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Senate passes Food Safety Modernization Act

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On Tuesday Nov. 30, a year after it was reported out of Committee, the Food Safety Modernization Act (S.510)passed the Senate, 73-25.

The bill will now be sent to the House for their consideration. The House passed its own food safety bill (HR.2749) last year, but given the short time remaining in this Congress, it would be extremely difficult to go through a conference between the House and Senate and then bring a conference bill back to both bodies for another vote. The only way to get the bill finished and signed into law is for the House to adopt the Senate bill and send it to the President.

The bill, which will require improved planning and record-keeping by food producers and processors and will allow the Food and Drug Administration (FDA) to make mandatory recalls of contaminated food, marks the most sweeping overhaul of food safety regulations in nearly a century.

The final Senate bill includes six amendments that were worked on by NSAC and that each became part of the Manager?s amendment that the Senate has now approved. Those include the amendments championed by:

- Senator Sanders (D-VT) providing FDA authority to either exempt farms engaged in low or no risk processing or co-mingling activities from new regulatory requirements or to modify particular regulatory requirements for such farming operations.
- Senator Bennet (D-CO) to reduce unnecessary paperwork and excess regulation required under the preventative control plan and the produce standards sections of the bill, including instructions to FDA to minimize the number of different standards that apply to separate foods, to make requirements scale appropriate, and to prohibit FDA from requiring farms and other food facilities to hire outside consultants to write food safety plans.
- Senator Debbie Stabenow (D-MI) to provide for a USDA-delivered competitive grants program for food safety training for farmers, small processors and wholesalers, with a priority on small and mid-scale farms.
- Senator Barbara Boxer (D-CA) to strip the bill of wildlife-threatening enforcement against ?animal encroachment? of farms and require FDA to apply sound science to any requirements that might impact wildlife and wildlife habitat.
- Senator Sherrod Brown (D-OH) to exempt farmers from extensive and

expensive traceability and recordkeeping requirements if they sell food directly to consumers or to grocery stores, to allow labeling thatpreserves the identity of the farm through to the consumer to satisfy traceability requirements, and to in most cases limit farm recordkeeping to the first point of sale when the product leaves the farm.
- Senators Jon Tester (D-MT) and Kay Hagan (D-NC) to give very small farms and food processing facilities as well as direct-market farms who sell locally the option of complying with state regulation or with modified,
scale-appropriate federal regulation.

Debate over the Tester-Hagan amendment consumed much of the final two weeks of action on the bill. An accord between consumer groups who had originally opposed the amendment and sustainable agriculture groups who supported it helped clear the way to a bipartisan deal to incorporate the brokered provision into the Manager?s amendment and thus into the final bill.

Despite a fierce attack from produce and meat industry trade associations opposing passage of the bill with the Tester-Hagan language included, the Senate passed two cloture motions as well as final passage of the bill with just one-quarter of the Senate voting no.

After the Manager?s Amendment was approved last night, the Senate voted down four other amendments, including two amendments related to the health care bill, a proposed 3-year moratorium on congressional earmarking, and a substitute food safety bill introduced by Senator Coburn (R-OK).

The bill still faces the hurdle of final House action. Top House Democrats have agreed to consider passing the Senate version to avoid lengthy reconciliation negotiations that would prevent the bill from becoming law and force the next Congress to start the entire process from scratch.

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