

Fur Products Labeling Act

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I. Background of the Act

The Truth in Fur Labeling Act (TFLA) requires the labeling of fur products in order to prohibit misbranding and false advertisement. In so doing, this act requires disclosure regarding fur products in order to assist consumers. Such disclosure requirements include the name of the animal, inclusion of bleached or dyed fur, determination of whether the garment contains paws, tails, bellies, or waste fur, name of garment manufacturer, and the country in which the garment was made. Identification requirements were also instituted, as well as advertising restrictions. Various recordkeeping requirements were instituted to ensure conformity to these rules.

Certain garments containing a relatively small quantity of fur were originally exempted from rules requiring a fur content label. However, amendments to the TFLA will eliminate this exemption. Additionally, an amendment to the TFLA will provide exemption for hunters and trappers who sell furs through in-person or face-to-face transactions.

II. Comment

The purpose of this comment is to address specific issues raised by the agency. Specifically, the agency seeks commentary regarding the overlap or conflict of the proposed rule with existing federal or state laws.

a. Overlap or Conflict with Federal Laws:

Federal requirements regarding the labeling of fur products are embodied in 15 U.S.C. 69 *et seq*, which this agency acknowledges and addresses in the promulgation of this rule. In fact, the agency's authority to promulgate this rule is derived from 15 U.S.C. 69 *et seq* and the prohibition on misbranding and false advertising of fur products is set forth therein. This statute also includes a criminal penalty for the mislabeling of fur garments and products.

Another federal law that must be considered is the prohibition on the importation of dog and cat fur products pursuant to 19 U.S.C. 1308. The importation of dog and cat fur products has become a problem due to misplaced standards regarding the labeling of fur products. The rule the agency seeks to promulgate pertaining to the fur products labeling act could help to increase compliance with 19 U.S.C. 1308 by ensuring that all furs are properly identified and labeled. Because the agency's proposed rule would require labeling even for small quantities of fur, this would ensure that all dog and cat furs are subject to strict labeling standards and therefore, do not enter the stream of commerce. As a result, the agency's proposed rule could have positive effect on this legislation as well.

b. State Statutory Overlap or Conflict:

Several states have enacted legislation to regulate the sale of fur. However, it does not appear that any of the state statutes have significant overlap or conflict with the agency's proposed rule. The majority of these state statutes address basic standards for fur sales. These laws do not conflict with requirements regarding the labeling of all fur products, nor do they conflict with exemptions for hunters and trappers engaged in face-to-face transactions.

Here, are some examples of relevant state statutes:

- i. **Alaska:** Alaska Code section 11.46.710 prohibits deceptive business practices including the mislabeling of products. Alaska requires accurate labeling of products as to quality and quantity. Violation of this statute is typically a Class A misdemeanor.
- ii. **Georgia:** Georgia law requires specific records for fur dealers within the state. This is embodied in Georgia Code section 27-3-71, which states:

a) It shall be unlawful for any person to engage in business as a fur dealer unless the person files an annual report with the department not later than 60 days after the close of the trapping season. The report shall list the number of each type of hide, fur, skin, or pelt purchased during the preceding year, the date of purchase, the name of the person from whom purchased, and the person's trapping or raccoon fur seller's license number. The report shall be submitted on forms provided by the department. In addition, each fur dealer shall maintain in a legible manner on his business premises a listing of furs purchased during the license year showing each type of hide, fur, skin, or pelt purchased, the date of purchase, and the name of the person from whom purchased.

(b) Conservation rangers and other authorized representatives of the department shall be authorized to enter the premises of a fur dealer, during normal working hours and at any other time when the licensed activity is being conducted, for the purpose of inspecting the premises and the records maintained by the fur dealer pursuant to subsection (a) of this Code section.

(c) Any person who violates subsection (a) of this Code section shall be guilty of a misdemeanor.

- iii. **Kansas:** Similar to Georgia, Kansas has also instituted licensing requirements for fur dealers, which are embodied in Kansas Statute section 32-942. Specifically, this section states:

(a) Except as otherwise provided by law or rules and regulations of the secretary, a valid fur dealer license is required to buy, purchase or trade in raw furs, pelts, skins or carcasses of furbearing animals.

(b) Any person may secure a fur dealer license from the secretary or the secretary's designee by making application and paying the fee prescribed pursuant to K.S.A. 32-988.

(c) Any person who buys, purchases or trades in raw furs, pelts, skins or carcasses of furbearing animals shall keep a complete up-to-date record, upon forms provided by the secretary, of such information as required by rules and regulations adopted by the secretary in accordance with K.S.A. 32-805 and

amendments thereto.

(d) The secretary may establish, by rules and regulations adopted in accordance with K.S.A. 32-805 and amendments thereto, conditions and procedures under which a person may buy, purchase or trade in raw furs, pelts, skins or carcasses of furbearing animals.

- iv. **Massachusetts:** Massachusetts has criminalized the sale of imitation fur and made it punishable by a fine, when the manufacturer falsely represents that the fur is genuine. This is codified in Massachusetts Act 266, Section 79.
- v. **Minnesota:** Minnesota sets forth guidelines relating to fur farming in Minnesota Code sections 17.352 through 17.354, including both application and registration guidelines. Additional licensing requirements for game and fur farms in Minnesota are contained in section 97A.105. A person is permitted to breed fur bearing animals so long as they have a license and met the requirements within this section. However, Minnesota also has codified guidelines related to fraud in fur sales. This is embodied in section 325F.42 and prohibits the sale of furs under false and deceptive names. Additionally, similar to federal identification standards, this section requires that an identification tag be attached to the fur identifying the product. Violation of this Minnesota statute results in a misdemeanor.
- vi. **Nebraska:** Similar to other states, Nebraska requires the tagging and identification of furs. Specifically, Nebraska Code section 37-512 states:

Every express company and common carrier, their officers, agents, and servants, and every other person who (1) transfers or carries from one point to another within the state, (2) takes out of the state, or (3) receives, for the purpose of transferring from this state, any raw furs protected by the Game Law, except as permitted in this section, shall be guilty of a Class III misdemeanor. It shall be lawful for any express company, railroad, common carrier, or postmaster to receive raw furs protected by the Game Law for transportation from one point to another by express, baggage, or mail during the open season and ten days thereafter, or such further period as may be specifically granted a shipper by the commission, when such raw fur is accompanied by a tag furnished by the commission and placed upon the package giving the name of the consignee, the number of his or her fur-harvesting permit, and a description of the kind and number of each kind of raw fur in the shipment. A duplicate portion of such tag shall be filled out and sent to the secretary of the commission.

- vii. **New Jersey:** New Jersey requires all fur products to include an identification tag, setting forth all animals contributing to the product. The labeling requirements are embodied in New Jersey Code section 56:14-1 and are very similar in nature to the federal standards.
- viii. **North Carolina:** North Carolina Statute section 113-273 sets forth requirements for fur dealer licenses. Under this section a hunter is not

considered a dealer, so long as the hunter exclusively sells the furs to a licensed fur dealer.

- ix. **Oregon:** Similar to other states, Oregon requires fur dealers to obtain licensure and maintain a record of transactions. This requirement is embodied in section 497.218.
- x. **Utah:** In section 23-19-31, Utah sets forth that a resident may submit an application to the wildlife board to be registered as a fur dealer.
- xi. **Virginia:** Similar to 19 U.S.C. 1308, Virginia sets forth that it is illegal to sell garments containing dog or cat fur. Pursuant to section 3.2-6589, this offense is punishable by a fine.
- xii. **Wisconsin:** Similar to other states, Wisconsin sets forth requirements for the labeling of furs. Specifically, section 100.35 states in relevant part:

(1) No person shall sell or offer or display for sale any coat, jacket or other garment made wholly or partially of fur without having attached thereto and conspicuously displayed a tag or label bearing in plain print in English the species of fur or pelt used therein. This section shall not apply to such garments as are displayed or offered for sale or sold at a price of less than \$50.

- xiii. **Wyoming:** In Wyoming, section 6-3-610 addresses the mislabeling of products and sets forth penalty for false labeling. Specifically, this section states:

A person commits a misdemeanor punishable by a fine of not more than seven hundred fifty dollars (\$750.00) if, with intent to promote the purchase or sale of a commodity, he knowingly brands, labels, stamps or marks the commodity in a false, misleading or deceptive manner.

As evidenced above, there are several state statutes addressing the regulation of furs. However, none of these statutes appear to be in conflict with the agency's proposed rule. While some of these state statutes may overlap slightly with some provisions of the agency's proposed rule, there is no evidence that this overlap is significant enough to raise concerns. These states have instituted general standards for the identification and labeling of fur products for sale. Because these statutes do not exempt garments with relatively small quantities of fur from labeling requirements, there is no evidence that the agency's proposed rule would conflict with existing state law. Similarly, these state statutes do not provide exemption for hunters or trappers in face-to-face transactions and therefore, no conflict would occur under the second part of the agency's proposed rule.