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# HOWARD MARKLEIN

STATE SENATOR • 17<sup>TH</sup> SENATE DISTRICT

**October 24, 2019**

## **Senate Committee on Agriculture, Revenue and Financial Institutions Testimony on Senate Bill (SB) 463, SB 464, and SB 466**

Thank you committee members for hearing Senate Bill (SB) 463, SB 464, and SB 466, which create truth in food labeling laws to support Wisconsin's agriculture economy and alleviate consumer confusion.

My Senate district is one of the most agriculture-dependent districts in Wisconsin. I consistently hear from farmers that they are growing increasingly frustrated with the number of imitation products that are on the market. Walk into most grocery stores and the "2% Milk" will be sitting right next to the "Soy Milk" and "Almond Milk". Imitation dairy products, such as imitation cheese, butter, and ice cream, are all in close proximity to each other on shelves. In restaurants, the 100% plant-based "Impossible Burger" is listed under the "Hamburger" section of the menu. This is not right.

In fact, the Wisconsin Cheesemakers, Edge Dairy Farmer Cooperative and the Dairy Farmers of Wisconsin recently conducted a study to determine whether consumers know the difference between real cheese and plant-based, imitation "cheese". They found that 48% of people surveyed thought that fake, plant-based "cheese" was actually real cheese!

In response, I have introduced these three bills to tell the truth in food labeling. I want consumers to know what they are buying and eating. I want consumers to know the differences between the real, nutritious products grown and made by our farmers versus the fake, lab-grown, plant-based products that are passing for milk, meat, cheese, ice cream and other dairy products in our state. I want consumers to fully recognize the nutritional differences between real dairy and meat versus imitation food by the same name.

SB 463, the truth in dairy product labeling bill, will ensure that if a package says "cheese" or "yogurt", the product actually has dairy in it. 90% of Wisconsin's milk goes into cheese. It is concerning that many consumers don't know the difference between which products contain milk and which do not. This confusion, oftentimes without the consumer knowing otherwise, hurts Wisconsin's dairy industry. Wisconsin would be the first state to pass a truth in labeling law for dairy products!

SB 464, the truth in meat labeling bill, will make labeling plant-based meat alternatives and cell-cultured meat alternatives as "meat" or a similar term, such as "burger", "sausage", "chicken wing", or "bacon", illegal. This legislation would apply to packaging on products sold in stores, menus in restaurants, and promotional materials.

Similar legislation is now law in at least 11 other states including North Dakota and South Dakota and been introduced in at least a dozen other states including Iowa, Indiana, and Illinois.

SB 466, the truth in milk labeling bill, will ensure that the only products that can be labeled as “milk” come from a cow or other hooved or camelid mammal, such as a goat. Plant-based products would need to be labeled as “drink” or “beverage”. This bill is modeled after similar legislation in North Carolina and Maryland, both of which have passed milk labeling laws in the last two years.

To alleviate interstate commerce concerns and align with the North Carolina and Maryland laws, the milk labeling law would only go into effect after at least 10 out of a group of 15 states pass similar legislation by June 30, 2031. I have also introduced an amendment to enact the same multi-state requirement for SB 463, dairy product labeling, at the request of stakeholders.

I know these bills aren’t a silver-bullet that will solve the problems for our ag-economy, but they are something we can do to protect and promote real agriculture products to consumers. These bills will also put pressure on the federal government to take action on existing food labeling regulations that aren’t being enforced.

SB 463, SB 464, and SB 466 have broad support from agriculture groups across the state including the Wisconsin Farm Bureau Federation, the Dairy Business Association, the Wisconsin Cheese Makers Association, the Wisconsin Cattlemen’s Association, and the Wisconsin Pork Association. Thank you again to the committee for hearing this proposal, and your timely action on the bill.



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# LOREN OLDENBURG

STATE REPRESENTATIVE • 96<sup>th</sup> ASSEMBLY DISTRICT

## Senate Bills 463, 464 & 466

Relating to: labeling a dairy products, meat & milk and granting rule making authority

**Senate Committee on Agriculture, Revenue and Financial Institutions**

**October 24, 2019**

Good Morning, Chairman Marklein, Vice-Chair Petrowski, and committee members. I want to thank you for your willingness to hear Senate Bills 463, 464 & 466. These three bills affectively protect the labeling of genuine dairy products, meat & milk.

It is incredibly important that we protect consumers so that they know what they are getting from the food that they purchase. Allowing for the clear and defined packaging of dairy products, meat and milk will help to protect the identity of these whole foods.

Dairy products, meat & milk are the high quality, high protein, high nutrition safe foods that Wisconsin is known for across the globe. Senate Bills 463, 464 & 466 help to protect these foods, and the farmers who work to provide them to people like us during tough times in the agricultural industry.

Wisconsin is not the first state to have labeling legislation introduced. For example, Senate Bill 464 - the meat labeling bill, similar legislation is actually law in 11 states including North and South Dakota. Generally, these bills have been passed with broad bipartisan support. Iowa, Illinois, Indiana and at least 12 other states have also introduced similar legislation.

With the increasing presence of 100% plant based options at grocery stores and restaurants it is important that we take the steps to have clear labeling so we can help Wisconsin's agricultural industry and so that consumers are fully aware of the nature of the products they are purchasing.

The entire truth in food labeling package is supported by agriculture industry associations. If Wisconsin passes these bills we will protect meat, milk & dairy products. The dairy product labeling law will be the first law in the country to protect real dairy products.

It is important that we protect both Wisconsin's vital agriculture industry and consumers by passing the truth in labeling package. Thank you again for hearing Senate Bill 463, 464 & 466.



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## Testimony in Favor of Truth in Food Labeling Bills (SB 463, 464, & 466)

Thank you to Chairman Marklein, who is the lead Senate author on this legislation and is testifying in favor with me today, as well as all the committee members for letting me speak in support of the three "Truth in Food Labeling" bills.

It is no secret that our farmers are struggling. Too often, we hear stories of farms going bankrupt because farmers are no longer able to sustain a healthy business. As a farmer myself, I understand the struggles farmers face. This important legislation is a relatively easy, and common-sense way to help farmers succeed.

The first bill I want to talk about is Senate Bill 463, relating to the labeling of dairy products. Basically, if a product is labeled as a dairy product, the bill would require that it actually contain dairy. This legislation will help clear up confusion among consumers, while supporting our dairy farmers. A recent study found that nearly half of consumers thought that imitation, plant-based cheese, was real cheese! This is extremely concerning. Not only are consumers not aware what they are eating, but farmers, already suffering from unstable milk prices, struggle to compete with fake, plant-based products.

The second bill I want to talk about is Senate Bill 466, concerning the labeling of milk products. This bill will require that the only products that can be labeled as "milk", come from a cow, or other hooved or camelid animal. All plant-based products will have to be labeled "drink" or "beverage". Like SB 463, this legislation will ease confusion among consumers, while aiding our dairy farmers. Similar legislation was already passed by North Carolina and Maryland.

The final bill I would like to speak in favor of today is Senate Bill 464, regarding labeling of meat products. Essentially, the bill will require that meat alternatives not be allowed to be labeled as "meat", or "burger" for example. Similar to the other two bills, this will decrease consumer confusion, while supporting farmers. Related legislation has also already been passed with bi-partisan support in at least 11 other states.

Overall, these bills will benefit both consumers and farmers. This legislation is a relatively simple, common-sense way to help support our agriculture industry. To ease interstate trade concerns, SB 463 and SB 466 also require that at least 10 other states out of a group of 15 (listed in the bill), pass similar legislation by June 30, 2031, before the laws are enacted. SB 464 does not have this provision because at least 11 other states have already passed similar legislation.

Struggling farmers should not have to compete with misleadingly labeled products, and consumers should know exactly what they are eating. A huge thank you to Senator Marklein for taking initiative on getting this legislation introduced.

I hope members of this committee will support this important legislation. Thank you for listening to my testimony today.



DAIRY BUSINESS ASSOCIATION | DAIRY FORWARD

**Testimony in Favor of SB 463, SB 464 and SB 466  
October 24, 2019**

Good morning, my name is John Holevoet and I am the director of government affairs for the Dairy Business Association. Thank you Chairman Marklein, Ranking Member Smith and the rest of this committee for allowing me to speak with you today regarding DBA's support for Senate Bills 463, 464 and 466. We appreciate the leadership shown by Chairman Marklein in authoring this legislation and are thankful for everyone who signed on as a co-sponsor of these bills.

DBA represents all aspects of the dairy community. Our membership includes dairy farmers, dairy processors, and a variety of other businesses that help to make farmers and processors successful in our state. This means our members have an interest in the subject matter of all three of these bills. Together, they produce milk and dairy products and, of course, every dairy farmer is also a beef producer.

These bills are meant to promote fairness in the marketplace and ensure that consumers have the correct information they need to make informed buying decisions. We are not seeking to remove the offending products from the shelves. These products have a certain market share and we do not begrudge them that. We merely object to them building their market share by misusing the good name of wholesome products that we have spent many years and much money to promote. In jurisdictions that have enforced sensible labeling protections, we have seen that plant-based products continue to do well. For example, in Canada, you will not have an issue finding almond drink in your local grocery store and it sells just fine without misappropriating the name milk.

Giving consumers good information starts by accurately labeling food products. It is not too much to ask that food products meet the standards of identity reflected by the product's name. Indeed, that seems like the very least we can do. Milk is very clearly defined in federal law as: "the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows." Imitation products that do not meet this definition should not be allowed to be labeled as "milk." Yet, the federal government has refused to enforce existing law. The problem is similar for other dairy products. For example, existing federal law contains a standard of identity for cheese and it is clear that cheese should be made from milk. However, non-dairy products that label themselves cheese, mozzarella, cheddar and the like are finding their way into American grocery stores.

This failure to enforce labeling requirements has gone on far too long. The dairy community has repeatedly voiced concerns, but the Food and Drug Administration has not acted. Consumers agree that clarity is needed. According to a 2018 National Tracking Poll, respondents said "milk" should not be used to market non-dairy beverages by over a two-to-one ratio. A subsequent survey conducted by IPSOS, a global market research and consulting firm, found that 80 percent of people believe plant-based beverages should not be labeled as milk. Even a majority of those consumers that buy plant-based beverages agreed. People want honest and accurate information on their food. They need it to make healthy and nutritionally-sound food purchasing decisions

for their families. The IPSOS survey mentioned earlier found that more than one-third of consumers incorrectly believed that plant-based beverages have the same or more protein than milk when milk actually contains up to eight times as much protein as imitation products.

DBA's affiliated co-op, Edge Dairy Farmer Cooperative, partnered with the Wisconsin Cheese Makers Association and Dairy Farmers of Wisconsin to commission a survey specifically looking at plant-based foods that are meant to mimic cheese. I have provided a summary document of the survey's findings with my written testimony. The survey results indicate that consumer confusion over what these products contain and how they compare nutritionally to real dairy is even greater than in the beverage space. Nearly one-quarter of those surveyed thought the plant-based products contained milk. About half of those shown products meant to imitate mozzarella and cheddar cheese thought the products were real cheese.

When it comes to comparing the nutritional value, those surveyed fared poorly. More than a third thought a plant-based product that imitated mozzarella slices contained protein and calcium. The product actually contains neither. This bad information caused by dishonest labeling hurts not just dairy farmers and processors, but also the consumers of these inferior products. Dairy foods are well-known as an important part of a healthy diet, with milk, cheese and yogurt providing nine key nutrients. The 2015-2020 Dietary Guidelines for Americans concluded that most Americans under consume dairy and do not get enough of several nutrients of concern, including vitamin D, calcium and potassium.

I ask you to please support these bills. They will help to protect our dairy and meat industries from being unfairly undermined by mislabeled products. They will also help all Wisconsinites to make better nutritional choices at the grocery store when faced with a proliferation of imitation products that do not have the same nutrients as those items they attempt to mimic. The federal government's failure to enforce existing standards of identity for milk and other dairy products has made it necessary for states like Wisconsin to act. Their failure to stand up for proper labeling of dairy products also raises concerns about how well they will be able to handle emerging labeling concerns about plant-based products that imitate meat as well as lab-grown cultured tissue. Hopefully, by states taking action regarding meat labeling now, we can prevent the abject failure to protect farmers, processors and consumers that has occurred in the dairy space.



DAIRY BUSINESS ASSOCIATION | DAIRY FORWARD

**Testimony in Favor of SB 463, SB 464 and SB 466  
October 24, 2019**

Good morning, my name is Tom Crave. I am president of the Dairy Business Association. I want to thank Chairman Marklein and the rest of the committee for giving me the opportunity to speak with you today regarding these three labeling bills.

Together with my family, I run a dairy farm and farmstead cheese factory north of Waterloo in Dodge County. This gives me an interest in each of the three bills being considered at today's hearing. We have a hand in producing milk, dairy products and meat.

First, I want to speak to you regarding SB 466, the milk labeling bill. It is long past time that Wisconsin enact this type of legislation. Existing federal rules are supposed to limit the use of the word milk to describe what is obtained by milking cows. Sadly, the law has not been enforced by the Food and Drug Administration and non-dairy beverage makers have illegally misappropriated the term milk to help market their products. This is unfair to dairy farmers, who spend millions of dollars each year promoting milk through a mandatory checkoff program. Plant-based beverage makers that use the term milk on their labels and packaging are taking advantage of the significant investment dairy farmers have made without having to shoulder any of the costs.

Milk might have been the first dairy product to have its name stolen, but it is far from the last. Other dairy products are increasingly facing similar challenges from products that sell themselves as cheese, ice cream or yogurt, but do not contain any dairy. All these products have existing standards of identity rooted in federal law. Indeed, the Wisconsin statute that deals with dairy products refers to these federal standards. As with milk, plant-based product manufacturers are imitating our products and riding on our marketing coattails. Of all the states in the country, Wisconsin, America's Dairyland, should be at the forefront of standing up to protect our dairy farmers and processors.

Even worse, consumers are being misled about what they are buying. Some consumers who buy plant-based products with names that include terms like milk or cheese think they are getting real milk and cheese or that the products at least contain some dairy. This has been repeatedly shown by consumer research. More common, but just as troubling, consumers might understand the product does not contain dairy, but they assume the product will be nutritionally equivalent to the real dairy product it is meant to be imitating. This is not the case and consumers are being adversely impacted. A mother who buys her child a plant-based beverage because she thinks it will provide roughly the same vitamins, calcium and protein as milk has been misled and is shortchanging her child.

The labeling fight over milk has been going for years and the fight for fair labeling of dairy products and their imitators has been gaining steam. The next labeling fight is almost certainly going to be over meat. Disagreements exist over what terms should be used to describe both



plant-based products that imitate meat and lab-grown cultured tissue. Wisconsin would be a leader in taking a stand in this area, but that kind of leadership will hopefully head off the type of confusion we now see in the areas of milk and dairy products. Instead of trying to have our laws catch up to technology, helping to clarify the standards over what can be fairly labeled as meat would give us an advantage over other jurisdictions that will eventually have to wrestle with this issue later.

I urge you all to support these three common sense bills. The broad support shown for them makes it clear that this is not a partisan issue. Fair labeling of our agricultural products is a Wisconsin issue. Agriculture is one of the most important parts of our state's economy. Dairy alone generates nearly \$50 billion each year in economic activity in Wisconsin. It only makes sense for our lawmakers to step up to protect this important economic driver from labeling issues that undermine it.

Thank you for your time and attention to this matter. I would be happy to answer any questions that you may have.





## Dean Foods Statement

**Wisconsin State Legislature  
Senate Committee on Agriculture, Revenue and Financial Institutions  
Public Hearing on SB 463, SB 464 and SB 466  
Bills relating to labeling food as a type of milk, dairy product or dairy ingredient and granting  
rule-making authority**

**October 24, 2019**

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Dean Foods strongly supports the proposed bills, specifically SB 463 and SB 466, which would address the mislabeling of imitation dairy products. In the absence of any action at the federal level, we applaud action being taken at the state level to ensure that the regulations are properly enforced.

There are plant-based products called “milk” on grocery store shelves today that don’t include a single drop of dairy. Even worse, consumers are being misled into believing that these imitation products are as healthy as their dairy counterparts. We thank the sponsors of this legislation for taking action and for standing up for the dairy industry, for Wisconsin’s dairy farmers, for the integrity of our milk products, and for the families who rely on them for adequate nutrition.

### **Dean Foods Position:**

Dean Foods supports enforcement by the U.S. Food & Drug Administration (FDA) of existing Standards of Identity regulations (21 CFR Parts 130 – 135) that exclusively reserve the use of dairy terminology to standardized dairy products (21 CFR Parts 101.3, 101.4). We oppose the current practice that enables plant-based products, which are often nutritionally inferior and positioned as dairy substitutes in the marketplace, to utilize dairy terms, including ‘milk’, on products that contain no milk and do not meet standardized definitions for dairy products, as defined by the FDA.

The Dean Foods family of brands provides some of the most nutritious products in the grocery store. We are proud of the role we play in bringing wholesome, good-for-you products to consumers. Nutrition and public health experts agree that milk and dairy products are an important part of a healthy diet, providing calcium, Vitamin D and a host of other nutrients naturally.

With this in mind, we believe it is wrong that many plant-based products are marketed using milk’s good name, yet are lacking many of the inherent nutrients of their dairy counterparts. While milk and milk products are legally obligated to abide by FDA regulations with respect to use of dairy terms, most of our plant-based competitors are running afoul of these same regulations and are given free rein to innovate with various formulas and ingredient profiles and label the product in whichever way they choose.

We recognize that consumers may choose to purchase plant-based products for a variety of reasons and we support consumers having options from which to choose – both dairy and plant-based products alike. We believe these products can and should co-exist; however, plant-based dairy imitators and alternatives must be properly labeled.

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## About Dean Foods:

Dean Foods is a leading food and beverage company and the largest processor and direct-to-store distributor of fresh fluid milk and other dairy and dairy case products in the United States. Headquartered in Dallas, Texas, the Dean Foods portfolio includes DairyPure®, the country's first and largest fresh, white milk national brand, and TruMoo®, the leading national flavored milk brand, along with well-known regional dairy brands such as Alta Dena®, Berkeley Farms®, Country Fresh®, Dean's®, Friendly's®, Garelick Farms®, LAND O LAKES®\* milk and cultured products\*, Lehigh Valley Dairy Farms®, Mayfield®, McArthur®, Meadow Gold®, Oak Farms®, PET®\*\*, T.G. Lee®, Tuscan® and more. In all, Dean Foods has more than 50 national, regional and local dairy brands as well as private labels. Dean Foods also makes and distributes ice cream, cultured products, juices, teas, and bottled water. Approximately 15,000 employees across the country work every day to make Dean Foods the most admired and trusted provider of wholesome, great-tasting dairy products at every occasion. For more information about Dean Foods and its brands, visit [www.deanfoods.com](http://www.deanfoods.com).

\*The LAND O LAKES brand is owned by Land O'Lakes, Inc. and is used by license.

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