

103^D CONGRESS
1ST SESSION

S. 1750

To transfer certain food safety and inspection functions to the Consumer Product Safety Commission, to establish an Office of Public Liaison, and to require the development of certain plans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 20 (legislative day, NOVEMBER 2), 1993

Mr. METZENBAUM introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To transfer certain food safety and inspection functions to the Consumer Product Safety Commission, to establish an Office of Public Liaison, and to require the development of certain plans, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Food Safety Reform Act of 1993”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; Table of contents.
- Sec. 2. Findings.
- Sec. 3. Purposes.

Sec. 4. Definitions.

TITLE I—TRANSFER OF FOOD SAFETY AND INSPECTION
FUNCTIONS

- Sec. 101. Transfer of food safety functions to the Consumer Product Safety Commission.
- Sec. 102. Personnel provisions.
- Sec. 103. Delegation and assignment.
- Sec. 104. Reorganization.
- Sec. 105. Rules.
- Sec. 106. Transfer and allocations of appropriations and personnel.
- Sec. 107. Location of personnel.
- Sec. 108. Determination of certain functions and incidental transfers.
- Sec. 109. Effect on personnel.
- Sec. 110. Savings provisions.
- Sec. 111. Separability.
- Sec. 112. Transition.
- Sec. 113. References.
- Sec. 114. Conforming amendments.

TITLE II—SPECIFIC FUNCTIONS OF THE COMMISSION AFTER
TRANSFER

- Sec. 201. Appointment of an Executive Director for safety.
- Sec. 202. Preparation of a memorandum of understanding.
- Sec. 203. Plans.

TITLE III—ESTABLISHMENT OF A LIAISON OFFICE

- Sec. 301. Establishment of the Office of Public Health Liaison.

TITLE IV—GENERAL PROVISIONS

- Sec. 401. Reports.
- Sec. 402. Authorization of appropriations.
- Sec. 403. Effective date.

1 **SEC. 2. FINDINGS.**

2 The Congress finds that—

3 (1) American consumers are entitled to a safe
4 supply of food, which requires no more than reason-
5 able and proper care to maintain its wholesomeness;

6 (2) the United States Government’s system for
7 ensuring food safety is outdated, is fragmented, and
8 is not yielding a level of wholesomeness commensu-
9 rate with the resources being devoted to the system;

1 (3) American consumers' confidence in their
2 food supply is undermined by the condition of their
3 Government's food safety regulatory system;

4 (4) demographic changes in the United States
5 will increase the threat of foodborne diseases to a
6 growing number of American consumers;

7 (5) the paramount priority of the food safety
8 system is human health;

9 (6) the paramount interests to be protected by
10 the food safety system are the interests of the Amer-
11 ican consumer;

12 (7) the food safety system has not responded to
13 the presence of new contaminants and new modes of
14 transmission of infection;

15 (8) food safety regulators have not adequately
16 taken advantage of potential innovations in food in-
17 spection techniques;

18 (9) food safety regulators have not developed a
19 sufficiently reliable, independently verified scientific
20 basis for modernization of the food safety system;

21 (10) as currently constituted, the United States
22 food safety system is not capable of responding to
23 food safety challenges in a coordinated, comprehen-
24 sive and efficient manner; and

1 (11) the purposes of this Act can be satisfac-
2 torily achieved without the physical relocation of en-
3 tities and personnel currently constituting the
4 United States food safety system.

5 **SEC. 3. PURPOSES.**

6 The purposes of this Act are to—

7 (1) consolidate fragmented Federal authority
8 for inspection and regulation of the United States
9 food supply under the Consumer Product Safety
10 Commission;

11 (2) focus the food safety and inspection system
12 of the United States on the needs of the American
13 consumer;

14 (3) make public health the primary criterion in
15 the evaluation of the United States food safety and
16 inspection system;

17 (4) provide for coordinated, efficient moderniza-
18 tion of the system; and

19 (5) improve cooperation among Federal, State,
20 and local agencies involved in ensuring food safety
21 and public health.

22 **SEC. 4. DEFINITIONS.**

23 As used in this Act (unless the context clearly re-
24 quires otherwise):

1 (1) CHAIRMAN.—The term “Chairman” means
2 the Chairman of the Consumer Product Safety Com-
3 mission.

4 (2) COMMISSION.—The term “Commission”
5 means the Consumer Product Safety Commission.

6 (3) FEDERAL AGENCY.—The term “Federal
7 agency” has the meaning given the term “agency”
8 by section 551(1) of title 5, United States Code.

9 (4) FUNCTION.—The term “function” means
10 any duty, obligation, power, authority, responsibility,
11 right, privilege, activity, or program.

12 (5) OFFICE.—The term “office” includes any
13 office, administration, agency, department, institute,
14 unit, organizational entity, or component thereof.

15 **TITLE I—TRANSFER OF FOOD**
16 **SAFETY AND INSPECTION**
17 **FUNCTIONS**

18 **SEC. 101. TRANSFER OF FOOD SAFETY FUNCTIONS TO THE**
19 **CONSUMER PRODUCT SAFETY COMMISSION.**

20 (a) IN GENERAL.—There are transferred to the Com-
21 mission all functions exercised before the effective date of
22 this Act (including all related functions of any office or
23 employee) of or relating to food safety and inspection car-
24 ried out by—

1 (1) the Secretary of Agriculture or the Depart-
2 ment of Agriculture under—

3 (A) the Agricultural Marketing Act of
4 1946 (7 U.S.C. 1621 et seq.);

5 (B) the Agricultural Adjustment Act (7
6 U.S.C. 601 et seq.) reenacted with amendments
7 by the Agricultural Marketing Agreement Act
8 of 1937;

9 (C) the Egg Products Inspection Act (21
10 U.S.C. 1031 et seq.); and

11 (D) the Poultry Products Inspection Act
12 (21 U.S.C. 451 et seq.);

13 (2) the Secretary of the Interior or Department
14 of the Interior, or the Secretary of Commerce or the
15 Department of Commerce under the Lacey Act
16 Amendments of 1981 (16 U.S.C. 3371 et seq.);

17 (3) the Commissioner of Food and Drugs and
18 the Secretary of Agriculture under the Federal Anti-
19 Tampering Act (18 U.S.C. 1365 et seq.);

20 (4) the Administrator of the Environmental
21 Protection Agency or the Environmental Protection
22 Agency under—

23 (A) title 14 of the Public Health Service
24 Act, commonly known as the “Safe Drinking
25 Water Act” (42 U.S.C. 300f et seq.); and

1 (B) section 408 of the Federal Food, Drug
2 and Cosmetic Act (21 U.S.C. 346a), and relat-
3 ed provisions of law;

4 (5) the Secretary of Commerce or the Depart-
5 ment of Commerce under the Magnuson Fishery
6 Conservation and Management Act (16 U.S.C. 1801
7 et seq.); and

8 (6) the Secretary of Health and Human Serv-
9 ices or the Department of Health and Human Serv-
10 ices under—

11 (A) the Import Milk Act (21 U.S.C. 141 et
12 seq.);

13 (B) section 412 of the Federal Food,
14 Drug, and Cosmetic Act (21 U.S.C. 350a), and
15 related provisions of law; and

16 (C) the provisions of the Federal Food,
17 Drug, and Cosmetic Act (21 U.S.C. 321 et
18 seq.) respecting—

19 (i) labeling of foods; and

20 (ii) setting standards of identity, qual-
21 ity, and fill of container for food products.

22 (b) PERFORMANCE OF TRANSFERRED FUNCTIONS.—

23 The Commission shall carry out the functions transferred
24 under subsection (a).

1 **SEC. 102. PERSONNEL PROVISIONS.**

2 (a) APPOINTMENTS.—

3 (1) IN GENERAL.—The Chairman may appoint
4 and fix the compensation of such officers and em-
5 ployees (including investigators, attorneys, and ad-
6 ministrative law judges) as may be necessary to
7 carry out the respective functions transferred under
8 this title.

9 (2) CIVIL SERVICE.—Except as otherwise pro-
10 vided by law, the officers and employees shall be ap-
11 pointed in accordance with the civil service laws and
12 the compensation of the officers and employees fixed
13 in accordance with title 5, United States Code.

14 (b) EXPERTS AND CONSULTANTS.—

15 (1) IN GENERAL.—To carry out this title, the
16 Chairman may obtain the services of experts and
17 consultants in accordance with section 3109 of title
18 5, United States Code, and compensate the experts
19 and consultants for each day (including travel time)
20 at rates not in excess of the rate of pay for level IV
21 of the Executive Schedule under section 5315 of
22 such title.

23 (2) TRAVEL EXPENSES.—To carry out this
24 title, the Chairman may pay experts and consultants
25 who are serving away from their homes or regular
26 places of business travel expenses and a per diem in

1 lieu of subsistence at rates authorized by sections
2 5702 and 5703 of such title for persons in Govern-
3 ment service employed intermittently.

4 **SEC. 103. DELEGATION AND ASSIGNMENT.**

5 (a) IN GENERAL.—Unless otherwise expressly pro-
6 hibited by law or otherwise provided by this Act, the
7 Chairman may delegate any of the functions transferred
8 by this title, and any function transferred or granted after
9 the effective date of this Act, to such officers and employ-
10 ees of the Commission as the Chairman may designate,
11 and may authorize successive redelegations of the func-
12 tions as may be necessary or appropriate.

13 (b) CONTINUING RESPONSIBILITY.—No delegation of
14 functions by the Chairman under this section or under any
15 other provision of this Act is intended to relieve the Chair-
16 man of responsibility for the administration of the func-
17 tions.

18 **SEC. 104. REORGANIZATION.**

19 The Chairman is authorized to allocate or reallocate
20 any function transferred under this title among the offi-
21 cers of the Commission, and to establish, consolidate,
22 alter, or discontinue such organizational entities in the
23 Commission as may be necessary or appropriate.

1 **SEC. 105. RULES.**

2 The Chairman is authorized to prescribe, in accord-
3 ance with chapters 5 and 6 of title 5, United States Code,
4 such rules and regulations as the Chairman determines
5 to be necessary or appropriate to administer and manage
6 the functions of the Commission.

7 **SEC. 106. TRANSFER AND ALLOCATIONS OF APPROPRIA-**
8 **TIONS AND PERSONNEL.**

9 (a) IN GENERAL.—Except as otherwise provided in
10 this title, the personnel employed in connection with, and
11 the assets, liabilities, contracts, property, records, and un-
12 expended balances of appropriations, authorizations, allo-
13 cations, and other funds employed, used, held, arising
14 from, available to, or to be made available in connection
15 with functions transferred by this title, subject to section
16 1531 of title 31, United States Code, shall be transferred
17 in accordance with this title.

18 (b) USE OF FUNDS.—Unexpended funds transferred
19 pursuant to this section shall be used only for the purposes
20 for which the funds were originally authorized and appro-
21 priated.

22 **SEC. 107. LOCATION OF PERSONNEL.**

23 During the fiscal year in which this Act is enacted,
24 the Chairman shall enter into a lease agreement with the
25 head of each transferred agency for the provision, by each

1 such agency, of space and support services for personnel
2 who are transferred under this Act.

3 **SEC. 108. DETERMINATION OF CERTAIN FUNCTIONS AND**
4 **INCIDENTAL TRANSFERS.**

5 (a) IN GENERAL.—The Director of the Office of
6 Management and Budget, at such time as the Director
7 shall provide, is authorized to make such determinations
8 as may be necessary with regard to the functions trans-
9 ferred by this title, and to make such additional incidental
10 dispositions of personnel, assets, liabilities, grants, con-
11 tracts, property, records, and unexpended balances of ap-
12 propriations, authorizations, allocations, and other funds
13 held, used, arising from, available to, or to be made avail-
14 able in connection with the functions, as may be necessary
15 to carry out this title.

16 (b) TERMINATION OF AFFAIRS.—The Director of the
17 Office of Management and Budget shall provide for the
18 termination of the affairs of all entities of which all func-
19 tions are transferred by this title and for such further
20 measures and dispositions as may be necessary to effec-
21 tuate the purposes of this title.

22 **SEC. 109. EFFECT ON PERSONNEL.**

23 Except as otherwise provided by this title, the trans-
24 fer pursuant to this title of full-time personnel (except spe-
25 cial Government employees) and part-time personnel hold-

1 ing permanent positions is not intended to cause any such
2 employee to be separated or reduced in grade or com-
3 pensation for 1 year after the date of transfer of the em-
4 ployee under this title.

5 **SEC. 110. SAVINGS PROVISIONS.**

6 (a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—

7 An order, determination, rule, regulation, permit, agree-
8 ment, grant, contract, certificate, license, registration,
9 privilege, or other administrative action—

10 (1) that has been issued, made, granted, or al-
11 lowed to become effective by the President, any Fed-
12 eral agency or official of a Federal agency, or by a
13 court of competent jurisdiction, in the performance
14 of functions that are transferred under this title;
15 and

16 (2) that is in effect at the time this Act takes
17 effect, or was final before the effective date of this
18 Act and is to become effective on or after the effec-
19 tive date of this Act,

20 shall continue in effect according to the terms of the ac-
21 tion until modified, terminated, superseded, set aside, or
22 revoked in accordance with law by the President, an offi-
23 cial of a Federal agency or other authorized official, a
24 court of competent jurisdiction, or by operation of law.

25 (b) PROCEEDINGS NOT AFFECTED.—

1 (1) IN GENERAL.—This title shall not affect
2 any proceeding (including a notice of proposed rule-
3 making) or any application for any license, permit,
4 certificate, or financial assistance pending before a
5 transferred office on the effective date of this Act,
6 with respect to functions transferred by this title.
7 The proceeding and application shall be continued.

8 (2) ORDERS.—An order shall be issued in the
9 proceeding, an appeal shall be taken from the order,
10 and a payment shall be made pursuant to the order,
11 as if this Act had not been enacted. An order issued
12 in the proceeding shall continue in effect until modi-
13 fied, terminated, superseded, or revoked by a duly
14 authorized official, by a court of competent jurisdic-
15 tion, or by operation of law.

16 (3) DISCONTINUANCE OR MODIFICATION.—
17 Nothing in this subsection is intended to prohibit the
18 discontinuance or modification of any such proceed-
19 ing under the same terms and conditions and to the
20 same extent as the proceeding could have been dis-
21 continued or modified if this Act had not been en-
22 acted.

23 (c) SUITS NOT AFFECTED.—This Act shall not affect
24 a suit commenced before the effective date of this Act.
25 In the suit, a proceeding shall be had, an appeal taken,

1 and a judgment rendered in the same manner and with
2 the same effect as if this Act had not been enacted.

3 (d) NONABATEMENT OF ACTIONS.—No suit, action,
4 or other proceeding commenced by or against a trans-
5 ferred office, or by or against any individual in the official
6 capacity of the individual as an officer of a transferred
7 office, shall abate by reason of the enactment of this Act.

8 (e) ADMINISTRATIVE ACTIONS RELATING TO PRO-
9 MULGATION OF REGULATIONS.—Any administrative ac-
10 tion relating to the preparation or promulgation of a regu-
11 lation by a transferred office relating to a function trans-
12 ferred under this title may be continued by the Commis-
13 sion with the same effect as if this Act had not been en-
14 acted.

15 **SEC. 111. SEPARABILITY.**

16 If a provision of this Act or the application of this
17 Act to any person or circumstance is held invalid, neither
18 the remainder of this Act nor the application of the provi-
19 sion to other persons or circumstances shall be affected.

20 **SEC. 112. TRANSITION.**

21 The Chairman is authorized to utilize—

22 (1) the services of the officers, employees, and
23 other personnel of a transferred office with respect
24 to functions transferred by this title; and

1 (2) funds appropriated to the functions for such
2 period of time as may reasonably be needed to facili-
3 tate the orderly implementation of this Act.

4 **SEC. 113. REFERENCES.**

5 Each reference in any other Federal law, Executive
6 order, rule, regulation, or delegation of authority, or any
7 document of or relating to—

8 (1) the head of a transferred office with regard
9 to functions transferred under this title shall be
10 deemed to refer to the Chairman; and

11 (2) a transferred office with regard to functions
12 transferred under this title shall be deemed to refer
13 to the Commission.

14 **SEC. 114. CONFORMING AMENDMENTS.**

15 Not later than 180 days after the effective date of
16 this Act, if the Chairman determines (after consultation
17 with the appropriate committees of Congress and the Di-
18 rector of the Office of Management and Budget) that tech-
19 nical and conforming amendments to Federal statutes are
20 necessary to carry out the changes made by this Act, the
21 Chairman shall prepare and submit to Congress rec-
22 ommended legislation containing the amendments.

1 **TITLE II—SPECIFIC FUNCTIONS**
2 **OF THE COMMISSION AFTER**
3 **TRANSFER**

4 **SEC. 201. APPOINTMENT OF AN EXECUTIVE DIRECTOR FOR**
5 **SAFETY.**

6 (a) IN GENERAL.—There is established in the Com-
7 mission the position of an Executive Director of Food
8 Safety, who shall be appointed by the Chairman.

9 (b) DUTIES.—The Executive Director of Food Safety
10 shall perform such responsibilities as the Chairman shall
11 prescribe.

12 (c) COMPENSATION.—The Executive Director of
13 Food Safety shall be compensated at a rate of pay fixed
14 by the Chairman.

15 **SEC. 202. PREPARATION OF MEMORANDUM OF UNDER-**
16 **STANDING.**

17 (a) IN GENERAL.—Not later than 180 days after the
18 date of enactment of this Act, the Chairman shall enter
19 into a separate memorandum of understanding with each
20 of the following to carry out the objectives described in
21 subsection (b):

22 (1) The Secretary of Health and Human Serv-
23 ices.

24 (2) The Administrator of the Occupational
25 Safety and Health Administration.

1 (3) The Secretary of Commerce.

2 (4) The Secretary of Defense.

3 (5) Executive officers of State health depart-
4 ments.

5 (6) The head of any other governmental entity
6 as determined necessary by the Chairman.

7 (b) OBJECTIVES.—The Chairman and each entity
8 that enters into a memorandum of understanding under
9 subsection (a) shall carry out the following objectives, re-
10 specting food safety and inspection:

11 (1) Regular exchange of food safety and inspec-
12 tion information and scientific data among entities
13 under a memorandum of understanding.

14 (2) Full access, on demand by an entity under
15 the memorandum of another entity that entered into
16 the memorandum, to all information and scientific
17 data required under this Act.

18 (3) Ensuring the best reasonable safety for gov-
19 ernment and private employees involved in the pro-
20 duction, shipping, processing, inspection, or any
21 other function of the food production process.

22 (4) Conducting interagency regulation of food
23 processing and production in the most comprehen-
24 sive and consistent manner.

1 **SEC. 203. PLANS.**

2 (a) PREPARATION AND SUBMISSION OF A DATABASE
3 PLAN.—Not later than 1 year from the date of enactment
4 of this Act, the Chairman shall prepare and submit to the
5 appropriate committees of the Senate and the House of
6 Representatives a plan for the development of a com-
7 prehensive nationwide food safety database and surveil-
8 lance system. The surveillance system developed under the
9 plan shall include—

10 (1) a determination of infectious doses of com-
11 mon foodborne pathogens for all potential patient
12 populations;

13 (2) public health protocols to standardize and
14 improve the reporting of outbreaks of foodborne ill-
15 ness by local public health authorities to the Centers
16 for Disease Control; and

17 (3) such other requirements the Chairman de-
18 termines necessary.

19 (b) PREPARATION AND SUBMISSION OF A TECH-
20 NIQUE PLAN.—Not later than 1 year from the date of en-
21 actment of this Act, the Chairman shall prepare and sub-
22 mit to the appropriate committees of the Senate and the
23 House of Representatives, a plan for the innovation and
24 implementation of food safety and inspection techniques,
25 including techniques of hazard analysis of critical control
26 points, rapid pathogen detection, trace-back technology,

1 irradiation of foods, and such other techniques the Chair-
2 man determines necessary.

3 **TITLE III—ESTABLISHMENT OF**
4 **A LIAISON OFFICE**

5 **SEC. 301. ESTABLISHMENT OF THE OFFICE OF PUBLIC**
6 **HEALTH LIAISON.**

7 (a) IN GENERAL.—There is established within the
8 Commission an Office of Public Liaison.

9 (b) FUNCTIONS.—The Office of Public Liaison shall
10 provide information and advice, with respect to food safety
11 and inspection, to agencies of the United States Public
12 Health Service, the National Academy of Sciences, State
13 and local public health agencies, and academia, and shall
14 carry out such other activities as the Chairman determines
15 necessary.

16 **TITLE IV—GENERAL**
17 **PROVISIONS**

18 **SEC. 401. REPORTS.**

19 On the date that is 1 year after the date of the enact-
20 ment of this Act, and 3 years thereafter, the Chairman
21 shall report to Congress on the estimated additional cost
22 of implementing this Act.

23 **SEC. 402. AUTHORIZATION OF APPROPRIATIONS.**

24 There are authorized to be appropriated such sums
25 as are necessary to carry out this Act.

1 **SEC. 403. EFFECTIVE DATE.**

2 Except for sections 107, 108, 202, and 203, which
3 shall become effective on the date of enactment, this Act
4 shall become effective on the earlier of—

5 (1) such date during the 180-day period begin-
6 ning on the date of enactment of this Act as the
7 President may direct in an Executive order; or

8 (2) the date that is 180 days after the date of
9 the enactment of this Act.

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