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Lame Ducks Take on Food Safety

By Jillian Bandes

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A bill up for consideration in the Senate today would update food safety regulations for the first time since the 1930s. It would also be a massive expansion of government bureaucracy and a deadly threat to small businesses.

In theory, the bill was created in the interest of consumer protection. It requires manufacturers to address contamination hazards, open up communication with the Food and Drug Administration, and grants the FDA greater authority to issue food recalls. The bill, called the Food Safety Modernization Act, gained momentum in the face of the massive egg recall and E. coli outbreaks in foods like tomatoes and even dry cereal.

"The bottom line is, the FDA's approach to keeping our nation's food supplies safe is in desperate need of a complete overhaul," said Sen. Chris Dodd (D-Conn.), a co-sponsor of the bill, in a statement. "Food-borne illnesses caused by salmonella and E. coli contamination contribute to 76 million illnesses, 325,000 hospitalizations and 5,000 deaths in the United States each year."

Walter Olson, a senior fellow at the Cato Institute's Center for Constitutional Studies, says the motivation behind the bill isn't so irrefutable.

"A lot of food safety has already been regulated by the states," said Olson. "Despite the image that there are more food safety crises in recent years, the reality is that... we are just much better at identifying and tracking the crisis."

Better identification and tracking results in increased awareness of food safety issues – not necessarily an increase in actual illness. In fact, Olson says that food has actually become safer over the years, despite the recent hype.

"This is a huge jump of the federal government into an area without a good showing that the fed government needs to be in it," said Olson.

So why push forward with this bill? Olson feels strongly that it is the unholy alliance between big business and big government, something that is borne out by massive lobbying that has been going on since the bill was first passed in the House a year ago. Yesterday, a letter from 30 food industry associations practically begged the Senate Health, Education, Labor and Pensions (HELP) Committee to move the bill forward, specifically without an amendment that would protect smaller farms – and help those small farms compete with the industry groups.

That amendment, named after Sen. Jon Tester (D-Mont.), would exempt smaller food producers from some of the bill's regulations. Olson emphasizes that the Tester Amendment wouldn't exempt smaller farms from everything, but might exempt them from enough to give them a fighting chance.

Small-farm advocacy groups have formed an odd alliance with conservatives in defense of the Tester Amendment and even against the bill as a whole, claiming that farm shares, organic produce, and local food sources will be decimated by the bill's regulations – some of which include farmers to re-arrange their facilities so that no animals are near produce, or a \$500 fees to the FDA for inspections. That's implausible for small operations and could reduce availability of natural or specialty foods for American consumers.

As the result of their efforts, the Tester Amendment will most likely be tacked on to the larger bill, if the bill is passed at all. Sen. Tom Coburn (R-Okla.) is still set on defeating it; he has taken the lead in calling the bill a massive, unnecessary expansion of government power, though he believes they will have the votes to get it through.

"They're going to have the votes to make it move," he said, during a conference call on Monday.

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