

Legislative happenings

There is a bill in the NYS Legislature to establish a Standard of Identity for honey. This bill proposes to amend the current NYS Department of Agriculture and Markets Law regarding honey and establish a new state Standard of Identity for honey. I have included the text of the current regulation and a copy of the proposed changes, along with some comments that point to a number of potential issues that were unclear to me. This would be a good topic to discuss at the next meeting of your bee association. If you would like to comment on the proposed changes, you should contact Senator Griffo or Assemblyman Magee (contact info included). It's a lot easier to speak up now than after it is made into law.

NYS Department of Ag and Markets Honey Regulations

CURRENT LAW:

§ 205. Defining honey. The terms "honey," "liquid or extracted honey," "strained honey," or "pure honey," as used in this article, shall mean the nectar of flowers that has been transformed by, and is the natural product of the honey-bee, taken from the honeycomb and marketed in a liquid, candied or granulated condition.

§ 206. Relative to selling a commodity in imitation or semblance of honey. No person or persons shall package, label, sell, keep for sale, expose or offer for sale, any article or product in imitation or semblance of honey depicting thereon a picture or drawing of a bee, beehive or honeycomb, or branded as "honey," "liquid or extracted honey," "strained honey" or "pure honey" which is not pure honey. No person or persons, firm, association, company or corporation, shall manufacture, sell, expose or offer for sale, any compound or mixture branded or labeled as and for honey which shall be made up of honey mixed with any other substance or ingredient. There may be printed on the package containing such compound or mixture a statement giving the ingredients of which it is made; if honey is one of such ingredients it shall be so stated in the same size type as are the other ingredients, but it shall not be packaged, sold, exposed for sale, or offered for sale as honey; nor shall such compound or mixture be branded or labeled with the word "honey" in any form other than as herein provided; nor shall any product in semblance of honey, whether a mixture or not, be sold, exposed or offered for sale as honey, or branded or labeled with the word "honey," unless such article is pure honey. A product which is in semblance or imitation of liquid honey shall be labeled as "honey flavored syrup" or "artificially honey flavored syrup", as is appropriate.

PROPOSED LAW:

Sponsor: [GRIFFO](#) / **Co-sponsor(s):** [LARKIN](#), [RANZENHOFER](#), [RITCHIE](#)
BILL NUMBER: S3321 **Same as:** A5164 / **Versions:** S3321-2011

TITLE OF BILL:

An act to amend the agriculture and markets law, in relation to the definition of honey and standards for honey sold in this state; and to repeal section 205 of such law relating thereto

PURPOSE OR GENERAL IDEA OF BILL:

This legislation would define honey and provide standards of identity for honey sold in this state.

SUMMARY OF PROVISIONS:

This bill would repeal and add section 205 of the agriculture and markets law to define honey and standard for honey sold in this state.

JUSTIFICATION:

New York's honey industry is one of the nation's largest, ranking 12th in total production in 2009 and serving as the Northeast's largest beekeeping state. New York has always been a strong advocate in protecting the purity of honey and supporting the beekeepers across this State. Laws protecting honey bees first appeared in New York Statutes in 1883, and laws against adulteration and misbranding of honey go back as far as 1902. New York honey producers are facing destruction without definitive standards of identity for honey to preserve the wholesomeness of honey in the eyes of the consumer and to provide possible civil recourse when the honey is found to be adulterated. Adulteration hurts the reputation of honey as a high quality wholesome and natural food, imperils the viability of beekeepers and packers through unfair competition, and threatens the health and confidence of consumers. There is no doubt that this legislation would help to protect our beekeepers and honey producers from unfair mixing, blending and sale of cheap inferior products. Providing a standard of identity for honey will allow beekeepers to create self-enforcement within their industry and protection for the consumer, nature's perfect food.

LEGISLATIVE HISTORY:

New Bill.

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

This act takes effect immediately.

S3321-2011 Text

STATE OF NEW YORK

3321
2011-2012 Regular Sessions
IN SENATE
February 16, 2011

Introduced by Sens. GRIFFO, LARKIN, RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture AN ACT to amend the agriculture and markets law, in relation to the definition of honey and standards for honey sold in this state; and to repeal section 205 of such law relating thereto THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1.

Section 205 of the agriculture and markets law is REPEALED
and a new section 205 is added to read as follows:

S 205. HONEY. 1. FOR PURPOSES OF THIS ARTICLE, THE FOLLOWING TERMS
SHALL HAVE THE FOLLOWING MEANINGS:

A. "HONEY" SHALL MEAN THE NATURAL SWEET SUBSTANCE PRODUCED BY HONEY
BEES FROM THE NECTAR OF PLANTS OR EXCRETIONS OF PLANT SUCKING INSECTS ON
THE LIVING PARTS OF PLANTS, WHICH BEES COLLECT, TRANSFORM BY COMBINING
SUCH SUBSTANCE WITH SPECIFIC SUBSTANCES OF THEIR OWN, DEPOSIT, DEHY
DRATE, STORE, AND LEAVE IN THE HONEYCOMB TO RIPEN AND MATURE.

B. "BLOSSOM HONEY" OR "NECTAR HONEY" SHALL MEAN THE HONEY THAT COMES
FROM THE NECTAR OR NECTARS OF A PLANT OR PLANTS.

C. "HONEYDEW HONEY" MEANS THE HONEY THAT COMES PRIMARILY FROM THE
EXCRETIONS OF PLANT SUCKING INSECTS (HEMIPTERA) ON LIVING PARTS OF
PLANTS.

2. HONEY SHALL CONSIST OF DIFFERENT SUGARS, PREDOMINANTLY FRUCTOSE AND
GLUCOSE, AS WELL AS OTHER SUBSTANCES, INCLUDING, BUT NOT LIMITED TO
ORGANIC ACIDS, ENZYMES, AND SOLID PARTICLES DERIVED FROM HONEY
COLLECTION. THE COLOR OF HONEY MAY VARY FROM NEARLY COLORLESS TO DARK
BROWN. THE CONSISTENCY OF HONEY MAY BE FLUID, VISCOUS, OR PARTIALLY TO
COMPLETELY CRYSTALLIZED. THE FLAVOR AND AROMA OF HONEY MAY VARY BUT
SHALL BE DERIVED FROM PLANT ORIGIN.

3. HONEY SOLD IN THIS STATE SHALL MEET THE STANDARDS SET FORTH IN THIS
SECTION AND SHALL NOT HAVE ADDED TO IT ANY FOOD INGREDIENT, INCLUDING
EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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FOOD ADDITIVES, NOR SHALL ANY OTHER ADDITIONS OR ADDITIVES BE MADE TO
SUCH HONEY. HONEY SHALL NOT HAVE ANY FOREIGN MATTER, OR ANY FLAVOR,
AROMA, OR TAIN ABSORBED FROM FOREIGN MATTER DURING ITS PROCESSING AND
STORAGE. HONEY SHALL NOT HAVE BEGUN TO FERMENT OR EFFERVESCE AND NO
POLLEN OR CONSTITUENT PARTICULAR TO HONEY MAY BE REMOVED EXCEPT WHERE
UNAVOIDABLE IN THE REMOVAL OF FOREIGN ORGANIC OR INORGANIC MATTER. HONEY
MAY CONTAIN THE HIVE PRODUCTS BEESWAX AND PROPOLIS.

4. HONEY SOLD IN THIS STATE SHALL MEET THE FOLLOWING STANDARDS:

A. HONEY SHALL NOT BE HEATED OR PROCESSED TO SUCH AN EXTENT THAT ITS
ESSENTIAL COMPOSITION IS CHANGED OR ITS QUALITY IMPAIRED.

B. CHEMICAL OR BIOCHEMICAL TREATMENTS SHALL NOT BE USED TO INFLUENCE
HONEY CRYSTALLIZATION.

C. HONEY SHALL NOT CONTAIN MORE THAN 18.6 PERCENT MOISTURE CONTENT.

D. HONEY SHALL NOT CONTAIN LESS THAN SIXTY PERCENT FRUCTOSE AND

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GLUCOSE, COMBINED.

E. HONEYDEW HONEY AND BLENDS OF HONEYDEW HONEY WITH BLOSSOM HONEY SHALL NOT CONTAIN LESS THAN FORTY-FIVE PERCENT FRUCTOSE AND GLUCOSE, COMBINED.

F. BLOSSOM HONEY SHALL NOT CONTAIN MORE THAN FIVE PERCENT SUCROSE, EXCEPT FOR THE FOLLOWING:

(I) ALFALFA (MEDICAGO SATIVA), CITRUS SUBSPECIES, FALSE ACACIA (ROHITAKIA PSEUDO ACACIA), FRENCH HONEYSUCKLE (HEDYSARUM), MENZIES BANKSIAS (BANKSIA MENISCI), RED GUM (EUCALYPTUS CAMALDULENSIS), LEATHERWOOD (EUCRYPHIA LUCIDA), AND EUCRYPHIA MILLIGANI MAY CONTAIN UP TO TEN PERCENT SUCROSE.

(II) LAVENDER (LAVANDULA SPP.) AND BORAGE (BORAGE OFFICINALIS) MAY CONTAIN UP TO FIFTEEN PERCENT SUCROSE.

S 2.

Section 206 of the agriculture and markets law, as amended by chapter 423 of the laws of 1979, is amended to read as follows:

S 206. Relative to selling a commodity in imitation or semblance of honey. No person or persons shall package, label, sell, keep for sale, expose or offer for sale, any article or product in imitation or semblance of honey depicting thereon a picture or drawing of a bee, beehive or honeycomb, or branded as "honey," "liquid or extracted honey," "strained honey" or "pure honey" which is not [] honey AS SUCH TERM IS DEFINED IN SECTION TWO HUNDRED FIVE OF THIS ARTICLE. No person or persons, firm, association, company or corporation, shall manufacture, sell, expose or offer for sale, any compound or mixture branded or labeled as and for honey which shall be made up of honey mixed with any other substance or ingredient. There may be printed on the package containing such compound or mixture a statement giving the ingredients of which it is made; if honey is one of such ingredients it shall be so stated in the same size type as are the other ingredients, but it shall not be packaged, sold, exposed for sale, or offered for sale as honey; nor shall such compound or mixture be branded or labeled with the word "honey" in any form other than as herein provided; nor shall any product in semblance of honey, whether a mixture or not, be sold, exposed or offered for sale as honey, or branded or labeled with the word "honey," unless such article is [] honey AS SUCH TERM IS DEFINED IN SECTION TWO HUNDRED FIVE OF THIS ARTICLE. A product which is in semblance or imitation of liquid honey shall be labeled as "honey flavored syrup" or "artificially honey flavored syrup", as is appropriate.

S 3. This act shall take effect immediately.

COMMENTS on the STANDARD OF IDENTIFY for HONEY:

A Standard of Identity (SOI) is a good idea that can protect producers, packers and consumers alike. The SOI is designed to stop the pervasive, illegal practice of blending, diluting and/or otherwise adulterating pure honey with low-cost sweeteners (i.e., sugar, cane, corn, etc.) and committing fraud on the residents of NY. Adulteration is a significant issue, but as important as it is to prevent this practice, it is important that it be done right so that it does not come back to bite any of the state's stakeholder groups: producers, packers and consumers. As I read through the proposed legislation and standards approved by other states, it became evident that there were some important changes as well as some ambiguities in the language. Here are a few items that caught my attention:

1. "HONEY" SHALL MEAN THE NATURAL SWEET SUBSTANCE PRODUCED BY HONEY BEES FROM THE NECTAR OF PLANTS OR EXCRETIONS OF PLANT SUCKING INSECTS ON THE LIVING PARTS OF PLANTS

The current definition of honey requires that honey be produced from the nectar of blossoms. The proposed definition changes the current definition to allow honeydew, which is made from the excretions of plant-sucking insects such as aphids, to be sold as honey. This is the same standard used in the Codex Standard of Identify for Honey (Joint FAO/WHO Food Standards Programme). While the proposed legislation defines both Blossom Honey and Honeydew Honey and includes both under the definition of HONEY, it does not require the label to specify whether the HONEY is Blossom Honey or Honeydew Honey. There are many stakeholder groups with varying interests in this matter. Some may consider a product made from the excretions of insects to be undesirable. Consumers may want to know whether they are buying Blossom Honey or Honeydew Honey. Under the proposed legislation, they will not be able to make that distinction. The SOI from FL and from UT do not include honeydew under the definition of honey. One problem that the proposed legislation addresses is the ability or inability of the producer to make the distinction between the two sources of sugar.

1. HONEY SHALL NOT HAVE BEGUN TO FERMENT OR EFFERVESCE AND NO POLLEN OR CONSTITUENT PARTICULAR TO HONEY MAY BE REMOVED EXCEPT WHERE UNAVOIDABLE IN THE REMOVAL OF FOREIGN ORGANIC OR INORGANIC MATTER [underlining mine]: ☞ The amount of pollen in honey depends, in part, on how careful beekeepers are in segregating out combs that contain pollen prior to extraction. Most honey on the market is filtered to some degree; and in the process, naturally occurring pollen grains are removed from the honey. Does filtering honey produce a product that cannot legally be marketed as honey, or does this fall under the 'WHERE UNAVOIDABLE' clause? If it does, can this section be enforced? A packer could simply claim that the removal of the pollen was unavoidable in the process of filtering to the degree s/he required. Additionally, pollen could be considered a contaminant and may pose problems to those with allergies to pollen. The proposed changes would seem to prevent a producer from marketing pollen-free honey.

The motivation for this is unclear. It could reflect the beliefs of those who feel that honey should not be processed or changed in any way after it comes out of the comb.

Alternatively, it may be there to allow the country of origin of the honey to be identified (e.g. China versus US) by identifying pollen grains in the honey specific to each country. This would prevent foreign countries from avoiding our import regulations by laundering their honey through another country.

2. HONEY MAY CONTAIN THE HIVE PRODUCTS BEESWAX AND PROPOLIS:
☞ The quantities of beeswax and propolis that are allowed in honey are not specified.
3. HONEY SHALL NOT BE HEATED OR PROCESSED TO SUCH AN EXTENT THAT ITS ESSENTIAL COMPOSITION IS CHANGED OR ITS QUALITY IMPAIRED:
☞ As far as I know, there is no definition of the 'essential composition' or 'quality' of honey. Hence, it is not clear how it would be determined that the essential composition has been changed or the quality impaired. Many would argue that any heat applied to honey changes its essential composition and damages its quality.
4. HONEY SHALL NOT CONTAIN MORE THAN 18.6 PERCENT MOISTURE CONTENT: ☞ This requirement does not agree with requirements set by other states in their SOI documents. For example, Florida allows honey to have up to 23% moisture content. So, if I blend a product that is 20% water with honey that is 16% water, have I added a contaminant to the 16% honey? The USDA system for grading honey classifies honey with greater than 18.6% moisture but not more than 20% moisture as Grade C. Honey with moisture greater than 20% is Grade Sub-standard.
5. HONEY EXPORTS: ☞ The US exports around 9-10 million pounds of honey each year. If the SOI that is adopted conflicts with those of the EU or other countries, those exports may no longer be permitted. The SOIs being adopted around the country are based on the CODEX Standard of Identity for Honey referenced above, but each state seems to have made minor changes.
6. STATE BY STATE LEGISLATION: ☞ State by state standards may result in different standards in different states, thereby making honey from one state illegal to sell as honey in another state. A review of standards passed in other states reveals differences that could prevent NY honey from being sold in those states that do not include honeydew in their definition of honey. In some respects, a federal SOI would solve many of the problems created by individual state standards; but you can read the case for state standards at:
<http://www.americanhoneyproducers.org/standards/Nancy%20Gentry%20Speech%201-8-2009%20Fresno.pdf> (Hold CTRL key down while left clicking with mouse).

The proposed legislation seeking to establish a Standard of Identify for Honey is a good starting point toward that end, and the initiators of this proposal along with the legislative sponsors should be commended for taking an interest in a subject of importance to every beekeeper, packer and consumer. The subject should make for a good discussion at the next meeting of your local bee association. If you feel that it can be improved, or if you need clarifications, you should contact the sponsors (see next page for contact information).

**Contact Information for State Senate and Assembly Chairs
of Respective Agriculture Subcommittees**

**Senator Joseph A. Griffo
Chair
NYS Senate Agriculture Subcommittee**

Albany Office
188 State Street Room 612, Legislative Office Building
Albany, NY 12247
United States
Phone: (518) 455-3334
Fax: (518) 426-6921

District Office
207 Genesee Street Room 408
Utica, NY 13501
United States
Phone: (315) 793-9072
Fax: (315) 793-0298

Email address: griffo@nysenate.gov

**Assemblyman William Magee
Chair
Assembly Agriculture Subcommittee**

District Office
214 Farrier Avenue
Oneida, NY 13421
315-361-4125
District Office

Oneonta Phone
607-432-1484

Albany Office
LOB 828
Albany, NY 12248
518-455-4807