC FOOD PRODUCTION IN ARKANSAS;
TO PRESCRIBE PENALTIES AND AUTHORIZE FEES; AND FOR OTHER
PURPOSES."

Subtitle

"AN ACT TO ESTABLISH AND REGULATE THE GROWING, PRODUCTION,
LABELING AND SALE OF ARKANSAS ORGANIC FOOD AND TO
PRESCRIBE THE POWERS OF THE STATE PLANT BOARD."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. (a) Effective January 1, 1994, no person shall use the term
"organic food" or any derivative of the term "organic" in the labeling or
advertising of a food or food product in Arkansas, unless the growth,
composition, production, harvesting, labeling and sale meets the requirements
of this act and rules or regulations promulgated under the authority of this
act.

(b) The term "organic food" or any derivative of the term "organic"
shall mean a food product which is:

(1) grown, raised, or composed of ingredients that were grown or
raised without the use of synthetic fertilizers, pesticides, hormones,
antibiotics, fungicides, growth stimulants and arsenicals; and

(2) grown or raised on soil free of any use or application of
synthetic fertilizers, pesticides, hormones, antibiotics, fungicides, growth
stimulants, and arsenicals for at least one (1) year prior to any planting.

1 (c) Under the provisions of this act, the term "organic food" shall
2 include any food product, including meat, dairy products, and beverages, that
3 is marketed or sold using the term "organic" or any derivative or the term
4 "organic" in its labeling or advertising.

5 (d) Natural substances such as diatomaceous earth, soaps, elemental
6 sulfur, lime sulfur, and basic copper sulfate, may be used in the growing and
7 production of organic food and *organic* food products.

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9 SECTION 2. (a) The State Plant Board of the State of Arkansas shall
10 have the authority and responsibility to regulate the growing, production,
11 harvesting, labeling, marketing, and sale of organic food in Arkansas.

12 (b) The State Plant Board is authorized and directed to promulgate
13 appropriate rules and regulations to enable it to effectively and efficiently
14 carry out its responsibilities under this act.

15 (c) Regulations shall include, but shall not be limited to:

16 (1) Requirement of annual certification and registration of
17 organic food growers and dealers;

18 (2) Requirement that organic food growers and dealers maintain
19 records of their sales and purchases of organic food or *organic* food products;

20 (3) Requirement of any person obtaining a certificate from the
21 Board to permit the inspection of cultivated organic food and the inspection
22 and testing of any soils used for the growth or production of organic food and
23 *organic* food products in the state; and

24 (4) Requirement that every grower, producer, or manufacturer of
25 any food or *organic* food product identified as organic food or any derivative
26 of the term organic shall provide the Board, upon demand, with relevant
27 information which is required pursuant this act.

28 (d) The State Plant Board may adopt rules and regulations to clarify
29 organic food and food product standards and the organic food marketing and
30 labeling practices under the provisions of this act.

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32 SECTION 3. (a) Each person or entity desiring to engage in the business
33 of growing, raising, producing, and harvesting of organic food or *organic* food
34 products in this state shall annually register and make application for and
35 obtain a certificate to do so from the State Plant Board. The annual

1 certification fee for a organic food grower shall be one hundred dollars
2 (\$100.00), which shall accompany the annual application for the registration
3 and certification.

4 (b) Each person or entity desiring to engage in the business of
5 labelling, marketing, and selling of organic food or organic food products in
6 this state shall annually register and make application for and obtain a
7 certificate to do so from the State Plant Board. The annual certification fee
8 for a organic food marketer shall be one hundred dollars (\$100.00), which
9 shall accompany the annual application for the registration and certification.

10 (c) All fees and moneys collected and received by the Board under this
11 act shall be deposited in a manner as prescribed in Arkansas Code § 2-16-210
12 and shall be used for carrying out the provisions of this act.

13 (d) For the purpose of carrying out the provisions and requirements of
14 this act, the State Plant Board and its inspectors shall have power to enter
15 into or upon any place to check for the annual certificate of registration of
16 organic food growers or sellers or to check for the sale of any bundle,
17 package, or container of food or agricultural products labelled or advertised
18 for sale as organic food or organic food product.

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20 SECTION 4. (a) It shall be unlawful and a violation of this act for
21 any person to offer for sale or sell, transport, deliver, or consign, or have
22 in his possession for sale products as organic food or organic food products
23 which do not meet the requirements of this act.

24 (b) It shall be unlawful and a violation of this act for any person to
25 offer for sale or sell, transport, deliver, or consign, or have in his
26 possession for sale products which give a false representation of a product as
27 organic food or organic food products.

28 (c) It shall be unlawful and a violation of this act for any person to
29 offer for sale or sell, transport, deliver, or consign, or have in his
30 possession for sale products as organic food or organic food products who is
31 not a certified organic food grower or organic food seller or whose
32 certification is not current under the requirements of this act.

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34 SECTION 5. (a) Each person who by himself or through his agents or
35 employees violates any of the provisions of this act, shall, for each offense,

1 be deemed guilty of a misdemeanor.

2 (b) (1) Upon conviction, an offender shall be punished by a fine:

3 (A) Not less than one hundred dollars (\$100) for the first
4 offense;

5 (B) Not less than one hundred fifty dollars (\$150) nor more
6 than three hundred dollars (\$300) for the second offense; and

7 (C) Not less two hundred dollars (\$200) nor more than five
8 hundred dollars (\$500) or thirty (30) days in jail, or both, for the third and
9 all subsequent offenses.

10 (2) An offender shall also be liable for all costs for each and
11 every offense.

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13 SECTION 6. For the purpose of carrying out the provisions and
14 requirements of this act, the State Plant Board and its inspectors shall have
15 power to enter into or upon any place and to open any bundle, package, or
16 container of organic food or *organic* food products or agricultural products so
17 labelled.

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19 SECTION 7. *The Plant Board may by regulation, after a public hearing,*
20 *establish inspection fees or other fees sufficient to carry out the*
21 *enforcement and intent of this act.*

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23 SECTION 8. All provisions of this act of general and permanent nature
24 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
25 Revision Commission shall incorporate the same in the Code.

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27 SECTION 9. If any provisions of this act or the application thereof to
28 any person or circumstance is held invalid, the invalidity shall not affect
29 other provisions or applications of the act which can be given effect without
30 the invalid provisions or application, and to this end the provisions of this
31 act are declared to be severable.

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33 SECTION 10. All laws and parts of laws in conflict with this act are
34 hereby repealed.

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/s/Senator Bell

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