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S. 893

To establish the Office of Imported and Domestic Product Safety in the Department of Commerce and the Product Safety Coordinating Council to improve the management, coordination, promotion, and oversight of food and product safety responsibilities, to improve consumer and business access to food and product safety information, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 23, 2009

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To establish the Office of Imported and Domestic Product Safety in the Department of Commerce and the Product Safety Coordinating Council to improve the management, coordination, promotion, and oversight of food and product safety responsibilities, to improve consumer and business access to food and product safety information, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Imported and Domes-
3 tic Product Safety Act of 2009”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) COUNCIL.—The term “Council” means the
7 Product Safety Coordinating Council established by
8 section 4(a).

9 (2) DIRECTOR.—The term “Director” means
10 the Director of Imported and Domestic Product
11 Safety appointed under section 3(b).

12 (3) OFFICE.—The term “Office” means the Of-
13 fice of Imported and Domestic Product Safety estab-
14 lished by section 3(a).

15 (4) PRODUCT.—The term “product” means any
16 of the following:

17 (A) Food, as defined in section 201 of the
18 Federal Food, Drug, and Cosmetic Act (21
19 U.S.C. 321), including—

20 (i) poultry and poultry products, as
21 defined in section 4 of the Poultry Prod-
22 ucts Inspection Act (21 U.S.C. 453);

23 (ii) meat and meat food products, as
24 defined in section 1 of the Federal Meat
25 Inspection Act (21 U.S.C. 601); and

1 (iii) eggs and egg products, as defined
2 in section 4 of the Egg Products Inspec-
3 tion Act (21 U.S.C. 1033).

4 (B) A drug, device, cosmetic, dietary sup-
5 plement, infant formula, and food additive, as
6 such terms are defined in section 201 of the
7 Federal Food, Drug, and Cosmetic Act (21
8 U.S.C. 321).

9 (C) A consumer product, as such term is
10 defined in section 3(a) of the Consumer Prod-
11 uct Safety Act (15 U.S.C. 2052).

12 (D) A motor vehicle, motor vehicle equip-
13 ment, and replacement equipment, as such
14 terms are defined in section 30102 of title 49,
15 United States Code.

16 (E) A biological product, as such term is
17 defined in section 351(i) of the Public Health
18 Service Act (42 U.S.C. 262(i)).

19 (F) A pesticide, as such term is defined in
20 section 2 of the Federal Insecticide, Fungicide,
21 and Rodenticide Act (7 U.S.C. 136).

22 (G) Any other food, consumer product,
23 fishery product, beverage, or tobacco product
24 with respect to which a department or agency

1 that is represented on the Council has jurisdic-
2 tion.

3 **SEC. 3. OFFICE OF IMPORTED AND DOMESTIC PRODUCT**
4 **SAFETY; DIRECTOR.**

5 (a) **ESTABLISHMENT.**—There is established in the
6 Department of Commerce an office to be known as the
7 “Office of Imported and Domestic Product Safety”.

8 (b) **DIRECTOR.**—The Director of Imported and Do-
9 mestic Product Safety shall be the head of the Office. The
10 Director shall be appointed by the President, by and with
11 the advice and consent of the Senate, from among individ-
12 uals who have—

13 (1) not less than 10 years of leadership and
14 management experience in the public or private sec-
15 tor; and

16 (2) expertise in areas relating to product safety
17 and protection of the public.

18 (c) **DUTIES OF THE DIRECTOR.**—The Director shall,
19 working with the Council—

20 (1) ensure that there is coordination among all
21 departments and agencies that have responsibility
22 for product safety in a manner that—

23 (A) protects the health and safety of
24 United States consumers; and

1 (B) provides that consumers and busi-
2 nesses have access to product safety informa-
3 tion;

4 (2) establish policies, objectives, and priorities
5 to improve the management, coordination, pro-
6 motion, and oversight of all departments and agen-
7 cies that have responsibility for product safety;

8 (3) work with consumer groups, industry, and
9 other interested parties to establish the policies, ob-
10 jectives, and priorities described in paragraph (2);

11 (4) improve the www.Recalls.gov Internet
12 website (or successor Federal website) that provides
13 product safety information and recall information
14 for products under different Federal agencies;

15 (5) develop and maintain a database that—

16 (A) is centralized;

17 (B) is user friendly;

18 (C) is accessible to the public;

19 (D) includes information about all manda-
20 tory and voluntary actions taken with respect to
21 product safety by businesses and departments
22 and agencies that have responsibility for prod-
23 uct safety, including—

24 (i) recalls;

25 (ii) advisories;

- 1 (iii) alerts;
- 2 (iv) seizures;
- 3 (v) defect determinations;
- 4 (vi) import bans; and
- 5 (vii) such other actions as the Direc-
- 6 tor considers appropriate; and

7 (E) incorporates hyperlinks to databases
8 maintained by the departments and agencies
9 that have responsibility for product safety with
10 respect to the actions described in subpara-
11 graph (D);

12 (6) develop guidelines for effective and efficient
13 dissemination, by the departments and agencies of
14 members of the Council, of product recall alerts to
15 consumers and businesses, including retailers, the
16 media, and medical professionals;

17 (7) promote the development of risk assessment
18 models to assist Federal departments and agencies
19 responsible for the importation and safety of prod-
20 ucts to better identify and prevent the importation
21 or introduction into commerce of unsafe products;

22 (8) promote the development of tracing tech-
23 nology to provide consumers with access to the sup-
24 ply chain history of a product;

1 (9) develop guidelines to facilitate information
2 sharing relating to the importation and safety of
3 products among businesses, United States trading
4 partners, and departments and agencies of Federal,
5 State, and local governments;

6 (10) develop and maintain a public electronic
7 directory of services to assist consumers and busi-
8 nesses in locating product safety information;

9 (11) develop a framework for engaging United
10 States trading partners in efforts to improve product
11 safety, including cooperation and coordination re-
12 lated to safety standards, testing, certification, au-
13 dits, and inspections before products are shipped to
14 the United States;

15 (12) establish an inventory of memoranda of
16 understanding negotiated by Federal departments
17 and agencies with foreign governments related to the
18 importation and safety of products;

19 (13) promote coordination among Federal de-
20 partments and agencies seeking to negotiate new
21 memoranda described in paragraph (11); and

22 (14) develop guidelines to ensure that there is
23 a unified effort to protect the health and safety of
24 United States consumers, including—

1 (A) simplifying consumer-retailer inter-
2 action regarding products identified as unsafe;

3 (B) improving product labeling;

4 (C) developing comprehensive record-
5 keeping throughout the production, importation,
6 and distribution of products; and

7 (D) increasing public access to information
8 regarding—

9 (i) product safety standards, testing,
10 and certification;

11 (ii) enforcement of product safety
12 laws; and

13 (iii) product-related deaths, injuries,
14 and illness.

15 (d) STAFF.—

16 (1) IN GENERAL.—The Director may employ
17 and fix the compensation of such officers and em-
18 ployees as may be necessary to assist the Director
19 in carrying out the duties of the Director set forth
20 by subsection (c).

21 (2) DETAIL OF GOVERNMENT EMPLOYEES.—

22 The Director may direct, with the concurrence of the
23 Secretary of a department or head of an agency, the
24 temporary reassignment within the Federal Govern-
25 ment of personnel employed by such department or

1 agency on a reimbursable or nonreimbursable basis
2 to the Office.

3 (e) SUPERVISION.—The Director shall report to the
4 Secretary of Commerce.

5 (f) COMPENSATION.—Section 5314 of title 5, United
6 States Code, is amended by adding at the end the fol-
7 lowing new item:

8 “Director of Imported and Domestic Product
9 Safety, Department of Commerce.”.

10 **SEC. 4. PRODUCT SAFETY COORDINATING COUNCIL.**

11 (a) ESTABLISHMENT.—There is established a Prod-
12 uct Safety Coordinating Council—

13 (1) to improve the management, coordination,
14 promotion, and oversight of product safety respon-
15 sibilities; and

16 (2) to assist the Director in—

17 (A) carrying out the functions of the Office
18 set forth by section 3(c);

19 (B) developing the strategic plan under
20 section 5; and

21 (C) developing the report under section 6.

22 (b) MEMBERSHIP.—

23 (1) COMPOSITION.—The Council shall consist of
24 the Director and 1 individual designated by each of

1 the following from their respective departments and
2 agencies:

3 (A) The Commissioner of Customs and
4 Border Protection of the Department of Home-
5 land Security.

6 (B) The Under Secretary for International
7 Trade of the Department of Commerce.

8 (C) The United States Trade Representa-
9 tive.

10 (D) The Under Secretary for Economic,
11 Energy, and Agricultural Affairs of the Depart-
12 ment of State.

13 (E) The Under Secretary for Food Safety
14 of the Department of Agriculture.

15 (F) The Commissioner of the Food and
16 Drug Administration of the Department of
17 Health and Human Services.

18 (G) The Under Secretary for Oceans and
19 Atmosphere of the Department of Commerce.

20 (H) The Chairman of the Consumer Prod-
21 uct Safety Commission.

22 (I) The Administrator of the National
23 Highway Traffic Safety Administration of the
24 Department of Transportation.

1 (J) The Administrator of the Environ-
2 mental Protection Agency.

3 (K) The Administrator of the Alcohol and
4 Tobacco Tax and Trade Bureau of the Depart-
5 ment of the Treasury.

6 (L) The Attorney General.

7 (M) The Director of the Centers for Dis-
8 ease Control and Prevention of the Department
9 of Health and Human Services.

10 (N) The Chairman of the Federal Trade
11 Commission.

12 (O) The Chairman of the United States
13 International Trade Commission.

14 (P) The Director of the Office of Manage-
15 ment and Budget.

16 (Q) Such other officers of the United
17 States as the Director determines necessary to
18 carry out the functions of the Council.

19 (2) QUALIFICATIONS.—Each individual des-
20 ignated under paragraph (1) shall be selected from
21 among individuals who are—

22 (A) involved in product safety and protec-
23 tion of the public from risks to safety; and

24 (B) qualified to serve on the Council.

1 (c) DEPARTMENT AND AGENCY RESPONSIBIL-
2 ITIES.—

3 (1) IN GENERAL.—The department or agency
4 of each member of the Council shall assist the Direc-
5 tor in—

6 (A) developing and implementing a unified
7 effort to protect the health and safety of United
8 States consumers;

9 (B) ensuring that consumers and busi-
10 nesses have access to product safety informa-
11 tion; and

12 (C) carrying out the duties of the Director
13 set forth by section 3(c).

14 (2) COOPERATION.—Each member of the Coun-
15 cil shall ensure that the department or agency the
16 member represents—

17 (A) provides such assistance, information,
18 and advice as the Director may request;

19 (B) complies with information sharing poli-
20 cies, procedures, guidelines, and standards es-
21 tablished by the Director; and

22 (C) provides adequate resources to support
23 the activities and operations of the Office.

24 (d) MEETINGS.—The Council shall meet not less fre-
25 quently than monthly at the call of the Director.

1 (e) CHAIRPERSON.—The Director shall be the chair-
2 person of the Council.

3 **SEC. 5. STRATEGIC PLAN.**

4 (a) STRATEGIC PLAN REQUIRED.—Not later than
5 180 days after the date of the enactment of this Act, and
6 every 2 years thereafter, the Director shall, after con-
7 sulting with the members of the Council, submit to the
8 President and to Congress a strategic plan.

9 (b) CONTENTS OF STRATEGIC PLAN.—The strategic
10 plan submitted under subsection (a) shall contain—

11 (1) a detailed description of the goals, objec-
12 tives, and priorities of the Office and the Council;

13 (2) a description of the methods for achieving
14 such goals, objectives, and priorities;

15 (3) a description of the performance measures
16 that will be used to monitor results in achieving such
17 goals, objectives, and priorities; and

18 (4) an estimate of the resources necessary to
19 achieve such goals, objectives, and priorities, and an
20 estimate of the cost of such resources.

21 **SEC. 6. ANNUAL REPORT ON PRODUCT SAFETY.**

22 (a) ANNUAL REPORT REQUIRED.—Not later than 1
23 year after the date of the enactment of this Act and No-
24 vember 1 of each calendar year thereafter, the Director

1 shall submit to the President and to Congress a written
2 report on the safety of products.

3 (b) CONTENT OF REPORT.—The report submitted
4 under subsection (a) shall contain a detailed description
5 of how the duties set forth in section 3(c) are being imple-
6 mented.

7 (c) CONSULTATIONS.—The Director shall consult
8 with the members of the Council with respect to the prepa-
9 ration of the report required by subsection (a). Any com-
10 ments provided by the members of the Council for a report
11 under such subsection shall be submitted to the Director
12 not later than 1 month before the date such report is sub-
13 mitted to Congress. The Director shall submit the report
14 to Congress after taking into account all comments re-
15 ceived.

16 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated to the Sec-
18 retary of Commerce such sums as may be necessary to
19 carry out the provisions of this Act and the activities of
20 the Office.

21 **SEC. 8. AUTHORIZATION OF INTERAGENCY SUPPORT FOR**
22 **PRODUCT SAFETY COORDINATION.**

23 The use of interagency funding and other forms of
24 support is authorized by Congress to carry out the func-

- 1 tions and activities of the Office and the functions and
- 2 activities of the Council.

