

116TH CONGRESS
2D SESSION

H. R. 5728

To provide for the regulation, inspection, and labeling of food produced using animal cell culture technology, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 30, 2020

Mr. JOHNSON of South Dakota (for himself and Mr. SOTO) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the regulation, inspection, and labeling of food produced using animal cell culture technology, 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 Safety Mod-
5 ernization for Innovative Technologies Act”.

1 **SEC. 2. REGULATION OF FOOD PRODUCED USING ANIMAL**
2 **CELL CULTURE TECHNOLOGY.**

3 Chapter IV of the Federal Food, Drug, and Cosmetic
4 Act (21 U.S.C. 341 et seq.) is amended by adding at the
5 end the following:

6 **“SEC. 424. FOOD PRODUCED USING ANIMAL CELL CULTURE**
7 **TECHNOLOGY.**

8 “(a) IN GENERAL.—The Secretary shall regulate
9 food intended for humans that is produced using animal
10 cell culture technology derived from cell lines of animals
11 other than livestock or poultry and, in coordination with
12 the Secretary of Agriculture, food intended for humans
13 that is produced using animal cell culture technology de-
14 rived from cell lines of livestock or poultry.

15 “(b) DUTIES.—Pursuant to subsection (a), the Sec-
16 retary shall—

17 “(1) conduct premarket consultation processes
18 to evaluate production materials, processes, and
19 manufacturing controls with respect to food intended
20 for humans that is produced using animal cell cul-
21 ture technology, derived from cell lines of livestock
22 or poultry and food intended for humans that is pro-
23 duced using animal cell culture technology, derived
24 from cell lines of animals other than livestock or
25 poultry, including oversight of tissue collection, cell
26 lines, cell banks, and all components and inputs;

1 “(2) oversee initial cell collection and the devel-
2 opment and maintenance of qualified cell banks, in-
3 cluding by issuing regulations or guidance and con-
4 ducting inspections, as appropriate;

5 “(3) oversee proliferation and differentiation of
6 cells through the time of cell harvest, including by
7 issuing regulations or guidance and conducting in-
8 spections, as appropriate;

9 “(4) ensure that cell bank and cell culturing fa-
10 cilities comply with facility registration, applicable
11 good manufacturing practices and preventive con-
12 trols, and requirements applicable to substances that
13 become a component of food or otherwise affect the
14 characteristics of food;

15 “(5) develop pursuant to notice and comment
16 rulemaking additional requirements for cell bank
17 and cell culturing facility conditions and processes to
18 ensure that biological material exiting the culture
19 process is safe and not adulterated within the mean-
20 ing of this chapter;

21 “(6) conduct appropriate inspections and fol-
22 low-up activities, including taking enforcement ac-
23 tion if necessary, to ensure that cell bank and cell-
24 culturing facilities are in compliance with applicable
25 laws and regulations;

1 “(7) coordinate the transfer of regulatory over-
2 sight of harvested cells derived from livestock or
3 poultry to the Secretary of the Department of Agri-
4 culture during cell harvest, including providing such
5 Secretary with any information necessary to deter-
6 mine whether harvested cells are eligible to be proc-
7 essed into food intended for humans that is pro-
8 duced using animal cell culture technology, derived
9 from cell lines of livestock or poultry;

10 “(8) inspect establishments that process, pack-
11 age, and label food intended for humans that is pro-
12 duced using animal cell culture technology, derived
13 from cell lines other than livestock or poultry;

14 “(9) promulgate regulations regarding the safe-
15 ty and accurate labeling of food intended for humans
16 that is produced using animal cell culture tech-
17 nology, derived from cell lines other than livestock or
18 poultry; and

19 “(10) establish appropriate nomenclature for
20 food intended for humans that is produced using
21 animal cell culture technology, derived from cell lines
22 other than livestock or poultry.

23 “(c) COLLABORATION WITH USDA.—In carrying out
24 this section, the Secretary shall share information, as ap-
25 propriate, with the Department of Agriculture, including

1 notifying the Department of Agriculture if objectionable
2 conditions are identified at a facility carrying out any of
3 the activities described in subsection (b), including condi-
4 tions which may result in production of adulterated or
5 misbranded food, collaborating with such department to
6 address such conditions with respect to the harvesting of
7 cell cultures, and rely on the Department of Agriculture
8 to address such conditions with respect to processing,
9 packaging, and labeling.

10 “(d) LIMITATION.—The Secretary shall not inspect
11 activities of an establishment that are solely regulated by
12 the Secretary of Agriculture.

13 “(e) DEFINITIONS.—In this section—

14 “(1) the term ‘livestock’ means cattle, sheep,
15 swine, goats, and fish of the order Siluriformes; and

16 “(2) the term ‘poultry’ means any domesticated
17 bird, whether live or dead.

18 “(f) AUTHORITIES RELATED TO LIVESTOCK AND
19 POULTRY.—Notwithstanding any other provision of law,
20 the provisions of this section shall not derogate from any
21 authority under the Federal Meat Inspection Act or Poul-
22 try Product Inspection Act, as in effect on the date of
23 enactment of the Food Safety Modernization for Innova-
24 tive Technologies Act, with respect to the regulation of
25 meat and poultry produced in the traditional manner.

1 “(g) NO INSPECTION OF FARMS.—Nothing in this
 2 section shall be construed to authorize the Secretary to
 3 conduct an inspection of a farm.”.

4 **SEC. 3. INSPECTION AND LABELING OF FOOD PRODUCED**
 5 **USING ANIMAL CELL CULTURE TECHNOLOGY**
 6 **FROM LIVESTOCK AND POULTRY CELL**
 7 **LINES.**

8 (a) DEFINITIONS.—In this section:

9 (1) ADULTERATED.—The term “adulterated”,
 10 with respect to food intended for humans that is
 11 produced using animal cell culture technology, de-
 12 rived from cell lines of livestock or poultry, means
 13 food—

14 (A) that bears or contains any poisonous
 15 or deleterious substance which may render it in-
 16 jurious to health, except that the food shall not
 17 be considered adulterated if the substance is
 18 not an added substance and the quantity of the
 19 substance in the food does not ordinarily render
 20 the food injurious to health;

21 (B)(i) that bears or contains any added
 22 poisonous or added deleterious substance (other
 23 than a substance that is a pesticide chemical
 24 residue in or on a raw agricultural commodity
 25 or processed food, a food additive, or a color

1 additive) that is unsafe within the meaning of
2 section 406 of the Federal Food, Drug, and
3 Cosmetic Act (21 U.S.C. 346);

4 (ii) that bears or contains a pesticide
5 chemical residue that is unsafe within the
6 meaning of section 408(a) of that Act (21
7 U.S.C. 346a(a)); or

8 (iii) that bears or contains—

9 (I) any food additive that is unsafe
10 within the meaning of section 409 of that
11 Act (21 U.S.C. 348); or

12 (II) a new animal drug (or conversion
13 product thereof) that is unsafe within the
14 meaning of section 512 of that Act (21
15 U.S.C. 360b);

16 (C) that consists in whole or in part of any
17 filthy, putrid, or decomposed substance, or if
18 the food is otherwise unfit for food;

19 (D) that has been prepared, packed, or
20 held under insanitary conditions whereby it may
21 have become contaminated with filth or ren-
22 dered injurious to health;

23 (E) that, in whole or in part, is the prod-
24 uct of a diseased animal or of an animal which
25 has died otherwise than by slaughter;

1 (F) the container of which is composed, in
2 whole or in part, of any poisonous or deleterious
3 substance which may render the contents inju-
4 rious to health;

5 (G) that has been intentionally subjected
6 to radiation, unless the use of the radiation was
7 in conformity with a regulation or exemption in
8 effect pursuant to section 409 of that Act (21
9 U.S.C. 348);

10 (H)(i) of which any valuable constituent
11 has been in whole or in part omitted or ab-
12 stracted therefrom;

13 (ii) for which any substance has been sub-
14 stituted in whole or in part;

15 (iii) for which damage or inferiority has
16 been concealed in any manner; or

17 (iv) to which any substance has been added
18 or mixed or packed so as to increase the bulk
19 or weight of the food, reduce the quality or
20 strength of the food, or make the food appear
21 better or of greater value than the food is;

22 (I) that bears or contains a color additive
23 which is unsafe within the meaning of section
24 721(a) of that Act (21 U.S.C. 379e(a)); or

1 (J) that is transported or offered for
2 transport by a shipper, carrier by motor vehicle
3 or rail vehicle, receiver, or any other person en-
4 gaged in the transportation of food under con-
5 ditions that are not in compliance with regula-
6 tions promulgated under section 416 of that
7 Act (21 U.S.C. 350e).

8 (2) LIVESTOCK.—The term “livestock” has the
9 meaning given the term in section 424(e) of the
10 Federal Food, Drug, and Cosmetic Act.

11 (3) MISBRANDED.—The term “misbranded”,
12 with respect to food intended for humans that is
13 produced using animal cell culture technology, de-
14 rived from cell lines of livestock or poultry, means
15 food—

16 (A) the label of which—

17 (i) does not bear—

18 (I) the name of the food, in ac-
19 cordance with subsection (c);

20 (II) in the case of the food being
21 fabricated from two or more ingredi-
22 ents, the common or usual name of
23 each ingredient, except that spices,
24 flavorings, and colorings may, when
25 authorized by the appropriate agency

1 head, be designated as spices, flavor-
2 ings, and colorings without naming
3 each, provided that to the extent that
4 compliance is impracticable, or results
5 in deception or unfair competition, ex-
6 emptions shall be established by regu-
7 lations promulgated by the Secretary;
8 or

9 (III) an official inspection legend
10 directly on the food or on the con-
11 tainer of the food and such other in-
12 formation as the Secretary requires to
13 assure that the food will not have
14 false or misleading labeling and that
15 the public will be informed of the
16 manner of handling required to main-
17 tain the food in a wholesome condi-
18 tion;

19 (B) the label of which is false or mis-
20 leading;

21 (C) that is in a package or other container
22 the label of which does not bear—

23 (i) the name and place of business of
24 the manufacturer, packer, or distributor;
25 or

1 (ii) an accurate statement of the
2 quantity of the contents in terms of
3 weight, measure, or numerical count, sub-
4 ject to—

5 (I) reasonable variations per-
6 mitted by the Secretary; and

7 (II) in the case of a small pack-
8 age or container, exemptions estab-
9 lished by the Secretary by regulation;

10 (D) for which any word, statement, or
11 other information required by the Secretary to
12 appear on the label is not prominently placed
13 on the label with such conspicuousness (com-
14 pared to any other words, statements, designs,
15 or devices on the label) and in such terms as
16 to render it likely to be read and understood by
17 the ordinary individual under customary condi-
18 tions of purchase and use;

19 (E) that is offered for sale under the name
20 of another food;

21 (F) that is an imitation of another food,
22 unless the label bears the word “imitation”, in
23 type of uniform size and prominence, and the
24 name of the food imitated immediately after the
25 word “imitation”;

1 (G) the container of which is made,
2 formed, or filled as to be misleading;

3 (H) that purports to be or is represented
4 for special dietary uses but the label of which
5 does not bear such information concerning the
6 vitamin, mineral, and other dietary properties
7 of the food as the Secretary, after consultation
8 with the Secretary of Health and Human Serv-
9 ices, determines to be, and by regulations pre-
10 scribes as, necessary in order to inform pur-
11 chasers fully of the value of the food for those
12 uses; or

13 (I) that bears or contains any artificial fla-
14 voring, artificial coloring, or chemical preserva-
15 tive but the label of which does not state that
16 fact, subject to exemptions established by the
17 Secretary by regulation in cases of compliance
18 being impracticable.

19 (4) OFFICIAL INSPECTION LEGEND.—The term
20 “official inspection legend” means the symbol de-
21 scribed in subsection (b)(2).

22 (5) POULTRY.—The term “poultry” has the
23 meaning given the term in section 424(e) of the
24 Federal Food, Drug, and Cosmetic Act.

1 (6) SECRETARY.—The term “Secretary” means
2 the Secretary of Agriculture.

3 (b) INSPECTIONS.—

4 (1) IN GENERAL.—The Secretary shall inspect
5 establishments that process, package, and label food
6 intended for humans that is produced using animal
7 cell culture technology, derived from cell lines of live-
8 stock or poultry—

9 (A) to ensure that—

10 (i) the food is—

11 (I) not adulterated; and

12 (II) not misbranded; and

13 (ii) the establishment is operating in
14 accordance with the regulations promul-
15 gated under paragraph (3).

16 (2) OFFICIAL INSPECTION LEGEND.—The Sec-
17 retary shall establish an official inspection legend for
18 the food described in paragraph (1), which shall be
19 a symbol that shows that a product made from that
20 food was inspected and passed in accordance with
21 the regulations described in paragraph (3).

22 (3) REGULATIONS.—The Secretary shall pro-
23 mulgate regulations regarding—

24 (A) the manner and frequency of inspec-
25 tions required for—

1 (i) the food described in paragraph
2 (1); and

3 (ii) establishments that process, pack-
4 age, and label that food; and

5 (B) the requirements for a product of the
6 food described in paragraph (1) to satisfactorily
7 pass an inspection and receive an official in-
8 spection legend, including—

9 (i) sanitation and physical product in-
10 spection requirements;

11 (ii) food product testing and record-
12 keeping requirements; and

13 (iii) the requirement for Hazard Anal-
14 ysis and Critical Control Points verifica-
15 tion.

16 (4) LIMITATION.—The Secretary shall not in-
17 spect activities of an establishment under section
18 424 of the Federal Food, Drug, and Cosmetic Act
19 that are solely regulated by the Secretary of Health
20 and Human Services.

21 (c) LABELING.—

22 (1) IN GENERAL.—The Secretary shall—

23 (A) approve, before introduction into com-
24 merce, the labeling of food intended for humans
25 that is produced using animal cell culture tech-

1 nology, derived from cell lines of livestock or
2 poultry; and

3 (B) verify the accuracy of that labeling
4 through inspection.

5 (2) REQUIREMENTS.—The Secretary shall es-
6 tablish, after providing notice and an opportunity for
7 comment, any appropriate requirements in addition
8 to the requirements under paragraph (1) to ensure
9 the safety and accurate labeling of the food de-
10 scribed in paragraph (1)(A).

11 (3) REGULATIONS.—The Secretary shall pro-
12 mulgate regulations—

13 (A) to establish appropriate nomenclature
14 for the labeling approved under paragraph
15 (1)(A); and

16 (B) to carry out paragraph (1)(B).

17 (d) ENFORCEMENT.—The Secretary shall, pursuant
18 to relevant enforcement authorities governing the regula-
19 tion of amenable species (as defined in section 1 of the
20 Federal Meat Inspection Act (21 U.S.C. 601)), conduct
21 such enforcement action as is necessary to ensure that
22 food intended for humans that is produced using animal
23 cell culture technology, derived from cell lines of livestock
24 or poultry, that is adulterated or misbranded does not
25 enter or is removed from commerce.

1 (e) COLLABORATION WITH HHS.—In carrying out
2 this section, the Secretary shall—

3 (1) review information shared by the Secretary
4 of Health and Human Services under section 424(c)
5 of the Federal Food, Drug, and Cosmetic Act;

6 (2) share appropriate information relating to
7 food intended for humans that is produced using
8 animal cell culture technology, derived from cell lines
9 of livestock or poultry, with the Secretary of Health
10 and Human Services, as appropriate; and

11 (3)(A) notify the Secretary of Health and
12 Human Services if objectionable conditions at an es-
13 tablishment are identified under an inspection under
14 subsection (b)(1);

15 (B) collaborate with the Secretary of Health
16 and Human Services to address those conditions
17 with respect to cell harvesting; and

18 (C) rely on the Secretary of Health and Human
19 Services to address those conditions with respect to
20 initial cell collection, development and maintenance
21 of qualified cell banks, and proliferation and dif-
22 ferentiation of cells.

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