



# U.S. Public Interest Research Group

## National Association of State PIRGs

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December 14, 2005

Dear Representative:

On behalf of the 30 state Public Interest Research Groups (PIRGs) across the country, we are writing to urge you to **oppose HR 4167**, the National Uniformity for Food Act of 2005. This bill would usurp the power of states and localities to protect public health and safeguard the food supply. State and local food safety programs have long been our first line of defense against threats to the food supply, including acts of terrorism. That the U.S. has the safest food supply in the world is proof that it works.

The current food safety regulatory system in the United States is the shared responsibility of local, state and federal partners. Approximately 80% of food safety inspections in the nation are completed at state and local levels. This makes sense, since states are more nimble and can quickly respond to localized public health concerns that have not been addressed nationally. This bill threatens to deprive states and localities of the right to protect their citizens while assigning responsibility for food safety to an increasingly unresponsive federal bureaucracy, leaving a critical gap in the safety net that protects public health.

The bill's preemptive language is sweeping in its scope. The provisions apply to all food inspection programs (processing, storage, distribution, retail sale and food service); animal feed programs (contaminated feed, medicated feed and mad cow inspections); anti-tampering statutes; and bio-terrorism response authority for contaminated foods.

The state preemption provisions in this bill are based on the false assumption that the Food and Drug Administration and U.S. Department of Agriculture have enacted adequate food safety and labeling standards that fully inform and protect consumers. Unfortunately, this often is not the case. Arguably, these agencies have responded inadequately to new public health questions in the area of food safety, such as genetically engineered foods, dietary supplements, mad cow disease, and food irradiation. This makes the role of the states even more important.

In the absence of adequate federal regulations, numerous state and local governments have passed strong food safety laws designed to safeguard public health that could be affected by federal preemptive legislation. For example,

HR 4167 could nullify:

- Laws in California, Florida, Louisiana, and Rhode Island requiring warning labels on shellfish, which often carry lethal pathogens;
- Laws in Illinois and Pennsylvania regulating the safety of eggs;
- Regulations for smoked fish in Maine, Michigan, New York, and Wisconsin;
- Laws in Maryland and New York requiring that labels disclose if “fresh” food was previously frozen and thus should not be refrozen;
- A law in Alaska requiring labeling of genetically modified fish or fish products; and
- Numerous statutory provisions in Florida concerning labeling of citrus fruit, canned citrus juices, and frozen citrus juices.

These are just a few of dozens of examples.

In addition to nullifying proven food safety laws already on the books, HR 4167 would forever tie the hands of states and municipalities on a range of emerging food safety issues, whether or not the federal government has addressed public health concerns. Among other things, states and localities would not be able to regulate and label food products that contain irradiated ingredients, pesticides, antibiotics, or genetically modified organisms.

Federal legislation preempting state law would affect dozens of states, but the law that started the food industry’s crusade is California’s Proposition 65. In 1986, California voters approved Proposition 65, which requires warning labels on products containing chemicals known to cause cancer or birth defects. Consumers have the right to know if their food contains dangerous chemicals, and states and localities have the right to provide this information in the absence of strong federal standards. Although critics of Proposition 65 say varying state standards pose a burden to food manufacturers, past administrations have dismissed this claim. When asked by the food industry to preempt California’s law, President George H.W. Bush’s administration concluded in 1989 that “no Federal preemptive action – either by regulation or otherwise – is warranted.” The Reagan-Bush administration came to the same conclusion.

Federal preemption suppresses the creativity of state problem solvers and shrinks the marketplace of ideas—leaving us with “lowest common denominator” solutions. **Please VOTE NO on HR 4167** to preserve the right of state and local governments to safeguard the nation’s food supply.

Sincerely,

Anna Aurilio  
Legislative Director