

108TH CONGRESS
1ST SESSION

H. R. 3628

To amend the Federal Food, Drug, and Cosmetic Act to facilitate the procurement of safe food by hospitals, nursing homes, schools, and child care facilities.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 21, 2003

Ms. SCHAKOWSKY introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Federal Food, Drug, and Cosmetic Act to facilitate the procurement of safe food by hospitals, nursing homes, schools, and child care facilities.

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 “National Food Safety
5 Database Act of 2003”.

6 **SEC. 2. ESTABLISHMENT OF FOOD SAFETY DATABASE.**

7 Chapter IV of the Federal Food, Drug, and Cosmetic
8 Act (21 U.S.C. 341 et seq.) is amended by adding at the
9 end the following section:

1 **“SEC. 416. SAFE FOOD SUPPLIER DATABASE FOR HOS-**
2 **PITALS, NURSING HOMES, SCHOOLS, AND**
3 **CHILD CARE FACILITIES.**

4 “(a) IN GENERAL.—

5 “(1) AVAILABILITY OF FOOD SAFETY INFORMA-
6 TION.—Through the database under subsection (b),
7 the Secretary, in coordination with the Secretary of
8 Agriculture and the heads of other appropriate agen-
9 cies, shall in accordance with this section make
10 available to eligible institutions food safety informa-
11 tion relating to food procurement by the institutions.

12 “(2) ELIGIBLE INSTITUTIONS.—For purposes
13 of this section, the term ‘eligible institutions’
14 means—

15 “(A) hospitals, nursing homes, schools, and
16 child care facilities; and

17 “(B) such additional institutions as the
18 Secretary determines to be appropriate.

19 “(b) ELECTRONIC DATABASE.—

20 “(1) DATABASE.—For purposes of subsection
21 (a), the Secretary shall establish and maintain an
22 electronic database containing up-to-date food safety
23 information. The Secretary shall ensure that the
24 database is in operation not later than August 1,
25 2005.

26 “(2) FOOD SAFETY INFORMATION.—

1 “(A) IN GENERAL.—Information is food
2 safety information for purposes of this section,
3 and shall be included in the database under
4 paragraph (1), if the information relates to food
5 intended for human consumption that, as deter-
6 mined by the Secretary—

7 “(i) is adulterated or misbranded; or

8 “(ii) is at risk of being or becoming
9 adulterated or misbranded as a result of
10 the conditions under which the food is
11 manufactured, processed, packed, trans-
12 ported, or held.

13 “(B) CERTAIN INFORMATION.—Food infor-
14 mation required to be included in the database
15 under paragraph (1) includes information relat-
16 ing to enforcement actions; findings by the Sec-
17 retary regarding the outbreak of food-borne ill-
18 ness; recalls of shipments; findings by the Sec-
19 retary, made in inspections of facilities, that
20 significant objectionable conditions exist (relat-
21 ing to products or processes); and such other
22 information regarding food safety concerns as
23 the Secretary determines to be appropriate.

24 “(C) REGISTRATION OF FOOD FACILI-
25 TIES.—The second and third sentences of sec-

1 tion 415(a)(4) shall not apply with respect to
2 the inclusion of food safety information in the
3 database under paragraph (1).

4 “(D) CONFIDENTIALITY.—In including an
5 item of information in the database under para-
6 graph (1), the Secretary shall electronically
7 identify, in a manner evident to users of the
8 database, items that are confidential.

9 “(c) MANNER OF USING DATABASE.—

10 “(1) AUTHORIZATION OF STATE OFFICIALS.—

11 “(A) IN GENERAL.—Upon request of a
12 State, the Secretary shall authorize State offi-
13 cials and employees to have access to the data-
14 base under subsection (b), subject to the State
15 entering into an agreement with the Secretary
16 regarding the use of the database. The Sec-
17 retary may not provide such authorization for
18 such an official or employee unless the official
19 or employee is recommended by the State to be
20 so authorized and—

21 “(i) is employed in a State agency
22 that administers a State law that regulates
23 an eligible institution; or

24 “(ii) is employed in the principal
25 State agency regarding public health.

1 “(B) STATE ADMINISTRATION.—An agree-
2 ment under subparagraph (A) shall provide for
3 the following:

4 “(i) State responsibilities regarding
5 the database under subsection (b) will be
6 carried out through State officials and em-
7 ployees authorized under subparagraph
8 (A).

9 “(ii) Except as provided in clause (iii),
10 the State officials or employees who carry
11 out database responsibilities regarding a
12 type of eligible institution will be officials
13 or employees of the State agency referred
14 to in subparagraph (A)(i) with respect to
15 that type of eligible institution.

16 “(iii) The activities of the State re-
17 garding such database will be under the
18 general supervision of an official of the
19 principal State agency regarding public
20 health.

21 “(2) ACCESS OF ELIGIBLE INSTITUTIONS.—An
22 agreement under paragraph (1) shall provide for the
23 following:

24 “(A) Upon request of an eligible institution
25 in the State, the State will authorize one or

1 more officials of the institution to receive food
2 safety information from the database.

3 “(B) Once an official of an eligible institu-
4 tion has been so authorized, the State will—

5 “(i) through the Internet or, if the eli-
6 gible institution does not have Internet ac-
7 cess, through other electronic means, pro-
8 vide to the official information in the data-
9 base that relates to food procurement by
10 the institution, as indicated by the sources
11 from which the institution obtains food;
12 and

13 “(ii) in providing the information,
14 identify any items of information that are
15 considered confidential under subsection
16 (f).

17 “(d) INTERAGENCY TASK FORCE.—An interagency
18 task force shall be established for purposes of facilitating
19 coordination among Federal agencies pursuant to sub-
20 section (a)(1).

21 “(e) ADVISORY COMMITTEE.—

22 “(1) IN GENERAL.—The Secretary shall estab-
23 lish an advisory committee to make recommenda-
24 tions to the Secretary regarding the administration
25 of this section, including recommendations on the

1 types of information needed by eligible institutions
2 to make informed decisions in purchasing food to
3 avoid the purchase of food that may be adulterated
4 or misbranded. Not later than six months after the
5 date on which the first meeting of the advisory com-
6 mittee occurs, the committee, in consultation with
7 the task force under subsection (d), shall submit to
8 the Secretary a report providing the initial rec-
9 ommendations of the committee regarding the infor-
10 mation needed by eligible institutions to make such
11 informed decisions.

12 “(2) COMPOSITION.—The membership of the
13 advisory committee under paragraph (1) (referred to
14 in this subsection as the ‘advisory committee’) shall
15 include, at a minimum, representatives of the fol-
16 lowing:

17 “(A) Anticipated users of the database, in-
18 cluding State public health officials.

19 “(B) Representatives of persons who man-
20 ufacture, process, pack, transport, or hold food.

21 “(C) Representatives of consumer groups.

22 “(D) Representatives of Federal agencies
23 that have significant responsibilities regarding
24 food safety.

1 “(3) REIMBURSEMENT.—Members of the advi-
2 sory committee may not be compensated for service
3 on the committee. Such members may, in accordance
4 with chapter 57 of title 5, United States Code, be
5 reimbursed for travel, subsistence, and other nec-
6 essary expenses incurred in carrying out the duties
7 of the committee.

8 “(4) INITIAL MEETING.—The Secretary shall
9 ensure that the first meeting of the advisory com-
10 mittee occurs not later than 90 days after the effec-
11 tive date of this section.

12 “(f) GRANTS.—The Secretary may make grants to
13 States for the purpose of assisting the States with the
14 costs of providing food safety information to eligible insti-
15 tutions pursuant to agreements under subsection (c)(1).
16 The Secretary may authorize a State that receives such
17 a grant to use a portion of the grant to assist eligible insti-
18 tutions in the State with the costs of obtaining and using
19 food safety information pursuant to subsection (c)(2).

20 “(g) REGULATIONS.—

21 “(1) PROGRAM CRITERIA.—The Secretary shall
22 by regulation establish criteria for the program
23 under this section, including criteria for the partici-
24 pation of States pursuant to paragraph (1) of sub-

1 section (c) and the participation of eligible institu-
2 tions pursuant to paragraph (2) of such subsection.

3 “(2) CONFIDENTIALITY.—

4 “(A) IN GENERAL.—Regulations under
5 paragraph (1) shall include—

6 “(i) criteria governing the access of
7 officials and employees of State agencies
8 and eligible institutions to confidential in-
9 formation in the database under subsection
10 (b); and

11 “(ii) criteria for the use by such offi-
12 cials and employees of such information,
13 including criteria regarding disclosure of
14 the information.

15 “(B) CIVIL PENALTY.—Any person who, in
16 violation of regulations under subparagraph
17 (A), obtains or uses confidential information
18 from the database under subsection (b) is liable
19 to the United States for a civil penalty in an
20 amount to be determined by the Secretary.
21 Paragraphs (3) through (5) of section 303(g)
22 apply to a civil penalty under the preceding sen-
23 tence to the same extent and in the same man-
24 ner as such paragraphs apply to a civil penalty
25 under such section.

1 “(h) DEFINITIONS.—For purposes of this section:

2 “(1) The term ‘child care facility’ means any
3 public or nonprofit private organization that pro-
4 vides nonresidential child care, or day care outside
5 school hours for school children.

6 “(2) The term ‘eligible institution’ has the
7 meaning given such term in subsection (a)(2).

8 “(3) The term ‘food safety information’ has the
9 meaning indicated for such term in subsection (b).

10 “(4) The term ‘hospital’ has the meaning given
11 such term in section 1861(e) of the Social Security
12 Act.

13 “(5) The term ‘nursing home’ means a skilled
14 nursing facility as defined in section 1819(a) of the
15 Social Security Act.”.

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