



SPOTLIGHT

Shook Attorneys Provide Guidance on Getting Hand Sanitizers to Market in Multiple Countries

In response to the COVID-19 pandemic, the demand for hand sanitizer has increased exponentially. Manufacturers of much-needed hand sanitizers face a maze of regulatory rules and restrictions in every country in which their products will be sold. For example, the U.S. Food and Drug Administration has monitored hand sanitizers entering the market, and the agency has regularly updated its [list](#) of recalled hand sanitizer products, including many that have been sold at national retailers.

In an [infographic overview](#), Shook consumer products attorneys guide the producers of hand sanitizers and retailers through what they need to know to successfully make, label and sell their products in the U.S., U.K., Canada and Mexico. Learn the relevant details and questions to ask about each country’s requirements; guidance on product ingredients, product testing, labeling, promotion and distribution of hand sanitizers; and direct actions to take to ensure products get safely to market in full legal compliance.

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Shook offers expert, efficient and innovative representation to clients targeted by food lawyers and regulators. We know that the successful resolution of food-related matters requires a comprehensive strategy developed in partnership with our clients.

For additional information about Shook’s capabilities, please contact



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LEGISLATION, REGULATIONS & STANDARDS

New York Legislature Passes Bill To Ban PFAS In Food Packaging

The New York legislature has passed [SB 8817](#), which would prohibit “the distribution, sale, and offer for sale in New York” any food packaging that contains perfluoroalkyl and polyfluoroalkyl substances (PFAS) as “intentionally added chemicals.”

“Food packaging is a key place to look for PFAS chemicals, as they often include non-stick components to repel grease. PFAS chemicals in food packaging can enter a human’s bloodstream by leaching into food that is consumed, as well as find its way into the environment through disposal,” states the bill’s justification. “This bill would ban the entire class of PFAS chemicals from food packaging containers used in New York. Washington State signed similar legislation into law in April 2018. In order to protect the health and safety of New Yorkers, we must take an aggressive approach by prohibiting the use of all PFAS chemicals in food packaging.”

FDA Releases Draft Guidance On Cannabis Research

The U.S. Food and Drug Administration (FDA) has [announced](#) the availability of draft guidance that “outlines FDA’s current thinking on several topics relevant to the development of cannabis and cannabis-derived products: The source of cannabis and cannabis-derived compounds for clinical research; general quality considerations for developing drugs that contain cannabis and cannabis-derived compounds; and calculation of percent delta-9 tetrahydrocannabinol (THC) in botanical raw materials, extracts, and finished products.” The agency will accept comments on the guidance until September 21, 2020.

USDA Soliciting Feedback On Bioengineered Foods List

The Agricultural Marketing Service (AMS) of the U.S. Department of Agriculture (USDA) will accept comments on [recommendations](#) to update the List of Bioengineered Foods as it pertains to the National Bioengineered Food Disclosure Standard. Recommendations include the addition of sugarcane and an amendment to reflect that the only currently available trait for bioengineered summer squash is virus resistance. AMS also noted that it does not find cowpea or rice to qualify for addition to the list but is accepting comments on its assessment. Comments will be accepted until August 24, 2020.



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ABOUT SHOOK

Shook, Hardy & Bacon is widely recognized as a premier litigation firm in the United States and abroad. For more than a century, the firm has defended clients in some of the most substantial national and international product liability and mass tort litigations.

Shook attorneys are experienced at assisting food industry clients develop early assessment procedures that allow for quick evaluation of potential liability and the most appropriate response in the event of suspected product contamination or an alleged food-borne safety outbreak. The firm also counsels food producers on labeling audits and other compliance issues, ranging from recalls to facility

LITIGATION

Meatpackers Sue OSHA for COVID-19 Protections

A group of workers at a Maid-Rite Specialty Foods production plant has filed a lawsuit seeking to compel the Occupational Safety and Health Administration (OSHA) to require Maid-Rite to establish procedures to mitigate the risk of COVID-19 infection. *Does v. Scalia*, No. 20-1260 (M.D. Penn., filed July 22, 2020). The plaintiffs allege that they face “imminent dangers posed by a workplace that has failed to take the most basic precautions to protect against the spread of COVID-19.”

The complaint asserts that Maid-Rite is “failing to provide cloth face coverings, configuring the production line in such a way that workers cannot social distance, failing to arrange for social distancing in other areas of the plant, failing to provide adequate handwashing opportunities, creating incentives for workers to attend work sick, failing to inform workers of potential exposures to COVID-19, and rotating-in workers from other facilities in a way that increases the risk of spreading the virus.”

Burger King Impossible Whopper Lawsuit Dismissed

A Florida federal court has dismissed a putative class action alleging that Burger King Corp. misled consumers with the release of its Impossible Whopper. *Williams v. Burger King Corp.*, No. 19-24755 (S.D. Fla., entered July 20, 2020). The plaintiff, a vegan, argued that Burger King’s marketing misled him into believing the Impossible Whopper, made with the plant-based Impossible Burger, would abide by vegan dietary restrictions, but the patty was cooked on the same grill as meat patties. The court disagreed, finding that “Burger King promised a non-meat patty and delivered with the ‘Impossible Burger.’”

“Plaintiffs’ argument, however, loses momentum when they claim there was a presumption the ‘Impossible’ patties would be cooked on a different grill than other items sold at Burger King,” the court held. “This is not an essential term of the contract. Furthermore, as Burger King’s slogan has boasted for forty years, Plaintiffs’ could have ‘Had it [their] way’ by requesting a different cooking method, thereby altering the terms of the contract.”

inspections, subject to FDA, USDA and FTC regulation.



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