

May 26, 2021

Senator Chuck Schumer
Majority Leader
U.S. Senate
S-221 United States Capitol
Washington, D.C. 20510

Senator Mitch McConnell
Minority Leader
U.S. Senate
S-230 United States Capitol
Washington, D.C. 20510

Senator Maria Cantwell
Chairwoman
U.S. Senate Committee on Commerce,
Science, and Transportation
420-A Hart Senate Office Building
Washington, D.C. 20510

Senator Roger Wicker
Ranking Member
U.S. Senate Committee on Commerce,
Science, and Transportation
512 Dirksen Senate Office Building
Washington, D.C. 20510

Senator Debbie Stabenow
Chairwoman
U.S. Senate Committee on Agriculture,
Nutrition, and Forestry
328-A Russell Senate Office Building
Washington, D.C. 20510

Senator John Boozman
Ranking Member
U.S. Senate Committee on Agriculture,
Nutrition, and Forestry
328-A Russell Senate Office Building
Washington, D.C. 20510

Senator Tammy Baldwin
U.S. Senate
709 Hart Senate Office Building
Washington, D.C. 20510

Dear Senators Schumer, McConnell, Cantwell, Wicker, Stabenow, Boozman, and Baldwin:

The undersigned food and agriculture industry associations write to express significant concerns with the *Country of Origin Labeling (COOL) Online Act*, an amendment in the *U.S. Innovation and Competition Act*, (S. 1260) that would require retailers and sellers to include country of origin information in product descriptions on their websites. As written, the *COOL Online Act* would be inconsistent with the existing USDA COOL program and unworkable for food retailers, could trigger potential retaliatory tariffs on an array of products, and could expand the scope of origin labeling to products offered on the internet not currently subject to the mandatory COOL statute administered by the U.S. Department of Agriculture (USDA). Therefore, we respectfully request adoption of the *Boozman Amendment* to allow covered agricultural products to remain under USDA's proven regulatory oversight.

Although it may appear that the *COOL Online Act* would simply expand existing origin requirements to products sold online on retailers' websites, the reality is the amendment's effects would be much more

complicated. Product sourcing is complex and a singular food product a retailer sells may be purchased from several countries throughout the year, depending on several conditions. This singular product may be sourced from one country during one week and from a different country another week. Additionally, retail companies may operate from one to hundreds of physical store locations, and individual store locations may receive products sourced from different countries. When operating in an online environment, the customer purchases items from the company's website but the sourcing countries for the items purchased would change drastically depending on where the customer is physically located at the time of order. Not only would the *COOL Online Act* cause significant costs and burdens for retailers, but compliance would also simply be impossible in many circumstances.

In addition to the sourcing challenges discussed above, we think the *COOL Online Act* would have demonstrable, negative consequences on food security across the nation. Congress has worked diligently throughout the years to strengthen federal nutrition programs, such as the Supplemental Nutrition Assistance Program (SNAP) and this amendment would be a step in the wrong direction. USDA launched the SNAP online purchasing pilot program in 2019 and expanded the pilot across the country in 2020 due to the onset of the COVID-19 pandemic. When many SNAP customers are shopping from home and retailers are expanding their online offerings to allow the purchase of items using SNAP benefits, this amendment would create extra costs for retailers considering participating in SNAP online purchasing—a program that small grocers already have encountered barriers to participating due to high costs.

We are also concerned about the legislation's extension of COOL enforcement jurisdiction to the Federal Trade Commission (FTC). For decades, USDA has effectively enforced COOL compliance for products covered under existing point-of-sale COOL labeling requirements with the agency reporting nearly universal retailer compliance. Currently, retailers are subject to penalties and fines for willful COOL violations. COOL inspectors routinely monitor and inspect retail operations for compliance and USDA allows consumers to file complaints with the agency for alleged violations. Extending enforcement authority to the FTC is not only unnecessary, it is duplicative and would confuse retailers and consumers.

Finally, unclear is whether enactment would trigger retaliatory tariffs available to important trading partners under an earlier World Trade Organization ruling or, in the alternative, create a new non-tariff trade barrier. Only five years ago Congress amended the mandatory COOL provisions in the Agricultural Marketing Act of 1946 to exempt certain meat and pork products in response to four WTO rulings that nearly resulted in more than a billion dollars in retaliatory tariffs being levied on American products. Ironically, this bill could require some of those products offered for sale on the internet to provide origin labeling, while the same product offered in a retail store need not. Indeed, the bill could expand the scope of origin labeling for products offered on the internet to products never subject to mandatory COOL. Such a disjointed labeling scheme makes little sense and could undermine important trade relationships that create market opportunities for U.S. farmers.

Recognizing the above concerns, **the signatories to this letter strongly support Amendment 1920 by Senator John Boozman to keep agricultural and food products including those already covered by the**

USDA COOL program under USDA's regulatory oversight. We urge you to support the Boozman amendment and respectfully request you encourage your colleagues to do so as well.

Thank you for the opportunity to share our concerns.

Respectfully submitted,

Alabama Grocers Association
American Bakers Association
American Farm Bureau Federation
American Frozen Food Institute
Arizona Food Marketing Alliance
California Farm Bureau
Connecticut Food Association
Consumer Brands Association
Food Directions, LLC
Food Industry Alliance of New York State
Food Industry Association (FMI)
Georgia Food Industry Association
Global Cold Chain Alliance
Hawaii Food Industry Association
International Dairy Foods Association
Kentucky Grocers & Convenience Store Association
Louisiana Retailers Association
Maine Grocers & Food Producers Association
Maryland Association of Chain Drug Stores
Maryland Food Industry Council
Maryland Retailers Association
Massachusetts Food Association
Minnesota Grocers Association
National Association of State Departments of Agriculture
National Cattlemen's Beef Association
National Confectioner's Association
National Grocers Association
National Pork Producers Council
National Turkey Federation
Nebraska Grocery Industry Association
New Hampshire Grocers Association
New Jersey Food Council
North American Meat Institute
Ohio Grocers Association
Oklahoma Grocers Association

Pennsylvania Food Merchants Association
Produce Marketing Association
Retail Grocers Association of Kansas and Missouri
Tri State Jewelers Association
United Egg Producers
USA Rice Federation
Utah Food Industry Association
Utah Retail Merchants Association
SNAC International
Texas Retailers Association
Vermont Retail & Grocers Association
Washington Food Industry Association
Wisconsin Grocers Association