

110TH CONGRESS  
2D SESSION

# S. 3422

To amend the Federal Food, Drug, and Cosmetic Act to provide for the establishment of a traceability system for food, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2008

Mr. BROWN introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

---

## A BILL

To amend the Federal Food, Drug, and Cosmetic Act to provide for the establishment of a traceability system for food, 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 “Food Tracking Im-  
5       provement Act”.

6       **SEC. 2. TRACEABILITY OF FOOD.**

7       The Federal Food, Drug, and Cosmetic Act (21  
8       U.S.C. 301 et seq.) is amended—

9               (1) in section 301, by inserting at the end the  
10       following:

1 “(jj) The failure to comply with any requirement of  
2 section 414A (relating to the traceability of food).”; and

3 (2) in chapter IV, by inserting after section 414  
4 the following:

5 **“SEC. 414A. TRACEABILITY OF FOOD.**

6 “(a) ESTABLISHMENT OF SYSTEM.—Not later than  
7 3 years after the date of the enactment of this section,  
8 the Secretary shall establish a traceability system de-  
9 scribed in subsection (b) for all stages of manufacturing,  
10 processing, packaging, and distribution of food.

11 “(b) DESCRIPTION OF SYSTEM.—The traceability  
12 system required by subsection (a) shall require each article  
13 of food shipped in interstate commerce to be identified in  
14 a manner that enables the Secretary to retrieve the his-  
15 tory, use, and location of the article through a record-  
16 keeping and audit system, a secure, online database, or  
17 registered identification.

18 “(c) RECORDS.—

19 “(1) IN GENERAL.—The Secretary may require  
20 that each person required to identify an article of  
21 food pursuant to subsection (b) maintain accurate  
22 records, as prescribed by the Secretary, regarding  
23 the purchase, sale, and identification of the article.

24 “(2) ACCESS.—Each person described in para-  
25 graph (1) shall, at all reasonable times, on notice by

1 a duly authorized representative of the Secretary,  
2 allow the representative to access to each place of  
3 business of the person to examine and copy the  
4 records described in paragraph (1).

5 “(3) DURATION.—Each person described in  
6 paragraph (1) shall maintain records as required  
7 under this subsection for such period of time as the  
8 Secretary prescribes.

9 “(d) FALSE INFORMATION.—No person shall falsify  
10 or misrepresent to any other person or to the Secretary,  
11 any information as to any location at which any article  
12 of food was held.

13 “(e) ALTERATION OR DESTRUCTION OF RECORDS.—  
14 No person shall, without authorization from the Secretary,  
15 alter, detach, or destroy any records or other means of  
16 identification prescribed by the Secretary for use in deter-  
17 mining the location at which any article of food was held.

18 “(f) ADVISORY COMMITTEE.—

19 “(1) IN GENERAL.—In order to assist the Sec-  
20 retary in implementing the traceability system under  
21 subsection (a), the Secretary shall convene an advi-  
22 sory committee (referred to in this subsection as the  
23 ‘Committee’).

1           “(2) MEMBERSHIP.—The Committee shall con-  
2           sist of 13 members appointed by the Secretary which  
3           shall include—

4                   “(A) an equitable number of food safety  
5                   and tracking technology experts, representatives  
6                   of the food industry, and consumer advocates;  
7                   and

8                   “(B) officials from the Center for Food  
9                   Safety and Applied Nutrition and the Office of  
10                  Regulatory Affairs of the Food and Drug Ad-  
11                  ministration and the Agriculture Marketing  
12                  Service of the Department of Agriculture.

13           “(3) CHAIRPERSON.—The Secretary shall ap-  
14           point a Chairperson of the Committee.

15           “(4) MEETING.—The Committee shall convene  
16           not later than 180 days after the date of enactment  
17           of this section and periodically thereafter at the call  
18           of the Chairperson.

19           “(5) REPORT OF COMMITTEE.—

20                   “(A) IN GENERAL.—Not later than 1 year  
21                   after the date of enactment of this section, the  
22                   Committee shall submit to the Secretary and  
23                   the Office of the Commissioner a report that  
24                   describes the recommendations regarding the  
25                   most practicable approach to providing for the

1 traceability of food, including the most efficient  
2 means of implementing the traceback of con-  
3 taminated foods.

4 “(B) CONSIDERATIONS.—In developing the  
5 report under subparagraph (A), the Committee  
6 shall consider the following approaches to pro-  
7 viding for the traceability of food:

8 “(i) A national database or registry  
9 operated by the Food and Drug Adminis-  
10 tration.

11 “(ii) Electronic records identifying  
12 each prior sale, purchase, or trade of the  
13 food and its ingredients, and establishing  
14 that the food and its ingredients were  
15 grown, prepared, handled, manufactured,  
16 processed, distributed, shipped,  
17 warehoused, imported, and conveyed under  
18 conditions to ensure the safety of the food.  
19 The records would include an electronic  
20 statement with the date of, and the names  
21 and addresses of all parties to, each prior  
22 sale, purchase, or trade, and any other in-  
23 formation as appropriate.

24 “(iii) Standardized tracking numbers  
25 on all shipments. These numbers would

1 identify the country of origin, the unique  
2 facility registration number, date of pro-  
3 duction, and lot number (if applicable).

4 “(iv) Recall performance standards  
5 for each food or commodity type.

6 “(v) Safeguards for the combining, re-  
7 packing, or otherwise mixing of items of  
8 food, particularly fresh produce.

9 “(vi) Other approaches that enable  
10 the reliable tracking of food and food prod-  
11 ucts.

12 “(g) AUTHORIZATION OF APPROPRIATIONS.—For the  
13 purpose of carrying out this section, there is authorized  
14 to be appropriated \$40,000,000 for the period of fiscal  
15 years 2009 through 2011.”.

○