

What's Happening with Warnings on Texas Food Labels?

February 16, 2026 Suzie Trigg, Kristi Weisner

PRACTICES FDA Regulatory and Compliance, Food, Beverage and Restaurant

In 2025, Texas became the first state in the US to enact a labeling mandate for foods containing any of 44 specified ingredients as part of Senate Bill 25 (SB 25), the Make Texas Healthy Again Act. To [recap](#), SB 25 requires that labels updated after January 1, 2027 for foods containing any of the specified ingredients feature the following:

WARNING: This product contains an ingredient that is not recommended for human consumption by the appropriate authority in Australia, Canada, the European Union, or the United Kingdom.

What Is the Status of SB 25's Warning Label Requirement?

The U.S. District Court for the Western District of Texas issued a preliminary injunction barring the enforcement of the food label warning provisions of SB 25,² finding that the food and beverage industry associations who filed suit against Attorney General Paxton were likely to succeed on the merits of their arguments that the food label warning requirements of SB 25 violate the First Amendment by impermissibly compelling speech.

On December 5, 2025, four food and beverage trade associations representing a broad swath of industry filed suit in the Western District of Texas to challenge the warning label requirements of SB 25.³

In their filing, the American Beverage Association, Consumer Brands Association, National Confectioners Association and Food Marketplace, Inc. d/b/a the Food Industry Association (FMI) allege that Texas' SB 25 warning requirements are a violation of the First and Fourteenth Amendments, as well as the Commerce Clause, and that it is preempted by federal law.⁴ The trade groups have argued that the warning requirement:

- Violates the First Amendment by compelling speech that is false and misleading because all of the foreign governments referenced in the scripted warning statement do not explicitly prohibit the ingredient(s) listed nor categorize them as "not recommended for human consumption."⁵
- Is preempted by the Federal Food, Drug and Cosmetic Act (FD&C Act), including the Nutrition Labeling and Education Act (NLEA).⁶
- Is vague and does not provide adequate due process under the Fourteenth Amendment because some of the language is undefined and may be open to various interpretations by manufacturers.⁷
- Violates the Dormant Commerce Clause by imposing requirements on manufacturers and distributors that are located outside of the state.⁸

Following their complaint, the plaintiffs moved for a preliminary injunction barring enforcement, asserting that “it’s particularly evident that plaintiffs are substantially likely to prevail in their First Amendment challenge” because SB 25’s warning requirements are not narrowly tailored to achieve a compelling governmental interest.⁹ Texas Attorney General Paxton has maintained that the required “WARNING” is simply to alert Texas consumers to the presence of ingredients that consumers may find objectionable so they can make their own informed choices.¹⁰

While the court agreed with the defendants that the law supports the state’s substantial interest in promoting healthier food ingredients in Texas, ultimately the court agreed with the plaintiffs that the state could have picked “less restrictive means,” like an advertising campaign, to further the state’s interest.¹¹

Has Texas Provided a Proposed Rule for Implementation of SB 25?

During the fall of 2025, prior to the industry challenge, the state began planning for implementation of SB 25’s warning label requirement. On September 26, 2025, the Texas Health and Human Services Commission, on behalf of the Texas Department of State Health Services, proposed to amend Title 25 of the Texas Administrative Code to adopt Subchapter II, Sections 229.1001 through 229.1005, concerning Warning Label Requirements for Food.¹² The requirements would apply to:¹³

- Any manufacturer that offers a food product for sale in Texas, no matter where the food product was originally made.
- Any ingredient meant to be consumed by humans, which the United States Food and Drug Administration (FDA) requires to be listed on the food label.
- Food product labels developed or copyrighted on or after January 1, 2027.

While most of the proposed rule reiterates the requirements previously stated in SB 25, the proposal goes further in defining a “food manufacturer” to include a private label brand owner. Specifically, the proposal defines a “food manufacturer” as the entity responsible for ensuring that the food product label includes the warning statement and “[a] person who combines, purifies, processes or packages food to sell through a wholesale outlet[,]” including “a retail outlet that packages or labels food before selling it” and “a person responsible for the purity and proper labeling of a food item by labeling the food with the person’s name and address.”¹⁴

The proposed rule also clarifies how food manufacturers and retailers who sell their products online may comply with the warning requirement, including, for example:¹⁵

- Posting a legible statement on the manufacturer’s or retailer’s website on which the product is offered for sale.
- Posting pictures of the entire food product label, including the warning label, on the website.
- Providing the information to the consumer in other ways.

The agency accepted comments on the rule during the fall.¹⁶

[1] Prepared by Suzie Trigg and Kristi Weisner as of February 16, 2026, based on the December 5, 2025 filing in the U.S. District Court of the Western District of Texas, Waco Division (available at <https://dockets.justia.com/docket/texas/txwdce/6:2025cv00566/1172878595>), Texas SB 25 (available at <https://www.capitol.state.tx.us/tlodocs/89R/billtext/pdf/SB00025F.pdf#navpanes=0>) and

to amended Section 431.0815 of the Texas Health and Safety Code (available at <https://statutes.capitol.texas.gov/Docs/HS/htm/HS.431.htm>) for more detailed information.

[2] [Order on Plaintiff's Motion for Preliminary Injunction](#) at 13, *American Beverage Ass'n et al. v. Paxton*, No. 6:25-CV-00566-ADA-DTG (W.D.Tex. 2026).

[3] [American Beverage Ass'n et al. v. Paxton](#), No. 6:2025-CV-00566 (W.D.Tex. 2025).

[4] [Original Complaint](#) at ¶¶ 59-81, 82-92, 93-97, 98-103, *American Beverage Ass'n et al. v. Paxton*, No. 6:2025-CV-00566 (W.D.Tex. 2025), Dkt. No. 1.

[5] *Id.* at ¶¶ 66, 68-69, 81.

[6] *Id.* at ¶¶ 85, 87-92.

[7] *Id.* at ¶¶ 94-97.

[8] *Id.* at ¶¶ 100-102.

[9] [Plaintiffs' Motion for Preliminary Injunction](#) at 1-2, *American Beverage Ass'n et al. v. Paxton*, No. 6:25-CV-00566-ADA-DTG (W.D.Tex. Dec. 12, 2025), Dkt. No. 6.

[10] [Ken Paxton's Memorandum Response In Opposition To Plaintiffs' Motion For Preliminary Injunction](#) at 1-2, *American Beverage Ass'n et al. v. Paxton*, No. 6:25-CV-00566 (W.D.Tex Dec. 29, 2025), Dkt. No. 14.

[11] See *supra* note 2, at 7-8.

[12] [50 Tex. Reg. 6301](#) (Sept. 26, 2025).

[13] 25 Texas Admin. Code § 229.1001(b), as amended.

[14] 25 Texas Admin. Code § 229.1002(d), as amended; see also Texas Health & Safety Code 431.0815(a, f), as amended.

[15] 25 Texas Admin. Code § 229.1004(c), as amended.

[16] See Tex. Health and Human Serv., [Draft and Proposed Rules – Food Manufacturers, Wholesalers and Warehouses – SB 25](#).