

## **Ensuring Greater Food Safety Act of 2010**

Over 2,000 people were sickened by the now infamous food safety scare related to salmonella in eggs. Everyone agrees that federal food regulations need to be examined in order to fix what went wrong that led to so many people getting sick.

The authors of S.510 believe that 225 pages of new federal regulations—many of which will be overly burdensome on industry and small providers—is the answer to what ails our food safety system. But the government is the *problem* with our disjointed and ineffective food safety system, not the *solution*.

The Ensuring Greater Food Safety Act is an alternative that reduces government inefficiencies to ensure greater food safety. Instead of spending billions of dollars, forcing food companies to comply with a myriad of new regulations, and saddling consumers with increased food prices to pay for the new rules, this legislation will allow our regulatory agencies to more effectively and efficiently prevent food safety outbreaks.

### **The Ensuring Greater Food Safety Act of 2010 would:**

- **Require FDA and USDA to immediately establish a comprehensive plan** to share information and clarify existing efforts related to products and facilities in which the agencies have overlapping, joint, or similar authority; issue a joint report to Congress summarizing the effectiveness of the new arrangement; and subject the arrangement to an audit by GAO.
- **Require a strategic plan for updating FDA’s health information technology systems** to more effectively address food safety issues and develop communications systems between FDA and other agencies (such as USDA, Customs and Border Protection, and CDC).
- **Require FDA to submit a plan to expeditiously approve new food safety technologies and more effectively communicate technologies to industry and consumers.** FDA plays a crucial role in providing the scientific basis for, and approval of, new food safety methods. Most gains in food safety come from new technologies – much like pasteurization was able to provide in the 20<sup>th</sup> century.
- **Leverage existing free market food safety activities** by allowing FDA to accredit third-party inspectors in order to lessen the regulatory load for the agency on both domestic and international food facilities.
- **Provide limited new authorities without imposing new costs or additional regulatory burden.** These new authorities intend to better leverage the free market and focus resources on preventing food borne illness. These authorities include items requested in the past by HHS and FDA including emergency access to records, clarifying “HACCP” authority relating to high-risk foods, and allowing FDA to develop strategic international relationships.

### **This Alternative Would Fix the Real Problem: Ineffective Government**

GAO has consistently listed federal food safety efforts in its annual “high-risk series,” which identifies areas as “high risk due to their greater vulnerabilities to fraud, waste, abuse, and mismanagement.” In 2008, GAO testified before a House subcommittee that: “FDA is one of 15 agencies that collectively administer at least 30 laws related to food safety.... We have reported on problems with this system—including inconsistent oversight, ineffective coordination, and inefficient use of resources.” Consider:

- GAO found that in 2003, FDA and USDA activities included overlapping and duplicative inspections of 1,451 domestic food-processing facilities that produce foods regulated by both agencies.

- A 2005 GAO report that identified significant overlap in food safety activities conducted by USDA and the FDA, and to some extent the EPA and National Marine Fisheries Service (NMFS), **including 71 interagency agreements** [to coordinate overlapping activities] that the agencies entered into... However, the agencies have weak mechanisms for tracking these agreements that...lead to ineffective implementation.”
- GAO has found that a comprehensive Information Technology strategic plan, including results-oriented goals and performance measures, is vital for guiding and coordinating the agency’s numerous ongoing modernization projects and activities. To date, GAO’s specific recommendations have not been implemented.
- USDA knew about sanitary problems associated with the farms but did not notify health authorities. USDA inspects farms and gives eggs their “Grade A” label, while FDA is tasked with the safety of the final egg product. This discrepancy led to an egg safety rule promulgated 10 years ago by the FDA but not finalized until July of this year – after the tainted eggs were introduced into commerce.
- A recent article in the LA Times, “Food safety legislation won't mend regulatory divide,” explains that this legislation “doesn’t bridge the gap over the split oversight of eggs.” In fact, the article quotes one food safety expert who proclaims: “If you brought [food regulators from the FDA and the USDA] together now, you'd just have a terrible mess.”
- FDA has a poor track record with food safety outbreaks. In 2008, FDA inappropriately identified fresh tomatoes—instead of jalapenos—as the source of a contamination of roughly 1,300 Americans. FDA’s clear mistake led to \$100 million in losses for the tomato industry. In 2009, the Peanut Corporation of America (PCA) was the source of approximately 475 recalls among 200 companies and 3,900 individual human or animal food products. The PCA plant in Georgia had been inspected twice in recent years by Georgia inspectors that partnered with the FDA.

### **The Free Market Remains the Most Effective Way to Ensure Food Safety**

The Congressional Research Service notes that the U.S. food supply is the safest in the world. Markets, not government, have made this happen. Congress must approach expansive new regulations of the food industry with great caution.

Our food supply is the safest in the world because—in America—the consumer has the ability to hold companies accountable for providing safe food. Rather than trust the free markets that have made America great, many believe we should empower government bureaucrats to hold private businesses accountable. Government is not the solution—it is the problem.

In addition to the problems associated with a weightier regulatory burden, the 225 page food safety bill currently before the Senate will set up an adverse relationship between FDA and industry. Instead of leveraging market incentives, S.510 empowers FDA to take overly punitive measures toward industry.

The Ensuring Greater Food Safety Act harnesses private third-party inspections and provides incentives to companies that demonstrate superior food safety efforts. FDA would be given the authority to take private inspections and private food safety contracts into account when setting their inspection schedules.

In short, this legislation empowers the free market rather than the heavy hand of government to keep food safe.