



TESTIMONY OF DAN COLEGROVE ON BEHALF OF THE ALLIANCE FOR PLANT BASED INCLUSION (APBI)

NORTH DAKOTA SENATE AGRICULTURE & VETERANS AFFAIRS COMMITTEE

RE: OPPOSITION TO HB 1255

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE,

THE ALLIANCE FOR PLANT BASED INCLUSION (APBI), MUST RESPECTFULLY OPPOSE HB 1255, AS IT RELATES TO DEFINITIONS OF MILK.

FOUNDED IN 2020, APBI IS A COALITION OF SOME OF AMERICA'S MOST WELL-KNOWN COMPANIES THAT ADVOCATE FOR PLANT BASED FOOD POLICIES THAT AFFORD CONSUMERS THE GREATEST CHOICE, CLARITY, AND FLEXIBILITY IN THE MARKETPLACE. OUR MEMBERS INCLUDE ADM, CONAGRA BRANDS, THE KELLOGG COMPANY, KRAFT-HEINZ, NESTLE U.S., AND TYSON FOODS.

HB 1255 WOULD DEFINE MILK IN A MANNER THAT ONLY APPLIES TO ANIMAL PRODUCTS AND WOULD PRECLUDE ITS USE BY ALTERNATIVE, PLANT BASED PRODUCTS.

THIS BILL SUGGESTS THAT CONSUMERS ARE NOW BEING MISLEAD AND SOMEHOW MISTAKING ANIMAL MILKS FROM MILK PRODUCTS FOR PLANT BASED MILKS. MANY OF THESE ITEMS, INCLUDING THOSE MADE FROM COMMODITIES SUCH AS SOY AND OATS, HAVE BEEN ON STORE SHELVES FOR DECADES AND ARE CLEARLY MARKED AS TO WHERE THEY DERIVE

RESEARCH INDICATES THAT RATHER THAN CONFUSING SHOPPERS, EXACTLY THE OPPOSITE IS THE CASE. THE USE OF CLEAR, ACCURATE AND TRANSPARENT LABELS ON PLANT BASED MILKS SERVE TO INFORM CONSUMERS. BUT DON'T TAKE OUR WORD FOR THAT.

JUST TWO WEEKS AGO, THE US FOOD AND DRUG ADMINISTRATION RELEASED LONG ANTICIPATED DRAFT GUIDANCE ON THE LABELING OF PLANT BASED MILK ALTERNATIVES.¹

AFTER YEARS OF STUDY, THE FDA CONCLUDES THERE IS LITTLE EVIDENCE INDICATES THAT CONSUMERS UNDERSTAND THE DIFFERENCES BETWEEN PLANT BASED MILKS AND ANIMAL MILKS. FROM THE FDA DOCUMENT:

"OVERALL, THESE STUDIES INDICATE THAT CONSUMERS UNDERSTAND THAT PLANT-BASED MILK ALTERNATIVES DO NOT CONTAIN MILK WHEN SHOPPING FOR VARIOUS TYPES OF PRODUCTS LABELED WITH THE TERM "MILK." IN PARTICULAR, ONE CONSUMER SURVEY SUGGESTED THAT ABOUT THREE-QUARTERS OF ITS RESPONDENTS UNDERSTOOD THAT PLANT-BASED MILK ALTERNATIVES DO NOT

¹ <https://www.fda.gov/media/165420/download>

CONTAIN MILK; FEWER THAN PERCENT BELIEVED THAT PLANT-BASED MILK ALTERNATIVES DO CONTAIN MILK, AND THE REMAINDER DID NOT KNOW.

FOCUS GROUPS COMMISSIONED AND CONDUCTED BY FDA SUGGESTED THAT “MILK” IS STRONGLY ROOTED IN CONSUMERS’ VOCABULARY WHEN DESCRIBING AND TALKING ABOUT PLANT-BASED MILK ALTERNATIVES. THE FOCUS GROUPS INDICATED THAT MOST PARTICIPANTS WERE NOT CONFUSED ABOUT PLANT-BASED MILK ALTERNATIVES CONTAINING MILK AND REFER TO PLANT-BASED MILK ALTERNATIVES AS “MILK.” PARTICIPANTS FURTHER INDICATED THAT THEY FEEL FAMILIAR AND COMFORTABLE WITH THE TERM “MILK” WHEN DESCRIBING PLANT-BASED MILK ALTERNATIVES AND THEY PREFERRED TO USE THE TERM WHEN GIVEN A CHOICE OF NAMES FOR PLANT-BASED MILK ALTERNATIVES (E.G., “MILK,” “BEVERAGE,” “DRINK,” ETC.). OTHER RESEARCH ALSO APPEARS TO SHOW THAT CONSUMERS UNDERSTAND THAT PLANT-BASED MILK ALTERNATIVES ARE DISTINCT PRODUCTS AND CHOOSE TO PURCHASE PLANT-BASED MILK ALTERNATIVES BECAUSE THEY ARE NOT MILK.”

HB 1255 IS A SOLUTION IN SEARCH OF A PROBLEM.

THERE ARE NO LAWS LIKE THIS PROPOSED STATUTE ANYWHERE IN THE UNITED STATES. IF APPROVED, NORTH DAKOTA WILL STAND APART AND ALONE FROM EVERY OTHER STATE IN LIMITING ITS SHOPPERS ACCESS TO ACCURATE PRODUCT LABELS.

THE ALLIANCE FOR PLANT BASED INCLUSION SUPPORTS CLEAR, ACCURATE, AND TRANSPARENT LABELING AND MARKETING FOR PLANT-BASED FOODS, INCLUDING ALLOWING THE USE OF COMMON OR USUAL NAMES, SUCH AS SOY MILK OR OAT MILK.

MISGUIDED ATTEMPTS LIKE HB 1255 TO LIMIT COMMUNICATION BETWEEN COMPANIES AND THEIR CUSTOMERS ARE UNNECESSARY, UNFAIR, AND RAISE FIRST AMENDMENT CONCERNS, SOMETHING ALSO NOTED IN THE FDA GUIDANCE DOCUMENT.

WE DO NOT BELIEVE GOVERNMENT SHOULD BE IN A POSITION TO PICK GROCERY STORE WINNERS AND LOSERS. CONSUMERS ARE NOT MISLED BY PLANT-BASED MILK LABELS AND WE RESPECTFULLY RECOMMEND THE COMMITTEE REJECT HB 1255.

THANK YOU.