



# Association of Food and Drug Officials

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June 11, 2007

The Honorable Collin C. Peterson  
US House of Representatives  
2211 Rayburn HOB  
Washington, D.C. 20515

Dear Congressman Peterson:

On behalf of the Association of Food & Drug Officials (AFDO), I am writing to express our serious reservations over the broadly written language in Section 123 of the "Farm Bill" being deliberated in your House Agriculture Committee. AFDO is the national organization that has represented state and local food safety regulatory officials for over 111 years.

Our primary concern with the language is the sweeping manner in which Section 123 seems to prohibit state and local governments from making any law that prohibits the use in commerce of an article that the Secretary of Agriculture has (1) inspected and passed; or (2) determined to be of non-regulated status. The wording of this Section is so broad that it leads to ambiguity and possibly to unintended consequences.

If this proposed legislation occurs, we anticipate the following:

**State Enforcement Action Related to Adulteration or Misbranding of Meat, Poultry, and Eggs Would Be Open to Challenge.** Currently a number of state food safety programs conduct routine surveillance of meat, poultry, and eggs for the presence of adulterants such as disease-causing organisms. Three such programs include the sampling and testing of meat cold cuts for *Listeria monocytogenes*, ground beef for *E. coli* O157:H7 and processed eggs for *Salmonella*. In many cases samples of intact products from USDA inspected facilities are collected for testing along with retail store sliced, ground, or dispensed product. There are numerous instances where the intact products are found to be adulterated and states will then take appropriate actions including a request that the USDA inspected facility recall suspect products from commerce. Many of the huge recalls that have occurred from USDA inspected facilities in this country were a result of the surveillance activities at the state level and not at the federal level. Section 123, as we interpret it, would prohibit states or local government agencies from taking these important consumer protection enforcement actions against intact products from USDA inspected facilities as they are products which have been "inspected and passed". When you consider that the overwhelming amount of food safety actions taken in this country are done so by state or local government officials, you can understand why we are so concerned.

**States' Ability to Enforce Food Safety Laws Would Be Hampered.** Currently, *state and local* agencies complete more than 90% of all food inspections in this country. Additionally, most of the foodborne illness investigations conducted in this country are done by state and local agencies. Their findings during these inspections and investigations will many times result in immediate action against suspect products to minimize the potential public health impact. Should Section 123 become law, it is subject to interpretation whether the state or local law authorizing the quarantine or seizure of misbranded or adulterated food would be permitted with intact USDA inspected and passed products and whether these front line food safety officials could take immediate intervention steps during an outbreak situation. As a result, state and local regulatory agencies could be left without any means to keep contaminated meat, poultry, and eggs from entering the nation's food supply. Also, the safety of retail meat processing functions currently exempt from federal inspection and falling under state or local inspection could be jeopardized.

**Vehicle Inspections Could be Impacted.** One of the new and contemporary concerns in our country's food safety system is with the lack of monitoring with food transportation vehicles. State and local regulatory agencies are beginning to do more to inspect transportation vehicles during inspections of regulated firms, during coordinated truck stop efforts, and at cash and carry food warehouse locations. It is not uncommon at all to find perishable meat, poultry, and eggs being transported at unsafe temperatures in unrefrigerated vehicles. Again, Section 123 would seem to preclude state and local regulators from taking the necessary action against these products because they are from a USDA inspected facility. This would be of enormous concern to us and consumers if this were true.

**State Authorities with Non-Amenable Species Could be Jeopardized** We are unclear of the meaning of "non-regulated status" as it appears in part [2] of Section 123. If the proposed prohibition for articles determined to be of "non-regulated status" refers to non-amenable species of meat such as rabbit, deer, elk, bison, and certain bird species, the states authorities for licensing and inspection of processors for these products could be challenged. States have a long history of regulatory oversight in these types of facilities and their efforts here must be preserved.

For the above reasons, we ask you to reconsider the language for Section 123 as it is currently drafted. We stand ready to work with Congress and the proponents of the Farm Bill to reach a reasonable compromise of language. Please contact me or the AFDO staff if we can provide any assistance.

Sincerely,



Charlene Bruce, President  
Association of Food and Drug Officials