

JAN 18 2013

A BILL FOR AN ACT

RELATING TO FOOD.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Each year, contaminated food and dangerous
2 merchandise and products are recalled in Hawaii. Class I
3 recalls of food, products, and merchandise by the United States
4 Department of Agriculture or the United States Food and Drug
5 Administration are made when the recalled food, product, or
6 merchandise presents a reasonable probability that the use of,
7 or exposure to, the food, product, or merchandise will cause
8 serious adverse health consequences or death. Recent Hawaii
9 class I food recalls included foods contaminated with
10 Escherichia coli, botulism, salmonella, listeria, and other
11 dangerous food-borne diseases.

12 There are approximately three hundred cases of
13 salmonellosis and nineteen cases of Escherichia coli 0157
14 reported in Hawaii each year. Recalling contaminated foods and
15 unsafe merchandise is vital to public health. While the rapid
16 removal of recalled foods by retailers is essential, removing
17 dangerous products from shelves does not address the dangers in
18 recalled products that have already been sold. To minimize



1 danger to the public health, it is essential that retailers
2 promptly notify consumers who have purchased recalled products
3 to ensure that consumers do not unknowingly consume contaminated
4 food products. Several retailers, such as Walmart, Sam's Club,
5 and Costco, already provide this service voluntarily, reducing
6 the risk of harm to their own customers and the public.

7 The purpose of this Act is to require any retailer who
8 routinely collects consumer purchasing data to promptly contact
9 purchasers who purchased products involved in a class I recall
10 by email, text message, telephone call, or mail.

11 SECTION 2. Chapter 487D, Hawaii Revised Statutes, is
12 amended by adding a new section to be appropriately designated
13 and to read as follows:

14 "§487D- Food product and merchandise safety recall
15 notices; requirements; violation. (a) In the event of a class
16 I recall of any food, product, or merchandise sold by a club
17 card issuer, the club card issuer shall contact each cardholder
18 who purchased the food, product, or merchandise subject to the
19 class I recall and inform the cardholder of the class I recall.
20 Cardholders shall be contacted by email, text message,
21 telephone, or regular mail, and contact shall be initiated



1 within two days from when the club card issuer receives notice
2 that it sold the recalled food, product, or merchandise.

3 (b) Any person who violates this section shall be deemed
4 to have engaged in an unfair or deceptive act or practice
5 pursuant to section 480-2."

6 SECTION 3. Section 487D-1, Hawaii Revised Statutes, is
7 amended by adding a new definition to be appropriately inserted
8 and to read as follows:

9 "Class I recall" has the same meaning as in title 21
10 United States Code section 7.3(m)(1); that is, a situation in
11 which the recalled food, product, or merchandise presents a
12 reasonable probability that the use of, or exposure to, the
13 food, product, or merchandise will cause serious adverse health
14 consequences or death."

15 SECTION 4. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 5. New statutory material is underscored.

19 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: Ross H. Sal

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S.B. NO. 493

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S.B. NO. 493

Report Title:

Food, Product, and Merchandise Safety Recall Notices

Description:

Requires businesses with customer card programs to notify customers in the event of a class I food, product and merchandise recall; makes a violation an unfair or deceptive act or practice.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

