ISSUE 477 | MARCH 29, 2013

FOOD & BEVERAGE LITIGATION UPDATE

CONTENTS

LEGISLATION, REGULATIONS AND STANDARDS

OMB Makes Cuts to FSMA Regulatory Package

According to news sources, the White House Office of Management and Budget (OMB) removed some provisions from the regulatory implementation package that the Food and Drug Administration (FDA) proposed under the Food Safety Modernization Act (FSMA). Analysis of documents submitted to the rulemaking **docket** apparently reveals that the following requirements were removed from the draft rules submitted for OMB review: (i) company programs to monitor the environment for pathogens, (ii) finished product testing for pathogens, (iii) the assumption that pathogens found on food contact materials are also in the food, (iv) a supplier approval and verification program, (v) company review of consumer safety complaints, and (vi) FDA authority to copy company records. *See Food Politics* and *Law360*, March 25, 2013.

Meanwhile, the Center for Food Safety has reportedly called on a federal court in California to impose deadlines on FDA to implement food safety regulations, arguing that the FSMA set certain rulemaking deadlines that have been missed. A U.S. Department of Justice attorney reportedly responded by noting, "Congress set tremendous tasks for the agency, and in no detail. We didn't get any new staff, or a new center, as we did with tobacco regulation. We got, 'You're the experts; you know how to deal with food safety; we want you to tighten the system.'" The court apparently questioned whether it had the authority to impose or enforce deadlines on the agency. *See Law360*, March 27, 2013.

Continuing Appropriations Bill Includes GE Crop, Meatpacker, Poultry Riders

Among other measures added to the six-month Consolidated and Further Continuing Appropriations Act of 2013 signed into law by President Barack Obama (D) on March 26, 2013, are a number of provisions—or "riders"—that apparently either override previously adopted laws or require the U.S. Department of Agriculture (USDA) to ignore judicial rulings on challenges to the deregulation of genetically engineered (GE) crops.

SHB offers expert, efficient and innovative representation to clients targeted by food lawyers and regulators. We know that the successful resolution of food-related matters requires a comprehensive strategy developed in partnership with our clients.

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The riders reportedly include (i) cuts to a school breakfast program to avoid disruptions to food safety inspections which would have affected meat processing operations; (ii) an order that the USDA secretary rescind regulations adopted in 2012 protecting growers under contract with large chicken processors; (iii) the removal of funds from USDA's budget to implement 2008 farm bill reforms protecting small ranchers and farmers that raise animals for slaughter; and (iv) a requirement that the USDA secretary "immediately grant" temporary permits to farmers, growers or producers on request to continue growing GE crops in the event a court invalidates or vacates USDA's deregulation of the crop. *See Politico*, March 25, 2013; *Law360*, March 27, 2013.

Proposed Legislation Would Amend Federal Menu Labeling Requirements

U.S. Rep. Cathy McMorris Rodgers (R-Wash.) has **introduced** legislation (H.R. 1249) that would amend the federal Food, Drug, and Cosmetic (FD&C) Act "to improve and clarify certain disclosure requirements for restaurants, similar food retail establishments, and vending machines." Titled the "Common Sense Nutrition Disclosure Act of 2013," the bill would classify a restaurant or similar retail food establishment subject to federal menu labeling laws as one "that derives more than 50 percent of its total revenue from the sale of food of the type described" by the FD&C Act.

Touted as a means to lessen the regulatory burden on some retailers, the legislation would, among other things, (i) strike from the FD&C Act language requiring restaurants, retail food establishments and vending machines to list "the number of calories contained in the standard menu item, as usually prepared and offered for sale" and instead insert language specifying that these establishments must provide "the number of calories contained in the whole product, or the number of services and number of calories per serving, or the number of calories per the common unit division of the product, such as for a multi-serving item that is typically divided before presentation to the consumer"; (ii) define "reasonable basis" in terms of nutrient disclosure to mean "that the nutrient disclosure is within acceptable allowances for variation in nutrient content"; and (iii) permit restaurants and retail food establishments to determine and disclose nutrient content "using any of the following methods: ranges, averages, individual labeling of flavors or components; or labeling of one preset standard build."

"This bill will limit the burdens of Obamacare by removing unnecessary FDA [Food and Drug Administration] regulations and improving nutrition disclosure requirements for restaurants, retail food establishments, and vending machines," said Rep. Renee Ellmers (R-N.C.) in support of the measure. "The nutrition labeling provision in the Presidents[sic] healthcare bill was intended to provide a federal standard for informing consumers on nutritional information at restaurants. Instead, the [FDA] has designed a one-size-fits-all

regulation that captures some non-restaurant establishments, such as grocery and convenience stores." *See Ellmers Press Release,* March 21, 2013.

Senators Accuse Companies of Marketing Energy Drinks to Children

U.S. Sens. Richard Blumenthal (D-Conn.) and Richard Durbin (D-Ill.) recently sent letters to the CEOs of Monster Beverage Corp., Rockstar, Inc., and Red Bull North America, accusing the companies of marketing energy drinks to children. Citing "growing concern about the potential health risks posed by energy drinks," the legislators claim that despite pledges to abstain from targeting children with direct advertisements, energy drink manufacturers have sponsored athletic competitions and professional athletes that appeal to youth.

In particular, the letters single out Monster Beverage Corp. for purportedly advertising on a Little League scoreboard; distributing free product samples at skate park events geared toward children; and sponsoring "Monster Energy Drink Player of the Game" awards for student athletes. Blumenthal and Durbin also highlight Rockstar's sponsorship of "a 15-year-old professional skate-boarder and role model to young fans" as well as Red Bull's involvement with a high school football tournament and the Red Bull Rookies Cup, "a motorcycle race for children as young as 13 years old."

"In light of public health concerns regarding the consumption of high levels of caffeine by children and adolescents and your company's position that your energy drink products are not marketed to children, we are deeply concerned by evidence demonstrating direct marketing of your products to youth," conclude the letters, which request a written response explaining why each company "is targeting marketing to children and what steps [are being taken] to prevent this type of marketing in the future."

EFSA to Hold Public Consultation on BPA Draft Opinion

The European Food Safety Authority (EFSA) has **announced** a forthcoming public consultation to discuss its draft opinion on the potential health risks of bisphenol A (BPA). Slated for final adoption in November 2013, the draft opinion will take into account "ongoing scientific work on BPA at European and national levels" as well as the work of EFSA's Panel on Food Contact Materials, Enzymes, Flavourings and Processing Aids (CEF Panel), which in February 2012 agreed to undertake "a full re-evaluation of the human risks associated with exposure to BPA" from both dietary and non-dietary sources.

According to a March 26, 2013, press release, EFSA last completed a full risk assessment for the substance in 2006, concluding at the time that dietary BPA exposures for adults, infants and children "were all well below" the Tolerable Daily Intake set at 0.05 mg/kg body weight/day. Since the 2006 opinion, however, scientific experts and national agencies such as the French Agency

for Food, Environmental and Occupational Health and Safety have undertaken new risk assessments that purportedly raise concerns about low-dose exposures to the BPA used in food contact materials and medical devices. The CEF Panel has thus agreed to review all new data and studies in addition to "further evaluating uncertainties about the possible relevance to human health of some BPA-related effects observed in rodents at low dose levels." EFSA will launch the public consultation in July 2013.

EFSA Issues Food Additive Priority List

The European Food Standards Authority (EFSA) has **issued** a priority list of food additives "for which scientific data are required to finalize their re-evaluation within deadlines established by European legislation." Tasked with re-evaluating hundreds of food additives by 2020, EFSA's Panel on Food Additives and Nutrient Sources Added to Food (ANS Panel) has asked member states and other stakeholders to provide the following information for 51 food additives: (i) "figures from industry on the amounts of these additives they report using in their products"; and (ii) "data derived from analyses indicating actual levels of these additives found in foods and drinks from national food authorities, research institutions, academia, food industry, and other stakeholders."

To meet the evaluation deadlines, the ANS Panel has divided food additives into groups "based on the availability of scientific data." The panel will accept data related to the 15 additives in the first group—which includes β-apo-8'-carotenal, titanium dioxide, and iron oxides and hydroxides—until July 2013, and data related to the second group—which includes cochineal, annatto and ascorbic acid—until November 2013. The list also prioritizes the following food colors "for which a possible exceedance of ADI [Acceptable Daily Intake] was identified" and which thus require refined exposure assessments: curcumin, brown HT, azorubine/carmoisine, allura red AC, brilliant black BN, quinoline yellow, sunset yellow, and ponceau 4R. Hoping to finalize opinions on these additives before the 2015 legislative deadline, EFSA apparently plans to issue additional priority schedules in the future.

UK Agency Dismisses Nesquick Ad Complaints

The U.K. Advertising Standards Authority (ASA) has **declined** to uphold five complaints claiming that Nestlé UK Ltd.'s TV advertisements for Nesquick chocolate milkshake "encouraged poor nutritional habits by suggesting the product was suitable to give to children for breakfast on a daily basis." According to ASA, the complaints described the product as high in sugar and thereby unsuitable for daily consumption. But Nestlé countered that a typical serving of Nesquick milkshake could not "be described as being 'high' in sugar" as "46% of total sugar in the product, as consumed, was attributed to the naturally occurring lactose found in milk, and not to the Nesquick

product." In addition, Nestlé explained, the sugar that could be attributed to the product still met World Health Organization guidance stating that Non-Milk Extrinsic Sugars should contribute less than 10 percent daily energy to children's diets.

"Nestlé also said the new EU Pledge nutrient profiling criteria defined all Nesquick flavors, with semi-skimmed milk, as 'better for you' options," states ASA's ruling. "A set of common criteria was recently agreed under the EU Pledge for dairy products other than cheese to be classified as 'better for you' options, these were: no more than 170 kcal of energy per portion; no more than 2.6 g of saturated fat, and no more than 300 mg of sodium, per 100 ml; and no more than 13.5 g total sugars per 100 ml. Nestlé said Nesquik chocolate with semi-skimmed milk contained 9.9 g total sugar and was therefore well below the upper limit."

ASA ultimately agreed with Nestlé's response, noting that the TV ad in question did not suggest that the product "should necessarily be consumed every day." Even so, the agency "did not consider the level of sugar in the product was so high as to preclude sensible daily consumption," thus finding the advertisement not in breach of BCAP Code rules 3.1 (Misleading advertising), 3.9 (Substantiation) and 13.2 and 13.3 (Food, food supplements and associated health of nutrition claims). *See ASA Ruling,* March 27, 2013.

Public Hearing Scheduled for California Sugar-Sweetened Beverage Tax

A sugar-sweetened beverage tax proposal (**S.B. 622**) introduced in February 2013 by Sen. Bill Monning (D) and co-sponsored by the California Center for Public Health Advocacy, is scheduled for public hearing on April 24, 2013. The proposed legislation would impose a 1-cent per fluid ounce tax on sugar-sweetened beverages to finance a Children's Health Promotion Fund that would pay for a statewide childhood obesity prevention program and apply to all sugar-sweetened beverage distributors whether their products are bottled or sold as concentrate.

"This bill will combat the obesity crisis and ensure that our children—and future generations of Californians—are not doomed to a shorter life expectancy and can instead live longer, healthier lives," Monning has been quoted as saying. Details about S.B. 622 appear in Issue **473** of this *Update. See Los Angeles Times,* February 26, 2013.

Mississippi Governor Signs "Anti-Bloomberg" Bill

Mississippi Governor Phil Bryant (R) has **signed** legislation (S.B. 2687) prohibiting food regulation at the local level. Dubbed the "anti-Bloomberg" bill by some lawmakers and media outlets, the new law reserves for the state legislature the power to regulate consumer incentive items, implement menu and vending machine labeling rules, and set other restrictions on the sale of

certain foods and beverages where not preempted by federal law. Additional details about the measure appear in Issues 472 and 475 of this *Update.*

LITIGATION

UK High Court Bars Chobani from Using "Greek" Yogurt Label

According to a news source, U.K. High Court Justice Michael Briggs has ordered New York-based Chobani to change its "Greek" yogurt labels, finding that they mislead more than 50 percent of British consumers into believing that it was made in Greece. Company rival Fage brought the lawsuit to "restrain Chobani from passing off its American-made yoghurt in England and Wales under the description Greek yoghurt." The court apparently determined that "the very small print used on the rear of Chobani's pots" stating that the products are made in the United States was "nowhere near sufficient" to alert people to their true origin. Chobani claimed that the "Greek" designation was a reference to how the product is made and not to its country of origin.

Danone, which also makes the thickened, strained yogurt products, reportedly indicated that it was considering the implications of the ruling; it was temporarily barred in the U.K. from using the "Greek" yogurt designation on its products earlier this year. Additional details about the Danone action and the *Fage v. Chaboni* litigation appear in Issue 471 of this *Update*. *See Metro*, March 26, 2013; *Telegraph* and *DairyReporter.com*, March 28, 2013.

Court Rules Against Animal Rights Groups in Dispute Foie Gras Dispute

A federal court in California has dismissed with prejudice a complaint filed by groups concerned about ducks force-fed to produce foie gras against the U.S. Department of Agriculture (USDA) and its Food Safety and Inspection Service (FSIS), seeking to compel FSIS to ban force-fed foie gras from the human food supply as adulterated and diseased. *Animal League Def. Fund v. USDA*, No. 12-4028 (U.S. Dist. Ct., C.D. Cal., decided March 22, 2013). FSIS denied a petition to take such action, and the plaintiffs filed the lawsuit to challenge the legality of that denial under the Administrative Procedure Act.

According to the court, while an agency's denial of a petition for rulemaking can be challenged in court, the plaintiffs here did not ask FSIS to promulgate a new rule. "Though titled 'PETITION FOR RULEMAKING,' Plaintiffs' request seeks to ban force-fed foie gras under existing law and regulations: it is not a request to make new rules or modify existing rules." The court also noted, based on their "voluminous submission of technical papers and data," that the controversy involved a challenge to a scientific conclusion rather than a legal one, thus presenting "an issue falling squarely under the USDA's discretion

by law. And because there are no legal issues to be considered concerning the USDA's petition denial, Plaintiffs are not entitled to judicial review under 5 U.S.C. § 702."

Animal Rights Groups Sue Federal Agencies over Egg Labeling

The Animal Legal Defense Fund (ALDF) and Compassion Over Killing have reportedly **filed** a complaint in a California federal court against the Food and Drug Administration, U.S. Department of Agriculture and Federal Trade Commission claiming that the agencies have failed to regulate animal-welfare labeling on egg cartons. According to ALDF, rulemaking petitions were filed in 2006 and 2007 asking for egg production methods to be fully disclosed on every carton of eggs sold in the United States. The agencies have not only allegedly failed to take action on these requests, they have also apparently failed to take action against "the often-misleading claims and deceptive imagery widely found on egg cartons." The plaintiffs seek a court order requiring the agencies to adopt rules that would mandate that producers clearly label their egg cartons with egg production methods, including "Eggs from Caged Hens." *See ALDF News Release*, March 28, 2013.

Food Labeling Claims Filed Against Trader Joe's in California

Three California residents have filed a putative class action against food retailer Trader Joe's in federal court, alleging three different types of misleading labeling claims: using the terms "evaporated cane juice" or "organic evaporated cane juice," identifying as "natural" or "no added coloring or preservatives" foods that contain added preservatives and artificial colors, and representing non-dairy calcium products as "milk." *Gitson v. Trader Joe's Co.*, No. 13-1333 (U.S. Dist. Ct., N.D. Cal., San Francisco Div., filed March 25, 2013). The plaintiffs claim that the company's "labeling, advertising and marketing as alleged herein are false and misleading and were designed to increase sales of the products at issue. Defendant's misrepresentations are part of an extensive labeling, advertising and marketing campaign, and a reasonable person would attach importance to Defendant's misrepresentations in determining whether to purchase the products at issue."

The complaint outlines the applicable Food and Drug Administration (FDA) regulations that the defendant allegedly violated, noting that California and federal law are identical as to these issues. It also cites FDA guidance and warning letters pertaining to similar products. Seeking to certify a nationwide class of product purchasers, or an alternative statewide class, the plaintiffs allege unlawful, unfair and fraudulent business acts and practices; misleading, deceptive and untrue advertising; violation of the Consumers Legal Remedies Act; and restitution based on unjust enrichment or quasi-contract. They request an order requiring Trader Joe's to immediately stop selling misbranded food products and to engage in corrective action, as well as damages, restitution, disgorgement, punitive damages, equitable remedies, attorney's fees, costs, and interest.

Amicus Briefs Filed to Support NYC's Appeal of Ruling on Sugary Drink Size Limits

New York City Mayor Michael Bloomberg has **announced** that the city's request for an expedited hearing on its appeal of a court ruling striking down a limitation on the size of sugar-sweetened beverages sold in certain retail venues has been granted and that friend-of-the-court briefs have been filed in support of the city's appeal. The lead signatories to the amicus briefs are the National Alliance for Hispanic Health and National Association of Local Boards of Health. They were joined by 30 other organizations and health advocates, including the Harlem Health Promotion Center, Rudd Center, Public Health Law Center, and Northeastern University School of Law Professor Wendy Parmet.

According to Bloomberg, "The organizations and individuals who have joined these amicus briefs understand the toll that obesity is taking on communities here in New York City and across the nation. Sugary drinks are a leading contributor to the obesity epidemic that is hitting low-income communities especially hard, and we cannot afford to pretend otherwise." The mayor's press release further notes that one of the briefs "focuses on scientific evidence showing a strong correlation between sugary drink consumption and obesity and chronic diseases, with a focus on the disproportionate impact to underserved communities." The other brief "demonstrates the legality and appropriateness of incremental approaches to public health that local boards of health have made." Arguments before the appeals court have apparently been scheduled for June 2013. Details about the state court ruling invalidating the ordinance appear in Issue **475** of this *Update*. *See Mayor Michael Bloomberg Press Release*, March 28, 2013.

LEGAL LITERATURE

Legal Scholars Address Constitutional Parameters of Commercial Speech

In an **article** titled "Snake Oil Salesmen or Purveyors of Knowledge: Off-Label Promotions and the Commercial Speech Doctrine," Yale Law School Senior Research Scholar Constance Bagley and her co-authors critique the Second Circuit's December 2012 determination in *United States v. Caronia* that Food and Drug Administration rules prohibiting prescription drug makers from promoting their products for off-label uses are unconstitutional under the First Amendment.

According to the article, which will appear in a forthcoming issue of the *Cornell Journal of Law and Public Policy*, "this undue expansion of the Free Speech rights of commercial actors, if left unchecked" has the "potential to undermine the constitutionality of numerous areas of federal regulation," including mandatory labels on food under the Nutritional Labeling and Education Act of 1990 and Food Allergen Labeling and Consumer Protection Act of 2004.

The authors call for anchoring regulatory regimes in promoting the public good rather than individual paternalism and subjecting restraints on truthful speech to intermediate scrutiny under *Central Hudson* as a way to comport with the First Amendment's purpose of facilitating "political liberty and individual autonomy" and to avoid "a laissez-faire false utopia of unrestricted commercial promotion," which they suggest is the outcome of *Caronia*.

OTHER DEVELOPMENTS

WTO Member Delegations Challenge Chile's Proposed "STOP" Sign Food Labels

During a recent meeting of the World Trade Organization's (WTO's) Technical Barriers to Trade (TBT) Committee, several member delegations expressed concerns about Chile's proposed food health regulation amendments that would, among other things, require certain foods high in fat, sugar or salt to bear "STOP" sign-shaped warnings on 20 percent of the "main surface of the package." The delegations, including Argentina, Canada, Columbia, the European Union, Guatemala, Mexico, Peru, and the United States, apparently contended that such requirements were not based on relevant Codex nutrition labeling guidelines, would create unnecessary barriers to international trade and had not been properly brought before the TBT Committee.

Chile apparently responded that the proposal was intended to stem the tide of the obesity epidemic and that it was needed to provide readily understandable warnings on food products. In addition to stop sign warnings such as "high in salt," "high in calories" or their equivalent, the proposed amendments would also reportedly (i) require some foods to bear labels telling consumers to avoid excessive intake and (ii) include changes to regulate food advertising, particularly ads targeting children younger than 14. *See WTO TBT Committee Report*, March 13, 2013.

Lancet Commentary Questions Food and Beverage Philanthropy

A *Lancet* **commentary** supportive of New York City Mayor Michael Bloomberg's effort to curb the size of sugar-sweetened beverages sold in the city questions whether food and beverage industry partnerships with minority advocacy organizations are "merely a smokescreen to hide the continued targeting of the most susceptible consumers." Comparing "Big Soda" to "Big Tobacco," the article refers to a recent article, summarized in Issue **472** of this *Update*, to suggest that the answer to the question is yes. The article also cites the Access to Nutrition Index, which ranked companies, in part, on their "nutrition-related commitments, performance and disclosure practices," to call for continued industry monitoring with the aim of reinforcing "the best business practices." The Index is discussed in Issue **475** of this *Update*.

In a related development, Center for Science in the Public Interest Executive Director Michael Jacobson has authored an article for *Huffington Post* arguing that soft drink companies learned from cigarette manufacturers how to use philanthropy to enlist allies who would oppose initiatives, such as the Bloomberg sugar-sweetened beverage restrictions, that could affect corporate profits. Jacobson also discusses corporate grants to public health organizations that he claims influenced their less-than-strident positions on soft-drink consumption. He concludes, "Food isn't tobacco. . . . But the playbook is the same, and we ignore it at our peril." *See Huffington Post*, March 20, 2013; *The Lancet*, March 23, 213.

CSPI Says Most Restaurant Kids' Meals Fail to Meet Nutritional Guidelines

"Nearly all of the meal possibilities offered to kids at America's top chain restaurants are of poor nutritional quality," according to a new **report** from the Center for Science in the Public Interest (CSPI).

"One out of every three American children is overweight or obese, but it's as if the chain restaurant industry didn't get the memo," said CSPI Nutrition Policy Director Margo Wootan. "Most chains seem stuck in a time warp, serving up the same old meals based on chicken nuggets, burgers, macaroni and cheese, fries, and soda."

The report, "Kids' Meals: Obesity on the Menu," claims that 97 percent of the nearly 3,500 meal possibilities analyzed failed to meet CSPI nutritional criteria for 4- to 8-year-olds, while 91 percent failed to meet National Restaurant Association (NRA) guidelines for its Kids LiveWell program. CSPI recommends that kids' meals "must not exceed 430 calories, more than 35 percent of calories from fat, or more than 10 percent of calories from saturated plus trans fat." Kids LiveWell guidelines are similar, with an allowance of 600 calories per meal; both CSPI and NRA recommend no more than 770 mg of sodium per meal. Of the kids' meals analyzed, 86 percent apparently contained more than 430 calories, 50 percent contained more than 600 calories, and about 66 percent exceeded the two groups' sodium standard.

CSPI advocates that restaurants (i) "participate in NRA's Kids LiveWell program and reformulate meals so that "*all* meet calorie, sodium, fats, and other nutrition standards"; (ii) "offer more fruit and vegetable options and make those options the default side dishes with every children's meal"; (iii) "remove soft drinks and other sugary drinks from children's menus"; (iv) "offer more whole grains as a part of children's meals"; (v) "provide calorie information for all menu items on menus or menu boards"; and (vi) "market only healthy options to children through all marketing approaches used by the restaurant, including through mass media, websites, in-store promotions and toy give-aways, school-related activities, and other venues."

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SCIENTIFIC/TECHNICAL ITEMS

Salt Intake Allegedly Linked to 2.3 Million Heart-Related Deaths Annually

An abstract recently presented at the American Heart Association's (AHA) Epidemiology and Prevention and Nutrition, Physical Activity and Metabolism 2013 Scientific Sessions reportedly linked high salt intake to 2.3 million heart-related deaths per year worldwide. According to a March 21, 2013, AHA press release, researchers analyzed data on adult sodium intake from 247 surveys conducted between 1990 and 2010 "as part of the 2010 Global Burden of Diseases Study, an international collaborative study by 488 scientists from 303 institutions in 50 countries around the world." They then performed "a meta-analysis of 107 randomized, prospective trials that measured how sodium affects blood pressure, and a meta-analysis of how these differences in blood pressure relate to the risk of developing cardiovascular disease compared with consuming no more than 1,000 mg per day of sodium, which the researchers defined as an optimal amount of sodium for adults."

Based on their findings, researchers reported that nearly 40 percent of the 2.3 million deaths purportedly related to high salt intake "were premature," with heart attacks causing 42 percent of the deaths and strokes 41 percent. In addition, the study noted that 84 percent of these deaths occurred in low- and middle-income countries, ranking the United States 19th out of the 30 largest countries for salt-related mortality.

"National and global public health measures, such as comprehensive sodium reduction programs, could potentially save millions of lives," said the study's lead author Dariush Mozaffarian, who co-directs the Harvard School of Public Health's Program in Cardiovascular Epidemiology.

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Shook, Hardy & Bacon is widely recognized as a premier litigation firm in the United States and abroad. For more than a century, the firm has defended clients in some of the most substantial national and international product liability and mass tort litigations.

SHB attorneys are experienced at assisting food industry clients develop early assessment procedures that allow for quick evaluation of potential liability and the most appropriate response in the event of suspected product contamination or an alleged food-borne safety outbreak. The firm also counsels food producers on labeling audits and other compliance issues, ranging from recalls to facility inspections, subject to FDA, USDA and FTC regulation.

SHB lawyers have served as general counsel for feed, grain, chemical, and fertilizer associations and have testified before state and federal legislative committees on agribusiness issues.