

Food Safety Bill Amendments Explained

What's in the Tester-Hagen Amendment?

(1) The amendment clarifies existing law which says that farmers who direct market more than 50% of their product to the consumer at the farm or at a retail location off the farm such as a farm stand or farmer's market need not register with FDA. This clarification is especially important for off-farm retail locations such as farmers markets.

(2) It provides a size appropriate and less costly alternative to Hazard Analysis and Critical Control Plans (HACCP) for farmers who:

- Direct market more than 50% of their products directly to consumers, stores or restaurants, and
- Have gross sales (direct and non-direct combined) of less than \$500,000, and
- Sell to consumers, stores, or restaurants that are in-state or within 275 miles.

Farmers who qualify must provide documentation that the farm is in compliance with state regulations. Documentation may include licenses, inspection reports, or other evidence that the farm is in compliance with State, local, county, or other applicable non-Federal food safety law. The farm must also prominently and conspicuously display the name and address of farm/facility on its label. For foods without a label then by poster, sign, or placard, at the point of purchase or, in the case of Internet sales, in an electronic notice, or in the case of sales to stores and restaurants, on the invoice.

If there are no state regulations or if the farmer prefers a different option, the farmer must provide FDA with documentation that potential hazards have been identified and that preventive controls have been implemented and are being monitored for effectiveness.

(3) It provides alternatives to the produce standards for farms that:

- Direct market more than 50% of their products directly to consumers, stores or restaurants, and
- Have gross sales (direct and non-direct combined) of less than \$500,000, and
- Sell to consumers, stores, or restaurants that are in-state or within 275 miles.

The farm must prominently and conspicuously display the name and address of farm/facility on its label. For foods without a label then by poster, sign, or placard, at the point of purchase or, in the case of Internet sales, in an electronic notice, or in the case of sales to stores and restaurants, on the invoice.

Also in the Senate Bill:

(1) An amendment sponsored by Senator Debbie Stabenow (D-MI) to provide for a USDA-delivered competitive grants program for food safety training for farmers, small processors and wholesalers. The training projects will prioritize small and mid-scale farms, beginning and socially disadvantaged farmers, and small food processors and wholesalers. The grant program will be administered by USDA's National Institute for Food and Agriculture.

(2) An amendment sponsored by Senator Michael Bennet (D-CO) to reduce unnecessary paperwork and excess regulation required under the preventative control plan and the produce standards sections of the bill. FDA is instructed to provide flexibility for small processors including on-farm processing, to minimize the burden of compliance with regulations, and to minimize the number of different standards that apply to separate foods. FDA will also be prohibited from requiring farms and other food facilities to hire consultants to write food safety plans. The Bennet amendment applies to all small farms and processors, not just those who direct market within 400 miles of their farms.

(3) An amendment sponsored by Senator Bernie Sanders (I-VT) for farms that engage in value-added processing or that co-mingle product from several farms gives the Food and Drug Administration (FDA) the authority to either exempt farms engaged in low or

no risk processing or co-mingling activities from new regulatory requirements or to modify particular regulatory requirements for such farming operations.

(4) An amendment championed by Senator Barbara Boxer (D-CA) to strip the bill of wildlife-threatening enforcement against “animal encroachment” of farms is also in the manager’s package. It will require FDA to apply sound science to any requirements that might impact wildlife and wildlife habitat on farms.

(5) An amendment proposed by Senator Sherrod Brown (D-OH) will not require small farmers to meet extensive traceability and recordkeeping if they sell food directly to consumers or to grocery stores and allows labeling that preserves the identity of the farm to satisfy traceability requirements. The amendment also prevents FDA from requiring any farm from needing to keep records beyond the first point of sale when the product leaves the farm, except in the case of farms that co-mingle product from multiple farms, in which case they must also keep records one step back as well as one step forward.