

111TH CONGRESS  
1ST SESSION

# H. R. 1907

To amend the Federal Food, Drug, and Cosmetic Act to use consumer information maintained by retailers to improve recalls of food, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 2009

Mr. CASTLE (for himself and Ms. HARMAN) introduced the following bill;  
which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Federal Food, Drug, and Cosmetic Act to use consumer information maintained by retailers to improve recalls of 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 “Improving Commu-  
5       nication with Consumers During Food Recall Act of  
6       2009”.

1 **SEC. 2. USING CONSUMER INFORMATION MAINTAINED BY**  
 2 **RETAILERS TO IMPROVE RECALLS OF FOOD.**

3 (a) PROHIBITED ACT.—Section 301 of the Federal  
 4 Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amend-  
 5 ed by adding at the end the following:

6 “(oo) The failure to comply with an order issued  
 7 under section 418 (regarding recalls of food).”.

8 (b) RECALL NOTICES.—Chapter IV of the Federal  
 9 Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.)  
 10 is amended by adding at the end the following:

11 **“SEC. 418. USING CONSUMER INFORMATION MAINTAINED**  
 12 **BY RETAILERS TO IMPROVE RECALLS OF**  
 13 **FOOD.**

14 “(a) APPLICABILITY.—This section applies in the  
 15 case of any recall, whether voluntary or mandatory, of  
 16 food that is adulterated or misbranded in a manner that,  
 17 if consumed, may result in illness or injury.

18 “(b) RECALL NOTICE.—

19 “(1) RETAILER REQUIREMENTS.—To facilitate  
 20 a recall described in subsection (a), the Secretary  
 21 may by order require any retailer of the food—

22 “(A) to inform the Secretary regarding  
 23 whether the retailer has a system in place capa-  
 24 ble of identifying the persons who purchased  
 25 the food; and

1 “(B) to issue a recall notice to those per-  
2 sons if the retailer does have such a system in  
3 place.

4 “(2) ISSUANCE OF NOTICE.—A recall notice  
5 issued under paragraph (1) shall—

6 “(A) be made in such manner (which may  
7 include the use of telephone calls or electronic  
8 mail) and contain such information as the Sec-  
9 retary may require; and

10 “(B) be issued by—

11 “(i) the retailer; or

12 “(ii) a third party selected by the re-  
13 tailer.

14 “(c) REIMBURSEMENT.—If the Secretary requires a  
15 retailer to issue a recall notice for food under subsection  
16 (b), the Secretary shall—

17 “(1) identify the manufacturers, importers, dis-  
18 tributors, or other persons that most likely caused  
19 the adulteration or misbranding of the food; and

20 “(2) by order require such persons to reimburse  
21 the retailer for any costs incurred to comply with an  
22 order issued under subsection (b).

23 “(d) RULE OF CONSTRUCTION.—This section shall  
24 not be construed to authorize the Secretary to require any  
25 retailer—

1           “(1) to establish or maintain a system described  
2           in subsection (b)(1)(A); or

3           “(2) to provide any information on the retailer’s  
4           customers, inventory, or sales to the manufacturer,  
5           importer, or distributor of the recalled food or to  
6           any person required under subsection (c) to pay re-  
7           imbursement.”.

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