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# HOWARD MARKLEIN

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

**March 10, 2021**

**Assembly Committee on Agriculture**

**Testimony on Assembly Bill (AB) 73, AB 74, and AB 75**

Thank you committee members for hearing Assembly Bill (AB) 73, AB 74, and AB 75, 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.

AB 73, 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!

AB 74, 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. AB 73, also includes the multi-state requirement for dairy product labeling, at the request of stakeholders.

AB 75, 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.

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.

AB 73, AB 74, and AB 75 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 these proposals, and your timely action on the bills.



March 10, 2021

To: Members of the Wisconsin State Assembly

Re: Opposition to AB 73, 74, 75

The Plant Based Foods Association (“PBFA”) must register our opposition to AB 73, 74, 75. As presently drafted, each bill presents a misguided attack on innovation and all food producers’ free speech rights to use words and phrases that consumers understand.

PBFA was founded in 2016 to represent a rapidly growing industry comprised of companies producing plant-based meat, egg, and dairy. The association has quickly grown to include more than 180 members, ranging from small start-up food companies to established national brands to ingredient suppliers and restaurants. Many PBFA members make and sell plant-based dairy, including plant-based milks, cheeses, yogurts, and ice cream.

AB 73, 74, 75 are unnecessary, unconstitutional, and misguided. Each bill presents an attempt to impose new restrictions on how plant-based companies communicate with their customers, infringing on their First Amendment rights to label their foods with clear, non-misleading terms.

Companies selling plant-based foods use easy-to-understand, clear, and descriptive language on their labels, including words such as “yogurt,” “milk,” and “sausage” with well-understood qualifiers. Plant-based milk and dairy use qualifiers such as “non-dairy” and “dairy-free,” while plant-based meats use language including “meatless” and “meat-free.” All segments of the plant-based market can utilize the term “plant-based” to make their labels clear to consumers.

We present the following as justification for our opposition, and ask for your opposition, to AB 73, 74, 75.

### **First Amendment Issues**

Our members are in full compliance with current FDA requirements. Attempts to impose new restrictions such as these run afoul of First Amendment protections allowing companies to label their foods with clear, non-misleading terms. Because the First Amendment prevents the government from restricting the free flow information to consumers except in extremely narrow circumstances, laws such as proposed in AB 73, 74, 75 are unlikely to withstand constitutional scrutiny.

For example, an Ohio law that precluded use of word “butter” in labeling or advertising any product that was made in imitation of or substitute for butter, without regard to whether such use was misleading, was ruled unconstitutional. *Lever Bros. Co. v. Maurer*, 712 F. Supp. 645 (S.D.

Ohio 1989). Likewise, a Washington law prohibiting use of dairy terms in advertising margarine was deemed *per se* violative of the First Amendment.

*Anderson, Clayton & Co. v. Washington State Dep't of Agric.*, 402 F. Supp. 1253 (W.D. Wash. 1975). In recent years, the Supreme Court has affirmed and re-affirmed that these types of restrictions are unconstitutional.

As such, each recent instance of such speech-restrictive legislation has been subject to legal challenge by a coalition of plaintiffs including some combination of PBFA, PBFA company members, the American Civil Liberties Union, the Institute for Justice, and the Good Food Institute.

Examples:

- Missouri: In 2018, Missouri enacted a law restricting the use of the word “meat,” which was subsequently challenged as unconstitutional. In the interim, the Missouri Department of Agriculture released [guidance](#) stating that it would not refer for prosecution products where labels contained qualifiers, like “plant-based” or “veggie”. And, in response to plaintiffs’ motion for preliminary injunction to stay the enforcement of the law, the State argued that the statute only prohibited use of the word “meat” on plant-based products where it lacked an appropriate qualifier. Because of the subsequently limited nature of the statute (“only prohibiting companies from misleading consumers”), the Court denied plaintiffs’ motion for preliminary injunction. The plaintiffs, however, have appealed that ruling, and the litigation continues on, creating a drain on government resources.
- Mississippi: In 2019, Mississippi enacted a law precluding plant-based food companies from use of the word “meat.” PBFA and member Upton’s Naturals with *pro bono* counsel from the Institute for Justice, a libertarian public interest law organization that seeks to protect First Amendment rights, filed a challenge to the law on the date it became effective. After several months of litigation and negotiation, the parties were able to settle the case because the State agreed to revise its proposed regulations to allow companies to use qualifiers such as “plant-based” or “vegetarian”. Again, this litigation created press for plaintiffs and negative attention for Mississippi.
- Arkansas, Oklahoma, Louisiana: In 2019 and 2020, these states each enacted various laws restricting the use of conventional terms by many alternative types of foods. In each state, a challenge was filed. In Arkansas, a federal trial court declared that the law was likely unconstitutional while granting a temporary halt in enforcement. Litigation is ongoing in Louisiana and Oklahoma. In each case, litigation is a costly, unnecessary step the risk of which may be mitigated.

To the mitigate risk of litigation, at minimum, instead of banning terms outright, AB 73, 74, 75 should be amended to allow use of qualifying terms as several states have recently done.

For example:

- In 2019, the Wyoming legislature added this language to their resulting law: “... shall .... clearly label plant based products as "vegetarian", "veggie", "vegan", "plant based" or other similar term indicating that the product is plant based.”
- In 2018, the Missouri Department of Agriculture released the following [guidance](#) describing how the agency will accept the labeling of plant-based meat alternatives: “Prominent statement on the front of the package, immediately before or immediately after the product name, that the product is “plant-based,” veggie,” or a comparable qualifier... ”.
- In September 2019, Mississippi Department of Agriculture enacted [regulations](#) that state in part: “...one or more of the following terms, or a comparable qualifier, is prominently displayed on the front of the package: “meat free,” “meatless,” “plant-based,” “veggie based,” “made from plants,” “vegetarian,” or “vegan.”

PBFA members want shoppers in Wisconsin and across the US to be clear about what they are buying. Our industry is fully committed to ensuring that consumers are fully informed, that is why the Plant Based Foods Association has established industry guidance for the labeling of plant-based meat alternatives. The standards allow for references to the type of animal meat (i.e. “meat,” “chicken,” “hamburger,” etc.) and the form of the product (i.e. “nuggets,” “burger,” etc.) along with a qualifier that clearly indicates that the food is plant based or vegetarian. These qualifiers include: “plant based,” “vegan,” “meatless,” “meat-free,” “vegetarian,” and “veggie”.

We believe that this approach ensures an open and competitive marketplace without the need for government intervention.

To avoid consumer confusion and to avoid unnecessary legal challenges, we urge you to oppose AB 73, 74, 75 or at minimum adopt amendments that conform with First Amendment protections.

For more information, please reach out to [michael@plantbasedfoods.org](mailto:michael@plantbasedfoods.org).



March 11, 2021

**Assembly Committee on Agriculture  
Testimony in favor of AB 73, AB 74 and AB 75 – dairy products, milk and, meat labeling**

My name is Chad Zuleger and I am the associate director of government affairs for the Dairy Business Association. Thank you, Chairman Tauchen, Ranking Member Considine and committee members, for holding this hearing. DBA supports these bills and appreciates the leadership of Rep. Tranel, Rep. Moses and Sen. Marklein in authoring this legislation. Additionally, we are grateful for everyone who signed on as co-sponsors.

DBA represents all aspects of the dairy community. Our membership includes dairy producers and processors along with a variety of aligned businesses that help to make farmers and producers successful in our state. Together, our members produce milk and other dairy products and, of course, every dairy farmer is also a beef producer. This means DBA members are keenly interested in all three of these bills.

The “Truth in Food Labeling” package is meant to promote fairness in the marketplace and ensure that customers have correct information needed to make informed buying decisions. We are not seeking to remove the offending products from the shelves. These products have a certain market share. We do, however, object to allowing them to build their market share by misusing the good name of wholesome and nutritious products that our producers have spent years promoting, while paying into the Milk Marketing Board for this promotion. 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 a problem finding almond beverages in your local grocery store and, they sell just fine without misappropriating the name milk.

Giving customers 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 already 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 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. Customers 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 2-to-1 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 customers who buy plant-based beverages agreed. People want honest and accurate information on the food they purchase. They need it to make healthy and nutritionally sound food-purchasing decisions for their families. The IPSOS survey also found that more than one-third of customers 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. It found 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 nutritional value, customers who were surveyed struggled. More than a third thought a plant-based product that imitated mozzarella slices contained protein and calcium. The product actually contains neither. 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, including vitamin D, calcium and potassium.

I urge your support for these bills. They will help protect our dairy and meat industries from being unfairly undermined by misleading labeling practices. They will also help Wisconsinites make informed 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 customers that has already occurred in the dairy space.

We asked 450 consumers to evaluate three plant-based foods that mimic dairy cheese to understand if the packaging and descriptions are confusing...



This is what they told us:



### CHEESE TYPE



Nearly 1/2 (48%) of consumers think that plant-based foods that mimic cheese are a cheddar or mozzarella cheese



### INGREDIENTS

1/4 (23%) of consumers think that plant-based foods that mimic cheese contain pasteurized milk.



### BUY



About 1/4 of consumers purchase plant-based foods that mimic cheese because they believe them to be low in calories (25%) and fat (26%). In reality, plant-based foods that mimic cheese contain an equal or comparable amount of fat and calories and contain substantially more additives than dairy cheeses.



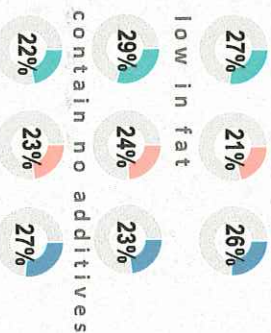
### CALCIUM

2 in 5 (41%) consumers think that plant-based foods that mimic cheese contain calcium even though the amount present is substantially less than dairy, or not present at all.



### PROTEIN

About 1/3 (36%) of consumers think that plant-based foods that mimic cheese contain protein and about 1/5 (21%) think that it is of a higher quality than dairy even though plant-based foods that mimic cheese have little to no protein.



### KEY

- plant-based food that mimics cheddar
- plant-based food that mimics mozzarella shreds
- plant-based food that mimics mozzarella slices



DATE: March 10, 2021

TO: Chairman Tauchen and  
Members of the Assembly Committee on Agriculture

FROM: Debi Towns, Sr. Director of Government Relations  
WI Farm Bureau Federation

RE: Support for Assembly Bills 73, 74, & 75 – Truth in labeling for Dairy Products,  
Milk and Meat

Good morning and thank you for this opportunity to speak on Assembly Bills 73, 74, and 75 relating to the labeling of Dairy Products, Milk and Meat, respectively. I will talk about all three in this testimony as the Wisconsin Farm Bureau Federation is supporting all three bills and our rationale is the same for all three bills.

As food producers in an international marketplace, many of our members strive very hard to provide high-quality products which are recognized by that market. Among these products are fluid milk, dairy products originating from milk and meat.

Over decades, Wisconsin farmers have established a reputation in the marketplace, both domestically and internationally, for their products using the accepted definitions of “milk, dairy and meat”. The consumer could rely on these accepted definitions and confidently know that if they were purchasing “milk” it was produced by a mammal and that the label “dairy” meant the product originated with milk. Consumers also knew that if they purchased a product identified as “meat”, it originated from the flesh of animal. Consumers also know these terms are identified with quality & safety but most of all nutritional value.

At Farm Bureau, we are well aware that food product labeling is governed overall at the federal level by the Food & Drug Administration (FDA). The purpose for bringing these bills before the Wisconsin legislature at this time is to encourage Wisconsin to recognize the value of the marketplace trust our farmers have spent years building and join with other states whose food producers also rely on the accepted terminology in the markets as they currently discuss this same issue. We are anticipating that the FDA will need to take up this issue at some point in the future, and when that happens, we would like Wisconsin agriculture to be positioned to join with those who stand to protect the food markets we have worked so hard to establish.



**TO:** Assembly Committee on Agriculture

**FROM:** Jason Culotta  
President  
Midwest Food Products Association

**DATE:** March 10, 2021

**RE:** Support for Amending AB 75 – Meat Labeling

The Midwest Food Products Association (MWFP) appreciates the opportunity to comment on Assembly Bill 75 in an effort to make this legislation legally sound.

MWFP is the trade association representing food processors and their allied industries throughout Illinois, Minnesota, and Wisconsin.

AB 75 seeks to establish a labeling standard for meat that would explicitly require food products labeled as such be derived from an edible part of the flesh of an animal or any part of an insect, excepting cultured animal tissue produced from animal cell cultures.

The Association is not opposed to the purpose of AB 75 but would like to see the bill's language amended to pass constitutional muster. As drafted, similar language has been challenged in court based on constitutional grounds in multiple other states. Ultimately, two of these states revised the standards to define meat alternatives (Mississippi and Missouri) and another two continue in protracted litigation (Louisiana and Oklahoma).

Wisconsin can avoid costly and unnecessary litigation by proactively amending AB 75. The language of Senate Amendment 1 offered to companion Senate Bill 82 would place the bill in compliance with the First Amendment as other states have been forced to do.

The proposed amendment would allow labels to clearly indicate that the product does not contain meat from any animal and requires the use of terms including "plant-based," "vegan," "meatless," "meat-free," "vegetarian," "veggie," "made from plants," "veggie-based," or a comparable qualifier.

If the Committee sees fit to adopt this language and make the legislation constitutional, MWFP will withdraw its registered opposition to the bill as introduced.

Thank you for the opportunity to comment on this matter.



CONTACT: Matt Ludlow  
(608) 632-1607 / mlludlow@gmail.com

Assembly Agriculture Committee Hearing – March 10, 2021  
**Support for 2021 Assembly Bill 75 – Meat Labeling Legislation**  
Matt Ludlow, President, Wisconsin Cattlemen's Association

Representative Tauchen and Members of the Committee. My name is Matt Ludlow. My father and I operate Rush Creek Ranch, a beef cattle ranch, near Viroqua. Additionally, I am the President of the Wisconsin Cattlemen's Association. **The Wisconsin Cattlemen's Association fully SUPPORTS AB 75, legislation which would allow only products that are derived from animals to be labeled as "meat."**

The Wisconsin Cattlemen's Association is the state trade association representing Wisconsin's beef producers. Our mission statement is, "To promote the Wisconsin beef business through advocacy, leadership, and education." Our support for AB 75 is two-fold: protecting the integrity of our beef products and alleviating consumer confusion in regard to the actual labeling of products.

**Clear meat labeling standards are important to Wisconsin beef producers.** We believe that the establishment of clear labeling standards will protect the integrity of our beef products. A significant amount of time, effort, and money has been spent by our industry to establish and maintain a healthy, wholesome, and nutritious product. The proper labeling of true beef products as meat will help protect the integrity that has been established over time.

**We are concerned that unclear product labels create consumer confusion.** The National Cattlemen's Beef Association (NCBA) conducted a survey in September 2019 of almost 2,000 consumers to test confusion between alternative meat products and actual meat. The survey asked consumers questions using specific brand labels. More than half of the consumers surveyed noted confusion due to the use of the words "beef" or "meat" on the label of an entirely plant-based product. Use of the terms "beef," "meat" or "meatier" on the label of a plant-based or cell cultured products can cause consumer confusion.

We do not believe that labeling standards will interfere with technology or the development of alternative products. Proper labels will simply ensure that any alternative meat products do not mislead consumers into thinking that they are purchasing our Wisconsin-grown beef.

**Clear definitions under Wisconsin law and federal law will also help both state and federal governments know how to best regulate these products.** Regulation of food and food products is managed by multiple state and federal agencies. Although this legislation addresses labeling for consumer sales, clear definitions will likely become increasingly important as regulations evolve to address regulation of new food products, such as cultured meat or plant-based meat substitutes.

Representative Tauchen and Members of the Committee, thank you for holding a hearing on this legislation.



Wisconsin Pork Association Testimony  
Assembly Agriculture Committee Hearing – March 10, 2021  
**Support for 2021 Assembly Bill 75 – Meat Labeling Legislation**

Representative Tauchen and Members of the Committee, thank you for accepting written testimony from the Wisconsin Pork Association (WPA) expressing our **support for 2021 AB 75**, legislation which would regulate the labeling of products as “meat” in Wisconsin.

The WPA is the state trade association representing Wisconsin’s pork producers from across the state. The WPA strives to ensure the future success of the Wisconsin pork industry through representing the interests of our farmer and industry members. As an association, we put a strong emphasis on social issues, public and government policies, environmental issues, animal welfare and food safety.

**Wisconsin’s Pork Producers Support Clear Labeling Standards.** Clear labeling standards will establish standards of identity for both meat and meat-substitute products. We believe that all consumers should be able to easily identify what they are buying. They should not be confused about whether a product is pork or a plant-based product or a cultured cell product.

Plant-based Products. Technology around the development of plant-based products is trying to mimic the taste, appearance and eating experience of real pork products. They are deliberate imitations, which is fine, as long as consumers are aware that they are purchasing imitation products and not Wisconsin-raised pork. The imitation product should not be able to imitate a real meat label.

Cultured Meat Cell Products. It is equally critical that cultured meat cell products are labeled correctly when they are introduced to consumers in retail settings. Products containing only muscle cells or fat cells cannot be called “pork” without qualification. Pork has more in it than just muscle or fat cells and this is fundamental to the eating experience and nutritional profile that consumer expect to enjoy when eating our products. We want to maintain the integrity of our product in the eyes of the consumer.

**Labeling standards are important for our Wisconsin-raised pork products and will help to maintain their identity as pork – raised by Wisconsin farm families.** We are concerned that unclear product labels will create consumer confusion in the grocery store. In contrast, defined labeling guidelines can make it clear to consumers *how a food product was produced* and *what it contains*.

Thank you for allowing us to submit comments in support of AB 75.

*Dr. James Magolski, Ph.D., President*  
*Keri Retallick, Executive Vice President*  
*(608) 723-7551 / kretallick@wppa.org*



March 8, 2021

To: Members of the Assembly Agriculture Committee

Re: Opposition to AB 73, AB 74, AB 75

The Alliance for Plant Based Inclusion (APBI) must oppose the legislation noted above. These bills as drafted would unfairly and unnecessarily restrict how the makers of plant-based foods use common and usual terms to describe their products.

APBI, a coalition of the world's largest plant-based food companies is focused on ensuring policies around plant-based foods afford consumers the greatest choice, clarity, and flexibility in the marketplace. APBI supports clear and transparent marketing and labeling for plant-based foods, including allowing the use of traditional meat, dairy and seafood terms and indicators, as long as the products are clearly labeled as plant-based, or with a similar easily understood reference.

The Alliance opposes these bills because they are solutions in search of problems and will only serve to confuse rather than inform. Our companies already clearly indicate on their labels that their alternative dairy and meat products are plant-based, vegan, vegetarian, or they utilize other equivalent terms that have been understood and commonly accepted by consumers for more than 30 years. Alliance member companies want to make it clear to shoppers what it is they are buying because their successes are built upon years of trust between their brands and consumers.

Some states have enacted legislation addressing labeling of alternative protein products. However, in nearly every case, those states made allowances for the use of qualifying terms to identify them and the legislation was passed without opposition from plant-based food manufacturers.

We believe there is room in the market for everyone and that governments should not be in the position of picking winners and losers within an industry. Alliance members feel strongly that labels using terms that consumers understand is the best way to inform them while avoiding the need for government intervention.

We must respectfully oppose AB 73, AB 74 and AB 75 as introduced.

We would be happy to discuss this, please feel free to contact Dan Colegrove at (202) 329 – 6242 or at [dc@prismgroup.global](mailto:dc@prismgroup.global).

**From:** [Scott Weathers](#)  
**To:** [Rep. Tauchen](#)  
**Cc:** [Arrowood, Craig](#); [Scherdell, Derrick](#)  
**Subject:** Testimony in Opposition to AB 73, 74, and 75  
**Date:** Thursday, March 04, 2021 1:59:57 PM

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Representative Tauchen,

Please find below GFI's written testimony in opposition to AB 73, 74, and 75, which will be heard in the Assembly Agriculture Committee next Wednesday. Thank you for your time. Please let me know if there is any more information that I can provide.

Sincerely,  
Scott Weathers  
Senior Policy Specialist, The Good Food Institute

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Good morning. I'm Scott Weathers and I represent The Good Food Institute, a nonprofit organization dedicated to using markets and innovation to promote a healthy and sustainable food system. I'm here today to respectfully oppose Assembly Bills 73, 74, and 75 and any amended versions of these bills that may appear.

These bills prohibit two kinds of product labels: those that use meat and dairy terms on plant-based products, such as almond milk and veggie burgers, and those that use meat terms on meat grown directly from animal cells, commonly called "cultivated meat."

We oppose these bills for three main reasons. In short, they're unnecessary, they're unconstitutional, and they're bad for businesses and consumers here in Wisconsin. Let me go into detail on each of those points.

First, these bills are solutions in search of a problem. Despite what some might say, consumers aren't confused by plant-based foods. According to the International Food Information Council, over 90% of consumers understand that plant-based milks don't come from cows. People buy products like almond milk and black bean burgers because they know what they are — not because they believe they're something else. It's just common sense. In fact, federal law already prohibits false and misleading food labels, and anybody who's unclear about a product can easily flip the package over and read the ingredient list. It's right there in black and white. These bills suggest that consumers aren't smart enough to know what they're buying, but science and common sense say otherwise.

Second, these bills violate the Constitution. Three states that have passed similar laws have been sued on First Amendment grounds. In 2019, a federal court issued a preliminary injunction preventing enforcement of Arkansas' label censorship law — which sought to limit usage of meat terms on plant-based food labels — because it likely violates the First Amendment. The judge wrote that the plaintiff would "likely prevail" on First Amendment grounds. Simply put, governments cannot restrict commercial speech unless the restriction directly advances a substantial government interest. Here, there's no evidence of consumer confusion, and federal law already requires that the ingredients be listed on the label. Consumer choice — not censorship — should determine winners and losers in the marketplace.

Finally, cultivated meat is indeed meat. Prohibiting the use of meat terms to describe the true nature of the product is misleading and dangerous. A consumer with a beef allergy will react the same way to eating a cultivated beef burger as if he or she ate conventional beef. From a consumer safety standpoint, not describing cultivated meat as “meat” on the label is a non-starter and would put these future consumers at significant risk. The USDA has announced that it will exercise its authority over the labels of cultivated meat. USDA will approve and inspect all cultivated meat labels before any product reaches a store shelf.

Variety is the spice of life, and I believe that there’s room on the plate for both traditional and innovative products here in Wisconsin. With no confusion around almond milk, veggie burgers, or any other plant-based food, and robust federal law on labeling, there’s no need for government restrictions that would both hurt businesses and put consumers in harm’s way. If you pass these labeling laws, which industry will be next to ask you to censor their competitors? I’m sure Barnes & Noble would like a word about “e-books.”

I urge you to vote “No” on Assembly Bills 73, 74, and 75, and any amended bills that may appear. Thank you for your consideration.

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*Stay abreast of all the developments in the alternative protein landscape with GFI's State of the Industry reports and other market research in our [resource library](#).*