

November 13, 2007

Governor Arnold Schwarzenegger
State Capitol Building
Sacramento, CA 95814

Dear Governor Schwarzenegger:

The Center for Food Safety and Consumers Union were gratified that the California Legislature passed SB 63 (Migden), the California Cloned Food Labeling Act, last session. As you know, according to a recent survey by Consumers Union, more than 89% of Americans want food from cloned animals to be labeled. Clearly, this is a compelling public interest issue that needs to be addressed, particularly in light of the fact that unlabeled cloned food may soon be in the marketplace.

We are deeply disappointed in your recent veto of Senator Migden's cloned food labeling bill. In particular, we are not satisfied with your stated reasoning that you "cannot sign this bill as it is pre-empted by federal law." Our organizations have consistently challenged this assumption, and would like to provide you with our rationale for why the California labeling of meat and milk derived from cloned animals would not be pre-empted by federal law.

Under SB 63, the labeling of *dairy* products derived from cloned animals is clearly not preempted. Such labeling in California is controlled by state law, and there is no federal preemption of dairy labeling laws. Your veto statement, which refers only to the federal meat labeling law, tacitly acknowledges this fact. Dairy products derived from cloned animals will be the first such food products to reach California markets, and will make up the vast majority of the cloned food market. Dairy products are thus the primary target of SB 63. Given this, your claim of preemption is not only legally unsound, but disingenuous and inaccurate.

Concerning the labeling of meat products, there are two main applicable federal laws – the Federal Food Drug and Cosmetic Act ("FFDCA") and the Federal Meat Inspection Act ("FMIA"). The FFDCA enumerates a list of labeling standards for which the federal law preempts state law unless the state standards are identical. Cloning is not listed as such a category. Additionally, the FFDCA does not address cloning or the labeling of cloned products in any way. Therefore, the labeling requirements of SB 63 would not be affected by the preemption provision of the FFDCA.

The Federal Meat Inspection Act (“FMIA”), which regulates the *inspection*, and subsequent labeling of inspected meat and poultry, also does not preempt SB 63 because the scope of the FMIA is limited to meat inspection, and does not reach novel cloning technology. SB 63 creates a state labeling requirement for foods containing products derived from cloned animals, which is beyond the scope of the inspection and labeling requirements of the FMIA. Therefore, the FMIA does not preempt SB 63.

The California Legislature showed its commitment to the public interest by passing SB 63. Your veto of this bill, based on misguided reasoning, is unacceptable. We pledge to work with legislators to help introduce a similar cloned food labeling bill in California next legislative session.

We sincerely hope that you will support California legislation requiring cloned meat and milk to be labeled when it comes to your desk again next session.

Sincerely,

Rebecca Spector
West Coast Director
Center for Food Safety

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