

House Rejects Attempt at Expedited Passage of Food Safety Bill Under Suspension

The House July 29 defeated a sweeping food safety bill (H.R. 2749) considered under suspension of the rules because it fell just shy of the two-thirds majority necessary for the measure to pass under the expedited procedure.

It is anticipated that the bill, which, among other things, would give the Food and Drug Administration tools to ensure imported products meet U.S. safety standards, will be back on the House floor July 30, possibly under a rule requiring a simple majority for passage, according to a news release issued by Rep. John Dingell (D-Mich.), who is a main architect of the bill.

The vote on the bill—which supporters said would catapult the FDA into the 21st century—was 280 in favor and 150 opposed, short of the 287 votes needed to pass as a suspension measure.

Amended Measure

The measure was passed by the House Energy and Commerce Committee June 17 by voice vote (115 DER A-34, 6/18/09).

However, the measure considered by the House was an amendment inserting an entirely new text which some members said they had not had a chance to review. "This may be a great bill," House Minority Leader John Boehner (R-Ohio) said. "I have no idea."

The suspension of rules process allows limited debate and no amendments.

A key difference from the original bill is that language that would have imposed penalties and liability on customs brokers was removed at the behest of the House Ways and Means Committee, Jon Kent, the National Customs Brokers and Freight Forwarders Association of America's Washington representative, told BNA. While customs brokers will still have to register under the bill, they will not face penalties or fees for registration, Kent said.

The measure would establish new registration requirements, including annual fees starting in fiscal year 2010, for food facilities, which are defined by the bill as any factory, warehouse, or establishment, including a factory,

warehouse, or establishment of an importer, that manufactures, processes, packs, or holds food. Farms are specifically excluded from the registration requirements for food facilities.

Importers would have to pay a registration fee of \$500 for FY 2010 under the bill. The fee could be adjusted in subsequent years.

Brokers are already under the jurisdiction of the Bureau of Customs and Border Protection, Kent noted.

The food safety bill would also provide for the authority to establish a program to facilitate the movement of food through the importation process as long as the importer verifies the product conforms to safety guidelines.

"I am disappointed that the Food Safety Enhancement Act failed to pass the House today despite getting an overwhelming majority of the votes in the House. With 280 votes, the bill clearly has broad bipartisan support and I am a little disheartened that Americans will have to wait a little longer now to feel safe about their food supply again," Dingell said.

"This is not the way to create law—we should not suspend the rules to pass this bill," Rep. Frank Lucas (R-Okla.) declared during floor debate.

However, Rep. Adam Putnam (R-Fla.) characterized the measure as a "strong bipartisan bill," while conceding that certain provisions on quarantine authority and traceability need further work.

In terms of the domestically produced food supply, H.R. 2749 gives the Food and Drug Administration mandatory recall authority, establishes a provision to allow the traceability of food, and authorizes civil monetary penalties, recall and administrative detention, seizure, and subpoena powers. The bill would also require companies to have food safety plans available to FDA inspectors.

Rep. Colin Peterson (D-Minn.), head of the House Agriculture Committee, said that lawmakers had been able to move the original bill in a direction in which the agriculture community can be comfortable with. The final measure includes a provision specifying that products currently regulated by the U.S. Agriculture Department, such as livestock and poultry, are exempt from the new requirements that would be imposed by H.R. 2749.