

Get The Facts II:

H.R. 4167 Creates Real National Standards for Food Safety

March 7, 2006

Dear Colleague:

In the past few days you have likely heard a number of arguments against H.R. 4167, the National Uniformity for Food Act. Unfortunately, the bill's opponents continue to confuse the issue by making a number of inaccurate statements regarding the legislation. I have included responses to 7 more of the most common concerns raised by opponents of H.R. 4167.

Myth: Passage of H.R. 4167 would impair the ability of states to react quickly to perceived food safety emergencies and the ability of the state to respond to bio-terrorist threats. States can currently act quickly, often without going to court, while FDA must follow time-consuming procedures.

Fact: This concern is not correct. The ability of the states to act quickly in the face of bioterrorist threats is not affected by H.R. 4167. The uniformity legislation does not affect the various enforcement authorities that states use, such as embargo or stop-sale authority

In cases where a state believes that an inadequate federal standard presents an imminent danger to their citizens, states are allowed to take action. H.R. 4167 merely requires states to consult with FDA in such situations (as they often do now), but will be free to take prompt action under state law, even if the action the state takes would be inconsistent under federal law.

Myth: Sanitation requirements, which are primarily enforced at the state level, would be voided by the legislation.

Fact: The sections of Federal law that relate to sanitation requirements, are not amended by H.R. 4167.

Myth: States will abandon their entire food safety programs - inspections, analysis, dairy sampling and inspection and the like - if the uniformity legislation is enacted.

Fact: The claim that states will abandon important and longstanding food safety programs if the uniformity legislation is enacted makes no sense and is based on a grotesquely inaccurate interpretation of the effect of the legislation

The uniformity legislation merely mandate that uniform state and federal food labeling laws. To suggest that the need for state programs would disappear if the states were required to enforce adulteration and warning requirements that are identical to those at the Federal level is not accurate.

Myth: States will need to file in court for interpretation and 10th amendment issues.

Fact: There is no requirement for states to initiate court proceedings. There are multiple uniformity provisions already in Federal food law, and none of them have led to litigation. There are no obvious 10th Amendment issues by virtue of the uniformity legislation. The authority of the Congress to regulate interstate commerce in food and to determine that uniformity in food safety and warning requirements is essential to a properly functioning national market is well established. For example, the Supreme Court ruled many years ago that Federal law preempted state weights and measures laws that were inconsistent with the Federal.

Myth: If enacted, the uniformity legislation will immediately void many state food safety laws.

Fact: The uniformity legislation has a delayed implementation schedule. Beginning on enactment, state requirements (laws or regulations) that are not identical to the Federal will remain in effect. After that period, if states have petitioned FDA (either singly or collectively) for an exemption from the requirement of uniformity, the state requirement will remain in effect until FDA acts on the state petition. Some existing state requirements will ultimately be incorporated into Federal requirements and will thus improve food safety nationwide.

Myth: H.R. 4167 would roll-back state laws dealing with the use of diet supplements by high school athletes:

Fact: H.R. 4167 does not amend any federal or state law addressing dietary supplements.

Please join the bill's 226 bipartisan cosponsors by supporting this legislation when it is considered on the House floor tomorrow. If you have any questions please Mike Ward my office at 5-4872 or at mike.ward@mail.house.gov

Sincerely,

Mike Rogers
Member of Congress