### 111TH CONGRESS 1ST SESSION

# H. R. 2800

To amend the Federal Food, Drug, and Cosmetic Act to improve the safety of imported food, and for other purposes.

## IN THE HOUSE OF REPRESENTATIVES

June 10, 2009

Mr. Burgess introduced the following bill; which was referred to the Committee on Energy and Commerce

# A BILL

To amend the Federal Food, Drug, and Cosmetic Act to improve the safety of imported food, and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE.
- 4 This Act may be cited as the "Imported Food Safety
- 5 Improvement Act of 2009".
- 6 SEC. 2. AUTHORITY TO PROTECT THE PUBLIC HEALTH
- 7 FROM CONTAMINATED IMPORTED FOODS.
- 8 (a) Authority.—Section 801 of the Federal Food,
- 9 Drug, and Cosmetic Act (21 U.S.C. 381) is amended by
- 10 inserting after subsection (o) the following:

- 1 "(p)(1) The Secretary may refuse admission into the
- 2 United States to any food (or any type of food) from a
- 3 country, growing area, producer, manufacturer, or shipper
- 4 if the Secretary makes a determination under paragraph
- 5 (2) or an emergency determination under paragraph (3)
- 6 to refuse admission to food (or the type of food involved)
- 7 from such country, growing area, producer, manufacturer,
- 8 or shipper.
- 9 "(2)(A) The Secretary may make a determination to
- 10 refuse admission to food (or any type of food) from a
- 11 country, growing area, producer, manufacturer, or shipper
- 12 if such food (or type of food)—
- "(i) has been associated with repeated and sep-
- arate outbreaks of foodborne disease or has been re-
- peatedly determined by the Secretary to be adulter-
- ated within the meaning of section 402;
- 17 "(ii) presents a reasonable probability of caus-
- ing significant adverse health consequences or death;
- 19 and
- 20 "(iii) is likely, without systemic intervention or
- changes, to cause disease or be adulterated again.
- 22 "(B) The Secretary shall rescind a determination
- 23 under this paragraph if the Secretary finds that such de-
- 24 termination, because of remedial action or other cir-
- 25 cumstances, is no longer justified.

- 1 "(C) A country, growing area, producer, manufac-
- 2 turer, or shipper may submit a request to the Secretary
- 3 to rescind a determination under this paragraph. Any such
- 4 request shall be accompanied by supporting evidence.
- 5 "(D) Not later than 90 days after the submission of
- 6 a request under subparagraph (C), the Secretary shall
- 7 take action on such request. The Secretary's action may
- 8 include—
- 9 "(i) rescinding under subparagraph (B) the de-
- termination; or
- "(ii) continuing to refuse admission to the food
- involved and requesting additional information or re-
- medial action.
- 14 "(E) If the Secretary does not take action on a re-
- 15 quest under subparagraph (C) within 90 days after the
- 16 date of submission of such request, effective on the 91st
- 17 day after the date of such submission, the food initially
- 18 refused admission under paragraph (1) may be imported
- 19 into the United States.
- 20 "(3)(A) The Secretary may make an emergency de-
- 21 termination to refuse admission to food (or any type of
- 22 food) from a country, growing area, producer, manufac-
- 23 turer, or shipper if such food (or type of food) has been
- 24 strongly associated with a single outbreak of foodborne

- 1 disease that has caused serious adverse health con-
- 2 sequences or death.
- 3 "(B) An emergency determination under this para-
- 4 graph shall be in effect—
- 5 "(i) for a 30-day period; or
- 6 "(ii) until the Secretary rescinds the emergency
- 7 determination.
- 8 "(4) Subject to paragraph (5), the Secretary may
- 9 issue a determination under paragraph (2) or an emer-
- 10 gency determination under paragraph (3) immediately.
- 11 "(5) Any refusal to admit food under this subsection
- 12 shall be done in a manner consistent with bilateral, re-
- 13 gional, and multilateral trade agreements and the rights
- 14 and obligations of the United States under the agree-
- 15 ments.
- 16 "(6) Not later than 90 days after the date of the en-
- 17 actment of the Imported Food Safety Improvement Act
- 18 of 2009, the Secretary shall promulgate final regulations
- 19 to carry out this subsection.".
- 20 (b) Effective Date.—Section 801(p) of the Fed-
- 21 eral Food, Drug, and Cosmetic Act, as added by sub-
- 22 section (a), shall take effect on the effective date provided
- 23 in the regulations promulgated under section 801(p)(6) of
- 24 such Act or the date that is 90 days after the date of
- 25 the enactment of this Act, whichever is earlier.

- 1 (c) Conforming Amendment.—Subsection (a) of
- 2 section 801 of the Federal Food, Drug, and Cosmetic Act
- 3 (21 U.S.C. 381) is amended, in the third sentence by
- 4 striking "then such article shall be refused admission" and
- 5 inserting "or (4) such article is food subject to a deter-
- 6 mination in effect under paragraph (2) or (3) of sub-
- 7 section (p), then such article shall be refused admission".

#### 8 SEC. 3. RULE OF CONSTRUCTION.

- 9 Nothing in this Act or the amendments made by this
- 10 Act shall be interpreted to diminish the authority of the
- 11 Commissioner of Food and Drugs to ensure the safety of
- 12 food.

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