Observations on Senate Bill 206 Hearing, February 12, 2019

The Montana Country of Origin Placarding Bill (Senate Bill 206 sponsored by Senator Al Olszewski) was introduced to the Senate Agriculture Committee on Tuesday February 12th. This bill has two parts. One is based on the Mt-COOL bill passed by the Legislature in 2005 requiring retail stores place placards informing buyers the country of origin of the meat for sale. The other part defines what is meat, beef, pork, etc. This has become necessary because a manufactured product using cell-culturing technology is coming on the market that is being advertised as "clean meat."

Speaking in favor was Jim Baker of the Montana Cattlemen's Association, Walter Archer for Northern Plains Resource Council, and Jeff Bangs for the Montana Farmers' Union. Will Downs, also with the Montana Farmers' Union, specifically spoke for the definition of real meat aspect. A number of other proponents addressed the merits of the bill from the perspective of consumers, producers of grass-fed beef, and just plain ranchers. Larry Hendrickson, County Commissioner for Liberty County also expressed the importance of COOL.

Disappointingly Montana Stockgrower's Association (MSGA) and the Montana Farm Bureau (MFB) spoke against the Mt-COOL bill. Senator Olszewski had previously modified the bill to address their concerns and yet in the end they stood in opposition. Their expressed reasons were that they were concerned that retailers could be fined if they did not know the country of origin of the beef for sale. In order to avoid fines, these two organizations argued that retailers would label all of the beef as country of origin "other" thereby affecting overall beef sales. Their second argument opposing the bill was that the State of Montana would be sued by the Federal Government of violating supremacy of commerce provisions. This, they claimed, would cost the State a lot in defending COOL.

Both of these arguments are demonstrably false and if the MSGA and MFB had done even a little bit of homework they would have learned that. They claimed that retailers "don't" know the origin of the meat that they sell, however, they did not claim that retailers "cannot" know. This is a very important distinction. If retailers do not ask their suppliers, obviously they will never know.

Laurie Lohrer, a member of the Central Montana Resource Council in Lewistown became interested in this issue after having first learned about the lack of labeling for beef and pork. All other food items carry country of origin labels and she wondered why. Laurie called and visited with the managers and executives of a number of retail chains. She found that they were oblivious as to the origin of the beef for sale, some of them even tried to insist that it was all US product because it carried a USDA grade label. Her conclusion is that most retailers do not know and do not care to know. That is why she decided that a Mt-COOL law was necessary to inform her as a consumer.

Senator Olszewski, demolished the other argument that the state would be sued. He informed the committee that when Congress had repealed COOL in a 2015 omnibus spending bill, they simply repealed the requirement for just beef and pork and left all other labeling intact. By using an omnibus spending bill, the opposition to COOL was able to slip in this repeal without the opportunity for other Senators or Representatives to challenge them. In an omnibus spending bill, there are so many other provisions important to each and every legislator making it difficult to vote against the bill. The point, as Senator Olszewski explained, is that the repeal carried no clause prohibiting a state to require their own COOL law.

MSGA's and MFB's opposition to Mt-COOL is more than disappointing, their lack of professionalism and transparency is embarrassing. Grassroots members of both organizations support Mt-COOL so there is obviously a disconnect between the leadership of these organizations and the membership. In the case of MSGA, they are adopting the position of the National Cattlemen's Beef Association which has vigorously opposed COOL without ever giving a clear reason as to why. As for the Montana Farm Bureau, they actually have a policy calling for COOL, which makes their opposition a violation of their own official policy.

Other opposition came from the Montana Retailers Association and the Chamber of Commerce. They claimed that Mt-COOL would be a burden to retailers and that there would be a cost associated to the state in order to enforce COOL placarding. Senator Olszewski denied that there would be an extra cost as inspectors already visit stores to see if lamb, poultry, and seafood are labeled. Inspectors can simply check on beef and pork at the same time. As for the cost to retailers, that seems to be a red herring. Retailers are in the business of setting up displays, writing placards, and pricing products. This is what they do all day long. Senator Frank Smith, a member of the Ag Committee, observed that in his community, the independent stores are happy to feature Montana beef. He asked the Montana Retailers Association lobbyist if he was representing all of the stores or just the large national chains. Senator Smith did not get a clear answer.

Inexplicably the American Civil Liberties Union also stood in opposition. The ACLU is primarily concerned over the provision defining what is meat, beef, pork, etc. ACLU claims that this an infringement on speech. However, most products for sale are defined in order to insure truth in labeling. Meat has never been defined because it was always obvious what is meat or beef. However, now that manufactured products are coming on the market using cell-cultured technology and is being advertised as "clean meat"- this is obviously unacceptable. Defining what can be sold using the terms meat, beef, pork, etc. is obviously needed. If defining meat is a violation of the First Amendment, then logically all other product definitions are also violations. That makes no sense. It seems to me that there are plenty of actual infringements on the Bill of Rights to occupy the ACLU and they should stop wasting their time opposing the definition of meat and beef.

The Montana Farm Bureau Should Apologize For Opposing Country of Origin Labeling.

Instead of apologizing to Montana's beef consumers and cattle ranchers, the Montana Farm Bureau (MFB) in an article/press release ("State Mandated Placarding Is Not COOL") chose instead to double down on the half-truths and innuendos used to kill Montana Country of Origin Labeling (Mt-COOL). Senator Al Olszewski of Kalispell introduced SB 206 to reinstate COOL in Montana and advanced a bill based on a 2005 Mt-COOL law. The 2005 law had a sunset clause for when a National COOL was implemented which happened in 2008. At that time the Montana law was retired.

The point of the 2005 Mt-COOL bill was to put Montana clearly on the record of supporting Country of Origin Labeling for beef. The strategy worked. Unfortunately, this process has to be repeated because Congress in 2015 precipitously rescinded National COOL with no debate and no public input. We should

note that Congress only rescinded labeling for beef and pork. Labeling requirements continue for lamb, seafood, poultry, tomatoes, grapes, underwear, electronics, cars …, in short everything except for beef and pork. Subsequent to that Congressional decision, cattle prices collapsed costing Montana's economy a billion dollars a year.

MFB alleges that the US had exhausted all of its appeals in the World Trade Organization (WTO) but that was not true, the legal wrangling was not over by a long-shot. The WTO got tangled up with US-COOL when the governments of Canada and Mexico filed a trade challenge to the label requirements for beef and pork. The WTO tribunal did declare the US-COOL law for beef and pork trade illegal but the process was not done.

Even if it was, the WTO tribunal that ruled against US-COOL was blatantly biased. The entire WTO trade adjudication process is undemocratic and unaccountable. This country should never have entered into trade agreements that allows unaccountable international panels to overrule how we American citizens democratically decide to conduct our own affairs.

The WTO ruling was simply not rational. If the fact that the United States required labeling of beef is somehow trade illegal, then what about all of the other label requirements, or what about the country of origin labeling requirements that other countries impose on beef imported from the USA? If beef labeling is not allowable then no labeling should be allowed. Obviously, this is not the case, so we can only conclude that the WTO Tribunal and the 2015 Congress that rescinded COOL did so specifically to financially benefit the beef packing cartel.

The MFB further stated that they had to oppose Senator Olszewski's Mt-COOL bill because of the excessive burden it would have put on Montana retailers. In the article MFB said they were particularly concerned about small retailers who would be unable to get country of origin information from their beef suppliers.

Let's leave aside for the moment that retailers like Albertsons and Walmart have the market power to require any kind of information from any of its suppliers, or that Sysco, which supplies most small groceries with much of their produce, also has that kind of market power. The point of Mt-COOL is that if the retailers are never required to ask their suppliers about the origin of their beef, they will never get that information, and consumers of beef will never know what they are buying.

In the SB-206 hearing, Senator Frank Smith of Popular observed that small retailers in his district are in favor of labeling, in fact they would like the opportunity to feature more Montana produced beef. A lot of imported beef is currently fraudulently labeled "product of USA" making it difficult for Montana natural and grass-fed beef producers to distinguish their beef in the retail market at a price high enough to compensate them for their efforts.

MFB also said that they opposed a clause in the draft bill that allowed for penalties for fraudulent labeling of beef by retailers. This clause was a holdover from the 2005 Mt-COOL law. However, the penalties was specifically only for intentional fraud, not mistakes or for receiving incorrect information from suppliers. Nonetheless, Sen Olszewski indicated that he was willing to support an amendment to strike this clause. The MFB failed to offer this amendment.

MFB's article goes on to brag that they supported SJ 16, a resolution which calls for "… Congress to pursue effective WTO-compliant COOL rules for beef and pork." What the article does not acknowledge

is that this resolution calls for voluntary COOL which is already the law of the land. Beef and pork packers can **voluntarily** supply consumers with country of origin information any time they so desire. That they do not means that they do not support born, raised, and processed in the USA beef. Instead the only labeling currently seen in meat cases is the fraudulent "Product of USA" labels on imported beef.

It should be noted that the MFB was not alone in its disingenuous campaign to kill Mt-COOL. The Montana Stockgrowers Association also lobbied hard to kill Mt-COOL.

The organizations that were working for Montana's consumers and ranchers are the Montana Cattlemen's Association, the Montana Farmers Union, and Northern Plains Resource Council. Members of those organizations should be proud of their organizations efforts to give beef consumers the labeling information they demand and Montana cattle producers the transparent markets they deserve.

The struggle to restore COOL is not over. Farm Bureau has a long-standing policy directive in favor of COOL which they apparently forgot in their anti-COOL lobbying, but in the future, there will be efforts to pass a national COOL law. MFB is invited to become a part of that effort. If we work together it will soon be possible to have labels proudly proclaiming Born, Raised, and Processed in the USA.

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