Counterpoint: Weighing Threats to Safe Food

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Earlier last week, the U.S. Senate passed the Food Safety Modernization Act, granting more regulatory authority to the FDA. The future of the bill is uncertain, as the senate's inclusion of a fee structure [1] to fund the bill deviates from parliamentary rules, and even if the congress is able to get the bill on track, it must return to the house to be reconciled with the original version passed there. As the bill now stands, the FDA would be given the power to compel recalls that were formerly voluntary, and the agency would be provided with more authority over testing.

Though the bill tightens regulations for food manufacturers, it has wide backing from industry groups. One of the more controversial provisions, however, is causing some in the food manufacturing community to waiver in their support. The Tester-Hagan amendment provides some regulatory exemption for small processors [2]. In order to qualify for exemption, processors must sell the majority of their food within a 275-mile radius or generate less than $500,000 in revenue each year. Agriculture and food industry groups argue that "food safety knows no size [3]," and that it is unfair to exempt such facilities from regulation.

It seems clear that small producers should face oversight. As the recent government seizure of the Estrella Family Creamery demonstrates [4], small producers are just as capable of producing contaminated product as large-scale producers. But, though widely publicized, the Listeria outbreak at the Estrella facility has, for example, managed to sicken exactly no one, and even if each and every one of its consumers were to fall ill, far fewer would be stricken than are during a run-of-the-mill recall at a large facility.

Even after the increased funding that would be provided to the FDA in the pending bill, the agency will remain vastly understaffed. With still-limited resources, it only

makes sense for more of the agency's time to be spent overseeing the processes of facilities that may actually have a measurable impact on the nation's food supply.

There is also a reasonable question as to how many of these small producers should even meet the requirements of federal oversight by the FDA. If a local food producer sells products made in his facility at area farmers markets and to local co-ops, then the entirety of his business is likely to stay in-state. Having no impact on interstate commerce, it seems unlikely that the FDA should have any neither interest in how this producer is managing his facility nor any authority over how he does so.

That is not to say that small operations should be exempt from any oversight. Responsibility for regulation and oversight of such facilities should fall with state and local governments, which already have food safety audit procedures in place.

Every food manufacturer should be held to account for the state of its facilities, and the industry's across-the-board support of the Food Safety Modernization Act seems to suggest that no one understands this better than those who operate the facilities. But expensive and limited federal time will be best spent overseeing those facilities large enough to pose a real threat to the nation's public safety.

What do you think? Should smaller producers be exempt from the food safety legislation? Let me know at krystal.gabert@advantagemedia.com *[5]*.

For another view on the topic, check out Lindsey Coblentz's piece, Small Doesn't Mean Safe ***[6]*.**

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