

California Bans "Sell By" Dates

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California recently took another step toward reducing food waste by banning "Sell By" dating of food products. California has identified food waste as the most prevalent item in California's waste stream and previously passed a law instructing the California Department of Food and Agriculture and the California Department of Public Health to issue guidance with voluntary standards to bring uniformity to food product date labeling. In September 2024, California's governor approved Assembly Bill ("A.B.") 660, which adopts product dating best practices from the guidance as law in California, effective July 1, 2026. However, expiration date labeling for food products will remain voluntary unless otherwise required. That is, the law does not require the use or display of a date label on foods that do not have such a label.

On and after July 1, 2026, food manufacturers, processors, or retailers that are responsible for labeling food items for human consumption and that choose, or are otherwise required by law, to display a date label to communicate a quality or safety date on a food item manufactured on or after July 1, 2026, must use one of the following specified uniform terms on the date label:

- "BEST if Used by" or "BEST if Used or Frozen by" to indicate the quality date; or
- "USE by" or "USE by or Freeze by" to indicate the safety date.

"BB" can be used to indicate the quality date if the food item is too small to include "BEST if Used by" or "BEST if Used or Frozen by" or is a beverage. And "UB" can be used to indicate the safety date if the food item is too small to include the uniform terms, "USE by" or "USE by or Freeze by" on the label.

The law prohibits the phrase "sell by" on food for human consumption that is manufactured on or after July 1, 2026. The use of "sell by" dates for stock rotation are not prohibited, however, if they are presented in a coded format that cannot easily be read by consumers and that does not actually use the phrase "sell by" on the label.

Grocery stores may continue to display labels with the phrase "packed on" on prepared food items and may sell or offer for sale these prepared food items in California if the items also display a quality or safety date label in the specified uniform format. As amended, the statute also expressly allows the date of production, manufacturing, bottling, or packaging on the label of wine, distilled spirits, and wine- or distilled spirit-based products.

These provisions do not prohibit or discourage the sale, donation or use of food after its quality date has passed, so a retail food facility may still donate a food item for human consumption even if the item's date label is not in the form described above.

For milk and milk products, A.B. 660 requires that the package or container have the date established by the processor as the date by which the product should normally be used to ensure consumer quality, as opposed to a date for removal from the store shelf. The requirement does not apply to milk or milk products processed, packaged and sold by distributors directly to consumers. It also does not apply to any bulk shipments of milk or milk products between distributors.

A.B. 660's requirements do not apply to infant formula, eggs, or pasteurized eggs in the shell. In addition, if any other law requires the use of different terms, then A.B. 660's requirements do not apply.