



Food Safety Discussions Continue

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The U.S. House of Representatives and legislatures in at least two states are taking up reform of the food safety regulatory process. Three different House committees have held hearings on food safety in the last few weeks and several bills have been introduced.

While transportation is not the primary focus of these efforts, it is often included in discussions of food safety in an effort to address all links in the supply chain and potential points of vulnerability. It appears now that most of the requirements for food transportation contained in the various bills do not go beyond what reputable carriers are already doing as a normal part of business to meet requirements of their shippers, but AFTC will continue to monitor the debate closely.

The discussion has been building as several outbreaks of foodborne illness have occurred over the last few years with a variety of products; spinach, onions, peppers, and most recently peanuts and pistachios. Most seem to agree that past incidents have not highlighted the need for legislative action to provide additional legal authority but the latest incident with peanuts demonstrated a real need for some changes.

President Obama highlighted the issue in a recent radio address and House Energy and Commerce Subcommittee on Oversight and Investigations Chairman Bart Stupak, D-Mich., commented that "it's no longer a matter if the [Food and Drug Administration] will be reformed, but rather a matter of when and how."

Hearings have been held in the House Committees on Energy and Commerce, Agriculture, and the Appropriations Subcommittee on Agriculture. More hearings are expected to occur and no schedule has been announced for actually moving a bill through the committee markup process but momentum seems to be building for action. Some major agricultural organizations have endorsed specific bills and are generally supportive of action after food recalls have cost their industries and hurt their public image. Any bill that is comprehensive in nature would likely be referred to multiple congressional committees due to the crossover in jurisdiction and thus would be likely to move at a slow pace.

A few of the major bills:

H.R. 759 by Rep. Dingell

S. 510 by Senator Durbin

H.R. 1332 by Reps. Costa and Putnam

H.R. 875 by Rep. DeLauro

Many provisions in the bills direct general outcomes but would be left to specific regulations issued by the U.S. Food and Drug Administration (FDA) to implement these changes. Most of the pending bills contain common themes and several common provisions such as to:

- increase funding for (FDA)'s food safety activities;
- increase the frequency of registration requirements and inspections for food facilities;

- require food companies to conduct a food safety risk analysis that identifies potential sources of contamination and implement a plan on an ongoing basis to address these issues;
- allow the FDA to order mandatory recalls of tainted food products when a company fails to voluntarily recall the product upon the FDA's request;
- require importers to verify the safety of foreign suppliers and imported food;
- require a pilot project to test and evaluate new methods for rapidly and effectively tracking/tracing fruits and vegetables in the event of a food-borne illness outbreak, and;
- empower the FDA to suspend a food facility's registration if there is a reasonable probability that food from that facility will cause serious adverse health consequences or death.

Some of the bills would impose new fees on food facilities to fund FDA work. This proposal is being opposed by food industry groups which have likened user fees to a food tax. The specific level of fees is not set in legislation but would be determined on an ongoing basis by the FDA according to needs.

The bill by Rep. DeLauro would create one single food agency. There has been much discussion on this topic for several years but never enough consensus for action. Proponents point out that FDA regulates 80% of the food supply and the vast majority of food imports with a budget of about \$650 million while USDA regulates about 20% of the food supply with a budget of about \$1 billion but members of the Agriculture Committee have made it clear that they believe USDA is more effective in their regulatory efforts than FDA and they would oppose eliminating USDA's role.

Action has also taken place in at least a couple of instances at the state level.

The state legislature in Georgia has moved quickly on a bill, S 80, to reform food safety laws. The main focus, a requirement for food makers to swiftly alert state inspectors if their internal tests show their products are tainted, is in response to the outbreak that originated in a south Georgia peanut processing plant. A provision in the bill would change certain provisions relating to right of entry in food establishments and transport vehicles and examination of samples obtained but the Georgia Motor Truck Association reports that the provision has no real effect on trucking.

A bill has been introduced in Florida Senate, SB 2098, to reform food safety regulations by internal reorganization of the state Department of Agriculture and Consumer Services. It is supported by organizations of tomato and other produce growers who have imposed stringent food safety rules on themselves following economic damage to their industry by food recalls.

These same groups have been the driving factor behind a continuing move by the AFDO (Association of Food and Drug Officials – national organization of state food regulators) led by Florida representatives to create a recommended set of state laws that could be subsequently adopted by each individual state legislature. AFTC has been involved with this group to steer them away from potentially damaging language but has made it clear that federal leadership is much better to ensure consistency and prevent differences across state lines.