

H.R. 2749, the Food Safety Enhancement Act of 2009

Government Expansion without Government Responsibility

Background

On July 30, 2009, the House passed [H.R. 2749](#), the Food Safety Enhancement Act of 2009, by a vote of 283 to 142 ([Roll Call 680](#)). Agriculture Republicans remain committed to legislation that ensures the safety and security of America's food supply. While the goal of this bill is to enhance food safety, it comes at a heavy toll on producers and does virtually nothing to hold federal bureaucrats accountable for their role in preventing food-borne illness. In particular, it does not require the Food and Drug Administration (FDA) to spend one additional penny on the inspection of food even though it imposes significant regulatory burdens on the food production and processing system. In addition, the hundreds of millions of dollars in associated fees included in the bill represent a new tax on food production, which, along with the added regulatory burdens, will increase the cost of food for consumers and force production out of the U.S. User fees, quarantine authority, mandatory recall and civil penalties will do nothing to prevent food-borne disease outbreaks, but will do plenty to keep federal bureaucrats busy in Washington, DC. A companion bill in the Senate, [S. 510](#), the FDA Food Safety Modernization Act, was approved by the Senate Health, Education, Labor and Pensions Committee on November 18, 2009 but has not been passed by the Senate.

Product of a Flawed Process

The process by which this bill was assembled is a travesty. H.R. 2749 is just another example of congressional Democrats rapidly expanding the power of the federal government without the benefit of careful consideration and input from opposing points of view. Despite a clear jurisdictional claim, this bill was not referred to the Agriculture Committee for consideration, and no chance was given to conduct hearings on its provisions even after witnesses at a previous hearing on food safety said they did not support it. Democrats initially tried to pass the bill under suspension of the rules—a procedure historically reserved for non-controversial legislation—only to have it defeated. Democrats then rejected a Republican motion to send the bill back through the committee process for improvements. Once the bill did reach the House floor for a final vote, the Democratic leadership used a closed rule to prevent Republicans from offering amendments that would have improved the bill. This is what we have come to expect from the Democratic leadership in Congress. From the so-called stimulus package to cap and trade to health care reform to food safety, the Democrats continue to show a blatant disregard for the legislative process, the American people and the U.S. economy.

The Facts: More Taxes, More Bureaucracy, More Regulation

No Money for Inspections: This bill authorizes the collection of hundreds of millions of dollars in new registration fees from nation's food production system, yet it does not require the FDA to spend any of it on the actual inspection of food. In their motion to recommit, House Republicans offered a proposal that would direct the FDA to expend a portion of the funds collected in new registration fees for additional inspection of food in the U.S. Unfortunately, that proposal was killed by House Democrats in their race to expand the federal government's control of U.S. food production.

Victimizing Food Producers: This bill does nothing to indemnify agriculture producers from financial losses caused by the mistakes of federal bureaucrats sitting at their desks in Washington, DC. In 2008, for example, the FDA mistakenly attributed an outbreak of *Salmonella saintpaul* to tomatoes, only to later discover that contaminated peppers were the actual cause of the outbreak. Unfortunately, that discovery came after a large part of the 2008 tomato crop was destroyed and the tomato industry suffered an estimated \$100 million loss as a result. To this day, the FDA has made no statement that their original implication of tomatoes was in error. We cannot fool ourselves into believing the FDA will not continue to make such mistakes in the future. Wrongly implicating agricultural products to food-borne disease outbreaks can cause severe economic losses to the farmers and ranchers of America who can ill-afford them.

Bureaucrat Farmers: Of particular concern is a provision in the bill that expands the Food and Drug Administration's (FDA) authority to dictate on-farm production practices and performance standards. This means that for the first time we would be giving a federal agency with limited resources—and even less expertise—the specific power to dictate to U.S. farmers how best farm. Rural Americans have produced the safest and most abundant food and fiber supply for centuries—they don't need the FDA stepping in to tell them how to do it.

Federal Food License: The bill institutes an expanded registration requirement for food processing facilities, which essentially amounts to a federal license to be in the food business. Registration of food processing facilities was originally envisioned as a common sense way of helping the FDA identify facilities under the Bioterrorism Act of 2002. In its current form, this bill turns registration into a federal license for any food business to operate by charging exorbitant fees, making it unlawful to produce food without a registration license and allowing the FDA to suspend a company's registration.

Unbridled Quarantine Authority: The bill's quarantine authority permits the FDA to quarantine a geographic area if there is credible evidence that food poses a health risk. However, no consideration is given to the economic losses suffered by food producers, processors or distributors in the quarantine area. Furthermore, if the FDA lifts the quarantine for lack of evidence, the agency has no obligation, authority or means to help producers recover their financial losses.