

106TH CONGRESS  
2D SESSION

# H. R. 5591

To amend the Federal Food, Drug, and Cosmetic Act to establish the authority of officers and employees of the Department of Health and Human Services to issue detention orders regarding food in any case in which there is a reasonable belief that the food is in violation of such Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 27, 2000

Mr. KUCINICH introduced the following bill; which was referred to the  
Committee on Commerce

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## A BILL

To amend the Federal Food, Drug, and Cosmetic Act to establish the authority of officers and employees of the Department of Health and Human Services to issue detention orders regarding food in any case in which there is a reasonable belief that the food is in violation of such Act, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “FDA Food Embargo  
5       Authority Act”.

1 **SEC. 2. EMBARGO AUTHORITY.**

2 (a) EMBARGO.—

3 (1) TEMPORARY DETENTION.—Section  
4 304(g)(1) of the Federal Food, Drug, and Cosmetic  
5 Act (21 U.S.C. 334(g)(1)) is amended—

6 (A) in the first sentence—

7 (i) by striking “If during” and all  
8 that follows through “order the device de-  
9 tained” and inserting the following: “If,  
10 during an inspection conducted under sec-  
11 tion 704, an officer or employee of the De-  
12 partment has reason to believe that a food  
13 or device is in violation of this Act, such  
14 officer or employee may order the food or  
15 device detained”; and

16 (ii) by striking “he may authorize”  
17 and inserting “the Secretary may author-  
18 ize”;

19 (B) in the second and third sentences, by  
20 striking “device” each place such term appears  
21 and inserting “food or device”;

22 (C) by striking the fourth and fifth sen-  
23 tences; and

24 (D) by adding at the end the following sen-  
25 tence: “A detention order under this paragraph  
26 shall be considered final agency action.”.

1           (2) CONFORMING AMENDMENTS.—Chapter III  
2 of the Federal Food, Drug, and Cosmetic Act (21  
3 U.S.C. 331 et seq.) is amended—

4           (A) in section 301(r)—

5                 (i) by striking “device” the first place  
6                 such term appears and inserting “food or  
7                 device”; and

8                 (ii) by striking “the device” and in-  
9                 serting “such food or device”; and

10           (B) in section 304(g)(2), by striking “de-  
11           vice” each place such term appears and insert-  
12           ing “food or device”.

13           (b) DATE CERTAIN FOR PROPOSED AND FINAL  
14 RULES.—Within 6 months of the date of the enactment  
15 of this Act, the Secretary of Health and Human Services  
16 shall propose a revision to the regulations in effect on such  
17 date under section 304(g) of the Federal Food, Drug, and  
18 Cosmetic Act to include food. Within 3 months of the date  
19 such proposed revision is published in the Federal Reg-  
20 ister, the Secretary shall issue a final revision of such reg-  
21 ulations.

22           (c) CONFIDENTIALITY.—For any food embargoed,  
23 seized, or recalled under the Federal Food, Drug, and Cos-  
24 metic Act, the Food and Drug Administration shall dis-  
25 close all necessary information without regard to business

1 confidentiality, if such disclosure is necessary to fully em-  
2 bargo, seize, or recall any adulterated food.

3 (d) FOOD RETAILER REGISTRATION.—All food re-  
4 tailers shall register with the Food and Drug Administra-  
5 tion for the purpose of expediting recalls, embargoes, and  
6 seizures under the Federal Food, Drug, and Cosmetic Act.

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