

# NATIONAL UNIFORMITY FOR FOOD COALITION

## Analysis of State Laws Cited in CSPI Report “Shredding the Food Safety Net”

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Conducted by John Bode, Partner, Olsson, Frank and Weeda, and  
Stuart Pape, Managing Partner, Patton Boggs, LLP

### Summary

- **185 of 196 laws cited in CSPI document would not be affected by National Uniformity for Food Act**
- **11 state laws cited in CSPI document would be affected by National Uniformity for Food Act** (see attachment for additional details)
  - Calif. statute regarding contaminants and cancer or reproductive toxicity
  - Conn. statute regarding sulfites and bulk food
  - Maine statute regarding alewives
  - Mich. statute regarding sulfites and bulk food
  - Mich. statute regarding sulfites and restaurants
  - Ore. statute regarding DES
  - Va. portion of statute regarding sulfites and restaurants
  - Mass. portion of statute governing the safety of milk
  - Mich. regulations governing the safety of milk
  - Neb. portion of statute governing the safety of milk
  - Texas regulatory provision regarding restaurant food safety
- H.R. 4167 **would not** preempt state laws on food sanitation
- H.R. 4167 **would not** preempt state laws prohibiting economic adulteration
- H.R. 4167 **would not** preempt state laws regarding the safety of dietary supplements
- H.R. 4167 **would not** preempt state laws requiring notifications or label statements that are not food safety warnings
- H.R. 4167 **would not** preempt state laws on meat and poultry safety
- H.R. 4167 **would not** preempt state laws on animal feed or hinder efforts to protect against mad cow disease
- H.R. 4167 **would not** preempt certain state laws on adulteration of candy
- H.R. 4167 **would not** diminish state inspection and enforcement powers

**ANALYSIS OF**  
**STATE LAWS CITED IN CSPI REPORT**  
**SHREDDING THE FOOD SAFETY NET**

<b>Alabama</b>	<p>Statutory provision prohibiting terra alba, barytes, talc, chrome yellow, or burnt umber in confectioneries. (Code of Alabama, Title 20, Chapter 1, §20-1-23).</p> <p><i>Not preempted. State law is identical to federal requirements.</i></p> <p>Statutory provision setting minimum nutritional requirements for cornmeal or grits. (Code of Alabama, Title 20, Chapter 1, §20-1-73).</p> <p><i>Not preempted. This state law creates a standard of identity for cornmeal and grits. State standards of identity are already preempted under FD&amp;C Act § 403A(a)(1) if not identical to an existing federal standard of identity.</i></p> <p>Statutory provision authorizing tolerances for infested, moldy, or decayed pecans and other nuts. (Code of Alabama, Title 20, Chapter 1, §20-1-90).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws on food sanitation.</i></p> <p>Statutory provision governing the safety of milk. (Code of Alabama, Title 20, Chapter 13, Article 3, §§ 2-13-80 to 2-13-94).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Code of Alabama, Title 22, Chapter 20, § 22-20-5).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Law governing shellfish safety. (Code of Alabama, Title 9, § 9-12-47 et seq.) (<i>Note: CSPI report included an incorrect citation for this state law.</i>)</p>
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	<p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<p><b>Alaska</b></p>	<p>Statutory provision requiring the labeling of farm-raised salmon products. (Alaska Food, Drug, and Cosmetic Act, Alaska Statutes, § 17.20.040(a)(12)).</p> <p><i>Not preempted. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.</i></p> <p>Statutory provision requiring labeling of genetically modified fish or fish products. (Alaska Food, Drug, and Cosmetic Act, Alaska Statutes, § 17.20.040(a)(14); SB 25).</p> <p><i>Not preempted. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.</i></p> <p>Statutory provision governing the safety of milk. (Alaska Food, Drug, and Cosmetic Act, Alaska Statutes, § 17.20.005(4)).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Alaska Food, Drug, and Cosmetic Act, Alaska Statutes, § 17.20.005(1)).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Law governing shellfish safety. (Alaska Food, Drug, and Cosmetic Act, Alaska Statutes, § 17.20.005(5)).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>

<p><b>Arizona</b></p>	<p>Statutory provision governing the safety of milk and other dairy products. (Arizona Revised Statutes, Title 3, Chapter 4, §§ 3-601 to 3-634).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167.*</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Arizona Revised Statutes, Title 36, Chapter 1, Article 1, § 36-104(b)(i)).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Law governing shellfish safety. (Arizona Revised Statutes, Title 3, Chapter 16, Article 1, §§ 3-2901 to 3-2904).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
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<p><b>Arkansas</b></p>	<p>Statutory provision authorizing regulations governing the safety of salvaged food. (Arkansas Code, §20-57-102).</p> <p><i>Not preempted. FDA has no regulations or policy statements establishing requirements for safety of salvaged food.</i></p> <p>Statutory provision requiring a label on egg containers that states, “Keep refrigerated at or below 45 degrees Fahrenheit.” (Arkansas Code, §20-58-210).</p> <p><i>Not preempted. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.</i></p> <p>Statutory provision requiring any catfish product to be labeled as “farm-raised,” “river or lake,” “imported,” or “ocean.” (Arkansas Code, §20-61-206).</p> <p><i>Not preempted. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.</i></p> <p>Statutory provision governing the safety of milk. (Arkansas Code, Title 20, Subtitle 4, §§ 20-59-101 to 20-59-248).</p>
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	<p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Arkansas Code, Title 20, Subtitle 4, Chapter 57, Subchapter 2, §§ 20-57-201 to 20-57-204).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<p><b>California</b></p>	<p>Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (California Health and Safety Code (Sherman Food, Drug, and Cosmetic Law), §§ 110085 and 110090).</p> <p><i>Uniformity provisions would apply without practical effect.*** This California statute authorizes food safety standards that differ from federal requirements. However, California has not exercised its authority to adopt any standards that differ from federal standards.</i></p> <p>Statutory provisions requiring that consumers be notified of contaminants that are known to the state to cause cancer or reproductive toxicity. (Proposition 65) (California Health &amp; Safety Code, §§ 25249.5 <i>et seq.</i>).</p> <p><i>Uniformity provisions would apply.** This California statute requires a food safety warning not required by FDA.</i></p> <p>Statutory provisions on shellfish safety. (California Health and Safety Code §§ 112150-112295) and regulatory provision regarding warning on risks of eating raw oysters (17 California Code of Regulations 13675).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements. California regulation requiring warning for raw oysters not preempted, because H.R. 4167 expressly permits state laws requiring consumer advisories about food sanitation imposed on food establishments under part 3-6 of the Food Code.</i></p> <p>Statutory provision limiting the amount of lead in candy. (California Health and Safety Code § 110552; AB 121, signed into law October 2005).</p> <p><i>Not preempted. State law is identical to federal requirements, unless and until California sets a limit on lead in candy that differs from the federal</i></p>

*limit established by a final FDA regulation or guidance.*

Statutory provision prohibiting the use of certain dietary supplements by high school athletes. (California Education Code § 49030; SB 37, signed into law October 2005).

*Not preempted. H.R. 4167 does not preempt state laws relating to safety of dietary supplements.*

Statutory provision requiring label to disclose if food contains more than ½ of one percent alcohol. (California Health and Safety Code, § 110695).

*Not preempted. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.*

Statutory provision requiring label to disclose if food is perishable when not refrigerated. (California Health and Safety Code, § 110700).

*Not preempted. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.*

Statutory provisions pertaining to the adulteration of wine. (California Health and Safety Code, § 110597).

*Not preempted. This California law provides that wine is adulterated if it contains lead in concentrations exceeding 150 parts per billion. FDA has no regulation or guidance establishing a specific limit on the lead content of wine. Unless FDA previously considered and rejected establishment of a limit on lead in wine, the state is free to set its own limit. (Note: The California law also provides that wine is adulterated if its container uses a metal foil capsule containing lead in excess of 0.3 percent by dry weight. Here, federal law already contains a stricter requirement. FDA regulations already prohibit use of tin-coated lead foil capsules on wine bottles (21 C.F.R. § 189.301).)*

Statutory provision governing the safety of milk. (California Food and Agriculture Code, §§ 32901-32921).

*Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.\**

Statutory provision governing the safety of food in restaurants and other food service establishments. (California Health and Safety Code, Division

	<p>104, Part 7, Chapter 4, §§ 113700-114475).</p> <p><i>Generally not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements. However, uniformity provisions would apply to § 114070, which prohibits use of sulfites in “potentially hazardous foods,” because it establishes a food safety standard that is not identical to federal requirements.**</i></p>
<b>Colorado</b>	<p>Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Colorado Food and Drug Act, Colorado Revised Statutes, §25-5-413(2)).</p> <p><i>Uniformity provisions would apply without practical effect.*** This Colorado statute authorizes food safety standards that differ from federal requirements. However, Colorado has not exercised its authority to adopt any standards that differ from federal standards.</i></p> <p>Statutory provision governing the safety of milk. (Colorado Revised Statutes, Title 25, Article 5.5, Part 1, §§ 25-5.5-101 to 25-5.5-117).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Colorado Revised Statutes, Title 25, Article 4, Part 16, §§ 25-4-1601 to 25-4-1612).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Law governing shellfish safety. (Colorado Revised Statutes, Title 25, Article 4, Part 18, §§ 25-4-1803 to 25-4-1805).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>Connecticut</b>	<p>Statutory provision prohibiting the use of "honey" on the label of a food that does not contain honey. (General Statutes of Connecticut, Chapter</p>

	<p>417, § 21a-23).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws prohibiting economic adulteration.</i></p> <p>Statutory provision prohibiting the sale of cider vinegar unless made wholly from apple juice. (General Statutes of Connecticut, Chapter 417, § 21a-25).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws prohibiting economic adulteration.</i></p> <p>Statutory provision requiring a warning about a possible allergic reaction when any sulfiting agent is present in any bulk food. (General Statutes of Connecticut, Chapter 47, § 21a-104a).</p> <p>Uniformity provisions would apply.** <i>This Connecticut statute requires a food safety warning that is not required by FDA.</i></p> <p>Statutory provision governing the safety of milk. (General Statutes of Connecticut, Title 22, Chapter 430, §§ 22-127 to 22-203h).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Regulatory provision governing the safety of food in restaurants and other food service establishments. (Public Health Code, Title 19a, Chapter 368a, §§ 19a-36a to 19a-36b).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Law governing shellfish safety. (General Statutes of Connecticut, Title 26, Chapter 491, §§ 26-192a to 26-192c).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>Delaware</b>	<p>Statutory provision requiring carbonated beverages containing artificial sweeteners to be labeled as "dietetic." (Delaware Code, Title 16, §4312).</p>

	<p><i>Not preempted. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.</i></p> <p>Statutory provision governing the safety of milk. (Delaware Code, Title 16, § 122(3)(f)).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Delaware Code, Title 16, § 122(3)(u)).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Law governing shellfish safety. (Delaware Code, Title 7, Part 2, Chapter 19, §§ 1901-1920).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<p><b>Florida</b></p>	<p>Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Florida Food Safety Act, Florida Statutes, § 500.13(2)).</p> <p><i>Uniformity provisions would apply without practical effect.*** This Florida statute authorizes food safety standards that differ from federal requirements. However, Florida has not exercised its authority to adopt any standards that differ from federal standards.</i></p> <p>Statutory provisions on shellfish safety. (Florida Aquaculture Policy Act, Florida Statutes, Title XXXV, Chapter 597).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Numerous statutory provisions concerning labeling of citrus fruit, canned citrus juices, and frozen citrus juices. (Florida Agriculture, Horticulture, and Animal Industry, Citrus Code, Florida Statutes, Title XXXV, §§ 601.99 <i>et seq.</i>).</p>

	<p><i>Not preempted. H.R. 4167 does not preempt state laws prohibiting economic adulteration.</i></p> <p>Statutory provision governing the safety of milk. (Florida Statutes, Title XXXIII, Chapter 502, §§ 502.012-502.232).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Florida Statutes, Title XXXIII, Chapter 509, §§ 509.013-509. 101).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
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<p><b>Georgia</b></p>	<p>Statutory provision permitting ingredients of a carbonated beverage to be disclosed through an affidavit to the Commissioner rather than on the label. (Georgia Statutes, §26-2-28(9)(c)).</p> <p><i>Not preempted. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.</i></p> <p>Statutory provision regulating when a food can have the label "honey." (Georgia Statutes, §26-2-32(a)).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws prohibiting economic adulteration.</i></p> <p>Statutory provision governing the safety of milk. (Georgia Statutes, Title 26, §§ 26-2-230 to 26-2-250).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Georgia Statutes, Title 26, §§ 26-2-371 to</p>
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	<p>26-2-373.1).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of fish and seafood. (Georgia Statutes, Title 26, § 26-2-318).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<p><b>Hawaii</b></p>	<p>Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Hawaii FDCA, §328-13(b)).</p> <p><i>Uniformity provisions would apply without practical effect.*** This Hawaii statute authorizes food safety standards that differ from federal requirements. However, Hawaii has not exercised its authority to adopt any standards that differ from federal standards.</i></p> <p>Statutory provision governing the safety of milk. (Hawaii Revised Statutes, § 321-11(14)).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Regulatory provision governing the safety of food in restaurants and other food service establishments. (Hawaii Administrative Rules, Title 11, Chapter 12).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<p><b>Idaho</b></p>	<p>Statutory provision governing the safety of milk. (Idaho Statutes, Title 37, Chapter 4, §§ 37-402 to 37-413).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p>

	<p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Idaho Statutes, Title 39, Chapter 16, §§ 39-1601 to 39-1608).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<p><b>Illinois</b></p>	<p>Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Illinois FDCA, § 13(b)) (410 ILCS 620).</p> <p><i>Uniformity provisions would apply without practical effect.*** This Illinois statute authorizes food safety standards that differ from federal requirements. However, Illinois has not exercised its authority to adopt any standards that differ from federal standards.</i></p> <p>Statutory provision deeming egg products adulterated if processed in a manner that increases the risk of microbial contamination. (Ill. FDCA, §10(f); Ill. Egg and Egg Products Act, § 3.1(1)) (410 ILCS 615).</p> <p><i>Not preempted. This state law is identical to federal requirements.</i></p> <p>Statutory provision governing the safety of milk. (Grade A Pasteurized Milk and Milk Products Act, Chapter 410, §§ 635-1 to 635-19) (410 ILCS 635).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Food Handling Regulation Enforcement Act, Chapter 410, § 1-3.1) (410 ILCS 625).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
	<p>Statutory provisions allowing the state to adopt tolerances for food</p>

<p><b>Indiana</b></p>	<p>additives and color additives that are more protective of human health than the applicable federal tolerances. (Indiana FDCA, Indiana Code, §16-42-2-5(b)).</p> <p><i>Uniformity provisions would apply without practical effect.*** This Indiana statute authorizes food safety standards that differ from federal requirements. However, Indiana has not exercised its authority to adopt any standards that differ from federal standards.</i></p> <p>Statutory provision governing the safety of milk. (Indiana Code, Title 15, Article 2.1, Chapter 23, §§ 1-17.</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Indiana Code, Title 16, Article 42, Chapter 5, §§ 16-42-5.05 to 16-42-5.28 and Chapter 5.2, §§ 16-42-5.2-1 to 16-42-5.2-1 to 16-42-5.2-15).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<p><b>Iowa</b></p>	<p>Statutory provision regulating when a food can have the label "honey." (Iowa Code, Title V, §189.14(2)).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws prohibiting economic adulteration.</i></p> <p>Statutory provision regulating when a food can have the label "sorghum." (Iowa Code, Title V, §189.14(3)).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws prohibiting economic adulteration.</i></p> <p>Statutory provision regarding the safety of milk. (Iowa Code, Title V, Subtitle 4, §§ 192.101 to 192.146).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements</i></p>

	<p><i>identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Iowa Code, Title IV, Subtitle 2, Chapter 137F, §§ 137F.1 – 137F.19).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<p><b>Kansas</b></p>	<p>Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Kansas FDCA, Kansas Statutes, § 65-667(b)).</p> <p><i>Uniformity provisions would apply without practical effect.*** This Kansas statute authorizes food safety standards that differ from federal requirements. However, Kansas has not exercised its authority to adopt any standards that differ from federal standards.</i></p> <p>Statutory provision governing the safety of milk. (Kansas Statutes, Chapter 65, Article 7, §§ 65-771 to 65-791).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Kansas Statutes, Chapter 36, Article 5, §§36-507 to 36-515c).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>

<p><b>Kentucky</b></p>	<p>Statutory provision governing the safety of milk. (Kentucky Revised Statutes, Title XXI, Chapter 260, §§ 260.775-260.845).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Kentucky Revised Statutes, Title XVIII, Chapter 217, § 217.127).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<p><b>Louisiana</b></p>	<p>Statutory provision on shellfish safety. (Revised Statutes, § 40:5.3).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision requiring any catfish product to be labeled as farm-raised or naturally produced. (Revised Statutes 56:578.11).</p> <p><i>Not preempted. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.</i></p> <p>Statutory provision requiring a vendor of food, dietary supplements, or homeopathic remedies to provide certain information to a consumer if the vendor provides information for a fee (Revised Statutes, § 37:1742.1, Act No. 334; signed into law June 30, 2005).</p> <p><i>Not preempted. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.</i></p> <p>Statutory provision governing the safety of milk. (Revised Statutes, Title 40, §§ 921-925).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other</p>

	<p>food service establishments. (Revised Statutes, 40:5.5).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<p><b>Maine</b></p>	<p>Statutory provision requiring disclosure of whether fresh produce has had a post-harvest treatment. (Maine Revised Statutes, Title 22, Part 5, Chapter 551, § 2157.14).</p> <p><i>Not preempted. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.</i></p> <p>Statutory provision requiring sign stating that eating smoked alewives poses a health risk. (Maine Revised Statutes, Title 22, Part 5, Chapter 551, § 2173).</p> <p><i>Uniformity provisions would apply.** This Maine statute requires a food safety warning that is not required by FDA.</i></p> <p>Statutory provision regulating when apples may be represented as having been exposed to "controlled atmosphere." (Maine Revised Statutes, Title 7, Part 2, Chapter 103, § 539).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws prohibiting economic adulteration.</i></p> <p>Statutory provision governing the safety of milk. (Maine Revised Statutes, Title 7, Part 7, Chapter 601, §§ 2900 to 2910-A).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Maine Revised Statutes, Title 22, Subtitle 2, Part 5, Chapter 562, §§ 2491-2501).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>

<p><b>Maryland</b></p>	<p>Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Maryland FDCA, §21-239(c)).</p> <p><i>Uniformity provisions would apply without practical effect.*** This Maryland statute authorizes food safety standards that differ from federal requirements. However, Maryland has not exercised its authority to adopt any standards that differ from federal standards.</i></p> <p>Statutory provision requiring label to disclose if "fresh" food was previously frozen and thus should not be refrozen. (Maryland FDCA, §21-210(b)(11)).</p> <p><i>Not preempted. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.</i></p> <p>Statutory provision prohibiting the sale of frozen food that has been previously thawed from a prior freezing. (Maryland FDCA, §21-207(b)(8)).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws prohibiting economic adulteration.</i></p> <p>Statutory provision governing the safety of milk. (Maryland Code, Title 21, Subtitle 4, §§ 21-401 to 21-430).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Maryland Code, Title 21, Subtitle 3, §§ 21-301 to 21-323.1).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of shellfish. (Maryland Code, Title 4, Subtitle 7, § 4-742).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not</i></p>
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	<p><i>subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>Massachusetts</b>	<p>Statutory provision barring "halibut" on a food label if the food is not either <i>hippoglossus hippoglossus</i> or <i>hippoglossus stenolepis</i>. (General Laws of Massachusetts, Title XV, Chapter 94, §194B).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws prohibiting economic adulteration.</i></p> <p>Statutory provision governing the safety of milk. (General Laws of Massachusetts, Title XV, Part 1, Chapter 94, §§ 13-48D).</p> <p><i>Generally not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements. However, uniformity provisions would apply to §§ 13 and 13E which authorize the state health commissioner and local governments to set "more stringent" bacterial standards than are provided in the FDA's Grade "A" Pasteurized Milk Ordinance (PMO), could be preempted.** The uniformity provisions may apply to this state law without practical effect. The State of Massachusetts did not identify any such bacterial standards in response to our inquiry nor are we aware of any such standards. However, our research did not include a comprehensive review of all state and local requirements in Massachusetts.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (General Laws of Massachusetts, Title XV, Part 1, Chapter 94, §§ 305A-305B).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>Michigan</b>	<p>Regulations on smoked fish. (Michigan Admin. Code r. 285.569).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision banning the use of sulfiting agents in restaurants and other food service establishments. (Michigan Compiled Laws, Chapter 289, § 289.6139).</p>

	<p><i>Uniformity provisions would apply.** This Michigan statute authorizes food safety standards that differ from federal requirements.</i></p> <p>Statutory provision requiring a warning about a possible allergic reaction when any sulfiting agent is present in any bulk food. (Michigan Food Law of 2000, Chapter 289, § 289.8103).</p> <p><i>Uniformity provisions would apply.** This Michigan statute requires a food safety warning that is not required by FDA.</i></p> <p>Statutory provision governing the safety of milk. (Michigan Compiled Laws, Chapter 288, §§ 288.471-288.711).</p> <p><i>Generally, not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements. However, uniformity provisions would apply to certain provisions that set bacterial limits and somatic cell counts that differ from those in FDA's Grade "A" Pasteurized Milk Ordinance (PMO). In some cases, the federal bacterial limits are lower than the limits under Michigan law. For example, § 288.630 provides that milk for pasteurization may not have more than 500,000 bacteria per mL, whereas the PMO sets a limit of 100,000 per mL.**</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Michigan Compiled Laws, Chapter 289, §§ 289.1105-289.6135).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>Minnesota</b>	<p>Statutory provision regulating when a food may be sold as "honey." (Minnesota Statutes, §31.74).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws prohibiting economic adulteration.</i></p> <p>Statutory provision requiring labeling of various types of wild rice. (Minnesota Statutes, §30.49).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws notification requirements unless they require warnings about food safety.</i></p> <p>Statutory provision prohibiting the sale of a confection containing alcohol to a person under the age of 21 and requiring labels on such confections.</p>

	<p>(Minnesota Statutes, §31.76).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws regarding adulteration of confectionery with alcohol. The notification requirement in this statute is not preempted, because it does not require a food safety warning.</i></p> <p>Statutory provision governing the safety of milk. (Minnesota Statutes, Chapter 32, §§ 32.01-32.398).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Minnesota Statutes, Chapter 157, §§ 157.011-157.22).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<p><b>Mississippi</b></p>	<p>Statutory provision requiring any catfish product to be labeled as farm-raised, river or lake, or ocean. (Mississippi Code, §69-7-607).</p> <p><i>Not preempted. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.</i></p> <p>Statutory provision governing the safety of milk. (Mississippi Code, Title 75, Chapter 31, § 75-31-65).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Mississippi Code, Title 69, Chapter 1, § 69-1-18).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>

<p><b>Missouri</b></p>	<p>Statutory provision governing the safety of milk. (Missouri Revised Statutes, Title XII, Chapter 196, §§ 196.520-196.610).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Missouri Revised Statutes, Title XII, Chapter 196, §§ 196.240-196.265).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<p><b>Montana</b></p>	<p>Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Montana FDCA, §50-31-108).</p> <p><i>Uniformity provisions would apply without practical effect.*** This Montana statute authorizes food safety standards that differ from federal requirements. However, Montana has not exercised its authority to adopt any standards that differ from federal standards.</i></p> <p>Statutory provision regulating when a food can have the label "honey." (Montana FDCA, §50-31-204).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws prohibiting economic adulteration.</i></p> <p>Statutory provision governing the safety of milk. (Montana Code Annotated, Title 81, Chapter 22, §§ 81-22-101 to 81-22-419).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Montana Code Annotated, Title 50, Chapter 31, §§ 50-31-103 to 50-31-106).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not</i></p>

	<p><i>subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>Nebraska</b>	<p>Statutory provision governing the safety of milk. (Nebraska Statutes, Title 2, §§ 2-3913 to 2-3946).</p> <p><i>Generally not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.* However, certain provisions setting bacterial limits higher than those in the PMO could be preempted.**</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Nebraska Statutes, Title 81, §§ 81-2,244.01-81-2,276).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>Nevada</b>	<p>Statutory provision prohibiting the use of "honey" on a food label if the food does not consist solely of honey. (Nevada Revised Statutes, §585.355).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws prohibiting economic adulteration.</i></p> <p>Statutory provision governing the safety of milk. (Nevada Revised Statutes, Title 51, Chapter 584, §§ 584.180-584.210).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Nevada Revised Statutes, Title 40, Chapter 446, §§ 446.017-446.945).</p> <p><i>Generally, not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements. However, uniformity provisions would apply to § 446.842. This provision requires that food establishments that sell alcoholic beverages post a sign warning pregnant</i></p>

	<p>women about the risk of birth defects. Because this warning statement is not clearly a consumer advisory of the kind required by part 3-6 of the Food Code, it would trigger uniformity review.**</p>
<b>New Hampshire</b>	<p>Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (New Hampshire Revised Statutes, Title X, § 146:21-II).</p> <p><i>Uniformity provisions would apply without practical effect.*** This New Hampshire statute authorizes food safety standards that differ from federal requirements. However, New Hampshire has not exercised its authority to adopt any standards that differ from federal standards.</i></p> <p>Statutory provision prohibiting the sale of cider vinegar unless made solely from apple cider (New Hampshire Revised Statutes, Title X, §146:14).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws prohibiting economic adulteration.</i></p> <p>Statutory provision requiring that maple syrup be made solely from the sap of the maple tree. (New Hampshire Revised Statutes, Title X, §146:13).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws prohibiting economic adulteration.</i></p> <p>Statutory provision governing the safety of milk. (New Hampshire Revised Statutes, Title XIV, Chapter 184, §§ 184:30a-184:30h).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (New Hampshire Revised Statutes, Title X, Chapter 143A, §§ 143.A:1-143.A:11).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>New Jersey</b>	<p>Statutory provision prohibiting the sale to a person under the legal age of a</p>

	<p>confection containing more than 1/2 percent alcohol (New Jersey Statutes, § 24:5-9.1).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws regarding confectionery adulterated with alcohol.</i></p> <p>Statutory provision governing the safety of milk. (New Jersey Statutes, Title 4, §§ 4:4-22 to 4:4-23).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (New Jersey Statutes, Title 26, §§ 26:1A-7 to 26:1A-10).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>New Mexico</b>	<p>Statutory provision governing the safety of milk. (New Mexico Statutes, Article 7, §§ 25-7-1 to 25-7-8).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (New Mexico Statutes, Chapter 25, Article 1, §§ 25-1-1 to 25-1-13).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>New York</b>	<p>Statutory provision requiring label to show fats and oils in order of predominance in the food. (New York Agriculture and Markets Law, Article 17, § 204-b).</p> <p><i>Not preempted. This New York law is identical to federal requirements (see 21 C.F.R. § 101.4(b)(14)). H.R. 4167 does not preempt state notification requirements unless they are warnings about food safety.</i></p>

Statutory provision prohibiting the combined amount of lead, cadmium, mercury, and hexavalent chromium in any package from exceeding 100 parts per million. (New York Environmental Conservation Law, Article 37, § 37-0205).

*Not preempted. FDA has no regulation or guidance establishing specific limits for these heavy metals in food packaging. Unless FDA previously considered and rejected such limits, the state is free to set its own limits.*

Statutory provision requiring label to disclose whether frozen food has previously been offered for sale in unfrozen form. (New York Agriculture and Markets Law, Article 17, §214-g).

*Not preempted. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.*

Regulations regarding processing of smoked fish. (Rules and Regulations of New York, Title I, Part 262, § 262.5).

*Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*

Statutory provision governing the safety of milk. (New York Agriculture and Markets Law, Article 5, § 75).

*Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.\**

Statutory provision governing the safety of food in restaurants and other food service establishments. (New York Agriculture and Markets Law, Article 28, § 500).

*Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*

Statutory provision governing the safety of shellfish. (New York Environmental Conservation Law, Article 13, Title 3, § 13-0307).

*Not preempted. State law addresses food sanitation and other matters not*

	<p><i>subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>North Carolina</b>	<p>Statutory provision on shellfish safety. (North Carolina General Statutes, Chapter 130A, Article 8, Part 3, § 130A-230).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Regulation requiring that in summer camps only grade A pasteurized milk be used and that the milk be served in the individual, original container so that the consumer can see the name of the milk distributor. (North Carolina Admin Code, Title 15A, Subchapter 18A, § 1021(a))</p> <p><i>Not preempted. There are no federal requirements regarding what kind of milk may be served in summer camps.</i></p> <p>Statutory provision governing the safety of milk. (North Carolina General Statutes, Chapter 106, Article 29, §§ 106-267 to 106-268.1).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (North Carolina General Statutes, Chapter 130A, Article 8, Part 6, §§ 130A-247 to 130A-250).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>North Dakota</b>	<p>Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (North Dakota FDC Act, § 19-02.1-12(2)).</p> <p><i>Uniformity provisions would apply without practical effect.*** This North Dakota statute authorizes food safety standards that differ from federal requirements. However, North Dakota has not exercised its authority to adopt any standards that differ from federal standards.</i></p>

	<p>Statutory provision governing the safety of milk. (North Dakota Century Code, Title 4, Chapter 4-30, §§ 4-30-01 to 4-30-56).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (North Dakota Century Code, Title 23, Chapter 23-09.2, §§ 23-09.2-01 to 23-09.2-04).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
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<p><b>Ohio</b></p>	<p>Statutory provision prohibiting the use of "honey" on a food label if the food is not honey (Ohio Revised Code, Title XXX VII, §3715.38).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws prohibiting economic adulteration.</i></p> <p>Statutory provision that a dietary supplement is adulterated if the Director of Agriculture finds that it presents a significant or unreasonable risk of illness or injury. (Ohio Revised Code, Title XXXVII, §§ 3715.80-3715.86).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws regarding the safety of dietary supplements.</i></p> <p>Statutory provision governing the safety of milk. (Ohio Revised Code, Title IX, Chapter 917, §§ 917.01-917.99).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Ohio Revised Code, Title XXXVII, §§ 3717.01-3717.33).</p>
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	<p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>Oklahoma</b>	<p>Statutory provision governing the safety of milk. (Oklahoma Statutes, Title 2, Article 7, §§ 2-7-402 to 2-7-421).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Oklahoma Statutes, Title 63, Article 11, § 1-1118).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>Oregon</b>	<p>Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Oregon Revised Statutes, §49.616.366).</p> <p><i>Uniformity provisions would apply without practical effect.*** This Oregon statute authorizes food safety standards that differ from federal requirements. However, Oregon has not exercised its authority to adopt any standards that differ from federal standards.</i></p> <p>Statutory provision requiring food that has been "salvaged" to have a label stating that fact. (Oregon Revised Statutes, §49.616.250(16)).</p> <p><i>Not preempted. H.R. 4167 does not preempt state notification requirements unless they are warnings about food safety.</i></p> <p>Statutory provision requiring a warning label of foods containing diethylstilbestrol (DES). (Oregon Revised Statutes, Title 49, Chapter 616, § 49.616.333).</p> <p><i>Uniformity provisions would apply without practical effect.*** This Oregon statute requires a food safety warning not required by FDA. However, this state law is an historical artifact. DES, which was once permitted in animal feed, has not been allowed in human food or animal feed since 1979.</i></p>

	<p>Statutory provision governing the safety of milk. (Oregon Revised Statutes, Chapter 621, §§ 621.003-621.300).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Oregon Revised Statutes, Title 49, Chapter 624, §§ 624.005-624.992).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>Pennsylvania</b>	<p>Statutory provision governing the safety of milk. (Pennsylvania Statutes, Title 31, Chapter 13, §§ 645-660g).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Regulatory provision governing the safety of food in restaurants and other food service establishments. (Pennsylvania Administrative Code, Title 28, Part II, Chapter 17, §§ 17-81-17.85).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>Rhode Island</b>	<p>Statutory provision permitting ingredients of carbonated beverages to be disclosed in an affidavit to the Director of Health. (Rhode Island FDCA, §21-31-11(9)(ii)).</p> <p><i>Not preempted. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.</i></p> <p>Statutory provision requiring packaging or labeling to comply with the regulations of the Poison Prevention Packaging Act. (Rhode Island FDCA, §21-31-11(13)).</p> <p><i>Not preempted. State law addresses matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal</i></p>

	<p><i>requirements.</i></p> <p>Statutory provision requiring disclosure of whether uncooked fish and shellfish have ever been frozen. (Rhode Island General Laws, §21-31-3(13)).</p> <p><i>Not preempted. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.</i></p> <p>Statutory provisions regulating packing of various kinds of fish in casks. (Rhode Island General Laws, Title 21, Chapter 21-15, §§ 21-15-3 <i>et seq.</i>).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws prohibiting economic adulteration.</i></p> <p>Statutory provision regulating labeling of closed packages of apples. (Rhode Island General Laws, Title 21, Chapter 21-18, § 21-18-2).</p> <p><i>Not preempted. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.</i></p> <p>Statutory provision governing the safety of milk. (Rhode Island General Laws, Title 21, Chapter 21-2).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Rhode Island General Laws, Title 21, Chapter 21-27, §§ 21-27-1 to 21-27-11.13).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>South Carolina</b>	<p>Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (South Carolina Food and Cosmetics Act, §39-25-130(b)).</p> <p><i>Uniformity provisions would apply without practical effect.*** This South Carolina statute authorizes food safety standards that differ from federal requirements. However, South Carolina has not exercised its</i></p>

	<p><i>authority to adopt any standards that differ from federal standards.</i></p> <p>Statutory provision governing the safety of milk. (South Carolina Code of Laws, Title 46, Chapter 49, §§ 46-49-10 to 46-49-90).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (South Carolina Code of Laws, Title 44, Chapter 1, § 44-1-140(2)).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of shellfish. (South Carolina Code of Laws, Title 44, §§ 44-1-150 to 44-1-155).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<p><b>South Dakota</b></p>	<p>Statutory provision deeming confectionery adulterated if it contains any vinous, malt, or spirituous liquor or compound or narcotic drug. (South Dakota Codified Laws, Title 39, Chapter 4, § 39-4-3(2)).</p> <p><i>Not preempted. H.R. 4167 does not preempt state laws regarding adulteration of confectionery with alcohol.</i></p> <p>Statutory provision requiring food label to disclose when food contains chloroform and various narcotics. (South Dakota Codified Laws, Title 39, Chapter 4, § 39-4-10).</p> <p><i>Not preempted. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.</i></p> <p>Statutory provision governing the safety of milk. (South Dakota Codified Laws, Title 39, Chapter 6, §§ 39-6-1 to 39-6-22).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not</i></p>

	<p><i>subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (South Dakota Codified Laws, Title 34, Chapter 18, §§ 34-18-25 to 34-18-33).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>Tennessee</b>	<p>Statutory provisions governing the safety of milk. (Dairy Law of the State of Tennessee, Tennessee Code, Title 53, Chapter 3, Part 1, §§ 53-3-101 to 53-3-118).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Tennessee Code, Title 68, Chapter 14, Part 3, §§ 68-14-301 to 68-14-323).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>Texas</b>	<p>Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Texas FDCA, § 431.161(b)).</p> <p><i>Uniformity provisions would apply without practical effect.*** This Texas statute authorizes food safety standards that differ from federal requirements. However, Texas has not exercised its authority to adopt any standards that differ from federal standards.</i></p> <p>Regulatory provision requiring that the internal temperature of potentially hazardous foods shall be no higher than 41 degrees Fahrenheit. (Texas Administrative Code, Title 25, Part 1, Chapter 229, Subchapter N, § 299.219(2)(C)(i)).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not</i></p>

	<p><i>subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Statutory provision governing the safety of milk. (Texas Health and Safety Code, Title 6, Chapter 435, §§ 435.001-435.021).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Regulations governing the safety of molluscan shellfish. (Texas Administrative Code, Title 25, Chapter 241, Subchapter B, §§ 241.50-241.71).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Regulatory provision governing the safety of food in restaurants and other food service establishments. (Texas Health and Safety Code, Title 25, Chapter 229, Subchapter K, §§ 229.161-229.177).</p> <p><i>Our summary review of this lengthy regulation found only one provision to which uniformity provisions would apply. Section 229.164(f) prohibits use of sulfiting agents on fresh fruits and vegetables (except grapes) and on foods considered to be good sources of vitamin B1.**</i></p>
<b>Utah</b>	<p>Statutory provisions allowing the state to adopt tolerances for food additives and color additives that are more protective of human health than the applicable federal tolerances. (Utah Code, Title 4, Chapter 5, §§ 4-5-17(3)-(5)).</p> <p><i>Uniformity provisions would apply without practical effect..*** This Utah statute authorizes food safety standards that differ from federal requirements. However, Utah has not exercised its authority to adopt any standards that differ from federal standards.</i></p> <p>Statutory provision governing the safety of milk. (Utah Code, Title 4, Chapter 3, §§ 4-3-1 to 4-3-14).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements</i></p>

	<p><i>identical to federal requirements.*</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Utah Code, Title 26, Chapters 15 and 15a, §§ 26-15-1 to 26-15a-107).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>Vermont</b>	<p>Statutory provision governing the safety of milk. (Vermont Statutes, Title 6, §§ 2671-2768).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Vermont Statutes, Title 18, Part 5, Chapter 85, Subchapter 1, §§ 4301-4309).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>Virginia</b>	<p>Statutory provision banning the use of sulfiting agents in restaurants. (Virginia Code, Title 35.1, Chapter 2, § 35.1-14.1).</p> <p><i>Uniformity provisions would apply.** This Virginia statute authorizes food safety standards that differ from federal requirements.</i></p> <p>Statutory provision prohibiting the removal of a label containing the date by which a food shall be sold (Virginia Food Act, §3.1-388.1).</p> <p><i>Not preempted. H.R. 4167 expressly exempts from preemption state laws regarding freshness labeling.</i></p> <p>Statutory provision governing the safety of milk. (Virginia Code, Title 3.1, Chapter 21, §§ 3.1-420 to 3.1-425).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not</i></p>

	<p><i>subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Virginia Code, Title 35.1, Chapter 1-5, §§ 35.1-35.1-28).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing shellfish safety. (Virginia Code, Title 28.2, Chapter 8, §§ 28.2-800 to 28.2-826).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>Washington</b>	<p>Statutory provision governing the safety of milk. (Revised Code of Washington, Title 15, §§ 15.36.002 to 15.36.561).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Revised Code of Washington, Title 43, Chapter 43.20, §§ 43.20.050(2)(c), 43.20.145).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<b>West Virginia</b>	<p>Statutory provision governing the safety of milk. (West Virginia Code, Title 19, §§ 19-11A-1 to 19-11A-10).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (West Virginia Code, Title 16, Article 6, §§</p>

	<p>16-6-3 to 16-6-11).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<p><b>Wisconsin</b></p>	<p>Statutory provision requiring label showing age and type of cheese made in Wisconsin. (Wisconsin Statutes, §97.177(3)).</p> <p><i>Not preempted. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.</i></p> <p>Statutory provision prohibiting the sale of a food containing whole fish flour unless made from the normally edible portions of fish or from fish protein concentrate. (Wisconsin Statutes, Chapter 97, § 97.13).</p> <p><i>Not preempted. This Wisconsin statute appears to be identical to federal requirements. (See FDA food additive regulation for “fish protein isolate” at 21 C.F.R. § 172.340). The provision in this Wisconsin statute requiring that packages of fish flour or fish protein concentrate bear a label statement declaring that the contents are made only from the edible portions of fish would not be preempted, because it is not a warning statement about food safety.</i></p> <p>Regulations regarding processing of smoked fish and a warning label for smoked fish. (Wisconsin food processing regulation, §§ ATCP 70.21 <i>et seq.</i>).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements. H.R. 4167 does not preempt state notification requirements unless they require warnings about food safety.</i></p> <p>Statutory provision governing the safety of milk. (Wisconsin Statutes, Chapter 97, §§ 97.20-97.25).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.*</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Wisconsin Statutes, Chapter 97, §§ 97.30(1)-97.30(2)).</p>

	<p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>
<p><b>Wyoming</b></p>	<p>Regulatory provision governing the safety of milk. (Regulations of Department of Agriculture, Chapter 3, §§ 8(a)(i)-(iii)).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p> <p>Statutory provision governing the safety of food in restaurants and other food service establishments. (Wyoming Statutes, Title 35, Chapter 7, Article 1, §§ 35-7-120, 35-7-123, and 35-7-125).</p> <p><i>Not preempted. State law addresses food sanitation and other matters not subject to preemption under H.R. 4167 and/or adopts requirements identical to federal requirements.</i></p>

\* State law allows sale of raw (*i.e.*, unpasteurized) milk within the state, subject to certain restrictions. Federal law prohibits the sale of raw milk in interstate commerce.

\*\* A state may postpone and possibly avoid preemption if it wishes to retain a state or local law. “This legislation provides for a petition process for a state to apply for an exemption to a uniformity requirement. The legislation also allows for a state to petition the FDA for a new national standard. If a state has identified a potential risk to food, this national standard petition process will compel the FDA to examine the standard to determine if such a standard should be established to protect consumers in all States.” House Report No. 109-379.

\*\*\* While the uniformity provisions of H.R. 4167 would apply, no state requirement inconsistent with federal requirements is in effect. Therefore, the uniformity provisions of H.R. 4167 are without practical effect with respect to this state law.