

109TH CONGRESS  
1ST SESSION

# S. 73

To promote food safety and to protect the animal feed supply from bovine spongiform encephalopathy.

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IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2005

Ms. CANTWELL introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

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## A BILL

To promote food safety and to protect the animal feed supply from bovine spongiform encephalopathy.

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 “Animal Feed Protec-  
5       tion Act of 2005”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

8               (1) BSE.—The term “BSE” means bovine  
9       spongiform encephalopathy.

10              (2) COVERED ARTICLE.—

1 (A) IN GENERAL.—The term “covered ar-  
2 ticle” means—

3 (i) feed for an animal;

4 (ii) a nutritional supplement for an  
5 animal;

6 (iii) medicine for an animal; and

7 (iv) any other article of a kind that is  
8 ordinarily ingested, implanted, or otherwise  
9 taken into an animal.

10 (B) EXCLUSIONS.—The term “covered ar-  
11 ticle” does not include—

12 (i) an unprocessed agricultural com-  
13 modity that is readily identifiable as non-  
14 animal in origin, such as a vegetable,  
15 grain, or nut;

16 (ii) an article described in subpara-  
17 graph (A) that, based on compelling sci-  
18 entific evidence, the Secretary determines  
19 does not pose a risk of transmitting prion  
20 disease; or

21 (iii) an article regulated by the Sec-  
22 retary that, as determined by the Sec-  
23 retary—

24 (I) poses a minimal risk of car-  
25 rying prion disease; and

1 (II) is necessary to protect ani-  
2 mal health or public health.

3 (3) SPECIFIED RISK MATERIAL.—

4 (A) IN GENERAL.—The term “specified  
5 risk material” means—

6 (i) the skull, brain, trigeminal ganglia,  
7 eyes, tonsils, spinal cord, vertebral column,  
8 or dorsal root ganglia of—

9 (I) cattle and bison 30 months of  
10 age and older; or

11 (II) sheep, goats, deer, and elk  
12 12 months of age and older;

13 (ii) the intestinal tract of a ruminant  
14 of any age; and

15 (iii) any other material of a ruminant  
16 that may carry a prion disease, as deter-  
17 mined by the Secretary, based on scientif-  
18 ically credible research.

19 (B) MODIFICATION.—The Secretary shall  
20 conduct an annual review of scientific research  
21 and may modify the definition of specified risk  
22 material based on scientifically credible research  
23 (including the conduct of ante-mortem and  
24 post-mortem tests certified by the Secretary of  
25 Agriculture).

1           (4) SECRETARY.—The term “Secretary” means  
2           the Secretary of Health and Human Services.

3 **SEC. 3. PROTECTION OF ANIMAL FEED AND PUBLIC**  
4           **HEALTH.**

5           It shall be unlawful for any person to introduce into  
6 interstate or foreign commerce a covered article if the cov-  
7 ered article contains—

8           (1)(A) specified risk material from a ruminant;

9           or

10          (B) any material from a ruminant that—

11           (i) was in any foreign country at a time at  
12 which there was a risk of transmission of BSE  
13 in the country, as determined by the Secretary  
14 of Agriculture; and

15           (ii) may contain specified risk material  
16 from a ruminant; or

17          (2) any material from a ruminant exhibiting  
18 signs of a neurological disease.

19 **SEC. 4. ENFORCEMENT.**

20          (a) COOPERATION.—The Secretary and the heads of  
21 other Federal agencies, as appropriate, shall cooperate  
22 with the Attorney General in enforcing this Act.

23          (b) DUE PROCESS.—Any person subject to enforce-  
24 ment action under this section shall have the opportunity  
25 for an informal hearing on the enforcement action as soon

1 as practicable after, but not later than 10 days after, the  
2 enforcement action is taken.

3 (c) REMEDIES.—In addition to any remedies avail-  
4 able under other provisions of law, the head of a Federal  
5 agency may enforce this Act by—

6 (1) seizing and destroying an article that is in-  
7 troduced into interstate or foreign commerce in vio-  
8 lation of this Act; or

9 (2) issuing an order requiring any person that  
10 introduces an article into interstate or foreign com-  
11 merce in violation of this Act—

12 (A) to cease the violation;

13 (B)(i) to recall any article that is sold; and

14 (ii) to refund the purchase price to the  
15 purchaser;

16 (C) to destroy the article or forfeit the ar-  
17 ticle to the United States for destruction; or

18 (D) to cease operations at the facility at  
19 which the article is produced until the head of  
20 the appropriate Federal agency determines that  
21 the operations are no longer in violation of this  
22 Act.

23 (d) CIVIL AND MONETARY PENALTIES.—Not later  
24 than 180 days after the date of enactment of this Act,  
25 the Secretary shall promulgate regulations establishing

1 the appropriate level of civil and monetary penalties nec-  
2 essary to carry out this Act.

3 **SEC. 5. TRAINING STANDARDS.**

4 The Secretary, in consultation with the Secretary of  
5 Agriculture, shall issue training standards to industry for  
6 the removal of specified risk materials.

7 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

8 There is authorized to be appropriated \$5,000,000 to  
9 carry out this Act.

10 **SEC. 7. EFFECTIVE DATE.**

11 This Act takes effect on the date that is 180 days  
12 after the date of enactment of this Act.

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