FOOD MARKETING INSTITUTE

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The Law of Unintended Consequences

The market drivers in the three-page federal law requiring country of origin labeling are powerful and will have a profound impact on the dynamics of the food distribution marketplace – from growers and ranchers through to wholesalers and retailers – and, ultimately, consumers.

The costs and complexity of the current law may be attributed to several of its features:

> Retailers are required to give consumers information that is known only to food suppliers. Retailers are subject to substantial penalties (up to $10,000 per willful violation) for failing to give consumers accurate information over which they have no control.
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> The law mandates country of origin labeling for a wide range of products – beef, pork, lamb, fresh and frozen seafood, fresh and frozen fruits and vegetables, and peanuts – regardless of consumer demand for information on these products.
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> The country of origin determination mandated by the law requires information on the entire life cycle of the underlying product (e.g., where it was born, raised and slaughtered or in what waters it was caught and the flag flying on the vessel at the time).

Consumers want high quality, reasonably-priced food products all year round, regardless of seasonality. The food distribution system has been carefully engineered to satisfy consumer demand by quickly and efficiently delivering fresh products from all over the world to consumers through their local grocery stores every single day.

We support country of origin labeling done on a voluntary basis and in a reasonable manner that enhances rather than impedes the delivery of fresh food products to consumers. [Cite examples of your voluntary state or country of origin labeling programs.]

The Direct Costs:

USDA estimates that the food production and distribution system will spend $2 Billion in labor alone to set up the necessary recordkeeping systems and to maintain only the first year of records. This projection underestimates the labor costs -- it assumes only 40 person hours per retail store to establish systems and only one hour per store per day to maintain the system -- and does not include any estimate for the technological systems costs.

The recordkeeping cost estimate by definition fails to include substantial additional costs, such as product segregation, training, internal auditing and compliance costs. Depending on the system ultimately required, product segregation could require separate distribution center "slots" for each covered commodity for each country of origin, a vast amount of additional real estate that simply is not currently available in distribution centers.

The Indirect, Unintended Costs:

Market dislocations.

- Foods subject to the law -- beef, pork, lamb -- will incur significant costs to comply with the law while their direct competitors -- chicken, turkey, dairy -- will not. For example, a study by Iowa State University estimates the country of origin labeling costs for the pork industry will add $10 to the cost of producing each hog.

- Grocery stores will not be able to sell any "covered commodities," unless their entire life cycle has been fully documented, an 18-month process in the case of beef. The law does not apply to restaurants. On September 30, 2004, the supply of some products -- such as beef whose life cycle wasn't adequately documented or "cull" cows -- that will only be available for sale to restaurants will increase dramatically while the price it can command will decrease correspondingly.

- To limit exposure to the liability imposed on them by the law, retailers will have to source covered commodities only from those who can afford the systems necessary to document country of origin to the extent required by the law. Smaller suppliers -- including growers and ranchers -- will have a particularly difficult time affording the costs imposed by the law and, thus, competing with their larger economic rivals. Vertically integrated producers will be able to comply with the law with minimal increased cost or disruption, while their smaller competitors will not.

- To limit the costs associated with complying with the law, retailers are likely to reduce the countries from which they source product. In some cases, this is expected to eliminate domestic producers. [Cite examples for your company, such as eliminated sourcing of US salmon because Canada or Norway can provide all supply necessary, whereas not enough US supply for your needs, or Canadian tomatoes on the vine to replace domestic.]

- The law favors products processed outside of the US. In many cases, foreign producers will be better prepared to comply with the law now. US producers will need to incur significant costs to enable them to develop systems sufficient to provide the complex country of origin declarations required by the law to retailers accurately.

- To limit potential liability under the law, retailers may reduce or eliminate the products that they source during the "shoulder" seasons. For example, retailers may choose not to source some products from US producers until their level of production is sufficient to satisfy the retailers' complete needs to avoid having multiple countries of origin for the same product. In the store at the same time.

- The law encourages retailers to favor pre-packaged products, which will be an additional incentive to shift to "case ready" meat products. Retailers who offer case ready products substantially reduce the personnel in their in-store labor departments.

USDA advises that, because of international trade obligations, state of origin designations (e.g., Florida citrus, Idaho potato) will not be sufficient to satisfy the federal law. Therefore, a statement of United States origin will be necessary for those products that meet the new federal standard. State labeling may no longer fit on existing labels or signs.

Ultimately, these economic drivers will result in reduced consumer choice, which is antithetical to the purpose of the food distribution system and consumer interests. **Congress should re-evaluate the mandatory country of origin labeling program on a comprehensive (rather than a commodity-by-commodity) basis. Tinkering with the categories of covered commodities or the scope of the coverage will only complicate the program further and make compliance even more difficult. FMI supports a market-oriented, common sense, voluntary marketing program.**