



## **ENVIRONMENT COMMITTEE TESTIMONY**

**By Stan Sorkin, President**

**Connecticut Food Association**

**February 25, 2013**

### **TESTIMONY IN OPPOSITION TO SB No. 016: 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 200 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 SB016 for the following reasons:**

- **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 BPA if so required for the health and safety of the general public.**
- **A just released study** conducted by Justin Teeguarden, a senior research scientist at the Department of Energy laboratory in Richland, Washington, funded by the Environmental Protection Agency, at the annual meeting of the American Association for the Advancement of Science **found that human exposure to a BPA found in food containers is too low to be worrisome, according to a closer look at 150 studies of an additive.** He re-examined studies covering blood levels of BPA, which in high enough doses can mimic the sex hormone estrogen, among 30,000 people in 19 countries, including women and infants. He found the exposure levels generally much too low to affect the human body. "It is thousands of times lower than the levels you see in animals that do cause effects. Moreover, the World Health Organization, the European Food Safety Authority and Japan's National Institute of Advanced Industrial Science and Technology have all discounted its risk to human health

- The FDA, On March 30, 2012, issued a report that stated that the agency continues to study BPA. **The Food and Drug Administration’s assessment is that the scientific evidence at this time does not suggest that the very low levels of human exposure to BPA through the diet are unsafe.** The agency has performed extensive research on BPA, has reviewed hundreds of other studies, and is continuing to address questions and potential concerns raised by certain studies. FDA scientists have also recently determined that exposure to BPA through foods for infants is much less than had been previously believed and that the trace amounts of the chemical that enter the body, whether it’s an adult or a child, are rapidly metabolized and eliminated.
- There have been studies that contend that BPA is a hazard to people. But FDA—as well as the European Food Safety Agency (EFSA)—has carefully assessed these studies and finds no convincing evidence to support that belief. The regulatory agency must objectively weigh all the evidence, says Keefe, Director of FDA’s Office of Additive Safety. “We make public health decisions based on a careful review of well performed studies, not based on claims or beliefs. We have to perform an unbiased evaluation of the data,” he says.
- With the support of the National Institute of Environmental Health Sciences (NIEHS) and the National Toxicology Program (NTP), scientists at FDA’s National Center for Toxicological Research (NCTR) have been studying BPA. The NCTR researchers have been conducting in-depth studies of BPA since September 2008, when a report by the NIEHS and NTP called for more research into the potential toxic effects of BPA on fetuses, infants and children.
- NCTR’s findings include:
  - The level of BPA from food that could be passed from pregnant mothers to the fetus is so low that it could not be measured. Researchers fed pregnant rodents 100 to 1,000 times more BPA than people are exposed to through food, and could not detect the active form of BPA in the fetus eight hours after the mother’s exposure.
  - Exposure to BPA in human infants is from 84 to 92 percent less than previously estimated.
  - NCTR researchers report that they were able to build mathematical models of what happens to BPA once it’s in the human body. These models showed that BPA is rapidly metabolized and eliminated through feces and urine. They found that BPA is “exactly the opposite” from some other toxins, like dioxin, that can stay in the body’s tissues for months or even years.
- **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.** 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. Removal of unlabeled product from store shelves would cause a shortage of product supply and drive up the cost of goods to consumers in an economy in which consumers are having a difficult time to make ends meet. 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 to burden the industry with these new costs.

- The effective date of January 1, 2014 is impractical. Redesigning and ordering labels is not a six month timetable and national, foreign, and private label manufacturers would be hard pressed to meet that deadline.
- Most importantly, **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.”**

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. Current science does not support labeling.** 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 SB016.**