

Country-of-Origin Testimony

Senate hearing allows new labeling law to be questioned for the record.

by **Corinne Blender**

U.S. Sen. Jim Talent (R-Mo.) told a crowd of producers and industry leaders in Joplin, Mo., April 22 that the Subcommittee on Marketing, Inspection and Product Promotion of the Committee on Agriculture, Nutrition and Forestry would examine the potential burdens associated with the new country-of-origin labeling (often referred to as COOL or COL) law. Talent chairs this subcommittee, which will eventually make a recommendation to the U.S. Department of Agriculture (USDA) as to how the law may be implemented.

"There is a consensus that the country-of-origin labeling law is good, at least in principle," Talent said in his opening statement. "At least until this point, there is a great deal of controversy over how this law is going to be implemented.

"Concerns have been raised by producers, as well as other parts of the food production chain, whether the cost of implementation may not be so great — particularly on producers — as to cancel out part or all of the benefits of the law," Talent added.

U.S. Rep. Roy Blunt (R-Mo.) joined Talent in the first half of the hearing. To those offering testimony, Blunt and Talent presented many tough questions about the concerns

this law has caused for many in the industry and in the government.

"There is much concern about the language of the 2002 Farm Bill that I voted for and to how that language is implemented. Some of that concern is justified; some of it will probably turn out not to be justified," Blunt said. "And that's the purpose of the hearings we've asked the Department of the [Ag] Secretary to hold."

Missouri may be considered ground zero for this debate, Blunt said. He pointed out that operations in Missouri are representative of cow-calf operations across the United States. It is here, he said, where the identification of many of the animals will start, and that it will be in the hands of small producers with maybe 20 head.

"What we don't want to have here is an example of another law of unintended

consequences," Blunt says.

"The intent of the law was to use labeling as a marketing tool, not necessarily to come up with some regulatory nightmare forcing people out of the market or forcing the small producers out of the market."

For the record

Unlike the producer listening sessions that the USDA is also sponsoring, the Senate hearing didn't allow room for audience questions, but Talent and Blunt asked three panels of testifiers many of the same questions that have rested heavily on the minds of members of the beef industry.

Bill Hawks, undersecretary for marketing and regulatory programs, USDA, was the lone member of the first panel. Hawks was open with the hearing attendees, stating in his testimony, "Mr. Chairman, as you may know, the Office of Management and Budget's Statement of Administration Policy on S. 1731, the Agriculture, Conservation and Rural Enhancement Act of 2001, found the provision requiring mandatory country-of-origin labeling highly objectionable. The administration's position and the reasons for that position have not changed. We feel these new requirements will not have a positive effect overall and that the potential impact on trade and the unintended consequences on producers could be significant."

Hawks went on to say, "In spite of the administration's view and the narrow parameters Congress adopted for this very prescriptive piece of legislation, USDA is fully committed to carry out the intent of this law to the best of its abilities. These provisions are part of the Farm Bill, and we are working diligently to implement them."

Talent recognized Hawks for being up-front with the administration's view and said that the listening sessions to which the USDA has agreed should help alleviate any bias by listening to all sides.

Several ways to solve the recordkeeping requirement, or at least to lessen the burden on producers, have been suggested, Talent pointed out. Talent wanted to make it clear that the USDA was aware of many of the suggestions, and he asked specifically about the "grandfather clause" and "self-certification."



The grandfather clause, as he stated, would allow the older animals already in the marketing channels but not identified to be sold in retail outlets after the Sept. 30, 2004, deadline without identification. Self-certification is the idea that cattlemen can present their cattle at market and sign affidavits stating that their cattle were born in the United States.

Hawks responded by stating that the law, as it is written, is so prescriptive that he feels actions such as these will not be permissible under the country-of-origin labeling law.

Talent then questioned him as to whether there wasn't room for these types of ideas, and in a sense, if the USDA could bend over backwards here to help make implementation simple.

"I am always open to bending over backwards when it comes to farmers because I have been a farmer all my life in Mississippi," Hawks said. "The fact of the matter is that the law is so prescriptive. ... Obviously self-certification can be a component, but you at least have to have some auditable, verifiable trail. So we think that self-certification, in and of itself, will not be sufficient to implementing the law."

Blunt then questioned Hawks about the school lunch program. The school lunch program is implemented under Hawks' department. Hamburger, for example, in the program must be that of a U.S. product. Blunt asked why the system used to identify U.S. product for the school lunch program wouldn't work for country-of-origin labeling.

Hawks explained that the school lunch program is a command-and-control program. At one point in the process, the USDA takes control of the product, and from there it is certified as a product of the United States. Implementing the program in this manner would not fulfill the "born, raised and slaughtered" requirements of the country-of-origin labeling law, he said.

Blunt then asked how Hawks would implement this law if he could prescribe a method. Hawks said that in light of the law's being so prescriptive in saying that the USDA is prohibited from the implementation of an identification (ID) system, that it was best to listen to the testifiers that were to follow for ideas on implementation and on how to keep records.

Talent said, "There is a provision in the law prohibiting you from a mandatory national tracing system. That could be taken as some indication from the Congress that you have some digression [to not] require the extensive recordkeeping of producers that you might otherwise think. And the second thing of the law is that the secretary

'may require a verifiable recordkeeping audit trail,' not 'shall require.' Why don't those two provisions give you more digression than you are saying now?"

Hawks said that upholding the integrity of this new law is important if it is to be implemented. While many suggestions made may be good, Hawks said, "I think if we do not have a verifiable trail so we can determine origin then we would be doing the public an injustice. ... We've got to have some sort of system in place, some sort of process."

Blunt's next point was the number of domestic cattle versus imported cattle. Hawks said only about 10%-20% of the 28 million cattle reported to be processed in the United States annually are imported. Blunt pointed out that information is known on the number of cattle that cross the border. They are, in a sense, identified. He questioned why the law couldn't be implemented to require the exclusion of carcasses identified as imported rather than the inclusion of those identified to be of U.S. origin.

Hawks answered that the law is prescriptive in saying that it will be done the other way. Talent said it would be up to the USDA's lawyers to describe what can and cannot be done under this law.

Talent addressed issues that concern the packing segment. He questioned Hawks on packers' wanting to source their cattle from larger producers who may have a better, more sophisticated recordkeeping system and if, No. 1, that would be a concern and, No. 2, if that would be in violation of the Packers and Stockyards Act. Hawks said that packers may use any business practice that they can justify, as long as the same opportunities are given to all. He used the example that, provided a packer supply notification to all producers up front with the requirements they seek on their cattle for purchase, packers may reserve the right to bid on cattle raised in that manner.

Hawks stated that the USDA's role is to continue to listen to the industry and to study questions brought forth. "From here, as we prepare to do the mandatory regulations, we will be doing extensive cost-

benefit analysis and working with the economists of the Department of Agriculture," Hawks said.

From industry

The second panel to testify before the subcommittee consisted of Mike O'Brien, vice president of produce for Schnucks Markets Inc., Saint Louis, Mo.; Ken Bull, vice president of cattle procurement for Excel, Wichita, Kan.; Steve Owens, co-owner of Joplin Regional Stockyards, Joplin, Mo.; Phil Howerton, chairman of the Missouri Pork Producers, Chilhowee, Mo.; Max Thornsberry, president of the Missouri Stockgrowers' Association, Richland, Mo.; and Ken Disselhorst, president of the Missouri Cattlemen's Association, Palmyra, Mo.

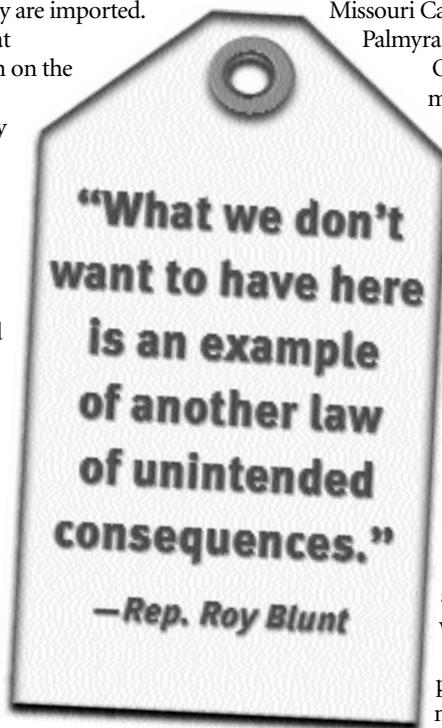
O'Brien and Howerton made it clear that country-of-origin labeling laws are not just a concern for beef producers. O'Brien pointed out that much of the produce available for purchase in the United States is from many other countries. The codes used for tracking products don't currently allow for country identification of each product. To do so would require extensive rewriting of programs and a complete change in warehouse management.

Howerton had a list of points of concern that mandatory country-of-origin labeling would pose

to the domestic hog producer, naming the costs of this law and the driving of small producers out of business as some of his major concerns.

Bull was questioned specifically about identifying cattle that are imported. He reported that he has had some people describe that as a trade violation. "That's up for lawyers to interpret and argue whether or not putting that burden only on imported animals is a problem," Bull added.

But identifying imported cattle wouldn't necessarily ease his concerns about the expense and difficulty in this law. "I think if animals were coming directly from a country directly into our packing plant and that's the only animals entering the country then you might get those solutions. The problem is you have anywhere from 500,000 to 1 million feeder cattle coming across the



CONTINUED ON PAGE 118

Country-of-Origin Testimony CONTINUED FROM PAGE 117

border from Mexico," he said, pointing out that they are often commingled at auctions and may go into cow-calf and backgrounding operations in grazing country and into feedlots.

Feeder cattle, fat cattle and cows are also entering the United States across the Canadian border. "These animals all get dispersed within the system of the United States and commingle with other cattle," Bull stated. "And so you would have to create some sort of system that no one could alter on those animals."

Bull said he sees difficulty in putting tags, for example, into imported cattle's ears because there will be those who try to make cattle lose the tag so that that animal can be sold as a product of the United States.

"I think the key is really [that] that burden has to go back to producers who are buying those animals and having to understand how they manage those animals and how they would feel to identify them," Bull said. "Our job is to take whatever label that has been identified to those animals when they get to our plant. ..."

Bull said that another concern that hadn't been brought up yet was more perplexing

than identifying the animals. As an example, he said, say he had information on a group of cattle that all had been identified as born, raised and slaughtered in the United States because of the absence of a tag saying they were imported. If one of those animals was later found to be from Mexico, he said, the whole lot would have to be recalled.

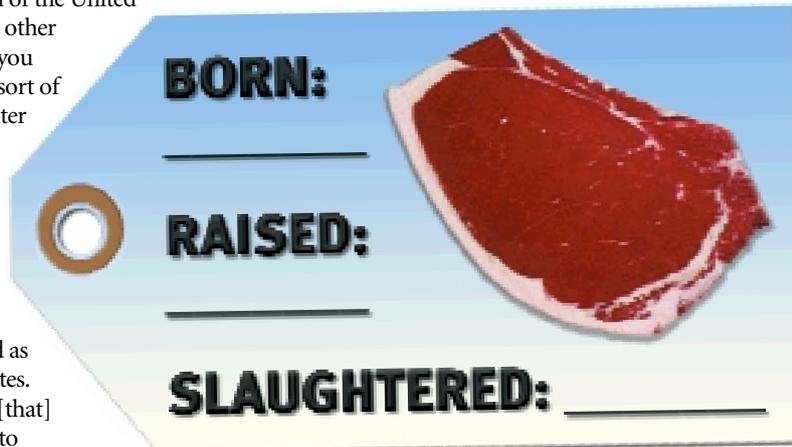
not [a] foreign animal and then you find out, that through fraud or some mistake, that there is one animal in there, I think we can create safe harbors for you," Talent said. "It's complicated, but we are beginning to make some progress."

The final panel consisted of Russ Kremer, president of the Missouri Farmers Union, Saint Louis, Mo.; and David Day, a board member of Missouri Farm Bureau, Pulaski County.

Unintended consequences were a common thread in many of the testimonies by producer representative groups. Whether or not a group saw a need for mandatory country-of-origin labeling, they all expressed concerns with how the language of the law would be interpreted. Undue hardships are not what this law is intended to accomplish.

Talent said in his closing statement that he doesn't want to make anybody a victim of this law.

Editor's Note: To view the written testimony from this hearing, visit www.senate.gov/~agriculture/Hearings/hearings.html. To download the hearing itself (2 hr., 26 min.), visit <http://agriculture.senate.gov/>.



Talent offered that one way to deal with the situation would be to provide "safe harbors" to those who had done their part right. He recommended spelling that out administratively or statutorily.

"I certainly don't have ... a problem with saying if you have done your responsibilities to check all the tags to make sure ... that it's

Calgary Stampede to Host Beef Industry Congress

The International Stockmen's Educational Foundation (ISEF), Canadian Cattlemen's Association (CCA) and the Calgary Stampede will host the International Beef Industry Congress (IBIC) July 11 in Calgary, Alta., Canada.

The Congress is a collaborative effort of beef industry leaders from around the world. By providing a forum of discussion of relevance to Canadian cattle producers, the IBIC seeks to supply information that will help the producer, supplier and retailer have a clearer picture of the beef industry landscape.

The IBIC will include a student program, coordinated through the CCA, open to top seniors or graduate students of Canadian and northern region U.S. universities. Students will be selected by their respective university faculties.

Speakers for the IBIC, which kicks off at 1 p.m. July 11, will address a number of issues, including the economic future of the beef industry; how the beef industry itself views its future challenges; and the positions Canada, the United States and Mexico take in regard to country-of-origin labeling (often referred to as COOL or COL).

Among those will be a presentation on the Global Livestock, Meat and Poultry Competition Study, presented by the Sparks Companies

Inc., of Memphis, Tenn. The study takes a comprehensive look at where the United States and Canada stand as compared to other key livestock and poultry regions, particularly in South America.

This will be followed by the International Livestock Congress (ILC) Consensus Report, presented by Gary Smith, ISEF beef program chair and distinguished professor at Colorado State University, Fort Collins, Colo.

The afternoon session will feature an all-star country-of-origin labeling discussion panel, which will take on the controversial subject and frankly discuss how these requirements are affecting trade among Canada, the United States and Mexico, as well as with other countries.

Registration for the IBIC costs \$45 (CD) for the meeting and admission to the World Issues Dinner, or each can be purchased separately for \$25 (CD). Registration is available online at www.livestockcongress.com. Forms may be downloaded and faxed to (817) 367-3751. For more information, contact ISEF Executive Director Julie Kimball at (817) 367-6563 or julie@livestockcongress.com.

