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Leahy Food Safety Bill Language Defeated For Now

ANH-USA Calls the Action a Victory for Small Food Producers and Health Supplement Manufacturers

The Alliance for Natural Health USA (ANH-USA) announced today that the FDA Food Safety Modernization Act being considered in the US Senate (S. 510) will not include ten-year jail sentences for food and supplement manufacturers who violate complicated FDA rules.

“This is nothing less than a triumph for American citizens who value natural health and health freedom,” said Gretchen DuBeau, ANH-USA’s executive and legal director. “Senate offices were deluged with letters and calls from constituents, and the Senate leadership was forced to listen to the reasoned pleas of the people.”

The House version of the Food Safety bill passed some time ago. That bill includes draconian ten-year jail terms for even minor paperwork violations. Long jail terms were explicitly rejected by the Senate committee that put together the Senate’s version of the bill. But Sen. Patrick Leahy (D-VT) introduced his own bill, the Food Safety Accountability Act (S. 3767). This bill adds back the ten-year jail terms for adulterating or misbranding food.

“Bear in mind,” DuBeau said, “the FDA defines those terms in its own way. In the FDA’s view, ‘adulteration’ includes recordkeeping violations, while ‘misbranding’ includes citing peer-reviewed science about the benefits of a dietary supplement. This new threat of sanctions would have given the FDA a hammer with which to threaten and coerce companies engaging in completely legal activities.

“Sen. Leahy subsequently amended his bill to reserve the jail terms for someone who ‘consciously or recklessly disregard[s] a risk of death or serious bodily injury,’ DuBeau continued. “But of course, what is conscious or unconscious, intentional or unintentional, is to be decided by FDA prosecutors. No *actual* harm is necessary!

“The good news is that with the help of citizens across the country who were willing to speak out on what they considered an unjust threat, we were able to keep the Leahy language out of S. 510,” DuBeau added.

This is the second S. 510 victory for ANH-USA members and allies. Last year the organization worked to make sure the bill did not require dietary supplements to harmonize with the Codex Alimentarius, which would have reduced access to higher, therapeutic doses of nutrients in dietary supplements.

Sen. Tom Harkin (D-IA) is the manager of S. 510. He has pulled together what is called a Manager’s Amendment, which will replace S. 510; that package does not include the language from Sen. Leahy’s bill. There was a unanimous consent agreement in the Senate on Wednesday as to what amendments will or will not be raised when the bill is debated on Monday, November 29. Senate Majority Leader Harry Reid (D-NV) says they have agreed to “up to five” amendments, mostly procedural, and ANH-USA has been assured by both Sen. Harkin’s office and Sen. Leahy’s that Sen. Leahy’s bill is not among them. Neither the bill nor its language can be considered without another unanimous consent vote by the entire Senate, so that issue is now dead.

“We expect this to be a fast-tracked, expedited process now. And we’ve just learned that House leaders will support the Senate version of the bill—no matter what it says—because they want this bill passed during the lame duck session. That is very good news indeed, given how flawed the House bill is.

“The best part is that now no one will be putting small food and supplement producers (even mom-and-pop operations) in jail for ten years simply for running afoul of mindlessly complex FDA rules. This is an exciting day for natural health and health freedom,” DuBeau concluded.

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NOTES TO THE EDITOR:

The Alliance for Natural Health USA (ANH-USA)
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The Alliance for Natural Health USA (ANH-USA) is a 501(c)4 nonprofit organization that protects Americans’ rights to access integrative medicine, functional foods, and dietary supplements. The Alliance for Natural Health USA is part of an international organization dedicated to promoting natural, sustainable healthcare through good science and good law.

We protect the right of natural health practitioners to practice; the right of consumers to choose the healthcare options and treatment modalities they prefer, including complementary and alternative medicine; and the right of companies to produce and market quality natural health products, including nutritional supplements, to their customers.

As a membership-based organization, we unite consumers, practitioners, and industry to speak with a common voice. We have worked since 1992 to shift the medical paradigm from an exclusive focus on surgery, drugs, and other conventional techniques to an “integrative” approach incorporating food, dietary supplements, and lifestyle changes.