

## Summary of the National Uniformity for Food Act

- The *National Uniformity for Food Act* provides for national, uniform food safety standards and warning requirements. The legislation amends the Federal Food, Drug and Cosmetic Act to create a uniform, national system that not only recognizes the role of state and local governments in the regulation of food products, but also integrates them into the national system.
- The bill provides that where FDA has acted by setting a safety standard for a food ingredient or constituent, the states would adopt and enforce the same standard. If FDA has not set a safety standard for a particular substance in food, the states would remain free to set and enforce their own standard.
- The bill would also provide for national uniformity in product warnings. States would not be permitted to require the regulated industry to communicate a warning in labeling, advertising, or any other form of public communication, if that warning differs from that imposed under Federal law. The authority of the states to issue warnings remains unhindered. States remain free to issue their own public warnings under state laws at any time and under any circumstance.
- The bill takes a measured approach to national uniformity for food by providing a mechanism for a thorough, orderly review of existing state regulations that may differ from a federal regulation. This approach applies to differing state requirements that are in existence at the time of enactment. Uniformity is delayed for six months following enactment of the bill during which time states could petition the FDA to adopt theirs as a national requirement or exempt it from national uniformity. No existing state requirement that differs from a federal requirement would be preempted without the opportunity for petition, and state requirements would remain in effect while FDA considers the states' petitions.
- Uniformity would be achieved gradually as FDA acts on the states' petitions, either adopting them as national requirements or concluding that they should not continue in effect. FDA's decisions on state petitions would occur only after public input through a comment process.
- The bill also provides for a separate petition process for requirements not in effect on the date of enactment. Under this process states would be permitted to petition the FDA for adoption of a new standard or warning requirement, based on newly found science. Provisions in the bill require that FDA act in a time certain to these new petitions either by adopting them as national standards or concluding that the science does not merit adoption.
- The authority of the states to act if presented with an imminent hazard is preserved.

- The bill does not affect state authority regarding freshness dating, open date labeling, grade labeling, state inspection stamps, religious dietary labeling, organic or natural designation, returnable bottle labeling, unit pricing, dietary supplements, and statement of geographic origin.
- Existing provisions related to food sanitation are not subject to national uniformity. Traditional federal/state/industry cooperative sanitation programs related to restaurants and retail stores would not be affected. Existing state requirements for shellfish warnings would also not be affected.
- National uniformity does not apply to the federal or state enforcement powers (embargo, recall, or other enforcement powers).