

110TH CONGRESS
1ST SESSION

H. R. 3115

To amend the Federal Food, Drug, and Cosmetic Act to provide restrictions on the use of carbon monoxide in meat, poultry, and seafood, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2007

Mr. STUPAK (for himself, Mr. MARKEY, and Ms. DELAURO) 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 provide restrictions on the use of carbon monoxide in meat, poultry, and seafood, 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 “Carbon Monoxide
5 Treated Meat, Poultry, and Seafood Safe Handling, La-
6 beling, and Consumer Protection Act”.

7 **SEC. 2. FINDINGS.**

8 Congress finds the following:

1 (1) It is well documented in the published lit-
2 erature that consumers rely heavily on color to
3 evaluate the freshness of meat, poultry and seafood
4 products.

5 (2) The Secretary of Health and Human Serv-
6 ices has accepted the use of carbon monoxide in
7 modified atmosphere packaging for fresh beef and
8 pork to help maintain the characteristic red color of
9 fresh meat.

10 (3) The Secretary of Health and Human Serv-
11 ices has allowed the use of carbon monoxide under
12 conditions that affect the color of case-ready fresh
13 cuts of poultry and ground poultry.

14 (4) The Secretary of Health and Human Serv-
15 ices has accepted the use of carbon monoxide for use
16 on raw tuna, before it is frozen, to preserve its taste,
17 aroma, texture, and color.

18 (5) Carbon monoxide reacts with myoglobin in
19 fresh meat, poultry, and seafood, to form
20 carboxymyoglobin that simulates the color that con-
21 sumers associate with freshness and safety in fresh
22 meat, poultry and seafood.

23 (6) The color imparted by carbon monoxide per-
24 sists in meat, poultry and seafood packaged with
25 carbon monoxide regardless of the age of the meat,

1 poultry, or seafood, its microbial count, or whether
2 it has been exposed to temperature abuse, and the
3 browning consumers have come to associate with
4 meat, poultry or seafood that may not be fit to con-
5 sume will not occur.

6 (7) Congressional investigators recently re-
7 ported that at the port of San Francisco, California,
8 a significant proportion of the seafood products of-
9 fered for import have been treated with carbon mon-
10 oxide to affect the color so as to give the appearance
11 of freshness, yet twenty percent of the carbon mon-
12 oxide-treated seafood has been refused entry as de-
13 composed.

14 (8) It is well documented in the published lit-
15 erature that ideal temperature control is not consist-
16 ently maintained in the course of distribution, stor-
17 age, and retail and consumer handling of fresh
18 meat, poultry, and seafood products, and that seri-
19 ous microbial stability problems exist because of the
20 frequency of temperature abuse.

21 (9) The use of carbon monoxide under condi-
22 tions affecting the color of meat, poultry, and sea-
23 food products is not currently required to be labeled
24 with adequate information and warnings such that
25 consumers have no way of knowing that they cannot

1 rely on color to judge the freshness and safety of
2 meat, poultry, and seafood products packaged with
3 carbon monoxide.

4 (10) Date labeling is not adequate to overcome
5 the loss to consumers of color as a key freshness and
6 safety indicator, and such date labeling becomes ir-
7 relevant once meat, poultry, or seafood has been
8 subjected to temperature abuse or frozen and subse-
9 quently defrosted.

10 (11) The amendments made by this Act are
11 necessary to prevent consumer deception and serious
12 risks to the public health from foodborne illness that
13 may occur if consumers purchase and consume
14 meat, poultry, or seafood products that have become
15 spoiled or otherwise unfit for consumption, where
16 consumers were led to think the meat, poultry, or
17 seafood was fresh and safe based upon its color. The
18 amendments will benefit in particular the elderly and
19 other vulnerable subpopulations whose sense of smell
20 may be compromised and who cannot rely on odor
21 as an indicator of spoilage, and others who may be
22 particularly susceptible to illness from consumption
23 of meat, poultry, or seafood products that have
24 spoiled.

1 **SEC. 3. LABELING REQUIREMENTS FOR MEAT, POULTRY**
2 **PRODUCTS, AND SEAFOOD THAT CONTAIN**
3 **CARBON MONOXIDE.**

4 (a) IN GENERAL.—Subsection (t) of section 201 of
5 the Federal Food, Drug, and Cosmetic Act (21 U.S.C.
6 321(t)) is amended by adding at the end the following new
7 paragraph:

8 “(4) In the case of food that is meat within the
9 meaning of the Federal Meat Inspection Act, a poul-
10 try product within the meaning of the Poultry Prod-
11 ucts Inspection Act, or seafood (including all fresh
12 or saltwater finfish, molluscan shellfish, crustaceans,
13 and other forms of aquatic animal life) intended for
14 human consumption as food within the meaning of
15 section 201(f) of this Act (referred to collectively in
16 this subsection as ‘seafood’), the term ‘color addi-
17 tive’ shall include carbon monoxide under conditions
18 of use that may impart, maintain, preserve, stabilize,
19 fix, or otherwise affect the color of fresh meat, poul-
20 try products, or seafood, unless the label of such
21 food bears, prominently and conspicuously in such
22 place and in such manner as to render it likely to
23 be read and understood by the ordinary person, the
24 following statement to prevent consumer deception
25 and serious risks to the public health: ‘SAFETY
26 NOTICE: Carbon monoxide has been used to pre-

1 serve the color of this product. Do not rely on color
2 or the “use or freeze by” date alone to judge the
3 freshness or safety of the product. Discard any prod-
4 uct with an unpleasant odor, slime, or a bulging
5 package.’”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall apply to food labeled on or after the date
8 that is 30 days after the date of the enactment of this
9 Act.

10 **SEC. 4. DISCRETIONARY AUTHORITY.**

11 If, not earlier than five years after the effective date
12 of section 3 of this Act, the Secretary of Health and
13 Human Services finds, based on competent and reliable
14 scientific evidence, that the statement prescribed in sec-
15 tion 201(t)(4) of the Federal Food, Drug, and Cosmetic
16 Act is no longer required to prevent consumer deception
17 and other harms, then the Secretary is authorized to issue
18 regulations establishing alternative labeling requirements
19 that are shown to be adequate and effective in preventing
20 consumer deception and other harms related to the condi-
21 tions of use of carbon monoxide, including with respect
22 to preventing any consumer deception or other harm that
23 may result from the actual conditions of carbon monoxide
24 use and its potential to impart a persistent color to meat,

- 1 poultry products, or seafood described in such section
- 2 through a reaction with natural pigment.

