

CENTER FOR FOODBORNE ILLNESS RESEARCH & PREVENTION ◇
CENTER FOR SCIENCE IN THE PUBLIC INTEREST ◇ CONSUMER FEDERATION OF AMERICA ◇
CONSUMERS UNION ◇ FOOD & WATER WATCH ◇ THE PEW CHARITABLE TRUSTS ◇
SAFE TABLES OUR PRIORITY ◇

July 30, 2009

U.S. House of Representatives
Washington, DC 20515

Dear Representative:

The undersigned consumer organizations, representing millions of Americans, regret that you were unable to support H.R. 2749, the bipartisan Food Safety Enhancement Act of 2009 (FSEA), in the vote on July 29. We believe the legislation is essential to reducing the millions of illnesses and thousands of deaths that arise each year from foodborne pathogens. We also believe it is essential to restoring the trust of American consumers in the safety of our food supply. **As you know, the FSEA is coming up for a vote again today. We urge you to reconsider and vote “yes” on this critical consumer protection bill.** Please resist the unfounded claims of a minority of individuals who allege that this bill will harm small or sustainable farms.

Great pains have been taken by members on both sides of the aisle, and on several House Committees, to address concerns that have been raised about this legislation. Below, we address some of the allegations made by opponents of the bill, and the changes that have been made to the FSEA before or since the unanimous voice vote approval of the bill by the Energy and Commerce Committee on June 17, 2009:

1. Allegation: \$500 registration fee for food facility burdens small and sustainable farmers.

Facts: The registration fee was originally \$2,000, but was halved, and then halved again to \$500, during deliberations. Since then, the bill has been further revised to include additional exemptions to the fee requirement. FSEA specifically exempts certain entities from the \$500 registration fee. These exemptions include: private residences; retail food establishments; retail food establishments that process and sell directly to consumers, provided at least 51% of their sales is direct to consumer sales; and farms that include direct to consumer sales of processed items provided at least 51% of their sales is direct to consumer sales. The FDA has argued that having a sliding scale would be difficult to administer even though some of us in the coalition support that concept.

2. Allegation: Tracing requirements are onerous for farmers who sell their products primarily into the wholesale market.

Facts: FSEA does not require electronic tracing for farmers. The bill takes a slow, very deliberate approach to traceability. It requires the Food and Drug Administration (FDA) to conduct extensive information gathering, hold public meetings, and develop pilot projects before implementing a traceability system. FDA is required to take into account the impact on farmers and coordinate with the Secretary of Agriculture in developing regulations. In addition, FDA may specifically exempt a food, farm, or facility from or modify the requirements for a traceability system if the farm sells directly to

consumers, or if the agency determines that a tracing system is unnecessary for such a food, farm, or facility.

3. *Allegation:* FSEA contains language that can harm wildlife and biodiversity, while failing to specify the positive role that conservation practices can play to address food safety concerns.

Facts: In setting safety standards for raw agricultural commodities like fresh produce, FDA must determine that they are necessary to prevent serious adverse health consequences or death to humans or animals. Moreover, in response to consumers expressed by farm groups, the bill specifically requires the agency to take into consideration “the impact of small-scale and diversified farms, and on wildlife habitat, conservation practices, [and] water-shed protection efforts.” Recent articles on harm to wildlife and biodiversity caused by food safety regulations were the result not of government regulations but private contractual agreements that companies have set up in the absence of adequate federal regulations to assure safety. FDA regulation would be done only after an open transparent process and required to consider impact on organic and small farms.

4. *Allegation:* FSEA fails to provide specific guidance to ensure that new food safety standards are harmonized with the National Organic Program with respect to organic farming.

Facts: In addition to the factors listed above, the FSEA requires the agency to take into consideration “organic production methods” in developing safety standards for raw agricultural commodities.

Food safety reform is needed to protect American consumers against contaminated food and to protect agricultural enterprises from the growing distrust in an industry where trust is primary. FSEA is essential to developing a preventive food safety system that is capable of keeping our families safe in a worldwide food market. The United States can no longer afford to wait for food safety reform.

To remain at the status quo risks the health of all Americans, including your constituents, your friends, and your family. The escalating trend of foodborne illness outbreaks and recalls over the past several years is evidence that change is needed. Now is the time to initiate reform. We simply must find the courage to begin.

The bottom line is this: FSEA will require FDA to prevent rather than react to foodborne illness, and that switch will make a huge difference to countless Americans. FSEA will improve food protection, and in so doing, will prevent suffering, injury and death from foodborne disease.

Thank you for reconsidering your vote on H.R. 2749, the Food Safety Enhancement Act of 2009.

Sincerely,

Center for Foodborne Illness Research & Prevention
Center for Science in the Public Interest
Consumer Federation of America
Consumers Union
Food & Water Watch
The Pew Charitable Trusts
Safe Tables Our Priority

Appendix:

During yesterday's vote on H.R. 2749, Food Safety Enhancement Act of 2009 (FSEA), House Agriculture Chairman Collin Peterson reported that the following organizations are either now neutral or dropped their opposition or are supporting the bill:

United Fresh Fruit and Vegetable Association

Western Growers

American Farm Bureau Federation

National Wheat Growers

National Cattlemen's Beef Association

National Turkey Federation

National Chicken Council

National Pork Producers Council

National Corn Growers

American Soybean Association

U.S. Rice Federation

American Feed Industry

United Egg Producers

American Sheep Industry