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## LEGISLATION, REGULATIONS & STANDARDS

### House Passes Cannabis Banking Bill

The U.S. House of Representatives has passed the [SAFE Banking Act](#), which allows financial-service firms to work with “cannabis-related legitimate businesses and service providers,” providing protection from federal prosecution for banks in states that have legalized cannabis. The bill, introduced by Rep. Ed Perlmutter (D-Colo.), has been sent to the Senate.

In its press release praising the bill’s passage, the National Cannabis Industry Association [introduced](#) a plan calling for “cannabis products, like other highly regulated consumables, to be regulated by the government agencies that currently regulate most food and drugs, primarily the Food and Drug Administration (FDA) and the Alcohol and Tobacco Tax and Trade Bureau (TTB) within the U.S. Department of the Treasury.” Under the plan, “cannabis products would be divided into four categories, based on chemical components, safety, intended use, and consumption method. Each of these groups would be regulated through a separate regulatory ‘lane’ tailored to the public policy issues raised by that particular classification,” including (i) pharmaceutical drugs; (ii) ingested, inhaled or topically applied products with less than 0.3% tetrahydrocannabinol (THC); (iii) ingested or inhaled products with more 0.3% THC; and (iv) topically applied products with more than 0.3% THC.

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Shook 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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## Guidance on Antimicrobials in Animals Released

The U.S. Food and Drug Administration has released guidance on the use of “medically important antimicrobials” in “food-producing animals.” The guidance describes a voluntary process that “will help ensure new animal drugs containing antimicrobials of human importance are administered only under veterinary oversight and only for therapeutic uses.” The agency will accept comments on the guidance until December 24, 2019.

## WHO Releases Report on E. Coli

The Food and Agriculture Organization of the United Nations and the World Health Organization (WHO) have released a report on Shiga toxin-producing *E. coli* (STEC) and the foods that tend to host it. Researchers analyzed data from foodborne outbreak investigations globally, finding 957 outbreaks in 27 countries. The data identified that 16% of outbreaks were attributed to beef, 15% to produce and 6% to dairy, while the sources for 57% of the outbreaks could not be identified. “Prioritizing interventions for control on beef supply chains may provide the largest return on investment when implementing strategies for STEC control,” the report recommended.

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### LITIGATION

## Meatpacking Executives Plead Guilty to Selling Adulterated Beef

The U.S. Department of Justice (DOJ) has announced that two executives of a meatpacking plant pleaded guilty to selling 775,000 pounds of adulterated meat—“including whole cow hearts labeled as ‘ground beef’”—for more than \$1 million to the Federal Bureau of Prisons. The executives’ company, West Texas Provisions, falsely marketed its products as inspected by the U.S. Department of Agriculture, according to DOJ; the company allegedly “kept the whole hearts offsite until inspectors left the

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### ABOUT SHOOK

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.

premises, then processed the hearts on nights and weekends, when inspectors weren't working," and "[t]hey often kept the lights off inside the facility while processing the uninspected meat, hid uninspected meat in the freezer while inspectors were in the building, and distracted inspectors from looking at the product." The defendants face up to five years in prison.

## Company Misleads on CBD Content, Consumer Alleges

A consumer has filed a putative class action alleging that the labels of Global Widget's products containing cannabidiol (CBD), including gummies, lollipops and syrup, do not identify an accurate amount of CBD in the products. *Ahumada v. Global Widget LLC*, No. 12005 (D. Mass., filed September 24, 2019). "Defendant makes numerous false and misleading claims on the front label of its CBD Products as well as on the retail website selling its CBD Products to illustrate and convey to consumers, the level of potency associated with benefits that consumers can expect to receive through their consumption. Specifically, Defendant misrepresents that the CBD Products have specific amounts of CBD when, in fact, the Products do not contain the amount of CBD as advertised and are instead grossly under-dosed," the plaintiff argues. "Defendant's multiple and prominent systematic misrepresentations regarding the amount of CBD in the Products form a pattern of unlawful and unfair business practices that harms the public."

## More Vanilla Challenges Filed

A plaintiff's attorney firm has filed three putative class actions in New York federal court alleging that products marketed as "vanilla" are misleading consumers by implying that the products contain vanilla rather than vanilla flavoring.

A lawsuit targeting Califia Farms' Vanilla and Unsweetened Vanilla varieties of almondmilk asserts that the "front labels represent that the vanilla (i) flavor is exclusively derived from the vanilla plant and (ii) present in an amount sufficient to independently characterize the Products" and alleges that the "representations are misleading because they do not reference

Shook 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.



flavors other than vanilla even though the ingredient lists reveal the Products contain ‘Natural Flavor.’” *Cicciarella v. Califia Farms, LLC*, No. 19-8785 (S.D.N.Y., filed September 22, 2019).

A similar lawsuit challenges Aldi Inc.’s Friendly Farm brand on similar grounds, alleging the almondmilk’s vanilla varieties are misleading consumers. *Parham v. Aldi Inc.*, No. 19-8975 (S.D.N.Y., filed September 26, 2019). A third complaint alleges that Cumberland Farms’ Farmhouse Creamery ice cream is misleadingly labeled the same way—as flavored with vanilla but containing additional “natural flavors.” *Musikar v. Cumberland Farms Inc.*, No. 19-8410 (S.D.N.Y., filed September 10, 2019).

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## SCIENTIFIC / TECHNICAL ITEMS

### Red Meat Review Finds Alternate Conclusions on Health Effects

Researchers have published a review of studies evaluating the effects of “reducing red meat intake on clinically important outcomes” and purportedly showed that red meat may not have the carcinogenic effects that previous studies have found. Zeraatkar et al., “Effect of Lower Versus Higher Red Meat Intake on Cardiometabolic and Cancer Outcomes: A Systematic Review of Randomized Trials,” *Annals of Internal Med.*, October 1, 2019. The researchers only reviewed studies that met certain criteria, including randomized trials, and reportedly found evidence suggesting that “diets restricted in red meat may have little or no effect on major cardiometabolic outcomes and cancer mortality and incidence.”

### Study Purportedly Finds Tea Bags Release Micro- and Nanoplastics

Researchers from McGill University examining the effects of plastic teabags have reportedly found that a teabag, when steeped at 95 degrees Celsius, can release “approximately 11.6 billion microplastics and 3.1 billion nanoplastics into a single cup of the beverage.” Hernandez et al., “Plastic Teabags Release Billions of

Microparticles and Nanoparticles into Tea,” *Envtl. Sci. & Tech.*, September 25, 2019. Further, the researchers assert, an “initial acute invertebrate toxicity assessment shows that exposure to only the particles released from the teabags caused dose-dependent behavioral and developmental effects.”

## Researchers Argue for Salt Warning Label

The World Hypertension League has issued a policy statement in the *Journal of Clinical Hypertension* arguing that salt sold for consumption “should be required to have a front of package health warning label.” The article argues that high sodium consumption has been linked to many negative health risks and that reducing excess sodium is a target of the World Health Organization. “Some countries have banned restaurants from putting salt shakers on tables to reduce spontaneous addition of sodium to foods and increase awareness of the dangers of high-sodium diets (eg, Argentina, Uruguay, Mexico City),” the policy statement asserts. “To our knowledge, no country has required actual packages and containers of sodium chloride (salt) to have warning labels.”

The organization argues that warning labels would have “several potential benefits”: (i) “it would increase awareness of the dangers of high-sodium diets by people purchasing sodium and a reminder of the dangers by people seeing the containers at stores, food service establishments, or in the home”; (ii) “stores that sell sodium chloride may display sodium less prominently”; and (iii) “it could lead to a reduction in sodium consumption.”

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