

## Court overturns Ohio ban on rbST-free milk labeling

By Caroline Scott-Thomas, 04-Oct-2010

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**A district court has overturned an Ohio state ban on the labeling of milk as free from artificial hormones, saying that there is a compositional difference between milk from cows treated with growth hormone and untreated cows.**

Recombinant bovine somatotropin (rbST), also referred to as recombinant bovine growth hormone (rBGH), is an artificial variant of the naturally occurring hormone in the pituitary gland of cattle, which can be given to cows to increase milk production by up to ten percent. The Ohio Department of Agriculture had instigated the ban on labeling milk as 'artificial hormone free', 'rbST-free' or 'rBGH-free', saying that such labeling is misleading because it implies a compositional difference between milk from hormone-treated cows, compared with milk from untreated cows.

But the Sixth US Circuit Court of Appeals found that "*a compositional difference does exist between milk from untreated cows and conventional milk [from rbST-treated cows]*".

### **The differences**

It said there are three main differences with milk from rbST-treated cows: Higher levels of insulin-like growth factor 1 (IGF-1), a naturally occurring hormone that at high levels has been linked to several cancers; a period of milk production with higher fat and lower protein content; and higher numbers of somatic cells in the milk, which indicates lower quality milk that sours more quickly.

The court ruling disagrees with the lower court's ruling and the Food and Drug Administration (FDA) finding that there is no measurable difference between milk from treated and untreated cows.

### **First Amendment rights**

The court also found that the ban breached dairy processors' First Amendment rights and was "*more extensive than necessary to serve the state's interest in preventing consumer deception*".

The Organic Trade Association (OTA), which filed the appeal in conjunction with the International Dairy Foods Association (IDFA) in June 2008, welcomed the judge's decision. The association's CEO Christine Bushway said: "*OTA believes consumers have a right to know how their food was produced, and organic farmers and manufacturers should be allowed to tell them. We are pleased the court agrees.*"

IDFA senior group vice president Clay Hough said: *"We're pleased with the decision and feel that the court upheld our position that IDFA members have the constitutional right to make truthful and not misleading claims on their product labels."*

On a nationwide level, the FDA has backed voluntary labeling of rbST-free milk, but said it is up to individual states to decide their own labeling rules. It approved the use of rbST in 1993, saying it was *"safe and effective for dairy cows, that milk from rbST-treated cows is safe for human consumption, and that production and use of the product do not have a significant impact on the environment."*

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