



State of South Carolina

Office of the Governor

MARK SANFORD
GOVERNOR

Post Office Box 12267
COLUMBIA 29211

June 4, 2008

The Honorable Robert W. Harrell, Jr.
Speaker of the House of Representatives
Post Office Box 11867
Columbia, South Carolina 29211

Dear Mr. Speaker and Members of the House:

I am hereby vetoing and returning without my approval H. 3028, R-319, which is intended to protect consumers from deceptive trade practices related to South Carolina grown products.

What makes this bill particularly troublesome is that it is an offshoot of a taxpayer-funded advertising campaign to promote South Carolina agricultural goods. We have supported funding for the Commissioner of Agriculture to promote South Carolina grown products, but this takes a slogan to encourage a South Carolina purchase to an entirely new level. While the bill intends to strengthen consumer protections, we believe it is both unnecessarily duplicative of current law, and it actually weakens the protections already in place.

First, we believe H. 3028 is unnecessary because current law provides significant ***and stronger*** protections to South Carolina consumers and vendors of food products than this legislation. The South Carolina Unfair Trade Practices Act (SCUPTA) was enacted over 45 years ago to give the Attorney General power to bring criminal and civil action against individuals for knowingly and willfully mislabeling food products. As a result, current law allows the Attorney General to seek jail time, fines, or both, for any individual found guilty under this law. The law also allows affected vendors, in this case South Carolina farmers, the ability to seek civil damages for three times the amount of economic harm suffered due to mislabeled food products.

Aside from those significant criminal and civil penalties, the South Carolina Food and Cosmetic Act (SCFCA) grants the Commissioner of Agriculture the ability to seek immediate injunctive relief against anyone who misbrands or falsely advertises food products and provides for additional criminal penalties. On these grounds alone, H. 3028 is completely unnecessary.

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Second, if the intent was to create stiffer penalties than current law, the bill fails again. Both the SCUTPA and the SCFCA allow either the Attorney General or Commissioner of Agriculture to seek injunctive relief if they have “reasonable cause” to believe certain food products are intentionally misrepresented to the public – which would immediately stop the unlawful act. H. 3028 requires the Attorney General to use a much higher standard of “knowingly and willfully” to prove misrepresentation. Practically speaking, the Attorney General is far more likely to use the tools provided under current law rather than he is to bring an action under this legislation – which we believe renders H. 3028 completely and totally ineffective.

For the reasons stated above, I am vetoing H. 3028, R-319.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Sanford', with a long horizontal stroke extending to the right.

Mark Sanford