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MICHAEL J. MURPHY
ALDERMAN, 10TH DISTRICT

State overrules Milwaukee consumers and businesses, impacts public health

Statement of Alderman Michael J. Murphy November 29, 2018

On November 15th the Board of Agriculture, Trade and Consumer Protection took a vote in Madison that eliminates the City of Milwaukee's successful food grading system, which has been popular with consumers and establishments. My testimony and that of other City of Milwaukee officials prior to the vote was heard by the board but to no avail, as the board approved administrative rules recreating Wisconsin Administrative Code Chapter ATCP 75 to bring it into substantial accord with the U.S. Food and Drug Administration's (FDA) 2013 Model Food Code.

The measure approved on November 15th includes language which prohibits the application of grades or scores to retail food establishments based on inspection reports.

Milwaukee began a food grading program in January 2018 and early evidence shows improvement in overall food safety practices as evidenced by a reduction in critical violations—violations that the city has not seen a decrease in for years. In addition, a recent study published by the Centers for Disease Control found that after the implementation of a letter grade system for restaurant inspections in New York City, rates of salmonella infections decreased by 5.3% each year during 2011-2015.

It is extremely disappointing that the board ignored strong arguments to allow local control and thus help Milwaukee keep its food grading system. Instead, the board decided to side with special interests – in this case the Wisconsin Restaurant Association – and go against our consumers and our local businesses.

In my view, what happened at the hearing was all about power and money trumping local voices and local wishes (see my **attached letter to Governor Walker** about how he can step in and help resolve this issue).

Milwaukee's food grading system was implemented on a voluntary basis this year, after consultation with FDA and key stakeholders, including numerous business operators in the city. Food grading systems are used across the world to disclose food safety inspection results to consumers in an easily understood and immediately available format. Prohibiting grading systems blocks the public from making informed decisions as consumers, and ultimately contributes to the possibility of foodborne illness.

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The department suggested in its official responses to public comments that grades do not support consistency in the public's understanding of inspection reports. Existing state regulations allow local practices that meet the needs of each community. We have agreed all along with those regulations, and believe communities across the state can make public health choices that respond to local needs.

I also believe our residents and millions of visitors deserve a clear way to understand the compliance of restaurants and food establishments. Food grading puts clear information in front of consumers, rather than requiring they find and interpret technically complicated reports.

Last, the Milwaukee Health Department conducts between 8,000 and 10,000 establishment inspections per year. In designing our system, MHD intentionally created an inclusive process and paid special attention to outreach efforts for industry, operators, academic partners, and the public. The MHD continuously communicated with the Wisconsin Restaurant Association and implemented suggested best practices from the National Restaurant Association. The system was built in collaboration with the University of Wisconsin-Milwaukee Executive MBA program.

All of this due diligence apparently had no impact on the DATCP board, and in the end – sadly – it looks like Milwaukee consumers and businesses ended up on the losing end. The rule is now before the Governor for his approval. Governor Walker has the ability to send it back to DATCP in order to modify the rule, or he could approve the rule and send it to the Legislature.

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MICHAEL J. MURPHY
ALDERMAN, 10TH DISTRICT

November 29, 2018

Governor Scott Walker
115 East Capitol
Madison, WI 53702

Dear Governor Walker:

On November 15th, the Board of Agriculture, Trade and Consumer Protection approved the Final Draft of ATCP 75 and the rule is now before you for your approval. **The City of Milwaukee urges you to return this rule to DATCP to remove language contained in 75.20 (7)(b) prohibiting the application of grades or scores to retail food establishments based on inspection reports.** The City of Milwaukee supports ATCP 75 except for the section cited.

Food grading systems are used in cities across the country to disclose food safety inspection results to consumers in an easily understood format. Milwaukee began a food grading program in January 2018 and **early evidence shows improvement in overall food safety practices as evidenced by a reduction in critical violations—violations that the city has not seen a decrease in for years.** In addition, a recent study published by the Centers for Disease Control found that after the implementation of a letter grade system for restaurant inspections in New York City, rates of salmonella infections decreased by 5.3% each year during 2011-2015.

The Milwaukee Health Department (MHD) regulates food establishments as an agent of DATCP. Its mission and duty is to improve food safety for those who visit and live in the City of Milwaukee. Part of that responsibility is identifying violation trends and developing effective intervention strategies to improve food safety.

Last year there was an estimated 5,184 people who became ill in the City of Milwaukee due to a foodborne illness, an increase of nearly 800 since 2013. The rates in which one or more priority violation was identified - which are violations which directly contribute to foodborne illnesses - went from 24% in 2013 up to 34% in 2017. Acknowledging a continuous upward trend of food safety violations, the City of Milwaukee took action to develop an FDA supported intervention strategy to improve food safety in our City.

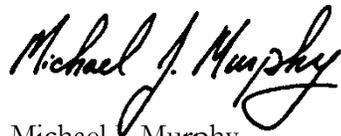
The MHD designed and implemented its system in adherence to the FDA's Model Food Code (2013). This commitment to FDA guidance was essential to ensure the system would result in the highest level of compliance towards food safety. To build its system, in 2015 the MHD was awarded \$350,000 over 5 years by the FDA's Voluntary National Retail Food Regulatory Program Standards Cooperative Agreement Program. The city also invested over \$140,000 (with an additional \$100,000 in-kind). **To ban the program now, would be a terrible waste of taxpayer money.** The MHD's food grading system is not only grounded in nationally recognized best practices, it is designed with

the explicit purpose of improving food safety practices in food establishments, resulting in overall food safety for consumers.

The MHD started researching and planning for a food grading system in 2014 and has been diligent and thoughtful throughout the process, considering it conducts between 8,000 and 10,000 inspections per year. In addition to aligning with FDA best practices, the MHD was intentional about creating an inclusive process and paid special attention in its outreach efforts to industry, operators, academic partners and the public.

The City of Milwaukee's food grading system improves food safety practices that reduces food borne illness, increases operator oversight through active managerial control, and increases transparency and helps the public make informed decisions about the food establishments they visit. For these reasons, **I urge you to support this consumer friendly system that has broad public support and ask you to return ATCP 75 to DATCP and request the removal of ATCP 75.20 (7) (b) to allow the program to continue.**

Thank you for your consideration.

A handwritten signature in black ink that reads "Michael J. Murphy". The signature is written in a cursive, flowing style.

Michael J. Murphy
Alderman, 10th District