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MEMORANDUM OF OPPOSITION

**PROPOSED H.B. NO. 5612, AN ACT CONCERNING THE LISTING OF
SOY AS AN INGREDIENT IN FOOD, PRESCRIPTION DRUGS AND
OVER-THE-COUNTER MEDICATIONS**

On behalf of the Grocery Manufacturers Association (GMA), I would like to take this opportunity to register our opposition to Proposed House Bill No. 5612, An Act concerning the listing of soy as an ingredient in food, prescription drugs and over-the-counter medications. The Grocery Manufacturers Association and its member companies support the obvious intent of this legislation, to ensure that consumer products with which the citizens of the State of Connecticut come in contact are safe and free of unnecessary risk to health and wellbeing. However, we believe that this legislation makes an unsubstantiated leap to mandate a new labeling requirement for a food ingredient that is already regulated by the United States Food and Drug Administration under provisions of the Federal Food, Drug and Cosmetic Act (FFDCA).¹

Based in Washington, D.C., the Grocery Manufacturers Association is the voice of more than 300 leading food, beverage and consumer product companies that sustain and enhance the quality of life for hundreds of millions of people in the United States and around the globe.

Founded in 1908, GMA is an active, vocal advocate for its member companies and a trusted source of information about the industry and the products consumers rely on and enjoy every day. The association and its member companies are committed to meeting the needs of consumers through product innovation, responsible business practices and effective public policy solutions developed through a genuine partnership with policymakers and other stakeholders.

In keeping with its founding principles, GMA helps its members produce safe products through a strong and ongoing commitment to scientific research, testing and evaluation and to providing consumers with the products, tools and information they need to achieve a healthy diet and an active lifestyle.

The food, beverage and consumer packaged goods industry in the United States generates sales of \$2.1 trillion annually, employs 14 million workers and contributes \$1 trillion in added value to the economy every year.

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¹ Codified at scattered section of 21 U.S.C. § 1 et seq. (2012).

GMA's members hold the safety and integrity of the products they make, and the ingredients used to make them, as most important. GMA supports a rigorous, science-based federal regulatory framework and we believe that the federal government best handles the study and evaluation of chemicals for approval for use in food and consumer products and packaging. The products affected by this legislation, whether made in Connecticut or elsewhere, are generally manufactured for use in all 50 states.

Under section 403(i) of the FFDCA, “[a] food shall be deemed misbranded . . . [u]less its label bears the common or usual name of each such ingredient . . .” if the food consists of more than one ingredient.² Therefore, any food that is derived from soy or contains soy-derived ingredients *must* be labeled under this provision.³ Furthermore, under section 403(w) of the FFDCA, all food ingredients derived from major food allergens must be declared unless an exemption applies.⁴ Soy *is* treated as a major food allergen under federal law with no labeling exemption applying.⁵ Finally, section 403A of the FFDCA contains provisions that function to expressly preempt any state food labeling schemes that are not identical to those contained in sections 403(w) and 403(i).⁶

Ensuring the safety of our products – and maintaining the confidence of consumers – is the single most important goal of our industry. Product safety is the foundation of consumer trust, and our industry devotes enormous resources to ensure that our products are safe.

GMA supports the goals of this legislation, but also the primacy of the FFDCA, as well as the FDA's obligation to regulate ingredient labeling under the provisions of the federal act. If state-mandated, duplicative labels for already regulated ingredients were to become the norm, there would be no-end to the litany of confusing labels applied to the already well-conceived process administered by the FDA. Given the fact that food products are manufactured throughout the United States for ultimate retail sale in all fifty states, this legislation, if federal law did not expressly preempt it, would only lead to a profusion of state labeling mandates. The resulting confusion of warnings can only lead to a reduction in the efficacy of existing labels and a less well-informed public.

² See 21 U.S.C. § 343(i) (2012) (omissions and alterations to original).

³ *Id.*

⁴ See 21 U.S.C. § 343(w) (2012). This provision was added to the FFDCA with the passage of the Food Allergen Labeling and Consumer Protection Act of 2004. Food Allergen Labeling and Consumer Protection Act of 2004 (FALCPA) (Pub. L. 108-282) (2004).

⁵ See Guidance for Industry: Questions and Answers Regarding Food Allergens, including the Food Allergen Labeling and Consumer Protection Act of 2004, Food and Drug Admin., <http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/FoodLabeling/Nutrition/ucm059116.htm> (last visited March 1, 2013).

⁶ See 21 U.S.C. § 343-1(a)(1)-(3) (2012). This language was added to the FFDCA in 1990 with the passage of the Nutritional Labeling and Education Act (NLEA). Nutritional Labeling and Education Act, Pub. L. No. 101-535, 104 Stat 2353 (1990). In considering the NLEA, Congress believed it was “wrong to permit each of the 50 states to require manufacturers of 20,000 packaged food items to display different health and diet information on identical products sold throughout the country.” 136 Cong. Rec. S16607-02 (daily ed. October 24, 1990) (statement of Sen. Hatch). Senator Hatch went on to state “inconsistent State and local laws seriously disrupt food manufacturing and distribution, resulting in higher prices for consumers. Moreover, they frustrate food safety and nutrition education efforts by presenting consumers with varying and inconsistent information and warnings.” *Id.* Congress also believed a Federal uniform labeling policy, which would prevent states from developing their own varying labeling laws, was essential “to make order out of chaos in the regulation of food and to give consumers confidence in place of uncertainty.” 136 Cong. Rec. H5836-01 (daily ed. July 30 1990) (statement of Rep. Waxman).

GMA is on principle a scientific organization and our members are dedicated to following the science in an effort to deliver the safest, most nutritious food possible to the consumer. This legislation, while clearly well meaning, is poor public policy, ignores federal food labeling law, and does not advance food safety or nutrition for consumers.

Thank you for considering our testimony. For the above stated reasons, we urge you to vote no on Proposed H.B. 5612. I look forward to working with staff and members of the committee in the coming days and weeks to continue to address this and any other issues that may impact food and other packaged consumer goods. Thank you again and if I can answer any questions, I may be reached at any time at gcosta@gmaonline.org and at 703-967-7175.