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ENVIRONMENT COMMITTEE TESTIMONY

By Stan Sorkin, President

Connecticut Food Association

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TESTIMONY IN OPPOSITION TO RB No. 5116: AN ACT REQUIRING THE LABELING OF FOOD PACKAGING THAT CONTAINS BISPHENOL-A

The Connecticut Food Association is the state trade association that conducts programs in public affairs, food safety, research, education and industry relations on behalf of its 240 member companies—food retailers, wholesalers, distributors, and service providers in the state of Connecticut. CFA's members in Connecticut operate approximately 300 retail food stores and 250 pharmacies. Their combined estimated annual sales volume of \$5.7 billion represents 75% of all retail food store sales in Connecticut. CFA's retail membership is composed of independent supermarkets, regional firms, and large multi-store chains employing over 30,000 associates. The majority of our members are family-owned privately held businesses. Our goal is to create a growth oriented economic climate that makes Connecticut more competitive with surrounding states.

I am Stan Sorkin, President of the Connecticut Food Association. The Connecticut Food Association is opposed to RB No. 5116 for the following reasons:

- The FDA is working on a position on BPA and has been given a court ordered deadline of March 31, 2012 to present that opinion. State specific legislation should be held to after the release of the report.
- We believe health and safety issues regarding food and food packaging are best legislated on the national level. We believe that science should dictate these matters and that the FDA should propose a nationwide solution to the labeling of packaging containing PBA if so required for the health and safety of the general public.
- Mandatory labeling by the state of Connecticut of packaging containing BPA is unnecessary public policy and costly for Connecticut retailers to implement while providing little benefit to consumers. It is well know that the vast majority of canned goods sold in United States contain BPA as an inner liner to help preserve the quality of the product. PBA is also used in clear plastic containers. To date, studies have shown that these containers are safe for consumer use.
- The effective date of January 1, 2013 is impractical. Redesigning and ordering labels is not a six month timetable and national and private label manufacturers would be hard pressed to meet that deadline. The burden to comply with the labeling requirement would fall on Connecticut's food retailers. Costs to retailers would include the high labor costs for hand labeling existing canned goods and plastic packaging in inventory, potential penalties, legal costs, and more. At

the time when the grocery industry is digesting the incremental labor costs of paid sick leave, potential minimum wage increases, the cost of federally mandated country of origin and nutritional labeling, this is not the time burden the industry with these new costs.

- Requiring food companies to label their products when there is no health or safety reason to do so fails the substantial state interest test, undermines commercial free speech, most likely violates interstate commerce and may be unconstitutional. In INTERNATIONAL DAIRY FOODS ASS'N v. AMESTOY, 92 F.3d 67 (1996) the court held food manufacturers could not be compelled to label dairy products as being made from the use of rBST (bovine growth hormone). “Consumer interest alone was insufficient to justify requiring a product's manufacturers to publish the functional equivalent of a warning about a production method that has no discernible impact on a final product.” “Accordingly, we hold that consumer curiosity alone is not a strong enough state interest to sustain the compulsion of even an accurate, factual statement.”
- The CFA would consider supporting voluntary labeling of food packaging that would make the claim: “This package does not contain BiphenoI-A”.

In short, CFA believes that food packaging labeling should be based on scientific evidence and implemented on a national level if scientific studies indicate a health and safety issue with packaging containing BPA. This bill does not promote a growth oriented economic climate. It would make Connecticut less competitive with surrounding states.

We respectfully ask that the Environmental Committee vote NO on RB No. 5116.