

Senator McCain—Please Read Your Own Bill!

On Monday, February 22, Senator McCain released a Senate floor statement defending his Dietary Supplement Safety Act of 2010 (S.3002). He lashed out at “opponents of the bill and their well-paid Washington lobbyists” who have “spread false statements and rumors about the legislation.”

What Are These Alleged “False Statements and Rumors”?

Senator McCain:

“Opponents have stated that the legislation would seek to limit consumers’ ability to purchase dietary supplements, vitamins, or prescription drugs. That is completely false. . . . If you take a vitamin now, this bill will in no way restrict your ability to take that vitamin.”

McCain clearly hasn’t read his own bill. Under current law, the FDA cannot arbitrarily ban a supplement that was sold prior to October 15, 1994, the date that the Dietary Supplement Health and Education Act (DSHEA) was passed. **McCain’s bill wipes out that protection.**

What supplements would be legal to sell if this bill passes? Only those supplements “included on [a] list . . . prepared, published, and maintained by the [FDA].” In other words, traditional (pre-1994) supplements would no longer be protected. The FDA would have arbitrary power to choose permitted supplements and—importantly—supplement doses.

It is Senator McCain who is making patently false statements here, not the critics.

The FDA and Supplements

And let’s not forget: the FDA has repeatedly shown its hostility to supplements, and its favoritism toward drugs and drug manufacturers—perhaps because drugs pay the FDA’s bills. An FDA with arbitrary power over supplements could very well be expected to institute a European-style regulatory regime, one that restricts the amount of beta carotene in a supplement to what is available from half a carrot. Sound ridiculous? It is happening right now in Europe, and the FDA is in close touch with the European regulators.

McCain touches on precisely this point. He says that “opponents also claim the bill establishes a new regulatory structure for dietary supplements. That is completely false.” But it’s **not** false—quite the contrary! Currently, the broad regulatory framework for supplements is provided by DSHEA. **McCain’s bill guts the protections provided by DSHEA and gives the FDA complete and arbitrary authority.** If that isn’t a new regulatory structure, what is?

Up to now, supplement producers have also been allowed to market a “new dietary ingredient,” that is, one not sold as a supplement

prior to 1994, if it has been “in the food supply as an article used for food in a form not chemically altered.” McCain’s bill also wipes this out. **If passed,**

supplement producers would have to prove the safety of the ingredient to the satisfaction of the FDA, even if the item has been in our food for thousands of years. This is a big change. But McCain still insists that it isn’t a new regulatory structure.

The Question of Safety

On top of this, the FDA almost never agrees that a supplement has been proven safe. The Agency wants full drug trials, but who can afford to pay for full drug trials on a naturally occurring substance that can’t be patented? Are we going to end up paying \$100 for a supplement tablet?

Senator McCain also tells us that “people have died from taking dietary supplements . . . and thousands have had to be hospitalized.” What are his sources for this statement? **No one died from dietary supplements in 2008, the last year reported, according to the Association of Poison Control Centers.**

Supplements have a truly remarkable record of safety—in sharp contrast to adverse reactions to FDA-approved drugs. **These adverse drug reactions (ADRs) are—in the FDA’s own words—“one of the leading causes of morbidity and mortality in healthcare”!**

Time to Tell the Truth

Here are a few more whoppers from Senator McCain. He tells us that his “legislation is about truth in labeling,” but the truth is, it about much more than that. The senator can’t even describe his own bill truthfully.

McCain also says his bill “is about giving consumers choice.” **Taking away consumers’ existing legal rights to supplements and giving arbitrary authority to the FDA is not about “giving consumers choice.”** Either this is Orwellian double-speak, or Senator McCain has not read—or does not understand—his own bill.

What Needs to Be Done

The FDA already has full authority to crack down on the illegal sale of steroids. It is not doing its job. It is not even trying to do its job. What is needed is an overhaul of the FDA, not new legislation giving it complete and arbitrary control over all supplements.

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