



**LEE NERISON**

**96<sup>TH</sup> ASSEMBLY DISTRICT**

Remarks of Representative Lee Nerison  
on Assembly Bill 645/Senate Bill 512  
Senate and Assembly Committees on Agriculture  
January 13, 2016

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*Serving Crawford, Monroe,*

*and Vernon Counties*

**Committee Members:**

I testify in support of Assembly Bill 645, which I have authored, and its companion bill, Senate Bill 512, authored by Senator Moulton.

To give you some background, 2011 Wisconsin Act 195 created an exemption to dairy plant licensing requirements for food processors who made dairy-containing foods under certain conditions.

However, consistent interpretation and enforcement of 2011 Wisconsin Act 195 has proven to be difficult. Puddings, coffee drinks, dairy-containing alcohol beverages and the like fall into a gray area of interpretation under current law.

This legislation clarifies that a licensed food processing plant isn't also required to have a dairy processing license if it processes pasteurized or otherwise treated dairy products into non-dairy products.

I encourage you to support this legislation which reduces the need for duplicate licenses and regulatory requirements. Food processing plants will be able to operate under clearer licensing guidelines while preserving the integrity of safe foods.

Thank you for your time and consideration.



# TERRY MOULTON



WISCONSIN STATE SENATOR

23<sup>RD</sup> SENATE DISTRICT

**From: Senator Terry Moulton**

**To: Joint Committee on Agriculture**

**Re: Testimony on Senate Bill 512 and Assembly Bill 645**  
**Relating to: dairy plant and food processing plant licensing requirements and granting rule-making authority.**

**Date: January 13, 2016**

Mr. Vice Chairman and committee members, thank you for the opportunity to speak to you today about Senate Bill 512 and Assembly Bill 645, which address dairy and food processing licensing.

In 2012, the legislature unanimously passed Wisconsin Act 195 to reduce the amount of licensing and regulatory requirements for some food processors by creating an exemption to dairy plant licensing requirements for food processors making dairy-containing foods such as batter-coated mozzarella cheese sticks. Unfortunately, the Department of Agriculture, Trade and Consumer Protection (DATCP) has not been able to consistently apply the exemption at establishments producing foods like puddings, coffee drinks and dairy-containing alcoholic beverages because they are not clearly addressed in 2011 Wisconsin Act 195.

These bills clarify that a plant that has a food processing license from DATCP would not be required to obtain a dairy processing license to process dairy products that have already been pasteurized or otherwise treated for safe consumption into prepared foods that are not dairy products. These bills will preserve the intent of 2011 Wisconsin Act 195 by removing an unnecessary licensing requirements while maintaining high standards for food safety.

Wisconsin's food processors provide family-supporting jobs across our state. Senate Bill 512 and Assembly Bill 645 will help these businesses by eliminating a costly and unnecessary requirement, allowing them to spend more time and money on growing their company and our economy. I ask you to please vote to recommend the passage of Senate Bill 512 and Assembly Bill 645. Thank you again for allowing me to testify today.

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*Serving the 23rd Senate District*

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**Senate Committee on Agriculture, Small Business and Tourism**  
**Assembly Committee on Agriculture**  
**2015 SB 512 and AB 645**  
**Steve Ingham, Administrator**  
**DATCP - Division of Food Safety**  
**January 13, 2016**

The 2011 Wisconsin Act 195 created an exemption to dairy plant licensing requirements for processors making certain dairy-containing foods such as batter-coated Mozzarella cheese sticks. In short, the act aimed to prevent duplicative licensing of food processing plants, i.e. to not require these plants to also hold a dairy plant license. Unfortunately, the language of the act has proven to be very difficult to interpret and enforce. For example, it isn't clear whether dairy-containing foods such as puddings, coffee drinks, and certain mixed alcoholic beverages are legally considered dairy products, which must be made in a dairy plant if they are intended for wholesale. We thank Assemblyman Nerison and Senator Moulton for introducing legislation to clarify this situation.

Basically, the bill defines what dairy-containing foods are considered to be dairy products (generally must be made in a dairy plant) and what foods are not (generally must be made in a food processing plant). This definition accounts for milk from animals such as goats, sheep, and hooved or camelid mammals, and ingredients derived from these types of milk. The definition accounts for foods like yogurt, which most people would consider to be dairy products and for which federal Standards of Identity exist. But it also accounts for foods that would be Standard of Identity dairy products, except for the use of non-bovine milk. Finally, the definition accounts for non-Standard of Identity foods comprised of two or more dairy products.

In addition, the proposed action essentially states that if a food business is performing activities allowed by a particular type of food license, then the business isn't required to also hold a food processing plant license. The proposed action also provides clarification by exempting some heretofore unlicensed businesses, such as honey extraction, vegetable packing, and salvaging food for charitable distribution, from having to hold a food processing plant license. These provisions are good public policy because they prevent food businesses from being required to hold food licenses that provide little or no apparent public health benefit.

In summary, this proposed law reduces the likelihood of duplicative food licensing and regulatory requirements. The results of the bill would be that certain food processing plants would not also be required to hold a dairy plant license and fewer licensed retail food establishments, restaurants, dairy plants, and non-profit food salvaging operations would be required to also hold a food processing plant license.

I urge your support of this bill because it will provide clarity for business, and result in fewer required licenses for some food establishment operators.

I would be happy to answer any questions you have.



**Senate Committee on Agriculture, Small Business and Tourism**  
**Assembly Committee on Agriculture**  
**2015 SB 513 and AB 644**  
**Steve Ingham, Administrator**  
**DATCP - Division of Food Safety**  
**January 13, 2016**

Wisconsin's small-scale and artisanal meat processing industry has changed dramatically over the past several years. We serve as partners to business and consumers as these changes are made, by verifying that meat processing in Wisconsin-licensed meat establishments results in safe products. To be effective partners, we need up-to-date statutes that are flexible and don't impede the industry now or in the future. We are very grateful to Assemblyman Nerison and Senator Moulton for introducing this legislation. It will help industry in several important ways, without hindering our collective work to ensure food safety.

The proposed statutory changes will reduce costs for businesses making meat products from newly popular animal species such as bison, alpacas, llamas, and rabbits. Currently these species are inspected under a voluntary reimbursable (fee-for-service) program. The proposed act will allow DATCP, by rule, to move species out of this fee-for-service program into regular state inspection, which has no fees apart from a license fee and any overtime inspection provided. Most of the new species moved into the regular state inspection program aren't considered "amenable" by USDA. This means that under the proposed bill meat products made in Wisconsin plants from these species could be shipped anywhere in the US. This change is very important to our bison industry, and would put Wisconsin's bison processors on a level playing field with those in neighboring states

Meat establishments make the bulk of their sales to other businesses, *i.e.* at wholesale. In contrast, many businesses that make meat products are licensed as retail food establishments because the vast majority of their sales are to consumers. Retail food establishments that make meat products are allowed to make some of their sales to hotels, restaurants and institutions, but the extent of these sales has been stuck in the statutory past. The bill proposes using the annually-updated USDA limit for these sales. The bill also makes changes that ensure that retail food establishments making meat products aren't required to hold a second (meat establishment) license under certain situations. These situations are the making of meat or poultry pizzas shipped hot for sale by a non-profit organization, and the making of meat or poultry items at a central commissary that are shipped for meal sales at restaurants owned by the same company. Both of these provisions mean that retail food establishment and restaurant operators will face less regulatory complexity.

Currently, meat establishment operators are charged the same license fee, regardless of the complexity or scale of their operations. The proposed act will reduce license fees for many businesses by capping license fees at the current level and requiring DATCP to set fees in relation to the complexity and scale of the license-holder's business. This licensing structure would be consistent with the licensing of other food businesses holding a Wisconsin license, and will reduce fees for small processors. The license fee for more complex establishments would not exceed the current level.

This proposed bill will help our program and the meat establishments we inspect by fully aligning our statute with federal requirements (as cited in our rules) for the USDA's Cooperative Interstate Shipment (CIS) program. Wisconsin is one of just four states participating in the CIS program, which allows interstate sales of state-inspected meat and poultry products. The CIS program allows Wisconsin's small and very small state-inspected meat and poultry establishments to expand the markets for their unique products to other states. We now have ten meat establishments in this program, and we expect it to continue growing.

Finally, the proposed action would standardize and simplify terminology, repeal obsolete references to county and local meat inspection and repeal a section regarding labeling of horsemeat that is redundant with existing federal and state food labeling laws. I urge your support for this bill, and would be happy to answer any questions you may have.