

My name is Bill Stadtlander and I own a small company, Homestat Farm, which makes Maypo, Wheatena and Maltex – hot cereals which, as many mothers have said to their children, are good and good for you. Homestat Farm was formed in October 2001 when I purchased these brands, as well as G. Washington’s Seasoning and Broth, from ConAgra Grocery Products. My Company is located in Dublin, Ohio and we have a manufacturing facility in Highspire, PA. where our cereals are manufactured. We work with BCTGM Local 464.

Homestat Farm is a small company. Our annual sales are \$4,500,000 -- all in the United States -- with sales of \$70,000 of Wheatena in California.

We have 3 full-time employees and 3 part-time consultants in our Dublin office which are new jobs that were created when I bought the business. In our manufacturing facility, we have 2 full-time employees in administration and 10 full-time union employees.

Although I am a small company, I pay a good wages to my employees, I pay 85% of their health insurance, and I have a pension plan for the union employees related to their years of service.

I spent more than 25 years working for food and consumer product companies, many of those years making nutritious foods. I created Homestat Farm because I wanted to continue to offer (as my slogan says) “Healthy Nutrition for Those You Love”.

I do not know how many on this committee had Wheatena growing up, but I did, and I did not want to see Wheatena disappear. The Wheatena story goes back a long way – to 1879, when a small bakery owner on Mulberry Street in lower New York City roasted whole wheat, ground it and sold it in packages branded Wheatena. That’s pretty much what Wheatena remains today: a toasted wheat product, with unique taste, and lots of healthy fiber -- 25% more than the leading brand.

Health experts now recognize that fiber is essential to a healthy diet. The FDA food pyramid and nutritionists across the world recommend eating high fiber diets and whole grains to maintain good health and to reduce both the risk of heart disease and some types of cancers. A healthy way for a person to start the day is to have a high fiber breakfast -- Wheatena provides it.

And Wheatena promotes health in other ways:

- It is Calcium fortified to help keep bones strong
- It has, as I said, 25% more fiber than the leading brand of hot cereal
- It is 100% natural, toasted whole wheat, rich in bran, protein and wheat germ
- It is cholesterol free, low in fat, low in sugar, low in sodium and Certified Kosher by the Orthodox Union

People may disagree about what foods are healthy and which are not. But I have never heard anyone dispute that Wheatena is a high fiber, healthy food. In fact, one of the most

vocal consumer activist groups engaged in advocating for good nutrition, the Center for Science in the Public Interest (CSPI), lists Wheatena as a good source of whole grains in “Nine Weeks to a Perfect Diet” on its Website.

Nevertheless, I have been sued by a trial lawyer in California who claims that because Wheatena – like hundreds of other cooked or heated foods, contains a naturally occurring by-product of the cooking process, I should have provided a Proposition 65 cancer warning to Wheatena customers. What is this by-product? It is acrylamide – a substance produced whenever foods that have starch are browned. It is not just Wheatena. Acrylamide is found in whole grain breads and cereals such as Cheerio’s, Corn Flakes, Raisin Bran, Granola, Rice Krispies, and Shredded Wheat; it is found in crackers and cookies, toast and pastries; and it is found in roasted nuts, prunes, and grilled asparagus to name just a few. I am told that about 40% of the food people consume has acrylamide in it.

Apparently, acrylamide is one of the chemicals California has listed as requiring a cancer warning under its law. I am told that this requirement was adopted when people thought acrylamide existed only in synthetic form and was used in large quantities in industrial settings. I make food products and I try my best to keep up with food regulations. But nobody thought of this Prop 65 listing as applying to food. So I wasn’t even aware of Prop 65 until I received notice of the lawsuit. I am in compliance with all Federal laws including NLEA labeling and health claims. And I know now that FDA actually says there should not be warnings on foods just because they contain acrylamide. But this lawyer claims that California law is otherwise. It is extremely difficult as a small businessman to keep up with potentially 50 different state laws regarding ingredients and warnings.

Although I sell only approximately \$70,000 worth of Wheatena in California each year, California’s Proposition 65 allows this trial lawyer to sue me for millions of dollars.

Food safety agencies around the world have been studying the acrylamide issue intensively since the substance was first discovered in food four years ago, and none of them have found any significant health risk or recommended any acrylamide warnings. But that does not stop the lawsuit against me, which I have to spend thousands of dollars defending.

In the meantime, I understand that the same CSPI that love Wheatena, is leading the charge against the National Uniformity for Food Act, claiming it will “gut” the nation’s food safety laws. I do not believe that is true, but I do know that it will prevent a state from trying to dictate food policy to the rest of the country, and giving “bounty hunter” lawyers a financial club to make me think twice about selling Wheatena in the state.

As a result of the California lawsuit, I have a real dilemma in that state. I am selling a product that reduces the risk of cancer. But to limit the lawyer’s claims, I have to either remove the product from the market or put a cancer warning on it – a cancer warning on a product that nutritionists agree reduces cancer risk – all because of acrylamide in

Wheatena, even though that same acrylamide is in lots of other foods with a lot fewer health attributes.

Wheatena is a healthy all natural toasted wheat hot cereal that has been on the market since 1879. The federal government has very rigorous procedures for determining the health claims a food product can make and Wheatena is in the minority of foods that are allowed three different health claims:

Heart Healthy;  
Bone Healthy; and  
May reduce the risk of certain types of cancer.

Even though FDA specifically determined that Wheatena may reduce the risk of cancer, California wants foods that contain acrylamide – including whole grain breads and cereals – to have a warning that the product may cause cancer, even when no other regulatory body in the world believes warnings are required for acrylamide at this time. Are you confused? I am. And consumers are sure to be confused if federal guidelines say a product may reduce the risk of certain cancers followed by a California warning that it may cause cancer.

The alternative of a different label for one state than for the remaining 49 states is virtually impossible to implement because food chains and wholesalers pull from the same warehouse for different states and diverters move products around the country. Another possibility is to have a separate label with a different UPC code and carry duplicate inventory to conform to individual state requirements which is expensive and potentially confusing.

The combination of the litigation costs and potentially pulling out of the state of California are enough to jeopardize my small business when I believe I am selling a very healthy cereal that has been on the market for more than a century and is widely recommended by nutritionists.

Because of the real risk to my business, I am fully supportive of The National Uniformity for Food Act that provides for national, uniform food safety standards and warning requirements. The basic rationale is for one uniform, scientifically sound food safety standard rather than a patchwork of 50 different state laws. I understand that uniformity already exists for nutrition labels and for meat, poultry and eggs, and I believe that system works very well.

I want to thank the committee for allowing me to speak here today, and I urge you to quickly pass this bill.