



7 Senators Urge Opposition to Federal Override Of State and Local Food Safety Laws

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Washington, DC – U.S. Senators Dianne Feinstein and Barbara Boxer (both D-Calif.) and five other Senators are urging colleagues to oppose efforts to roll back food safety laws approved by state and local governments.

Under current law, State and local governments can enact legislation creating food safety regulations stronger than those required by federal law. California voters, for instance, approved Proposition 65, which requires warning labels to let consumers know when products contain chemicals that cause cancer or birth defects.

Following is the text of a “Dear Colleague” letter signed by Senator Feinstein and Senators Barbara Boxer (D-Calif.), Richard Durbin (D-IL), Edward M. Kennedy (D-MA), Russ Feingold (D-WI), Frank Lautenberg (D-NJ), and Hillary Rodham Clinton (D-NY) that was sent this week:

“Food industry groups have said they intend to pursue “uniformity” legislation in the 109th Congress. We write to urge you NOT to co-sponsor legislation rolling back essential food safety laws and preempting state and local authority.

The food industry is promoting legislation that would prohibit states and localities from writing food safety regulations stronger than those required by the federal government. This legislation would prevent states from filling gaps in food safety because, if the federal government has no warning standard for a food product, state or local governments would be prevented from issuing any warnings.

We expect this so-called “Food Uniformity Legislation” to be similar to a controversial bill that passed the House Energy and Commerce Committee in the 108th Congress without any hearings and the Senate Agriculture Committee in the 106th Congress without any hearings.

Proposition 65 – an initiative which California voters passed in 1986 – is the state law specifically under attack by the food industry. Proposition 65 requires warning labels to disclose when products contain chemicals that cause cancer or birth defects. Any weakening of Proposition 65, or any other state or local food safety measure, could undermine the health and safety of all Americans. Consumers have the right to know if their food contains chemicals that cause cancer or birth defects. State and localities have the right to provide this information.

Although critics of Proposition 65 say varying state standards pose a burden to food manufacturers, past administrations have dismissed this claim. President George H.W. Bush's Administration concluded in 1989 that "no Federal preemptive action – either by regulation or otherwise – is warranted." This was also the conclusion of the Reagan-Bush Administration.

This food safety preemption legislation threatens statutes in many other states as well, including: laws in Illinois and Pennsylvania regulating the safety of eggs; laws in California, Florida, and Louisiana requiring warning labels on shellfish; regulation for smoked fish in Wisconsin and Michigan; and laws in Maryland requiring that labels disclose if "fresh" food was previously frozen and thus should not be refrozen. Unfortunately, industry groups are pressuring Congress to eliminate these important consumer safeguards. Industry's goal is to avoid any state and local consumer protection that is stronger or more protective of consumers than U.S. Food and Drug Administration requirements.

Sixteen state Attorneys General from: Alaska, Arizona, California, Connecticut, Hawaii, Iowa, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nevada, New York, North Dakota, Vermont, and Wyoming have all opposed this so-called "Food Uniformity Legislation" as has the National Association of State Departments of Agriculture. Food uniformity legislation would preempt state and local labeling requirements and safety standards relied upon by consumers. We urge you to oppose this legislation."

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