



NATIONAL MEAT ASSOCIATION

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In California's Fourth Appellate Court, National Meat Association and the American Meat Institute have won an appeal for Federal Meat Inspection Act (FMIA) preemption of California's Proposition 65. The appellate court agreed with the associations' position that the FMIA "expressly" (and entirely) preempts Prop 65.

Since enactment, Prop 65 has been the reason for the addition of notices of specific contents to consumer product labels. In fact, the state law allows California citizens to sue companies that do not place a warning label on certain products. However, in the case of meat products, Prop 65 is in direct conflict with provisions of the FMIA.

The dilemma that made the case necessary is expressed in this quote from the court decision: "The need for declaratory relief is made all the more crucial in this case because the USDA has expressed its view that it would likely regard as misleading any Proposition 65 warnings made in connection with meat inspected and approved by the USDA. The USDA has explained that providing Proposition 65 warnings for inspected and approved meat "would only confuse the public as to the wholesomeness of the meat." **Thus, without guidance from the court, the Trade Associations' members are caught between the choice of risking sanctions for failing to comply with Proposition 65, on the one hand, and the strong likelihood of USDA disapproval if they attempt to provide Proposition 65 warnings, on the other.**" (Emphasis added.)

The FMIA was enacted to protect the health and welfare of consumers by assuring that meat and meat food products distributed to them are wholesome, not adulterated, and properly marked, labeled, and packaged. This therefore is an extremely important and precedent-setting legal decision because it assures a level playing field and standard rules nationwide for meat products produced under Federal inspection. The preemption of Prop 65 (and by extension other such state laws) does not eliminate the ability of citizens to request additional labeling, but rather clarifies that parties interested in obtaining this sort of labeling should file a petition with the USDA pursuant to 7 Code of Federal Regulations part 1.28 (2009) "for the issuance, amendment or repeal of a rule."

If you have questions or would like a copy of the court's decision, please contact NMA Director of Communications and Government Relations Jeremy Russell at (510) 763-1533 or jeremy@nmaonline.org.
