

**Legislative Council—No 177**

As introduced and read a first time, 19 June 2024

South Australia

**Pet Food (Marketing and Labelling) Bill 2024**

A BILL FOR

An Act to regulate the marketing and labelling of pet food and for other purposes.

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## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

This Act may be cited as the *Pet Food (Marketing and Labelling) Act 2024*.

#### 5 2—Commencement

This Act comes into operation 2 months after the day on which it is assented to by the Governor.

#### 3—Interpretation

In this Act—

10 **AS 5812:2023** means Australian Standard AS 5812:2023 (*Manufacturing and marketing of pet food—Cats and dogs*) as in force from time to time;

**pet** means a domesticated cat or dog;

**pet food** means a substance manufactured or intended for consumption by a pet and includes—

- 15 (a) raw meat; and
- (b) dried animal parts; and
- (c) supplements; and

- (d) any other substance, or substance of a class, brought within the ambit of this definition by the regulations,

but does not include a substance, or substance of a class, excluded from the ambit of this definition by the regulations;

5 *sell* includes offer for sale.

## Part 2—Offences in relation to marketing and labelling of pet food

### 4—Person must not sell pet food that is not labelled in accordance with AS 5812:2023

- 10 (1) A person must not sell by retail pet food that is not labelled in accordance with AS 5812:2023.

Maximum penalty:

- (a) for a first offence—\$20 000;  
(b) for a second offence—\$40 000;  
15 (c) for a third or subsequent offence—\$60 000.

- (2) It is a defence to a charge of an offence under subsection (1) if the person proves that they believed on reasonable grounds that the pet food was labelled in accordance with AS 5812:2023.

### 5—Person must ensure pet food label complies with AS 5812:2023

- 20 A person who labels pet food for retail sale must ensure that the label complies with AS 5812:2023.

Maximum penalty:

- (a) for a first offence—\$20 000;  
(b) for a second offence—\$40 000;  
25 (c) for a third or subsequent offence—\$60 000.

### 6—Person must provide relevant information

- (1) A person (the *relevant person*) who sells or supplies pet food, or an ingredient intended for pet food, prior to the pet food being labelled for retail sale must provide all relevant information to the person to whom the pet food, or ingredient, is being  
30 sold or supplied.

Maximum penalty:

- (a) for a first offence—\$20 000;  
(b) for a second offence—\$40 000;  
(c) for a third or subsequent offence—\$60 000.

(2) In this section—

*relevant information* means—

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- (a) information within the knowledge of the relevant person that is required by the person who will label the pet food for retail sale to enable that person to comply with AS 5812:2023 in respect of labelling; or
  - (b) any other information brought within the ambit of this definition by the regulations,

but does not include information excluded from the ambit of this definition by the regulations.

## 10 **7—Person must not engage in prohibited marketing**

(1) A person must not, in the course of carrying on a business, engage in prohibited marketing.

Maximum penalty:

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- (a) for a first offence—\$20 000;
  - (b) for a second offence—\$40 000;
  - (c) for a third or subsequent offence—\$60 000.

(2) In this section—

*prohibited marketing* means marketing of pet food that does not comply with AS 5812:2023.

## 20 **Part 3—Enforcement**

### **8—Appointment of authorised officers**

(1) The Minister may, by instrument in writing, appoint a person to be an authorised officer for the purposes of this Act.

25 (2) An appointment may be made subject to conditions specified in the instrument of appointment.

(3) The Minister may, at any time, vary, revoke or add a condition of appointment.

(4) The Minister must provide each authorised officer with identification in a form determined by the Minister that—

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- (a) contains the person's name and a photograph of the person; and
  - (b) states that the person is an authorised officer for the purposes of this Act.

(5) An authorised officer must, at the request of a person in relation to whom the authorised officer has exercised, or intends to exercise, powers under this Act, produce the authorised officer's identification.

## 9—Powers of authorised officers

- (1) An authorised officer may—
- 5 (a) enter and remain in or on any premises, place or vehicle that the officer reasonably suspects is used for, or in connection with, an offence against this Act (and, if entry is refused, may employ such force as is reasonably necessary to gain entry); and
  - (b) inspect or search the premises, place or vehicle or any equipment or other thing on the premises, place or vehicle; and
  - 10 (c) open and examine any package that the authorised officer reasonably believes contains pet food; and
  - (d) inspect any records kept by a person whom the authorised officer reasonably suspects of committing an offence against this Act and, for that purpose, require the person, or an employee or agent of the person, to produce the records; and
  - 15 (e) examine, copy or take extracts from such records, or require the person, or an employee or agent of the person, to provide a copy of the records; and
  - (f) remove and retain such records for so long as is reasonably necessary for the purpose of making a copy or extract of the record; and
  - 20 (g) take such photographs, films or audio or visual recordings as the authorised officer considers necessary; and
  - (h) seize and remove anything that constitutes evidence of an offence against this Act; and
  - 25 (i) require a person who the authorised officer reasonably suspects has committed, is committing or is about to commit, an offence against this Act to state the person's full name and usual place of residence and to produce evidence of the person's identity; and
  - 30 (j) require a person who the authorised officer reasonably suspects has knowledge of matters in respect of which information is reasonably required for the administration or enforcement of this Act to answer questions in relation to those matters.
- (2) An authorised officer may not exercise the power of entry conferred by this section in relation to premises except—
- (a) with the consent of the occupier of the premises; or
  - (b) on the authority of a warrant issued by a magistrate under this section.
- 35 (3) A magistrate may issue a warrant for the purposes of this section if satisfied, by information given on oath, that the warrant is reasonably required in the circumstances.
- (4) In the exercise of powers under this Act an authorised officer may be assisted by such persons as the authorised officer considers necessary in the circumstances.

## **10—Offence to hinder etc authorised officers**

A person who—

- (a) hinders or obstructs an authorised officer, or person assisting an authorised officer, in the exercise of powers conferred by this Act; or
- 5 (b) refuses or fails, without reasonable excuse, to comply with a requirement made by an authorised officer in the exercise of powers conferred by this Act; or
- (c) when required by an authorised officer under this Act to answer a question, refuses or fails to answer the question to the best of the person's knowledge, information and belief; or
- 10 (d) produces a document or record that the person knows, or ought to know, is false or misleading in a material particular; or
- (e) uses abusive, threatening or insulting language to an authorised officer or person assisting an authorised officer; or
- 15 (f) falsely represents, by words or conduct, that the person is an authorised officer,

is guilty of an offence.

Maximum penalty: \$5 000.

## **Part 4—Miscellaneous**

### **11—False or misleading information**

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided under this Act.

Maximum penalty: \$5 000.

### **12—Regulations and fee notices**

- (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
  - 30 (a) exempt a person, or a class of persons, from the application of this Act or a specified provision or provisions of this Act; and
  - (b) provide for fines, not exceeding \$10 000, for offences against the regulations; and
  - (c) provide for expiation fees, not exceeding \$315, for offences against the regulations; and
  - 35 (d) provide for the facilitation of proof of the commission of offences against the regulations.
- (3) The regulations may—
  - (a) be of general or limited application; and

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- (b) make different provision according to the matters or circumstances to which they are expressed to apply; and
  - (c) make provisions of a saving or transitional nature consequent on the enactment of this Act or on the commencement of specified provisions of this Act or on the making of regulations under this Act; and
  - (d) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister or a specified person or body; and
  - (e) apply or incorporate, wholly or partially and with or without modification, a code, standard, policy or other document prepared or published by the Minister or a specified person or body.
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- (4) If a code, standard or other document is referred to or incorporated in the regulations—
    - 15 (a) a copy of the code, standard or other document must be kept available for public inspection, without charge and during ordinary office hours, at an office or offices specified in the regulations; and
    - (b) evidence of the contents of the code, standard or other document may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code, standard or other document.
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- (5) The Minister may prescribe fees for the purposes of this Act by fee notice under the *Legislation (Fees) Act 2019*.
  - (6) A fee notice may provide for the waiver, reduction or remission of fees.