

Safeways

By Amy Halloran

It's the big guy vs. the small guy as Congress battles over food safety

This fall, the battle to pass the Food Safety Modernization Act in the Senate has pitted local farmers against big agriculture. The public needs protections from food-borne pathogens that lead to illness and 5,000 deaths per year, according to the Center for Disease Control. Yet working out how to regulate the food industry has been tricky.

Few question the need for change in food safety, although Sen. Tom Coburn (R-Okla.) claimed the food industry was self-regulating, and proposed a substitute bill, which was praised by Glenn Beck. Food writing giants Michael Pollan and Eric Schlosser dismissed Coburn's claims and urged the passage of Senate bill S.510 on *The New York Times* Opinion page Nov. 28. Countless groups echoed the effort, working behind the scenes in Washington and rallying Americans to call their senators.

The Senate passed S.510 last Tuesday with clear bipartisan support—73 to 25—but the fight isn't over. Within days, the House, which had approved its own version of the bill over a year earlier and needed to approve the bill before it went to the president, objected to the Senate version on legal grounds: S.510 contains funding directives, and only the House can initiate such items.

Given the changes to Congress that will happen in January, the setback is causing tension. New laws have not been applied to the Food and Drug Administration in 70 years. The FDA was founded in 1906 to handle issues of food purity and labeling as the food supply became industrialized.

"The nature of food production has changed dramatically," said Kendra Howard-Smith, from University at Albany's History Department. "The scope of the job the FDA has today is much broader than what it was at the turn of the 20th century, just in terms of trying to account for much larger scale, much more food and much more complex food in terms of its contents."

Food anxieties at the time focused on things like tainted milk and snake oil remedies. Our current anxieties focus on chemical additives, and bacterial trails in the food chain.

"I think it's absolutely a step in the right direction," said Smith-Howard of the bill's public-health implications. "There have been cases in which industry, even when their food has been contaminated, has refused to cooperate with recalls which is troubling and potentially hazardous to the health of other people."

Recent outbreaks include widespread salmonella in eggs from a mega-distributor who had chicken cities populated with 125,000 ill-tended hens. A peanut producer found evidence of salmonella in 2009, and kept testing until the tests didn't show salmonella. The need for change is clear.

However, when the House version passed last summer, there were few protections for small-scale farmers, who should not, advocates argue, be subject to the same kind of oversight as the industrial food chain. To demonstrate why, Steve Gilman, Policy Coordinator for NOFA, the Northeast Organic Farming Association, explained the 2006 spinach *E. coli* outbreak.

"Contaminated spinach that came from one field from one farm got comingled with baby spinach from other farms," said Gilman. "One little outbreak affected people in 27 states and six people

died. There's an example of the industrialized food system being far more risky than the small-scale sector. We wanted to make sure that the risk got reflected in the rules, and the protections that we managed to get included in S.510 kept small-scale farmers from being included in the definition of a facility."

The "we" Gilman includes is a task force from the Northeast Sustainable Agriculture Coalition, NOFA affiliates, and efforts of the Northeast Sustainable Agriculture Working Group, among other activists, such as FarmAssist Productions in Columbia County.

The insulation is not sought to exempt these farmers from scrutiny, but to eliminate paperwork demands required to work with the FDA. The farms in question are regulated by state agencies. The Tester amendment within S.510 defines small-scale farms as those with sales under \$500,000 and distribution range under 275 miles. Text in the bill also assures education to make farmers aware of the points where pathogens can enter the harvest.

There are larger-scale farms that may not fall under the umbrella dollar wise, such as Roxbury Farm in Kinderhook, whose CSA has 1,000 shareholders, and distributes from Albany to Manhattan. While this range fits the regulations, Jean-Paul Courtens is not sure how the farm's operations will be affected.

"The amendment would have made more sense to exclude any farm that direct markets its produce from farm to table. Future regulations will greatly impact our operation, and we will have two choices: downsize or build a million-dollar packing-house," said Courtens.

What will happen with S.510 is unclear. Speculation is that the House will look at the bill this week. Word is that the nation's produce industry organizations—United Fresh Produce Association and the Produce Marketing Association—are working to get the key Tester amendment dropped.

"The local food system is biting into their bottom line," said Gilman of the large produce groups. "So we're really making an impact. And they're trying to kill this bill so that small-scale farmers won't be protected."



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