



Since 1894

To: House Committee on Agriculture
Rep. Ron Highland, Chair

From: Aaron M. Popelka, V.P. of Legal and Governmental Affairs, Kansas Livestock Association

Re: **HB 2437, AN ACT concerning agriculture; relating to the labeling of certain foods; prohibiting the use of identifiable meat terms on labels or in advertisements of meat analogs without use of proper qualifying language.**

Date: January 23, 2020

The Kansas Livestock Association (KLA), formed in 1894, is a trade association representing nearly 5,500 members on legislative and regulatory issues. KLA members are involved in many aspects of the livestock industry, including seed stock, cow-calf, and stocker cattle production; cattle feeding; dairy production; swine production; grazing land management; and diversified farming operations.

Thank you, Chairman Highland and members of the Committee for the opportunity to present KLA's views on HB 2437. KLA strongly supports HB 2437 and believes that manufacturers of meat analogs, also known as fake meat, should be required to accurately label and advertise their products.

Although meat substitutes have been in existence for decades, it was not until recently that certain companies, primarily Impossible Foods and Beyond Meat, began to engage in deceptive marketing practices. Before explaining the problem and the livestock industry's solution, KLA would like to make clear that it does not oppose businesses who want to develop a novel product and sell it on the free market, even if the product is a competitor. KLA believes that real meat products, especially beef, are superior in taste, quality, experience, and nutrition, and given a level playing field, will be the choice of consumers. KLA, however, opposes companies who try to disguise the true nature of their product by deceptively labeling and advertising their products, and who do so at the expense of livestock producers' reputations.

To understand the true nature of the issue, the Committee need not look any further than the words of the executives of Impossible Foods and Beyond Meat. The Chief Executive Officer (CEO) of Beyond Meat, Ethan Brown, wants the public to believe that his company's product, which is completely comprised of plant products, is meat. He states: "It's about separating meat from animals. When you think of meat in terms of its composition, it's five things—amino acids, lipids, trace minerals, vitamins and water. None of that is exclusive to animals."¹ Similarly, the CEO of Impossible Foods, Pat Brown in an interview with Vox stated, "we've

¹ <https://time.com/5601980/beyond-meat-ceo-ethan-brown-interview/>

defined meat too narrowly.”² His company wants to redefine meat and have its product recognized as meat by consumers.

Both companies use deception to sway consumers. On numerous occasions Pat Brown called the use of animals in food production technology, “by far the most destructive technology on Earth today.”³ A graphic, attached as Exhibit 1, previously displayed on Beyond Meat’s website falsely claimed that livestock production and processing was responsible for 51 percent of global greenhouse gas emissions. According to the U.S. Environmental Protection Agency, actual emissions from livestock production in the United States is approximately 4 percent, while global livestock emissions are approximately 14.5 percent according to the Food and Agricultural Organization of the United Nations. Finally, Pat Brown makes clear why his company is engaged in deceptive labeling and advertising: “We [Impossible Foods] have zero interest really in vegetarian customers. In fact, I’m not being ironic, every time we sell a burger to a vegan or a vegetarian, it’s actually a complete waste in terms of our mission.”⁴ He has also stated, “The whole point of our product is not to be successful as a new product, but to be successful at the expense of the incumbent industry.”⁵ This paints the picture of a company who wants to mislead consumers simply to gain market share. One of the key underpinnings of state and federal label requirements is to prevent businesses from deceiving consumers simply to make sales.

Both companies, in an attempt to confuse consumers, have resorted to labels such as the one attached to this testimony as Exhibit 2. This photo was taken at a local grocery store in Topeka last summer. Nowhere on the package does the label make clear that the product is devoid of meat. Instead, the manufacturer goes to great lengths to try and convince consumers, through its label, that the product contains meat. The label on its own is deceptive, but some retail outlets have decided to place these products in the meat case, further complicating the ability of a consumer to make an informed choice.

Not only does this type of labeling confuse consumers about the actual ingredients of a product, but it also misleads the consumer as to the nutritional quality of the product. Recently, the beef checkoff completed a nutritional comparison of real beef versus meat analog products. The results are attached to this testimony as Exhibit 3. When compared to 93 percent lean ground beef, these products are inferior on a number of levels. These products have over 40 percent more calories, between 75 percent and 125 percent more fat, 20 percent less protein, and approximately five times the amount of sodium as 93 percent lean ground beef. By using deceptive labels, consumers shopping for a real meat product could not only be duped into buying an alternative product, but one that is also nutritionally inferior.

Examples of consumer confusion are not just anecdotal. Recently, KLA’s national affiliate, the National Cattlemen’s Beef Association (NCBA), completed a consumer survey using the labels of leading meat analog companies. The survey results are attached as Exhibit 4. The survey

² <https://www.vox.com/2017/8/18/16171336/transcript-impossible-foods-burger-pat-brown-meat-heme-too-embarrassed-to-ask>

³ <https://www.vox.com/2017/8/18/16171336/transcript-impossible-foods-burger-pat-brown-meat-heme-too-embarrassed-to-ask>

⁴ <https://www.vox.com/2017/8/18/16171336/transcript-impossible-foods-burger-pat-brown-meat-heme-too-embarrassed-to-ask>

⁵ <https://www.wsj.com/articles/americas-cattle-ranchers-are-fighting-back-against-fake-meat-11574850603>

showed that 10 percent of consumers surveyed believed that Beyond Beef and the Impossible Burger were meat products; another 22 percent and 16 percent thought Beyond Beef and the Impossible Burger, respectively, were a meat/plant blend; and 27 percent and 33 percent thought Beyond Beef and the Impossible Burger, respectively, contained animal products, but not meat. Added together, 59 percent of consumers cannot readily identify the contents of these meat analog products.

To remedy this, KLA worked with Chairman Highland, the Kansas Department of Agriculture, and industry partners to craft HB 2437. The bill begins by amending the Kansas Food, Drug, and Cosmetic Act to define “meat analog” and “identifiable meat term” and references federal regulations to define meat, meat food product, poultry, and poultry food product. The legislation then states that if a meat analog is labeled or advertised using an identifiable meat term, it must place on the label or in the advertisement, “in the same font, style and size, immediately before or after the identifiable meat term” the following phrase: “this product does not contain meat.”

As an alternative, a meat analog product may use the word “Imitation” in place of the phrase “this product does not contain meat” if the meat analog meets the federal definition of an imitation food. A food is an imitation if it is a substitute for and resembles another food, but is nutritionally inferior to that food. Inferiority includes any reduction in the content of an essential nutrient that is present in a measurable amount. A measurable amount could mean a two percent reduction in protein, potassium, or certain vitamins or minerals.

KLA also worked to craft this bill to avoid legal challenges. Other states that have adopted fake meat legislation have tried to ban the use of meat terminology by plant-based fake meat and cell cultured meat products. This subjected these states to federal preemption challenges because cell cultured meat is regulated by the Federal Meat Inspection Act. It also subjected the state laws to First Amendment challenges because it indiscriminately banned the ability of a company to name its product. To avoid preemption challenges, HB 2437 was drafted to only regulate labels on meat analogs containing solely plant ingredients. To avoid First Amendment challenges, the bill simply requires a disclaimer on meat analog labels rather than banning the use of identifiable meat terms. A state can regulate speech on a product label if the restriction is created to reasonably prevent consumer deception or confusion.

It is also important for the Committee to understand that meat labels are regulated by the U.S. Department of Agriculture. Meat labels must comply with the regulations set forth by the USDA Food Safety Inspection Service (FSIS), and as a general matter, require agency approval before entering interstate commerce. Meat analogs, however, are under the regulatory purview of the U.S. Food and Drug Administration (FDA). Unlike USDA, FDA does not have rigid requirements in place and does not require prior label approval.

KLA is aware that some groups may seek to dilute the disclaimer in HB 2437. KLA opposes such amendments. First, it is clear from their own admission that fake meat companies cannot be trusted to develop their own disclaimer. These companies are likely to develop confusing and deceptive disclaimers and hide the disclaimers using inconvenient locations and tiny font, as shown in Exhibit 2. Disclaimers like “vegetarian,” “veggie,” or “plant-based” are insufficient to allow consumers to identify the ingredients of the product. Such terms suggest the product still contains meat, as indicated by NCBA’s consumer survey in Exhibit 4.

Finally, while it is not directly related to transparent labels, KLA would like to dispel some myths espoused by fake meat companies. For instance, the Chief Financial Officer of Impossible Foods, during a CBS Money segment, claimed: “[A]nimal farming may contribute more to greenhouse gases than all forms of transportation combined.”⁶ This is demonstrably false. The U.S. Environmental Protection Agency (EPA) website disputes this claim in clear terms. In 2017, the transportation sector accounted for 29 percent of greenhouse gases, while the whole of agriculture accounted for only 9 percent of greenhouse gases, and the beef industry was only 2 percent of greenhouse gases in the United States.⁷ The beef industry has also made progress in becoming more sustainable. For instance, ranchers produce the same amount of beef as in 1975, but with 36 percent fewer cattle.⁸ This translates into as much as a 16 percent reduction in carbon emissions per pound of beef produced.⁹

Thank you for the opportunity to submit KLA’s views to the Committee. KLA asks the Committee to approve HB 2437 favorable for passage.

⁶ <https://www.cbsnews.com/video/impossible-foods-and-the-growth-of-the-meatless-market/>

⁷ <https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions>

⁸

https://www.beefresearch.org/CMDocs/BeefResearch/Sustainability%20White%20Papers%20and%20Infographics/US_Sustainability_Overview.pdf

⁹

https://www.beefresearch.org/CMDocs/BeefResearch/Sustainability_FactSheet_TopicBriefs/ToughQA/FS1USBeefCarbonFootprint.pdf

Exhibit 1

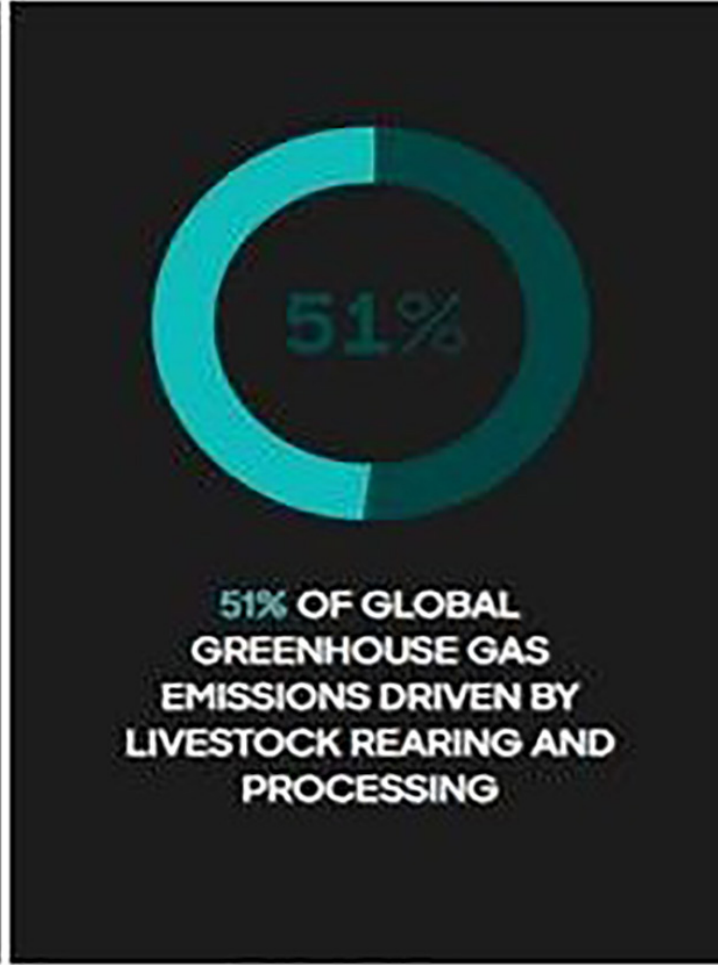


Exhibit 2





Ground Beef and Meat Substitutes

When it comes to Ground Beef and newer meat substitutes, it's good to know the facts. Did you know that 93% lean ground beef is lower in calories, fat, sat fat and sodium and higher in high-quality protein than meat substitutes? Beef is an authentic source of high-quality protein and 10 essential nutrients, including Protein, Iron, Zinc, and B-Vitamins that are essential to good health.

Nutrient	Ground Beef 80% Lean, 4 oz, raw ¹	Ground Beef 93% Lean, 4 oz, raw ²	Ground Beef 96% Lean, 4 oz, raw ³	Soy-Based Burger, 4 oz, raw ⁴	Pea-Based Burger, 4 oz, raw ⁵
Calories (kcal)	290	170	150	240	250
Total Fat (g)	23	8	4.5	14	18
Saturated Fat (g)	9	3.5	2	8	6
Cholesterol (mg)	80	75	75	0	0
Sodium (mg)	75	75	75	370	390
Total Carbohydrate (g)	0	0	0	9	3
Protein (g)	19	24	25	19	20

LOOK AT THE LABEL

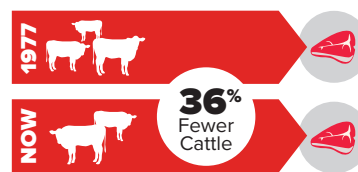
Beef has the taste and the simple ingredients that consumers crave.

Product	Ingredients
80% Lean ¹	Beef
93% Lean ²	Beef
96% Lean ³	Beef
Soy-Based Burger ⁴	Water, Soy Protein Concentrate*, Coconut Oil, Sunflower Oil, Natural Flavors, 2% or less of: Potato Protein, Methylcellulose, Yeast Extract, Cultured Dextrose, Food Starch Modified, Soy Leghemoglobin, Salt, Soy Protein Isolate, Mixed Tocopherols (Vitamin E), Zinc Gluconate, Thiamine Hydrochloride (Vitamin B ₁), Sodium Ascorbate (Vitamin C), Niacin, Pyridoxine Hydrochloride (Vitamin B ₆), Riboflavin (Vitamin B ₂), Vitamin B ₁₂ *Contains: Soy
Pea-Based Burger ⁵	Water, Pea Protein Isolate**, Expeller-Pressed Canola Oil, Refined Coconut Oil, Rice Protein, Natural Flavors, Cocoa Butter, Mung Bean Protein, Methylcellulose, Potato Starch, Apple Extract, Salt, Potassium Chloride, Vinegar, Lemon Juice Concentrate, Sunflower Lecithin, Pomegranate Fruit Powder, Beet Juice Extract (for color) ⁵ **Peas are legumes. People with severe allergies to legumes like peanuts should be cautious when introducing pea protein into their diet because of the possibility of a pea allergy. Contains no peanuts or tree nuts.

MORE HIGH-QUALITY BEEF, MORE SUSTAINABLY

Beef farmers and ranchers are continuously improving the way beef is raised to ensure a sustainable supply of delicious and nutritious beef.

Today's beef farmers and ranchers produce the same amount of beef with 36% fewer cattle.⁶



How'd they do it?

- Better Animal Health & Welfare
- Better Animal Nutrition
- Better Animal Genetics

¹ USDA National Nutrient Database for Standard Reference for beef. NDB# 23572 <https://ndb.nal.usda.gov/ndb/search/list>

² USDA National Nutrient Database for Standard Reference for beef. NDB# 23472 <https://ndb.nal.usda.gov/ndb/search/list>

³ USDA Ground Beef Calculator: <https://ndb.nal.usda.gov/ndb/beef/show>

⁴ www.impossiblefoods.com/burger/

⁵ www.beyondmeat.com/products/the-beyond-burger/

⁶ USDA NASS Quickstats Data calculated using data as of January 1, 2018.



Exhibit 4

Product Definition Perception

Even more consumers feel various plant-based meat products contain some amount of meat

	Beyond Burger (A)	Beyond (B)	Beyond Beef (C)	Impossible (D)	LightLife (E)
Is completely Vegan, containing no meat or animal by products (eggs, dairy)	39%	44% ^E	41%	41%	37%
Does not contain Meat but may contain animal by products (eggs, dairy, etc.)	29%	29%	27%	33% ^{CE}	26%
Can contain small amounts of meat, but is primarily plant based	21% ^{BD}	15%	22% ^{BD}	16%	22% ^{BD}
Contains Meat and there are no restrictions on the amount	11%	12%	10%	10%	15% ^{CD}

Statistical testing done at the 90% confidence interval—Letters indicate higher significance than that particular brand
Thinking of the image above, please select which statement best matches your perception of the product.

