

FOOD AND BEVERAGE LITIGATION AND REGULATORY UPDATE

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A lawsuit aiming to enjoin Texas' food labeling law, a study purportedly finding no risk for light alcohol consumption, the passage of a federal bill allowing whole milk in schools, and more.

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SPOTLIGHT ON ANIMAL HEALTH & AGRIBUSINESS

Executive Order Targets Meatpacking Industry Practices

By Associate [Robert McClendon](#)

The White House has [directed](#) the U.S. Department of Justice (DOJ) to investigate whether the meatpacking industry has engaged in anticompetitive collusion. In a social media post, President Donald Trump accused beef companies of “artificially inflating prices” for consumers while “driving down” cattle prices paid to ranchers, accusing “meat packing cartels” of exploiting their market dominance at the expense of American farmers and consumers. The announcement’s fiery language might be red meat for consumers, but recent history tells us that the industry’s market dominance is an ox that is not easily gored.

The new investigation comes amid soaring beef prices and persistently squeezed cattle producers, a situation that has reignited scrutiny from both political parties. For example, in late 2025, senators from cattle-heavy states urged action, echoing complaints that while wholesale beef prices climbed, cattle prices paid by packers had fallen—a “fishy” disparity, as Trump put it. But this dynamic is not entirely new. In 2020, boxed beef prices rose 20% even as cattle prices dropped 11%, widening packer profit margins and prompting cries of foul play from cattle producers and state attorneys general from cattle-producing states. Then, like now, Trump directed DOJ to investigate, and DOJ’s Antitrust Division quietly opened a probe. That initial investigation, however, yielded no public enforcement action. DOJ reportedly closed that inquiry just weeks before Trump’s new demand for a fresh probe.

Meatpackers are already facing scrutiny from private litigants. In 2019, plaintiffs at different rungs of the supply chain—cattle ranchers, large institutional meat buyers, and consumers—filed class actions alleging violations of the Sherman Act, the Packers and Stockyards Act (PSA), and various state-law consumer protection statutes. The fate of these cases, consolidated in *In re Cattle Antitrust Litigation*, MDL No. 22-3031 (D. Minn.), remains largely uncertain. Although some defendants have settled, the publicly available information suggests that they did so on favorable terms, considering the potential exposure, and without admitting to any wrongdoing. This is not entirely surprising given how difficult it is to distinguish illegal price fixing and market manipulation from legitimate business practices in the notoriously opaque and complex world of cattle markets.

If DOJ finds evidence of a cartel and brings a successful action, it would vindicate the complaints of ranchers and consumers and possibly signal a more aggressive era of enforcement in agriculture. Alternatively, if the investigation again ends with no action—and market conditions do not improve for consumers and producers—lawmakers and regulators may conclude that existing antitrust tools are insufficient and accede to longstanding calls to intervene directly. Either way, the mere fact of this investigation—coming from a presidential directive and focusing on high-profile targets—underscores that concerns about competition in the meatpacking industry remain very much alive, despite legal headwinds.

Shook's [Animal Health and Agribusiness team](#) brings vast experience in litigation and regulatory matters to advocate for those who are passionate about serving in the animal health industry. To learn more about Shook's animal health and agribusiness capabilities, please contact Practice Co-Chairs [Joseph H. Blum](#), [Phil Goldberg](#) or [John F. Johnson III](#).

FIRM NEWS

***Food Business News* Features FDA Regulatory Attorney on Regulation Shifts**

Shook Senior Counsel [John Johnson III](#) was featured in an article by *Food Business News*, “[‘Informal Mechanisms’ Cloud Food Regulation Outlook](#).” In November, Johnson presented an AIB International webinar that explained how food and safety policies are more frequently being driven through mechanisms that were less common than in previous years. Johnson also discussed the growth in states establishing food and safety regulations, including Texas’ warning label law for 44 ingredients and Louisiana prohibiting certain ingredients in public school foods.

“We’re moving with a policy shift away from this previous business as usual,” Johnson said. “And shifts are also happening with moving inspections to state levels as proposals. The states are not just potentially taking over inspections; we see the states now passing their own laws in regard to food policy.”

LEGISLATION, REGULATIONS & STANDARDS

British MPs Argue Against EU Meat Labeling Ban

Eight British members of parliament have written a [letter](#) to the European Commission arguing against efforts to ban the use of meat-related terms for plant-based foods. In October, the European Parliament voted in favor of a ban on the use of terms such as “sausage” and “burger” in association with plant-based items. The letter writers say that while the United Kingdom is no longer a member of the EU, their “markets, companies, consumers, and regulatory conversations remain closely intertwined,” noting that decisions at the EU level continue to influence international trade and norms. The MPs were joined in the letter by Paul McCartney and his daughters Mary and Stella McCartney.

U.S. House Passes Whole Milk Bill

The U.S. House of Representatives has passed a bill ([S. 222](#)) that would modify the requirements for milk provided by the National School Lunch Program of the U.S. Department of Agriculture. The Whole Milk for Healthy Kids Act next goes to the president’s desk to be signed into law. Current regulations require milk to be fat-free or low-fat; the bill would allow schools to offer whole and reduced-fat options. One of the bill’s sponsors, Sen. Peter Welch (D.-Vt.), said in a [statement](#) that the act “will help future generations grow stronger and let dairy farmers in Vermont, Kansas, and around the country do what they love—feed our communities.”

LITIGATION

Industry Groups Seek Injunction of Texas Food Labeling Law

Four industry groups are seeking to enjoin a Texas law that requires food and beverage manufacturers to include warning labels on products containing certain ingredients that state the products are “not recommended for human

consumption” in the European Union, United Kingdom, Canada or Australia. [*American Beverage Association v. Paxton*](#), No. 25-0566 (W.D. Tex., filed December 12, 2025). The groups—the American Beverage Association, Consumer Brands Association, National Confectioner's Association, and FMI—challenge the law's constitutionality, asserting that the warnings required by Section 9 of Texas S.B. 25 are inaccurate and not triggered by any determination made by a Texas- or U.S.-based authority but rather by policy judgments made by foreign jurisdictions. “At best, Section 9’s warnings will sow confusion about the safety of certain ingredients,” the plaintiffs argue. “At worst, Section 9’s warnings will convey demonstrably false statements about whether foreign governments allow certain ingredients. But the government has no interest in compelling false and misleading speech—and any legitimate interest is particularly weak here, where federal law permits all ingredients used in plaintiffs’ members’ products.”

Federal Circuit Reverses TTAB Decision on 'Kahwa' Mark

A Federal Circuit panel has overturned a Trademark Trial and Appeal Board (TTAB) decision refusing the registration of the mark "kahwa" for cafes and coffee shops. [*In re Bayou Grande Coffee Roasting Co.*](#), No. 24-1118 (Fed. Cir., entered December 9, 2025). In 2021, Bayou Grande Coffee Roasting Company, which operates 14 coffee shops under the name Kahwa, filed a trademark application for the mark; the examiner issued a non-final office action refusing registration on the grounds that the term is generic or merely descriptive of cafes and coffee shops because "kahwa" means “coffee” in Arabic. Bayou responded by arguing that "kahwa" does not mean coffee in Arabic and that the doctrine of foreign equivalents cannot apply because "kahwa" has an alternative English-language meaning as a specific type of green tea from Central Asia. The examiner maintained prior refusals and added new grounds of refusal based on the tea argument, denying Bayou's request for reconsideration. TTAB affirmed the refusals based on the association with green tea, and Bayou appealed to the Federal Circuit.

A merely descriptive mark cannot be registered unless it has an obtained secondary meaning, also known as acquired distinctiveness, the appeals court noted. TTAB found "kahwa" merely descriptive for cafes and coffee shops, but the appeals court disagreed, finding no evidence showing any cafe or coffee shop in the United States has ever sold kahwa. "This necessarily means there is no evidence selling kahwa is a 'characteristic of the goods or services' of cafés or coffee shops, let alone evidence showing relevant customers would immediately know selling kahwa is a characteristic of cafés and coffee shops," the court said. "Accordingly, the Board's finding that relevant customers would understand KAHWA to be merely descriptive for cafés and coffee shops is not supported by substantial evidence."

SCIENTIFIC / TECHNICAL ITEMS

American Heart Association Alcohol Use Paper Draws Criticism

An American Heart Association (AHA) [paper](#) concluding that light drinking posed no risk for coronary disease, stroke, sudden death or possibly heart failure has drawn controversy since it was published in the organization's *Circulation* in June, according to the [New York Times](#). Critics of the paper say that the possible benefits for heart health are outweighed by the overall risks of drinking and fault the researchers for how the AHA selected and weighed the studies it examined; they also say at least one author had ties to the alcohol industry that should have disqualified his participation. The *Times* also said the paper is at odds with the Centers for Disease Control and Prevention's guidance for alcohol and seems to diverge from AHA's diet and alcohol recommendations and a 2023 statement on research suggesting "no safe level of alcohol use."

More to Explore

- **Rob Adams**, co-chair of Shook's General Liability Litigation Practice, has been named to Missouri Lawyers Media's **POWER 100 Attorneys list**.
- M&A Atlas has awarded work by a Shook team, including Partners **James Mayor** and **Carrie McAtee** and Senior Counsel **Andrew Dockter**, with its 2025 **Strategic Deal of the Year (Middle Markets)**.
- The previous issue of the **Food and Beverage Litigation and Regulatory Update** focused on a Call Your Mother trademark complaint, passage of a Senate bill on whole milk in school lunches, a scientific research series on ultra-processed foods, and more.

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As the food and beverage industries become more complex, they require effective legal representation that can quickly evaluate potential liability and craft the most appropriate responses to suspected product adulteration, alleged foodborne outbreaks or environmental contamination claims. For decades, manufacturers, distributors and retailers at every link in the food chain have come to Shook, Hardy & Bacon to partner with a legal team that understands the issues they face in today's evolving food production industry. Shook attorneys work with some of the world's largest food and beverage companies to establish preventative measures, conduct internal audits, develop public relations strategies, and advance tort reform initiatives.

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