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To require the Secretary of Agriculture to provide retail establishments with information describing recalled meat, poultry, eggs, and related food products, to require the retail establishment to communicate the recall information to consumers, to require the Food Safety Inspection Service of the Department of Agriculture to protect against certain foodborne illnesses, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 8, 2011

Mrs. GILLIBRAND introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To require the Secretary of Agriculture to provide retail establishments with information describing recalled meat, poultry, eggs, and related food products, to require the retail establishment to communicate the recall information to consumers, to require the Food Safety Inspection Service of the Department of Agriculture to protect against certain foodborne illnesses, 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 “Foodborne Illness Re-
3 duction Act of 2011”.

4 **SEC. 2. CONSUMER RECALL NOTIFICATION.**

5 Subtitle A of the Agricultural Marketing Act of 1946
6 is amended by adding after section 208 (7 U.S.C. 1627)
7 the following:

8 **“SEC. 209. CONSUMER RECALL NOTIFICATION.**

9 “(a) **DEFINITIONS.**—In this section:

10 “(1) **CLASS I RECALL.**—The term ‘Class I re-
11 call’ means a food recall classification defined by the
12 Secretary that covers a health-hazard situation in
13 which there is a reasonable probability that the use
14 of the food or food product being recalled will cause
15 a serious, adverse health consequence or death.

16 “(2) **FOOD OR FOOD PRODUCT.**—The term
17 ‘food or food product’ means—

18 “(A) a meat or a meat food product (with-
19 in the meaning of the Federal Meat Inspection
20 Act (21 U.S.C. 601 et seq.));

21 “(B) an egg or egg product (as defined in
22 section 4 of the Egg Products Inspection Act
23 (21 U.S.C. 1033)); or

24 “(C) a poultry or poultry product (as de-
25 fined in section 4 of the Poultry Products In-
26 spection Act (21 U.S.C. 453)).

1 “(3) RETAIL ESTABLISHMENT.—The term ‘re-
2 tail establishment’ means a grocery store or other
3 retail establishment that sells food and food prod-
4 ucts directly to consumers.

5 “(4) SECRETARY.—The term ‘Secretary’ means
6 the Secretary of Agriculture.

7 “(5) SUMMARY NOTICE.—The term ‘summary
8 notice’ means the 1-page summary notice described
9 in subsection (b).

10 “(b) DISTRIBUTION OF INFORMATION.—In the case
11 of any Class I recall, the Secretary shall, to the maximum
12 extent practicable, distribute to each retail establishment
13 in the United States a 1-page summary notice containing
14 product information of each food or food product subject
15 to the Class I recall.

16 “(c) DISTRIBUTION OF INFORMATION.—The Sec-
17 retary shall require each retail establishment that receives
18 a summary notice—

19 “(1) to post a copy of the summary notice at
20 each cash register of the retail establishment;

21 “(2) to post a copy of the summary notice on
22 the shelving unit on which the food or food product
23 was sold; or

1 “(3) in the case of a retail establishment that
2 uses a customer card system to track customer pur-
3 chases or demographics—

4 “(A) to place a call to each customer that
5 purchased a recalled food or food product to in-
6 form the customer of the Class I recall; or

7 “(B) to make available to each customer
8 that purchased a recalled food or food product
9 with a targeted coupon with information about
10 the recalled food or food product.

11 “(d) ASSISTANCE.—In cooperation with the Director
12 of the Centers for Disease Control and Prevention and the
13 Centers of Excellence of the Food and Drug Administra-
14 tion, the Secretary shall provide assistance to regional,
15 State, and local agencies to assist in carrying out this sec-
16 tion through activities such as providing resources, includ-
17 ing timely information concerning symptoms and tests, for
18 frontline health professionals interviewing individuals as
19 part of routine surveillance and outbreak investigations.”.

20 **SEC. 3. POULTRY AND POULTRY PRODUCTS.**

21 Section 4(g) of the Poultry Products Inspection Act
22 (21 U.S.C. 453(g)) is amended—

23 (1) in paragraph (7), by striking “or” at the
24 end;

1 (2) in paragraph (8), by striking the period at
2 the end and inserting a semicolon; and

3 (3) by adding at the end the following:

4 “(10) if it is contaminated with Salmonella; or

5 “(11) if it is contaminated with
6 Campylobacter.”.

7 **SEC. 4. MEAT AND MEAT PRODUCTS.**

8 (a) DEFINITION OF ADULTERATED.—Section 1(m) of
9 the Federal Meat Inspection Act (21 U.S.C. 601(m)) is
10 amended—

11 (1) in paragraph (8), by striking “or” at the
12 end;

13 (2) in paragraph (9), by striking the period at
14 the end and inserting a semicolon; and

15 (3) by adding at the end the following:

16 “(10) if it is contaminated with Salmonella;

17 “(11) if it is contaminated with *Toxoplasma*
18 *gondii*; or

19 “(12) if it is contaminated with
20 enterohemorrhagic (EHEC) Shiga toxin-producing
21 serotypes of *Escherichia coli* (*E. coli*).”.

22 (b) *E. COLI* REDUCTION IN GROUND BEEF.—Title
23 I of the Federal Meat Inspection Act (21 U.S.C. 601 et
24 seq.) is amended by adding at the end the following:

1 **“SEC. 26. E. COLI REDUCTION IN GROUND BEEF.**

2 “(a) IN GENERAL.—Not later than 180 days after
3 the date of enactment of this section, the Secretary shall
4 require that slaughterhouses, processing establishments,
5 and grinding facilities described in subsection (b) test for
6 the presence of E. coli at the following points:

7 “(1) At least 1 test at the slaughterhouse or
8 processing establishment at which source trim was
9 produced and at least 1 test of the source trim or
10 bench trim at the receiving facility prior to com-
11 bining with other lots from different sources.

12 “(2) If the source trim and grinding occurs at
13 the same facility, at least 1 test of the source trim
14 and at least 1 test of the final ground product.

15 “(b) APPLICATION.—This section applies—

16 “(1) effective beginning on the date that is 180
17 days after the date of enactment of this section, to—

18 “(A) all slaughterhouses or processing es-
19 tablishments that produce more than 25,000
20 pounds of trim per day; or

21 “(B) grinding facilities that grind more
22 than 25,000 pounds of trim or bench trim per
23 day; and

24 “(2) effective beginning on the date that is 3
25 years after the date of enactment of this section, to
26 all slaughterhouses, processing establishments, and

1 grinding facilities that produce or grind trim or
2 bench trim.

3 “(c) ADMINISTRATION.—To carry out this section,
4 the Secretary shall—

5 “(1) approve definitions of lot sizes established
6 by establishments, except that an establishment—

7 “(A) shall demonstrate to the satisfaction
8 of the Secretary scientific justification for the
9 definition of lot size proposed by the establish-
10 ment; and

11 “(B) shall not define a lot as more than
12 2,000 pounds;

13 “(2) establish testing standards;

14 “(3) assist processors in establishing appro-
15 priate sampling plans for establishments through
16 guidance documents; and

17 “(4) in the case of a positive sample that indi-
18 cates the presence of *E. coli* in a lot of an establish-
19 ment—

20 “(A) verify that meat or meat food prod-
21 ucts contaminated with the *E. coli*, and the en-
22 tire lot that is represented by the sample, are
23 disposed of or treated to eradicate the *E. coli*
24 (in accordance with guidelines of the Secretary)
25 before entry into commerce; and

1 “(B) promulgate regulations that require
2 that the slaughterhouse or processing establish-
3 ment takes corrective action and establishes
4 measures to prevent reoccurrence.

5 “(d) TESTING.—

6 “(1) IN GENERAL.—A slaughterhouse or proc-
7 essing establishment producing, or a grinding facility
8 receiving, trimmings shall test each lot using sam-
9 pling standards and procedures determined by the
10 Secretary.

11 “(2) TESTING FACILITIES.—

12 “(A) IN GENERAL.—An establishment
13 shall use an independent testing facility that
14 uses methods that are at least equivalent in
15 specificity and sensitivity to the methods used
16 by the Secretary to test beef trimmings.

17 “(B) ADMINISTRATION.—In using an inde-
18 pendent testing facility under subparagraph
19 (A), the establishment—

20 “(i) shall contract with the facility on
21 an annual basis; and

22 “(ii) shall not terminate the contract
23 on the basis of positive test results re-
24 ported by the facility.

1 “(3) PROFICIENCY TESTING SERVICE.—A lab-
2 oratory that tests beef for *E. coli* shall contract with
3 a testing service to verify the proficiency of the lab-
4 oratory.

5 “(4) TRANSMISSION OF TESTING RESULTS.—

6 “(A) IN GENERAL.—Test results of any
7 testing conducted under this subsection shall be
8 sent to the applicable slaughterhouse, proc-
9 essing establishment, or grinding facility as
10 soon as results are ready.

11 “(B) TRANSMISSION TO SECRETARY.—The
12 slaughterhouse, processing establishment, or
13 grinding facility shall report any positive or pre-
14 sumptive positive results directly to the Sec-
15 retary through electronic means not later than
16 24 hours after receipt of results from a testing
17 facility.

18 “(5) HABITUAL VIOLATORS.—A slaughterhouse
19 or processing establishment that produces or distrib-
20 utes trim that receives positive results that exceed
21 the maximum allowable percentage of positive re-
22 sults for 3 consecutive days, as determined by the
23 Secretary, or more than 10 instances per year shall
24 be listed on the public website of the Secretary as
25 a habitual violator.

1 “(6) COMPLIANCE.—The Secretary shall take
2 necessary regulatory action with respect to an estab-
3 lishment that fails to test, notify the Secretary of
4 positive results, or otherwise comply with this sub-
5 section.

6 “(e) IMPORTED GROUND BEEF.—

7 “(1) IN GENERAL.—Any trim, bench trim, and
8 ground beef originating from outside the United
9 States shall be subject to the same requirements as
10 apply to domestic trim, bench trim, and ground beef
11 under this section.

12 “(2) VERIFICATION.—

13 “(A) IN GENERAL.—To be eligible for im-
14 portation into the United States, a foreign facil-
15 ity shall provide a certification of compliance
16 with paragraph (1) to a domestic slaughter-
17 house, processing establishment, or grinding fa-
18 cility.

19 “(B) SECONDARY TESTING.—The domestic
20 slaughterhouse, processing establishment, or
21 grinding facility shall verify the results of the
22 certification by conducting secondary testing of
23 the trim, bench trim, or ground beef before
24 processing into a final ground beef product.

1 “(f) FOOD SAFETY AND INSPECTION SERVICE PRO-
2 GRAMS.—

3 “(1) SAMPLING PROGRAM.—

4 “(A) IN GENERAL.—The Secretary, acting
5 through the Administrator of the Food Safety
6 and Inspection Service, (referred to in this sub-
7 section as the ‘Secretary’) shall develop a spe-
8 cific plan to redesign the E. coli sampling and
9 verification programs of the Food Safety and
10 Inspection Service, including by—

11 “(i) prioritizing and carrying out nec-
12 essary baseline studies of beef trim and
13 ground beef to determine the estimated
14 prevalence rate of E. coli;

15 “(ii) reevaluating sample parameters
16 in order to provide higher confidence in the
17 programs;

18 “(iii) improving verification of sani-
19 tary dressing at establishments; and

20 “(iv) revising traceback methodology
21 and information management.

22 “(B) NOTICE AND COMMENT.—Prior to fi-
23 nalizing the plan developed under subparagraph
24 (A), the Secretary shall make available the plan
25 for public notice and comment.

1 “(2) HAZARD ANALYSIS VERIFICATION.—The
2 Secretary shall implement a hazard analysis
3 verification inspection procedure to identify issues of
4 concern in the design of the food safety systems of
5 establishments.”.

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