

Imported Food Safety Improvement Act of 2007 **Congressman Michael C. Burgess, M.D.**

Background

At the Oversight and Investigation Subcommittee hearing on July 17, 2007, former FDA Associate Commissioner William Hubbard testified that in 1999 the FDA drafted a legislative proposal which would have given the FDA authority to require foreign countries to take more responsibility for the foods they send to the United States. The agency's proposal would have allowed the FDA to embargo a specific food from a specific country if there were repeated instances of that food being found contaminated when it arrived in the United States. Countries that send safe food would have no reason to be concerned, as they would be unaffected. But countries that demonstrated a pattern of disregard of U.S. safety standards would have to increase their oversight of food exported from their country. Unfortunately, Congress did not accept the recommendation in 1999, and the situation with some imported foods from some countries has only gotten worse.

Congressman Burgess' Response

On October 25, 2007, I introduced H.R. 3967, The Imported Food Safety Improvement Act of 2007. I firmly believe that the FDA needs the ability and explicit authority to immediately stop dangerous foods and products from coming into this country; H.R. 3967 would give the FDA the tools to do just that. I think of it like this: goods are coming into this country on a conveyor belt, and when we find a bad apple on that belt, the FDA needs to be able to push a big red button and immediately stop the apple from continuing into the line of commerce. My legislation would give the FDA that big red button to push. The idea is simple—if enacted, the FDA would now have the explicit authority to embargo a specified food from a specified country IF there were repeated instances that the type of food or product had been contaminated.

We must be able to stop countries from sending harmful food products to the United States. This bill will allow us to take control of the food that is being sent to America.

H.R. 3967, The Imported Food Safety Improvement Act of 2007

The Secretary of HHS will be able to refuse admission of imported foods from a specified country, growing area, producer, manufacturer or shipper under two situations.

In the first situation for the Secretary to refuse admission of a food, three criteria would have to be met:

1. There had been repeated and separate outbreaks of foodborne disease or the food had been repeatedly determined, by the Secretary, to be adulterated; and
2. The food presents a reasonable probability of causing significant adverse health consequences or death; and
3. It is likely, without systemic intervention or changes, the food will cause disease or be adulterated again.

If all three conditions were met, the Secretary would be able to stop the dangerous food from entering into the United States. However, the foreign entity would be able to submit supporting evidence to the Secretary and request for the order to be rescinded. The Secretary would have up to 90 days after submission of the request to take action, and if justified, could either rescind the order or continue to refuse admission. However, if the Secretary did not take action within the 90 days after the foreign entity makes such request, on the 91st day, the food initially refused admission may be imported into the United States.

The second situation deals with an emergency determination. The Secretary may refuse admission of a food if the food had been strongly associated with a single outbreak of foodborne disease that has caused serious adverse health consequences or death. The emergency determination will be in effect for a 30 day period or until the Secretary rescinds the order.

Any refusal to admit food under this bill will be done in a manner consistent with all trade agreements. It will be effective 90 days upon enactment, and nothing in the Act will be interpreted to diminish the authority of the FDA.