

June 14, 2007

Honorable Collin Peterson, Chairman  
Committee on Agriculture  
U.S. House of Representatives  
Washington, D.C., 20515

Dear Chairman Peterson:

The undersigned consumer, environmental, farmer, and animal welfare groups are writing to express our strong opposition to Section 123, Title I, of the Chairman's Mark, under the jurisdiction of the Livestock, Dairy, and Poultry Subcommittee, in the 2007 Farm Bill. Section 123 is a sweeping provision that would summarily wipe out important food safety, farmer, and animal welfare protections in place in states and municipalities across the nation. It usurps powers traditionally exercised by states and localities to protect public health, insure humane treatment of animals, and establish agricultural policies and programs that benefit the state environment and economy.

At a time when the country is facing heightened safety threats from food imports, when new food production technologies are being introduced that are not addressed by existing federal laws, and when federal food safety agencies are suffering from the cumulative impact of many years of staff and budget cuts, there is an increasing burden on state and local regulators to keep our food safe. Section 123 would prohibit state and local officials from addressing many threats.

Section 123, titled "EFFECT OF USDA INSPECTION AND DETERMINATION OF NON-REGULATED STATUS," states:

"Notwithstanding any other provision of law, no State or locality shall make any law prohibiting the use in commerce of an article that the Secretary of Agriculture has—  
(1) inspected and passed; or  
(2) determined to be of non-regulated status."

The first clause, related to inspected products, would appear to make it impossible for a local restaurant inspector or public health official to remove rodent-contaminated or temperature-abused meat and poultry products from the market. (The clause clearly states that once a product is inspected or approved by USDA, no local law may prohibit its sale for any reason.) State departments of agriculture that do their own surveillance of packaged USDA-approved meat and poultry products for listeria could also be prevented from prohibiting the sale of any contaminated product, despite the potential for such products to cause miscarriages and stillbirths in pregnant women, and fatal infections in infants and people taking cancer drugs.

The first clause also would negate state and local laws designed to meet particular concerns about animal welfare. For example, four states, Texas, Oklahoma, Illinois, and California, have prohibited the slaughter of horses for human food, and California and the city of Chicago has prohibited sale of foie gras because of concerns about the force-feeding of birds required to produce it. Citizens should retain the right to act at

the state and local level to prohibit activities within their borders that they deem too inhumane.

Further, the second clause would negate state and local laws designed to protect the economic interests of farmers, the health of consumers, and the environment, in relation to genetically engineered crops. The clause would bar states from putting any restrictions on use in commerce of a USDA product declared to be "non-regulated." This designation is given to genetically engineered crops that USDA has determined are not plant pests. However, USDA does not make any determination as to whether such crops are safe for human consumption or whether they are good for the economic interests of a particular state's farmers. Due to concerns about lack of acceptance of genetically engineered crops in export markets, as well as a number of contamination incidents, the states of California, Arkansas and Missouri have passed laws creating state committees that review whether genetically engineered rice should be grown in their state and/or establish specific restrictions on growing. Minnesota prohibits the growing of any genetically engineered crop without a state review. The state of Washington has enacted a law prohibiting genetically engineered varieties in certain brassica production zones. These state statutes and others designed to protect farmers' market access would be preempted by Section 123's second clause.

Given the problems just in the last two months with melamine-contaminated animal feed from China being fed to hogs and chickens, with listeria in cooked chicken in New York, and with e coli in ground beef in California, this is the wrong time to usurp the right of states and localities to protect their citizens. We need more food safety protection, not less. The ability of states to respond to the views of their citizens regarding the growing GMOs and animal welfare issues also must not be impaired. Because of these extremely far reaching effects of Section 123, we urge that it be removed from the 2007 Farm Bill.

Sincerely,  
Consumers Union etc.