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MEMORANDUM

TO: Members of the Wisconsin Legislature

FROM: Wisconsin Grocers Association

DATE: February 6, 2020

RE: Assembly Bills 515, 516 & 518 and Senate Bills 463, 464 and 466
re: labeling of meat, cheese and dairy products.

On behalf of Wisconsin Grocers Association (WGA), we would like to share our concerns with Assembly Bills 515, 516, and 518 and Senate Bills 463, 464 and 466 which prohibit labeling products as meat, cheese or dairy unless the product is derived from an animal. While we support Wisconsin's meat, cheese and dairy producers and the intent of this bill, we are concerned with the impact and cost to retailers to police the labeling requirements.

These bills would be added to Wis. Stats. Chapter 97 which specifies the following penalties:

97.72 Penalties. (1) Any person who violates any of the provisions of this chapter for which a specific penalty is not prescribed shall be fined not less than \$100 nor more than \$1,000 or imprisoned for not more than 6 months, for the first offense; and for each subsequent offense, fined not less than \$500 nor more than \$5,000, or imprisoned for not less than 30 days nor more than one year in the county jail or both. (2) In lieu of any criminal penalty provided under this chapter, a person who violates this chapter may be required to forfeit not more than \$1,000 for each violation. If the prosecutor seeks to impose a forfeiture, he or she shall proceed under ch. 778.

DATCP has said that it is "rare" that a retailer would receive penalties this strict, however we are aware of far too many examples of retailers receiving as much as six-digit fines for labeling errors. Specific to this bill, the responsibility for labeling the product correctly should be on the manufacturer. However, DATCP does not currently approve labels, and therefore the enforcement will be at the retail level.

Here's a perfect example of how retailers would be held responsible: attached you will find a memo from DATCP specifying that under current law, "only a product made from cow's milk or cream can be labeled as 'butter.'" As you can see in the memo, if products are mislabeled it is the retailer's responsibility to 1) work with the manufacturer to make label corrections before the product is available for sale; 2) return the product for a credit; or 3) discard the product. This demonstrates that retailer's would be responsible and all of these options result in a financial hit, whether through product loss, or a fine from DATCP.

National product manufacturers are accustomed to these regulations and likely have legal counsel and internal compliance checks for labeling. However, we are concerned with the thousands of local producers and manufacturers that do not have the same knowledge or resources as large manufacturers. In this scenario, it will be up to the retailer to educate the local food producer, or face the penalties, and will deter retailers from buying local products. This, in turn, penalizes customers and hurts small business across the state of Wisconsin.

To address these concerns, we are asking that the bill is amended to hold retailers harmless. Specifically, we believe the bill should be amended to require that DATCP approves labels prior to production, taking the responsibility and risk from retailers. All food processors must have a Food Processing license issued by DATCP. DATCP will perform an initial inspection and work with the processor to make sure they are complying with all food laws. It makes sense that at this point, DATCP would also approve the product label.

We hope as the Assembly and Senate discuss this issue, our concerns will be taken into consideration. Please contact Brandon Scholz at 608.210.3305 or Michelle Kussow at 608.210.3304 to discuss.