

## NEWS RELEASE

# Chicken Little and Food-Safety Accountability

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From time to time, some health-freedom groups and individuals want to grab attention and publicize what they think they know about Congressional legislation that could seriously impact our health-freedom rights and protections. Unfortunately, too often, they just cross the line in presenting fiction as legislative or FDA policy fact.

This is the case with the third version of Senator Leahy's Food Safety Accountability Act, SB 216, which recently passed the Senate and is pending in the Health Subcommittee of the House Energy and Commerce Committee. Like "Chicken Little," the claims of others are that "the sky is falling" on dietary supplements and organic/nutritional foods. The NHF follows Congressional legislation closely and lobbies for and against bills on an ongoing basis, not when it is convenient and will draw attention but when it is really needed. The NHF is serious about investigating the facts and legislative language of any Congressional bills that might affect health freedom or the Dietary Supplement Health and Education Act (DSHEA). This is done on all issues before the NHF even speaks its opinion and legislative position. We do our homework because the health-freedom community deserves to know the truth. And NHF knows that health-freedom advocates want the truth before spending their precious time lobbying members of Congress or donating to a cause.

The fact is, the sky is not falling on supplements or on organic/nutritional foods with SB 216, as some are claiming on this issue. This third version of the Leahy bill is *drastically* pared back in scope from the original bill, and even the second version of the legislation. Regardless, in all three versions, dietary supplements are *exempted* from the application of the definition of food contained in SB 216. In the bill, food has the meaning given that term in Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321). This is not the DSHEA part of the food section in the FDCA.

According to Senate staff, Senators Sessions, Hatch, Coburn, and Grassley all had concerns about the statutory linkage between foods and supplements, and the final Leahy language reflects these concerns. The only "troubling" legislative word is "food." So, organic foods and supplements are not included, only conventional foods and the companies that process and distribute conventional foods. As we all know, conventional foods are foods that are not dietary supplements. And, dietary supplements must be labeled as such and must not be represented for use as a conventional food or as the sole item of a meal.

On the issue of the application of SB 216 to organic/natural foods, the Leahy bill amends last year's so-called Food Safety law, S.510, which the NHF and others

strongly opposed. To that bill, the Testor/Hagan amendment was added to exempt small organic and natural food growers. By definition, this Chicken Little threat does not exist for small organic and natural food growers.

The intent of the latest Leahy Food Safety Accountability bill, according to the Senator's own floor statement, is to provide sufficient criminal sanctions for those who violate the food-safety laws with the intent to mislead or defraud. These are conventional food companies and their CEOs. Under current law, this is illegal but only a Federal misdemeanor with fines and recalls. Leahy ups the ante on conventional food companies, especially those who import conventional food for distribution to U.S. consumers. Food safety is important, but it should not be over-regulated. Regulations have a strange way of back-firing and producing the exact opposite of their intended effects. In this case, as we have always said, more regulations will just make the food supply less safe, not safer.

The NHF is monitoring the Leahy bill in the House. Its chances for passage are slim and none, but anything with Congress is possible. Even if the Leahy bill did pass and were enacted into law, it would not materially impact dietary supplements or organic food products. There's a world of difference between acknowledging an indirect or limited threat as opposed to blowing things all out of proportion just so that you can look as if you are doing something.

Sensationalism makes for good headlines, but it really disrespects you the reader – the health-freedom proponent who matters the most. The NHF is husbanding its resources and not actively trying to defeat SB 216 because of the facts we set forth above and – quite frankly – because we do not support Big Agribusiness companies and their rapacious practices.

As the oldest and best-respected health-freedom group on Capitol Hill, the NHF continues to be the credible source of objective assessment of, and proactive actions on, Congressional legislation and FDA matters that have material impact upon our freedom-of-health choices and access to dietary supplements and nutritional foods.

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