

112TH CONGRESS
1ST SESSION

S. 1529

To require the Secretary of Agriculture to protect against foodborne illnesses, provide enhanced notification of recalled meat, poultry, eggs, and related food products, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 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 protect against foodborne illnesses, provide enhanced notification of recalled meat, poultry, eggs, and related food products, 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 “Foodborne Illness Reduction Act of 2011”.

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; purposes.

TITLE I—PROTECTION AGAINST FOODBORNE ILLNESSES

Sec. 101. Definition of adulterated.

TITLE II—FOOD SAFETY

Sec. 201. Food safety.

TITLE III—RESEARCH AND EDUCATION

Sec. 211. Definition of Secretary.

Sec. 212. Foodborne illness surveillance systems.

Sec. 213. FSIS research department.

Sec. 214. Public health assessment system.

Sec. 215. Public education and advisory system.

Sec. 216. Research.

TITLE IV—CRIMINAL PENALTY AND OTHER PROVISIONS

Sec. 221. Criminal penalties.

Sec. 222. Study on HACCP-based Inspection Models Project.

Sec. 223. Study on the effect of worker safety on food safety.

1 **SEC. 2. FINDINGS; PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) the safety of the food supply of the United
4 States is vital to the public health, public confidence
5 in the food supply, and the success of the food sector
6 of the economy of the United States;

7 (2) lapses in the protection of the food supply
8 and the loss of public confidence that results from
9 foodborne illness outbreaks and food recalls are
10 damaging to consumers and the food industry, and
11 place a burden on interstate commerce and inter-
12 national trade;

13 (3) the Food Safety and Inspection Service of
14 the Department of Agriculture has jurisdiction over
15 meat, poultry, and egg products;

1 (4)(A) recent events demonstrate that the food
2 safety system administered by the Food Safety and
3 Inspection Service needs modernizing to fully control
4 hazards in regulated food; and

5 (B) these events have adversely affected con-
6 sumer confidence;

7 (5) new and emerging pathogens such as anti-
8 biotic-resistant Salmonella, and enterohemorrhagic
9 (EHEC) Shiga toxin-producing serotypes of Esch-
10 erichia coli (E. coli) place an increasing number of
11 people at high risk for foodborne illness;

12 (6) several court decisions, relying on outdated
13 understandings of the risks and nature of micro-
14 biological contaminants, have issued rulings that im-
15 pose barriers to reasonable efforts by the Food Safe-
16 ty and Inspection Service to prevent foodborne ill-
17 ness;

18 (7) Federal food safety standard setting, in-
19 spection, enforcement, and research efforts should be
20 based on the best available science and public health
21 considerations, and food safety resources should be
22 deployed in ways that most effectively prevent
23 foodborne illness;

24 (8) the Federal Meat Inspection Act (21 U.S.C.
25 601 et seq.) was first enacted in 1907, the Poultry

1 Products Inspection Act (21 U.S.C. 451 et seq.) was
2 first enacted in 1957, and the last substantial
3 amendment to those laws occurred 44 years before
4 the date of enactment of this Act;

5 (9) Congress passed the Department of Agri-
6 culture Reorganization Act of 1994 (7 U.S.C. 6901
7 et seq.), establishing the office of the Under Sec-
8 retary of Agriculture for Food Safety in order to
9 centralize and modernize the food safety system at
10 the Department of Agriculture; and

11 (10) improving Federal oversight of food safety
12 requires a modern food safety mandate and clear au-
13 thorities to effectively protect the public from
14 foodborne diseases associated with the products that
15 the Food Safety and Inspection Service regulates.

16 (b) PURPOSES.—The purposes of this Act are—

17 (1) to establish an effective, preventive food
18 safety system administered by the Food Safety and
19 Inspection Service—

20 (A) to regulate food safety and labeling to
21 strengthen the protection of the public health;

22 (B) to focus new attention on emerging
23 pathogens in the food supply, such as EHEC,
24 including Shiga toxin-producing E. coli

1 (STEC), and Salmonella strains, including
2 strains that are antibiotic resistant;

3 (C) to participate with the Food and Drug
4 Administration in an integrated, systemwide ap-
5 proach to food safety and to make more effec-
6 tive and efficient use of resources to prevent
7 foodborne illness; and

8 (D) to provide an integrated food safety
9 research capability, including internally gen-
10 erated, scientifically and statistically valid stud-
11 ies, in cooperation with academic institutions
12 and other scientific and regulatory entities of
13 the Federal and State governments;

14 (2) to modernize and strengthen the Federal
15 food safety system to ensure more effective applica-
16 tion and efficient management of the laws for the
17 protection and improvement of public health; and

18 (3) to establish that food establishments have
19 responsibility to ensure that all stages of production,
20 processing, and distribution of the products of the
21 food establishments, or under the control of the food
22 establishments, satisfy the requirements of this Act.

1 **TITLE I—PROTECTION AGAINST**
2 **FOODBORNE ILLNESSES**

3 **SEC. 101. DEFINITION OF ADULTERATED.**

4 (a) MEAT AND MEAT FOOD PRODUCTS.—Section
5 1(m) of the Federal Meat Inspection Act (21 U.S.C.
6 601(m)) is amended—

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

9 (2) in paragraph (9), by striking the period at
10 the end and inserting “; or”; and

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

12 “(10) if it is an emerging pathogen that is asso-
13 ciated with actual or potential human illnesses or
14 death, including at a minimum pathogens such as
15 antibiotic-resistant strains of Salmonella or
16 enterohemorrhagic (EHEC) Shiga toxin-producing
17 serotypes of Escherichia coli (E. coli).”.

18 (b) POULTRY AND POULTRY PRODUCTS.—Section
19 4(g) of the Poultry Products Inspection Act (21 U.S.C.
20 453(g)) is amended—

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

23 (2) in paragraph (8), by striking the period at
24 the end and inserting “; or”; and

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

1 “(9) if it is an emerging pathogen that is asso-
 2 ciated with actual or potential human illnesses or
 3 death, including at a minimum pathogens such as
 4 antibiotic-resistant strains of Salmonella or
 5 enterohemorrhagic (EHEC) Shiga toxin-producing
 6 serotypes of Escherichia coli (E. coli).”.

7 (c) EGGS AND EGG PRODUCTS.—Section 4(a) of the
 8 Egg Products Inspection Act (21 U.S.C. 1033(a)) is
 9 amended—

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

12 (2) in paragraph (8), by striking the period at
 13 the end and inserting “; or”; and

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

15 “(9) if it is an emerging pathogen that is asso-
 16 ciated with actual or potential human illnesses or
 17 death, including at a minimum pathogens such as
 18 antibiotic-resistant strains of Salmonella or
 19 enterohemorrhagic (EHEC) Shiga toxin-producing
 20 serotypes of Escherichia coli (E. coli).”.

21 **TITLE II—FOOD SAFETY**

22 **SEC. 201. FOOD SAFETY.**

23 (a) IN GENERAL.—Subtitle G of the Department of
 24 Agriculture Reorganization Act of 1994 (7 U.S.C. 6981
 25 et seq.) is amended—

1 (1) by inserting after the subtitle heading the
2 following:

3 **“PART I—ADMINISTRATION”;**

4 and

5 (2) by adding at the end the following:

6 **“PART II—FOOD SAFETY**

7 **“SEC. 263. DEFINITIONS.**

8 “In this part:

9 “(1) ADULTERATED.—

10 “(A) IN GENERAL.—The term ‘adulterated’ has the meaning given the term in—

12 “(i) in the case of poultry or a poultry
13 product, section 4 of the Poultry Products
14 Inspection Act (21 U.S.C. 453);

15 “(ii) in the case of meat or a meat
16 food product, section 1 of the Federal
17 Meat Inspection Act (21 U.S.C. 601); and

18 “(iii) in the case of an egg or egg
19 product, section 4 of the Egg Products In-
20 spection Act (21 U.S.C. 1033).

21 “(B) INCLUSION.—The term ‘adulterated’
22 includes bearing or containing a contaminant
23 that has the potential to cause illness or death
24 among sensitive populations.

1 “(2) AGENCY.—The term ‘agency’ has the
2 meaning given the term in section 551 of title 5,
3 United States Code.

4 “(3) CONTAMINANT.—The term ‘contaminant’
5 includes a bacterium, chemical, natural or manufac-
6 tured toxin, virus, parasite, prion, physical hazard,
7 or other human pathogen that when found on or in
8 food can cause human illness, injury, or death.

9 “(4) CONTAMINATION.—The term ‘contamina-
10 tion’ refers to the presence of a contaminant in food.

11 “(5) FOOD.—The term ‘food’ means—

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

15 “(B) an egg or egg product (as defined in
16 section 4 of the Egg Products Inspection Act
17 (21 U.S.C. 1033)); or

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

21 “(6) FOOD ESTABLISHMENT.—

22 “(A) IN GENERAL.—The term ‘food estab-
23 lishment’ means a slaughterhouse, factory,
24 warehouse, or facility owned or operated by a
25 person located in any State that processes food

1 or a facility that holds, stores, or transports
2 food or food ingredients.

3 “(B) EXCLUSIONS.—The term ‘food estab-
4 lishment’ does not include a farm, restaurant,
5 other retail food establishment, or nonprofit
6 food establishment in which food is prepared for
7 or served directly to the consumer.

8 “(7) FOOD SAFETY LAW.—The term ‘food safe-
9 ty law’ means—

10 “(A) the Poultry Products Inspection Act
11 (21 U.S.C. 451 et seq.);

12 “(B) the Federal Meat Inspection Act (21
13 U.S.C. 601 et seq.);

14 “(C) the Egg Products Inspection Act (21
15 U.S.C. 1031 et seq.);

16 “(D) the provisions of Public Law 85–765
17 (commonly known as the ‘Humane Methods of
18 Slaughter Act of 1958’) (7 U.S.C. 1901 et seq.)
19 administered by the Food Safety and Inspection
20 Service;

21 “(E) this part; and

22 “(F) such other provisions of law relating
23 to and requiring food safety, labeling, inspec-
24 tion, and enforcement as the President des-

1 ignates by Executive order as appropriate to in-
2 clude within the jurisdiction of the Secretary.

3 “(8) FOREIGN FOOD ESTABLISHMENT.—The
4 term ‘foreign food establishment’ means a slaughter-
5 house, factory, warehouse, or facility located outside
6 the United States that processes food for consump-
7 tion that is imported into the United States or food
8 ingredients.

9 “(9) INTERSTATE COMMERCE.—The term
10 ‘interstate commerce’ has the meaning given the
11 term in section 201 of the Federal Food, Drug, and
12 Cosmetic Act (21 U.S.C. 321).

13 “(10) MISBRANDED.—The term ‘misbranded’
14 has the meaning given the term in—

15 “(A) in the case of poultry or a poultry
16 product, section 4 of the Poultry Products In-
17 spection Act (21 U.S.C. 453);

18 “(B) in the case of meat or a meat food
19 product, section 1 of the Federal Meat Inspec-
20 tion Act (21 U.S.C. 601); and

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

1 performance standards’ means standards establishing
2 the degree to which a step or combination of steps
3 in the production, processing, distribution, or prepara-
4 tion of a food must operate to achieve the required
5 level of control over microbiological contamination.

6 “(2) PUBLIC HEALTH GOALS AND OBJEC-
7 TIVES.—The term ‘public health goals and objec-
8 tives’ means goals and objectives establishing the de-
9 sired outcome associated with reducing the burden
10 of foodborne disease in society.

11 “(b) STANDARDS, GOALS, AND OBJECTIVES.—In
12 order to protect the public health and promote food safety,
13 the Secretary shall prescribe—

14 “(1) pathogen surveys to determine current lev-
15 els of food contamination;

16 “(2) public health goals and objectives; and

17 “(3) pathogen reduction performance stand-
18 ards—

19 “(A) to reduce pathogens in food; and

20 “(B) to achieve public health goals and ob-
21 jectives.

22 “(c) LIST OF PATHOGENS.—

23 “(1) IN GENERAL.—In consultation with the
24 Secretary of Health and Human Services, and tak-
25 ing into account data available from the Centers for

1 Disease Control and Prevention, the Secretary shall
2 identify the pathogens that make a significant con-
3 tribution to the total burden of foodborne disease as-
4 sociated with food.

5 “(2) PUBLICATION; UPDATES.—The Secretary
6 shall—

7 “(A) publish a list of the pathogens de-
8 scribed in paragraph (1) not later than 180
9 days after the date of enactment of this section;
10 and

11 “(B) update and publish the list annually
12 thereafter.

13 “(d) PATHOGEN SURVEYS.—

14 “(1) IN GENERAL.—Not later than 180 days
15 after the date of enactment of this section, the Sec-
16 retary shall initiate the planning and subsequent im-
17 plementation of comprehensive surveys to determine
18 the current levels and incidence of contamination of
19 food products with the pathogens listed under sub-
20 section (c), including the variation in levels and inci-
21 dence of contamination among establishments.

22 “(2) PUBLICATION.—Not later than 2 years
23 after the date of enactment of this section, the Sec-
24 retary shall compile, and publish in the Federal Reg-
25 ister, the results of the surveys.

1 “(3) UPDATES.—At least once every 3 years
2 after the preceding surveys are conducted, the Sec-
3 retary shall—

4 “(A) conduct surveys described in para-
5 graph (1); and

6 “(B) compile and publish the results of the
7 surveys in accordance with paragraph (2).

8 “(e) PUBLIC HEALTH GOALS AND OBJECTIVES.—

9 “(1) IN GENERAL.—Not later than 1 year after
10 the completion of pathogen surveys under subsection
11 (d), and in coordination with the Secretary of
12 Health and Human Services and the Director of the
13 Centers for Disease Control and Prevention, the
14 Secretary shall establish public health goals and ob-
15 jectives to achieve measurable population-based tar-
16 gets for the reduction of foodborne illness.

17 “(2) REQUIREMENTS.—The goals described in
18 subsection (b)(2) shall be updated every 2 years ac-
19 cording to current epidemiological studies in
20 foodborne illness and the most recently updated in-
21 formation from the Centers for Disease Control and
22 Prevention about the prevalence of foodborne illness.

23 “(f) PATHOGEN REDUCTION PERFORMANCE STAND-
24 ARDS.—

1 “(1) IN GENERAL.—The pathogen reduction
2 performance standards required under subsection (b)
3 shall ensure the lowest level or incidence of contami-
4 nation that is reasonably achievable using the best
5 available processing technology and practices.

6 “(2) CURRENT CONTAMINATION.—In deter-
7 mining what is reasonably achievable, the Secretary
8 shall consider data on current levels or incidence of
9 contamination, including what is being achieved by
10 establishments in the upper quartile of performance
11 in controlling the level or incidence of contamination.

12 “(3) INITIAL PATHOGENS.—Not later than 3
13 years after the date of enactment of this section, the
14 Secretary shall propose pathogen reduction perform-
15 ance standards for at least 2 pathogens from the list
16 published under subsection (c).

17 “(4) SUBSEQUENT PATHOGENS.—Not later
18 than 1 year after proposing pathogen reduction
19 standards for the initial pathogens under paragraph
20 (3), and annually thereafter, the Secretary shall pro-
21 pose a pathogen reduction performance standard for
22 at least 1 pathogen each year from the list published
23 under subsection (c) until standards have been pro-
24 posed for all pathogens on the list.

1 “(5) FINAL STANDARDS.—Not later than 1
2 year after proposing a pathogen reduction standard
3 for a pathogen under this subsection, the Secretary
4 shall promulgate a final pathogen reduction stand-
5 ard and propose sampling standards and procedures
6 for the pathogen in regulated products.

7 “(g) PERFORMANCE STANDARDS.—The performance
8 standards established under this section shall include—

9 “(1) health-based standards that set the level of
10 a contaminant that can safely and lawfully be
11 present in food;

12 “(2) zero tolerances, including zero tolerances
13 for fecal matter, in addition to any zero-tolerance
14 standards in effect on the day before the date of en-
15 actment of this section, when necessary to protect
16 against significant adverse health outcomes;

17 “(3) process standards, such as log reduction
18 criteria for cooked products, when sufficient to en-
19 sure the safety of processed food; or

20 “(4) in the absence of data to support a per-
21 formance standard described in paragraph (1), (2),
22 or (3), standards that define required performance
23 in terms of best reasonably achievable performance,
24 using best available technologies, interventions, and
25 practices.

1 “(h) REVIEW OF STANDARDS.—

2 “(1) IN GENERAL.—Not later than 3 years
3 after promulgation of a final pathogen reduction
4 performance standard for a pathogen under sub-
5 section (f)(5), the Secretary shall review each stand-
6 ard to determine whether the standard continues to
7 ensure the lowest level or incidence of contamination
8 that is reasonably achievable using the best available
9 processing technology and practices, taking into ac-
10 count the most recent survey conducted under sub-
11 section (d).

12 “(2) PUBLIC HEALTH GOALS.—The goals de-
13 scribed in subsection (e) shall be—

14 “(A) used in addition to the most recent
15 survey conducted under subsection (d) to evalu-
16 ate the pathogen performance standards set by
17 the Secretary; and

18 “(B) considered when the Secretary re-
19 views and revises the final pathogen reduction
20 performance standards in accordance with sub-
21 section (f).

22 “(3) REVISIONS.—The Secretary shall revise
23 the standards, as necessary, to comply with sub-
24 section (f).

25 “(i) ENFORCEMENT.—

1 “(1) SAMPLING PROGRAM.—

2 “(A) IN GENERAL.—Not later than 1 year
3 after the promulgation of a performance stand-
4 ard under this section, the Secretary shall im-
5 plement a sampling program to determine
6 whether food establishments are complying with
7 the performance standards promulgated under
8 this section.

9 “(B) REQUIREMENT.—The program estab-
10 lished under this paragraph shall be at least as
11 stringent as the Hazard Analysis and Critical
12 Control Point System requirements established
13 under part 417 of title 9, Code of Federal Reg-
14 ulations (or successor regulation).

15 “(2) INSPECTIONS.—If the Secretary deter-
16 mines that a food establishment fails to meet a
17 standard promulgated under this section, and the
18 food establishment fails to take appropriate correc-
19 tive action as determined by the Secretary, the Sec-
20 retary shall, as appropriate—

21 “(A) order a recall of food from the food
22 establishment under section 269;

23 “(B) require enhanced inspection of the
24 food establishment;

1 “(C) withdraw the mark of inspection from
2 the food establishment; or

3 “(D) take other appropriate enforcement
4 action concerning the food establishment, in-
5 cluding revocation of the grant of inspection.

6 “(j) NEWLY IDENTIFIED CONTAMINANTS.—Notwith-
7 standing any other provision of this section, the Secretary
8 shall promulgate interim performance standards for newly
9 identified contaminants as necessary to prevent disease
10 outbreaks or other hazards to the public health.

11 “(k) ENFORCEMENT OF CERTAIN REGULATIONS.—
12 The Secretary shall ensure that, as compared to regula-
13 tions under part 54 of title 7, Code of Federal Regula-
14 tions, that are in effect as of the date of enactment of
15 this section, regulations promulgated under this part re-
16 lating to—

17 “(1) carcass inspection and safety are at least
18 as stringent;

19 “(2) the frequency of inspection services are at
20 least as frequent; and

21 “(3) staffing levels are at least as high.

22 **“SEC. 265. PATHOGEN REDUCTION AND TESTING.**

23 “(a) IN GENERAL.—Not later than 180 days after
24 the date of enactment of this section or the subsequent
25 adoption of performance standards under section 264, the

1 Secretary shall require that food establishments described
2 in subsection (b) sample for the presence of identified
3 pathogens at any points in production or processing that
4 are identified by the Secretary.

5 “(b) APPLICATION.—This section applies to—

6 “(1)(A) all slaughterhouses or processing estab-
7 lishments that produce more than 25,000 pounds of
8 trim per day; or

9 “(B) grinding facilities that grind more than
10 25,000 pounds of trim or bench trim per day; and

11 “(2) effective beginning on the date that is 3
12 years after the date of enactment of this section—

13 “(A) to all food establishments that
14 produce or grind trim or bench trim; and

15 “(B) such other food establishments as are
16 designated by the Secretary.

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

19 “(1) establish sampling standards and proce-
20 dures;

21 “(2) define appropriate sampling plans for food
22 establishments through guidance documents;

23 “(3) promulgate regulations that require that
24 the food establishment takes corrective action when

1 violative products are found through testing and es-
 2 tablishes measures to prevent reoccurrence; and

3 “(4) upon inspection, review the definition of
 4 lot sizes established by food establishments to ensure
 5 that—

6 “(A) there is a rational justification for the
 7 lot size; and

8 “(B) no lot is more than 2,000 pounds.

9 “(d) TESTING.—Food establishments undertaking
 10 testing under this section shall use—

11 “(1) sampling standards and procedures deter-
 12 mined by the Secretary under section 264(f)(5); and

13 “(2) a laboratory accredited under section 266.

14 **“SEC. 266. LABORATORY ACCREDITATION.**

15 “(a) RECOGNITION OF LABORATORY ACCREDITA-
 16 TION.—

17 “(1) IN GENERAL.—Not later than 2 years
 18 after the date of enactment of this section, the Sec-
 19 retary shall—

20 “(A) establish a program for the testing of
 21 meat and meat food products by accredited lab-
 22 oratories;

23 “(B) establish and maintain on the Inter-
 24 net website of the Department an up-to-date
 25 and publicly available registry of accreditation

1 bodies recognized by the Secretary and labora-
2 tories accredited by a recognized accreditation
3 body, including the name of, contact informa-
4 tion for, and other information considered ap-
5 propriate by the Secretary about the accredita-
6 tion bodies and laboratories; and

7 “(C) require, as a condition of recognition
8 or accreditation, as appropriate, that recognized
9 accreditation bodies and accredited laboratories
10 report to the Secretary any changes that would
11 affect the recognition of the accreditation body
12 or the accreditation of the laboratory.

13 “(2) PROGRAM REQUIREMENTS.—The program
14 established under paragraph (1)(A) shall provide for
15 the recognition of laboratory accreditation bodies
16 that meet criteria established by the Secretary for
17 accreditation of laboratories, including independent
18 private laboratories and laboratories run and oper-
19 ated by a Federal agency (including the Department
20 of Commerce), State, or locality with a demonstrated
21 capability to conduct 1 or more sampling and analyt-
22 ical testing methodologies for meat and meat food
23 products.

24 “(3) INCREASING THE NUMBER OF QUALIFIED
25 LABORATORIES.—The Secretary shall work with the

1 laboratory accreditation bodies recognized under
2 paragraph (1), as appropriate, to increase the num-
3 ber of qualified laboratories that are eligible to per-
4 form testing under this subsection beyond the num-
5 ber so qualified on the date of enactment of this sec-
6 tion.

7 “(4) LIMITED DISTRIBUTION.—In the interest
8 of national security, the Secretary, in coordination
9 with the Secretary of Homeland Security, may deter-
10 mine the time, manner, and form in which the reg-
11 istry established under paragraph (1)(B) is made
12 publicly available.

13 “(5) FOREIGN LABORATORIES.—Accreditation
14 bodies recognized by the Secretary under paragraph
15 (1) may accredit laboratories that operate outside
16 the United States, so long as the laboratories meet
17 the accreditation standards applicable to domestic
18 laboratories accredited under this subsection.

19 “(6) MODEL LABORATORY STANDARDS.—

20 “(A) IN GENERAL.—The Secretary shall
21 develop model standards that a laboratory shall
22 meet to be accredited by a recognized accredita-
23 tion body for a specified sampling or analytical
24 testing methodology and included in the reg-
25 istry provided for under paragraph (1).

1 “(B) REQUIREMENTS.—In developing the
2 model standards, the Secretary shall—

3 “(i) consult existing standards for
4 guidance; and

5 “(ii) include—

6 “(I) methods to ensure that—

7 “(aa) appropriate sampling,
8 analytical procedures (including
9 rapid analytical procedures), and
10 commercially available techniques
11 are followed and reports of anal-
12 yses are certified as true and ac-
13 curate;

14 “(bb) internal quality sys-
15 tems are established and main-
16 tained;

17 “(cc) procedures exist to
18 evaluate and respond promptly to
19 complaints regarding analyses
20 and other activities for which the
21 laboratory is accredited; and

22 “(dd) individuals who con-
23 duct the sampling and analyses
24 are qualified by training and ex-
25 perience to do so; and

1 “(II) any other criteria deter-
2 mined appropriate by the Secretary.

3 “(7) REVIEW OF RECOGNITION.—To ensure
4 compliance with the requirements of this subsection,
5 the Secretary—

6 “(A) shall periodically, and in no case less
7 frequently than once every 5 years, reevaluate
8 accreditation bodies recognized under para-
9 graph (1) and may accompany auditors from an
10 accreditation body to assess whether the accred-
11 itation body meets the criteria for recognition;
12 and

13 “(B) shall promptly revoke the recognition
14 of any accreditation body found not to be in
15 compliance with the requirements of this sub-
16 section, specifying, as appropriate, any terms
17 and conditions necessary for laboratories ac-
18 credited by the accreditation body to continue
19 to perform testing as described in this sub-
20 section.

21 “(b) TESTING PROCEDURES.—

22 “(1) IN GENERAL.—Not later than 30 months
23 after the date of enactment of this section, food test-
24 ing shall be conducted by Federal laboratories or
25 non-Federal laboratories that have been accredited

1 for the appropriate sampling or analytical testing
2 methodology or methodologies by a recognized ac-
3 creditation body on the registry established by the
4 Secretary under subsection (a)(1)(B)—

5 “(A) in response to a specific testing re-
6 quirement under this Act (including imple-
7 menting regulations), when applied to address
8 an identified or suspected meat or meat food
9 product safety problem; and

10 “(B) as required by the Secretary, as the
11 Secretary considers appropriate, to address an
12 identified or suspected food safety problem.

13 “(2) RESULTS OF TESTING.—

14 “(A) IN GENERAL.—The results of any
15 testing under this section shall be sent directly
16 to the applicable food establishment and the
17 Secretary, unless the Secretary by regulation
18 exempts test results from the submission re-
19 quirement if the Secretary determines that the
20 results do not contribute to the protection of
21 public health.

22 “(B) ELECTRONIC SUBMISSION.—Test re-
23 sults required to be submitted may be sub-
24 mitted to the Secretary through electronic
25 means.

1 “(3) EXCEPTION.—The Secretary may waive
2 requirements under this subsection if—

3 “(A) a new methodology has been devel-
4 oped and validated but a laboratory has not yet
5 been accredited to perform the methodology;
6 and

7 “(B) the use of the methodology is nec-
8 essary to prevent, control, or mitigate a food
9 emergency or foodborne illness outbreak.

10 “(c) REVIEW BY SECRETARY.—If food sampling and
11 testing performed by a laboratory run and operated by a
12 State or locality that is accredited by a recognized accredi-
13 tation body on the registry established by the Secretary
14 under subsection (a) result in a State recalling a food, the
15 Secretary shall review the sampling and testing results for
16 the purpose of determining the need for a national recall
17 or other compliance and enforcement activities.

18 “(d) NO LIMIT ON SECRETARIAL AUTHORITY.—
19 Nothing in this section limits the ability of the Secretary
20 to review and act on information from food testing, includ-
21 ing determining the sufficiency of the information and
22 testing.

23 **“SEC. 267. TRACEBACK.**

24 “(a) IN GENERAL.—The Secretary, in order to pro-
25 tect the public health, shall establish requirements for a

1 national system for tracing food and food-producing ani-
2 mals from point of slaughter to retail sale, subject to sub-
3 section (b).

4 “(b) APPLICABILITY.—Traceability requirements
5 shall—

6 “(1) be established in accordance with regula-
7 tions and guidelines issued by the Secretary; and

8 “(2) apply to food establishments.

9 “(c) TRACEABILITY.—

10 “(1) IN GENERAL.—The Secretary shall imple-
11 ment tracing protocols using methods and tech-
12 nologies to enable the Food Safety and Inspection
13 Service to rapidly trace adulterated food to—

14 “(A) the source of the contamination to
15 determine the original site source of the adul-
16 teration or contamination; and

17 “(B) destinations to which the food has
18 been shipped.

19 “(2) REQUIREMENTS.—

20 “(A) IN GENERAL.—Tracing protocols
21 under this subsection shall include the collection
22 of documentary and other relevant material to
23 enable rapid tracing, including—

24 “(i) food establishment identification
25 data;

1 “(ii) a description of the food;
2 “(iii) shipping marks;
3 “(iv) bar coding; and
4 “(v) disclosure of sole-source or mul-
5 tiple-source origin.

6 “(B) TIMING.—The collection of documen-
7 tary and other relevant material to enable rapid
8 tracing under subparagraph (A) shall occur at
9 the time that transfer of the relevant food is
10 completed.

11 “(C) CERTIFICATION.—The onsite inspec-
12 tor and a responsible food establishment rep-
13 resentative shall certify that the documentary
14 and other tracing material collected under sub-
15 paragraph (A) are complete and accurate.

16 “(3) TRACING OF ADULTERATED AND CON-
17 TAMINATED FOOD.—If a food sample tests positive
18 or is indicated to test positive for a contaminant, the
19 Secretary shall immediately conduct a trace—

20 “(A) to identify all sites of contamination,
21 including preparation, packaging, and slaugh-
22 tering establishments;

23 “(B) to identify the original source of con-
24 tamination; and

1 “(C) to identify any recipient of the food,
2 other than the consumer, or food that may have
3 been similarly affected.

4 “(d) RELATIONSHIP TO COUNTRY OF ORIGIN LABEL-
5 ING.—Nothing in this section prevents or interferes with
6 implementation of the country of origin labeling require-
7 ments of subtitle D of the Agricultural Marketing Act of
8 1946 (7 U.S.C. 1638 et seq.).

9 **“SEC. 268. IMPORTS.**

10 “As soon as practicable after the date of enactment
11 of this section, the Secretary shall promulgate regulations
12 under which the Secretary may remove a country from the
13 appropriate list maintained by the Secretary of countries
14 allowed to import 1 or more foods into the United States
15 if—

16 “(1) the country refuses to allow the Secretary
17 to conduct such onsite audits as the Secretary deter-
18 mines to be necessary to verify the safety of the food
19 to be imported; or

20 “(2) imports of food from the country have
21 been suspended more than once during a 5-year pe-
22 riod for major food safety infractions.

23 **“SEC. 269. NOTIFICATION AND RECALL.**

24 “(a) DEFINITIONS.—In this section:

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

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

11 “(3) SUMMARY NOTICE.—The term ‘summary
12 notice’ means the 1-page summary notice described
13 in subsection (d).

14 “(b) NOTICE TO SECRETARY OF VIOLATION.—

15 “(1) IN GENERAL.—A person that has reason
16 to believe that any food introduced into or in inter-
17 state commerce, or held for sale (whether or not the
18 first sale) after shipment in interstate commerce,
19 may be in violation of the food safety law shall im-
20 mediately notify the Secretary of the identity and lo-
21 cation of the food.

22 “(2) MANNER OF NOTIFICATION.—Notification
23 under paragraph (1) shall be made in such manner
24 and by such means as the Secretary may require by
25 regulation.

1 “(c) RECALL AND CONSUMER NOTIFICATION.—

2 “(1) VOLUNTARY ACTIONS.—If the Secretary
3 determines that food is in violation of the food safe-
4 ty law when introduced into or while in interstate
5 commerce or while held for sale (whether or not the
6 first sale) after shipment in interstate commerce or
7 that there is a reasonable probability that the food,
8 if consumed, would present a threat to public health,
9 as determined by the Secretary, the Secretary shall
10 give the appropriate persons (including the manufac-
11 turers, importers, distributors, or retailers of the
12 food) an opportunity—

13 “(A) to cease distribution of the food;

14 “(B) to notify all persons—

15 “(i) processing, distributing, or other-
16 wise handling the food to immediately
17 cease such activities with respect to the
18 food; or

19 “(ii) to which the food has been dis-
20 tributed, transported, or sold, to imme-
21 diately cease distribution of the food;

22 “(C) to recall the food;

23 “(D) in conjunction with the Secretary, to
24 provide notice of the finding of the Secretary—

1 “(i) to consumers to whom the food
2 was, or may have been, distributed; and

3 “(ii) to State and local public health
4 officials; or

5 “(E) to take any combination of the meas-
6 ures described in this paragraph, as determined
7 by the Secretary to be appropriate in the cir-
8 cumstances.

9 “(2) MANDATORY ACTIONS.—If a person re-
10 ferred to in paragraph (1) refuses to or does not
11 adequately carry out the actions described in that
12 paragraph within the time period and in the manner
13 prescribed by the Secretary, the Secretary shall—

14 “(A) have authority to control and possess
15 the food or recall the food, including ordering
16 the shipment of the food from the food estab-
17 lishment to the Secretary—

18 “(i) at the expense of the food estab-
19 lishment; or

20 “(ii) in an emergency (as determined
21 by the Secretary), at the expense of the
22 Secretary; and

23 “(B) by order, require, as the Secretary
24 determines to be necessary, the person to imme-
25 diately—

1 “(i) cease distribution of the food;

2 “(ii) notify all persons—

3 “(I) processing, distributing, or
4 otherwise handling the food to imme-
5 diately cease such activities with re-
6 spect to the food; or

7 “(II) if the food has been distrib-
8 uted, transported, or sold, to imme-
9 diately cease distribution of the food;
10 and

11 “(iii) recall contaminated food.

12 “(3) NOTIFICATION TO CONSUMERS BY SEC-
13 RETARY.—In accordance with subsection (d), the
14 Secretary shall, as the Secretary determines to be
15 necessary, provide notice of the finding of the Sec-
16 retary under paragraph (1)—

17 “(A) to consumers to whom the food was,
18 or may have been, distributed;

19 “(B) to State and local public health offi-
20 cials; and

21 “(C) to such other persons as the Sec-
22 retary determines appropriate.

23 “(4) NONDISTRIBUTION BY NOTIFIED PER-
24 SONS.—A person that processes, distributes, or oth-
25 erwise handles the food, or to which the food has

1 been distributed, transported, or sold, and that is
2 notified under paragraph (1)(B) or (2)(B) shall im-
3 mediately cease distribution of the food.

4 “(5) AVAILABILITY OF RECORDS TO SEC-
5 RETARY.—Each person referred to in paragraph (1)
6 that processed, distributed, or otherwise handled
7 food shall make available to the Secretary informa-
8 tion necessary to carry out this subsection, as deter-
9 mined by the Secretary, regarding—

10 “(A) persons that processed, distributed,
11 or otherwise handled the food; and

12 “(B) persons to which the food has been
13 transported, sold, distributed, or otherwise han-
14 dled.

15 “(d) CONSUMER RECALL NOTIFICATION.—

16 “(1) DISTRIBUTION OF INFORMATION.—In the
17 case of any Class I recall, the Secretary shall, to the
18 maximum extent practicable, distribute to each retail
19 establishment in the United States a 1-page sum-
20 mary notice containing product information of each
21 food or food product subject to the Class I recall.

22 “(2) DISTRIBUTION OF INFORMATION.—The
23 Secretary shall require each retail establishment that
24 receives a summary notice—

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

3 “(B) to post a copy of the summary notice
4 on the shelving unit on which the food or food
5 product was sold; or

6 “(C) in the case of a retail establishment
7 that uses a customer card system to track cus-
8 tomer purchases or demographics—

9 “(i) to place a call to each customer
10 that purchased a recalled food or food
11 product to inform the customer of the
12 Class I recall; or

13 “(ii) to make available to each cus-
14 tomer that purchased a recalled food or
15 food product with a targeted coupon with
16 information about the recalled food or food
17 product.

18 “(3) ASSISTANCE.—In cooperation with and,
19 when necessary, with direct assistance from the Di-
20 rector of the Centers for Disease Control and Pre-
21 vention and the Centers of Excellence of the Food
22 and Drug Administration, the Secretary shall pro-
23 vide assistance to regional, State, and local agencies
24 to assist in carrying out this section through activi-
25 ties such as providing resources, including timely in-

1 formation concerning symptoms and tests, for front-
2 line health professionals interviewing individuals as
3 part of routine surveillance and outbreak investiga-
4 tions.

5 “(4) AVAILABILITY OF LISTS OF RETAIL CON-
6 SIGNEES DURING FOOD RECALLS.—The Secretary
7 shall make publicly available the names and loca-
8 tions of retail establishment consignees of recalled
9 food or food products that the Secretary compiles in
10 connection with a recall for which there is a reason-
11 able probability that the use of the food or food
12 product could cause serious adverse health con-
13 sequences or death.

14 “(e) INFORMAL HEARINGS ON ORDERS.—

15 “(1) IN GENERAL.—The Secretary shall provide
16 any person subject to an order under subsection (c)
17 with an opportunity for an informal hearing, to be
18 held as soon as practicable but not later than 2 busi-
19 ness days after the issuance of the order.

20 “(2) SCOPE OF THE HEARING.—In a hearing
21 under paragraph (1), the Secretary shall consider
22 the actions required by the order and any reasons
23 why the food that is the subject of the order should
24 not be recalled.

25 “(f) POST-HEARING RECALL ORDERS.—

1 “(1) AMENDMENT OF ORDER.—If, after pro-
2 viding an opportunity for an informal hearing under
3 subsection (e), the Secretary determines that there
4 is a reasonable probability that the food that is the
5 subject of an order under subsection (e), if con-
6 sumed, would present a threat to the public health,
7 the Secretary, as the Secretary determines to be nec-
8 essary, may—

9 “(A) amend the order to require recall of
10 the food or other appropriate action;

11 “(B) specify a timetable in which the recall
12 shall occur;

13 “(C) require periodic reports to the Sec-
14 retary describing the progress of the recall; and

15 “(D) provide notice of the recall to con-
16 sumers to whom the food was, or may have
17 been, distributed.

18 “(2) VACATION OF ORDERS.—If, after providing
19 an opportunity for an informal hearing under sub-
20 section (e), the Secretary determines that adequate
21 grounds do not exist to continue the actions required
22 by the order, the Secretary shall vacate the order.

23 “(g) REMEDIES NOT EXCLUSIVE.—The remedies
24 provided in this section shall be in addition to, and not
25 exclusive of, other remedies that may be available.

1 **“SEC. 270. ENFORCEMENT AND ADMINISTRATION.**

2 “(a) CIVIL PENALTIES.—

3 “(1) CIVIL SANCTIONS.—

4 “(A) CIVIL PENALTY.—

5 “(i) IN GENERAL.—Any person that
6 commits an act that violates the food safe-
7 ty law (including a regulation promulgated
8 or order issued under a Federal food safety
9 law) may be assessed a civil penalty by the
10 Secretary of not more than \$10,000 for
11 each such act.

12 “(ii) SEPARATE OFFENSE.—Each act
13 described in clause (i) and each day during
14 which that act continues shall be consid-
15 ered a separate offense.

16 “(B) OTHER REQUIREMENTS.—

17 “(i) WRITTEN ORDER.—The civil pen-
18 alty described in subparagraph (A) shall be
19 assessed by the Secretary by a written
20 order, which shall specify the amount of
21 the penalty and the basis for the penalty
22 under clause (ii) considered by the Sec-
23 retary.

24 “(ii) AMOUNT OF PENALTY.—Subject
25 to subparagraph (A)(i), the amount of the

1 civil penalty shall be determined by the
2 Secretary, after considering—

3 “(I) the gravity of the violation;

4 “(II) the degree of culpability of
5 the person;

6 “(III) the size and type of the
7 business of the person; and

8 “(IV) any history of prior of-
9 fenses by the person under the food
10 safety law.

11 “(iii) REVIEW OF ORDER.—The order
12 may be reviewed only in accordance with
13 paragraph (2).

14 “(2) JUDICIAL REVIEW.—

15 “(A) IN GENERAL.—An order assessing a
16 civil penalty under paragraph (1) shall be a
17 final order unless the person—

18 “(i) not later than 30 days after the
19 effective date of the order, files a petition
20 for judicial review of the order in the
21 United States court of appeals for the cir-
22 cuit in which that person resides or has its
23 principal place of business or the United
24 States Court of Appeals for the District of
25 Columbia; and

1 “(ii) simultaneously serves a copy of
2 the petition by certified mail to the Sec-
3 retary.

4 “(B) FILING OF RECORD.—Not later than
5 45 days after the service of a copy of the peti-
6 tion under subparagraph (A)(ii), the Secretary
7 shall file in the court a certified copy of the ad-
8 ministrative record upon which the order was
9 issued.

10 “(C) STANDARD OF REVIEW.—The find-
11 ings of the Secretary relating to the order shall
12 be set aside only if found to be unsupported by
13 substantial evidence on the record as a whole.

14 “(3) COLLECTION ACTIONS FOR FAILURE TO
15 PAY.—

16 “(A) IN GENERAL.—If any person fails to
17 pay a civil penalty assessed under paragraph
18 (1) after the order assessing the penalty has be-
19 come a final order, or after the court of appeals
20 described in paragraph (2) has entered final
21 judgment in favor of the Secretary, the Sec-
22 retary shall refer the matter to the Attorney
23 General, who shall institute in a United States
24 district court of competent jurisdiction a civil
25 action to recover the amount assessed.

1 “(B) LIMITATION ON REVIEW.—In a civil
2 action under subparagraph (A), the validity and
3 appropriateness of the order of the Secretary
4 assessing the civil penalty shall not be subject
5 to judicial review.

6 “(4) PENALTIES PAID INTO ACCOUNT.—The
7 Secretary—

8 “(A) shall deposit penalties collected under
9 this section in an account in the Treasury; and

10 “(B) may use the funds in the account,
11 without further appropriation or fiscal year lim-
12 itation—

13 “(i) to carry out enforcement activi-
14 ties under food safety law; or

15 “(ii) to provide assistance to States to
16 inspect retail commercial food establish-
17 ments or other food or firms under the ju-
18 risdiction of State food safety programs.

19 “(5) DISCRETION OF THE SECRETARY TO PROS-
20 ECUTE.—Nothing in this part requires the Secretary
21 to report for prosecution, or for the commencement
22 of an action, the violation of the food safety law in
23 a case in which the Secretary finds that the public
24 interest will be adequately served by the assessment
25 of a civil penalty under this section.

1 “(6) REMEDIES NOT EXCLUSIVE.—The rem-
2 edies provided in this subsection are in addition to,
3 and not exclusive of, other remedies that may be
4 available under this or any other Act.

5 “(b) PRESUMPTION.—In any action to enforce the re-
6 quirements of the food safety law, the connection with
7 interstate commerce required for jurisdiction shall be pre-
8 sumed to exist.

9 “(c) WHISTLEBLOWER PROTECTION.—

10 “(1) IN GENERAL.—No Federal employee, em-
11 ployee of a Federal contractor or subcontractor, or
12 any individual employed by a company or other enti-
13 ty (referred to in this subsection as a ‘covered indi-
14 vidual’), may be discharged, demoted, suspended,
15 threatened, harassed, or in any other manner dis-
16 criminated against, because of any lawful act done
17 by the covered individual—

18 “(A) to provide information, cause infor-
19 mation to be provided, or otherwise assist in an
20 investigation regarding any conduct that the
21 covered individual reasonably believes con-
22 stitutes a violation of any law, rule, or regula-
23 tion, or that the covered individual reasonably
24 believes constitutes a threat to the public

1 health, if the information or assistance is pro-
2 vided to, or the investigation is conducted by—

3 “(i) a Federal regulatory or law en-
4 forcement agency;

5 “(ii) a Member or committee of Con-
6 gress; or

7 “(iii) a person with supervisory au-
8 thority over the covered individual (or such
9 other individual who has the authority to
10 investigate, discover, or terminate mis-
11 conduct);

12 “(B) to file, cause to be filed, testify, par-
13 ticipate in, or otherwise assist in a proceeding
14 or action filed or about to be filed relating to
15 a violation of any law, rule, or regulation; or

16 “(C) to refuse to violate or assist in the
17 violation of any law, rule, or regulation.

18 “(2) ENFORCEMENT ACTION.—

19 “(A) COMPLAINT.—

20 “(i) IN GENERAL.—A covered indi-
21 vidual who alleges discharge or other dis-
22 crimination by any person in violation of
23 paragraph (1) may seek relief under para-
24 graph (3) by filing a complaint with the
25 Secretary of Labor.

1 “(ii) LEGAL ACTION.—If the Sec-
2 retary of Labor has not issued a final deci-
3 sion by the date that is 180 days after the
4 date on which the complaint is filed and
5 there is no showing that such delay is due
6 to the bad faith of the claimant, the claim-
7 ant may bring an action at law or equity
8 for de novo review in the appropriate dis-
9 trict court of the United States, which
10 shall have jurisdiction over such an action
11 without regard to the amount in con-
12 troversy.

13 “(B) PROCEDURE.—

14 “(i) IN GENERAL.—An action under
15 subparagraph (A) shall be governed under
16 the rules and procedures established in sec-
17 tion 42121(b) of title 49, United States
18 Code.

19 “(ii) EXCEPTION.—Notification under
20 section 42121(b)(1) of title 49, United
21 States Code, shall be made to the person
22 named in the complaint and to the em-
23 ployer of the person.

24 “(iii) BURDENS OF PROOF.—An ac-
25 tion brought under subparagraph (A) shall

1 be governed by the burdens of proof that
2 apply under section 42121(b) of title 49,
3 United States Code.

4 “(iv) STATUTE OF LIMITATIONS.—An
5 action under subparagraph (A) shall be
6 commenced not later than 90 days after
7 the date on which the violation occurs.

8 “(3) REMEDIES.—

9 “(A) IN GENERAL.—A covered individual
10 prevailing in any action under paragraph (2)(A)
11 shall be entitled to all relief necessary to make
12 the covered individual whole.

13 “(B) COMPENSATORY DAMAGES.—Relief
14 for any action described in subparagraph (A)
15 shall include (as applicable)—

16 “(i) reinstatement with the same se-
17 niority status that the covered individual
18 would have had, but for the discrimination;

19 “(ii) the amount of any back pay,
20 with interest; and

21 “(iii) compensation for any special
22 damages sustained as a result of the dis-
23 crimination, including litigation costs, ex-
24 pert witness fees, and reasonable attor-
25 ney’s fees.

1 “(4) RIGHTS RETAINED BY THE COVERED INDI-
2 VIDUAL.—Nothing in this subsection diminishes the
3 rights, privileges, or remedies of any covered indi-
4 vidual under any Federal or State law, or under any
5 collective bargaining agreement.

6 “(d) ADMINISTRATION AND ENFORCEMENT.—

7 “(1) IN GENERAL.—For the efficient adminis-
8 tration and enforcement of the food safety law, the
9 provisions (including provisions relating to penalties)
10 of sections 6, 8, 9, and 10 of the Federal Trade
11 Commission Act (15 U.S.C. 46, 48, 49, and 50) (ex-
12 cept subsections (c) through (h) of section 6 of that
13 Act), relating to the jurisdiction, powers, and duties
14 of the Federal Trade Commission and the Attorney
15 General to administer and enforce that Act, and to
16 the rights and duties of persons with respect to
17 whom the powers are exercised, shall apply to the ju-
18 risdiction, powers, and duties of the Secretary and
19 the Attorney General in administering and enforcing
20 the provisions of the food safety law and to the
21 rights and duties of persons with respect to whom
22 the powers are exercised, respectively.

23 “(2) INQUIRIES AND ACTIONS.—

24 “(A) IN GENERAL.—The Secretary, in per-
25 son or by such agents as the Secretary may

1 designate, may prosecute any inquiry necessary
2 to carry out the duties of the Secretary under
3 the food safety law in any part of the United
4 States.

5 “(B) POWERS.—The powers conferred by
6 sections 9 and 10 of the Federal Trade Com-
7 mission Act (15 U.S.C. 49 and 50) on the
8 United States district courts may be exercised
9 for the purposes of this part by any United
10 States district court of competent jurisdiction.

11 “(e) CITIZEN CIVIL ACTIONS.—

12 “(1) CIVIL ACTIONS.—A person may commence
13 a civil action against—

14 “(A) a person that violates a regulation
15 (including a regulation establishing a perform-
16 ance standard), order, or other action of the
17 Secretary to ensure the safety of food; or

18 “(B) the Secretary (in his or her capacity
19 as the Secretary), if the Secretary fails to per-
20 form an act or duty to ensure the safety of food
21 that is not discretionary under the food safety
22 law.

23 “(2) COURT.—

24 “(A) IN GENERAL.—The action shall be
25 commenced in the United States district court

1 for the district in which the defendant resides,
2 is found, or has an agent.

3 “(B) JURISDICTION.—The court shall have
4 jurisdiction, without regard to the amount in
5 controversy, or the citizenship of the parties, to
6 enforce a regulation (including a regulation es-
7 tablishing a performance standard), order, or
8 other action of the Secretary, or to order the
9 Secretary to perform the act or duty.

10 “(C) DAMAGES.—The court may—

11 “(i) award damages, in the amount of
12 damages actually sustained; and

13 “(ii) if the court determines it to be in
14 the interest of justice, award the plaintiff
15 the costs of suit, including reasonable at-
16 torney’s fees, reasonable expert witness
17 fees, and penalties.

18 “(3) REMEDIES NOT EXCLUSIVE.—The rem-
19 edies provided for in this subsection shall be in addi-
20 tion to, and not exclusive of, other remedies that
21 may be available.

22 “(f) WITHHOLDING OF INSPECTION.—In any case in
23 which a food establishment subject to inspection by the
24 Secretary under the food safety law is required by law to
25 pay a criminal or civil penalty under this section or any

1 other provision of the food safety law, the Secretary shall
 2 withhold inspection of the food establishment under the
 3 applicable food safety law until the date on which the food
 4 establishment pays the penalty in full.”.

5 (b) CONFORMING AMENDMENT.—Section 296(b) of
 6 the Department of Agriculture Reorganization Act of
 7 1994 (7 U.S.C. 7014(b)) is amended—

8 (1) in paragraph (6)(C), by striking “or” at the
 9 end;

10 (2) in paragraph (7), by striking the period at
 11 the end and inserting “; or”; and

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

13 “(8) the authority of the Secretary to carry out
 14 food safety activities under part II of subtitle G.”.

15 **TITLE III—RESEARCH AND**
 16 **EDUCATION**

17 **SEC. 211. DEFINITION OF SECRETARY.**

18 In this title, the term “Secretary” means the Sec-
 19 retary of Agriculture, acting through the Under Secretary
 20 of the Food Safety and Inspection Service.

21 **SEC. 212. FOODBORNE ILLNESS SURVEILLANCE SYSTEMS.**

22 (a) DEFINITION OF FOODBORNE ILLNESS OUT-
 23 BREAK.—In this section, the term “foodborne illness out-
 24 break” means the occurrence of 2 or more cases of a simi-
 25 lar illness resulting from the ingestion of a certain food.

1 (b) **FOODBORNE ILLNESS SURVEILLANCE SYS-**
2 **TEMS.**—The Secretary, in collaboration with the Director
3 of the Centers for Disease Control and Prevention and the
4 Commissioner of Food and Drugs, shall enhance
5 foodborne illness surveillance systems to improve the col-
6 lection, analysis, reporting, and usefulness of data on
7 foodborne illnesses by—

8 (1) coordinating Federal, State, and local
9 foodborne illness surveillance systems, including
10 complaint systems, and increasing participation in
11 national networks of public health and food regu-
12 latory agencies and laboratories;

13 (2) facilitating sharing of surveillance informa-
14 tion on a more timely basis among governmental
15 agencies, including the Centers for Disease Control
16 and Prevention, the Food and Drug Administration,
17 the Department of Agriculture, the Department of
18 Homeland Security, and State and local agencies,
19 and with the public;

20 (3) developing improved epidemiological tools
21 for obtaining quality exposure data and micro-
22 biological methods for classifying cases;

23 (4) augmenting the systems to improve attribu-
24 tion of a foodborne illness outbreak to a specific
25 food;

1 (5) expanding capacity of the systems (includ-
2 ing working toward automatic electronic searches)
3 for implementation of identification practices (in-
4 cluding fingerprinting strategies) for foodborne in-
5 fectious agents, in order to identify new or rarely
6 documented causes of foodborne illness and submis-
7 sion of standardized information to a centralized
8 database;

9 (6) allowing timely public access to aggregated,
10 deidentified surveillance data;

11 (7) at least annually, publishing current reports
12 on findings from the systems;

13 (8) establishing a flexible mechanism for rapidly
14 initiating scientific research by institutions of higher
15 education;

16 (9) integrating foodborne illness surveillance
17 systems and data with other biosurveillance and
18 public health situational awareness capabilities at
19 the Federal, State, and local levels, including by
20 sharing foodborne illness surveillance data with the
21 National Biosurveillance Integration Center; and

22 (10) carrying out such other activities as are
23 determined appropriate by the Secretary.

1 **SEC. 213. FSIS RESEARCH DEPARTMENT.**

2 In addition to any other duties assigned by the Sec-
3 retary, the research department of the Food Safety and
4 Inspection Service shall—

5 (1) carry out the research and education activi-
6 ties described in this Act and part II of subtitle G
7 of the Department of Agriculture Reorganization
8 Act of 1994 (7 U.S.C. 6981 et seq.); and

9 (2) in coordination with the Centers for Disease
10 Control and Prevention and the Food and Drug Ad-
11 ministration, develop data relating to the attribution
12 of illnesses to food-pathogen combinations.

13 **SEC. 214. PUBLIC HEALTH ASSESSMENT SYSTEM.**

14 (a) IN GENERAL.—The Secretary, acting in coordina-
15 tion with the Director of the Centers for Disease Control
16 and Prevention and with the Research Education and Eco-
17 nomics mission area of the Department of Agriculture,
18 shall—

19 (1) resolve data-sharing barriers, including
20 those relating to the application of the Health Insur-
21 ance Portability and Accountability Act of 1996
22 (Public Law 104–191; 110 Stat. 1936), to ensure
23 access to the applicable data systems of the Centers
24 for Disease Control and Prevention and to the data-
25 bases made available by a State;

1 (2) maintain an active surveillance system of
2 food, food products, and epidemiological evidence
3 submitted by States to the Centers for Disease Con-
4 trol and Prevention based on a representative pro-
5 portion of the population of the United States;

6 (3) assess the frequency and sources of human
7 illness in the United States associated with the con-
8 sumption of food;

9 (4) maintain a state-of-the-art DNA matching
10 system and epidemiological system dedicated to
11 foodborne illness identification, outbreaks, and con-
12 tainment; and

13 (5) have access to the surveillance data created
14 via monitoring and statistical studies conducted as
15 part of inspections carried out by or for the Sec-
16 retary.

17 (b) PUBLIC HEALTH SAMPLING.—

18 (1) IN GENERAL.—Not later than 1 year after
19 the date of enactment of this Act, the Secretary
20 shall establish guidelines for a sampling system
21 under which the Secretary shall take and analyze
22 samples of food—

23 (A) to assist the Secretary in carrying out
24 this title;

1 (B) to assess the nature, frequency of oc-
2 currence, and quantities of contaminants in
3 food; and

4 (C) to enforce this title and other food
5 safety laws.

6 (2) REQUIREMENTS.—The sampling system de-
7 scribed in paragraph (1) shall provide—

8 (A) statistically valid monitoring, including
9 market-based studies, on the nature, frequency
10 of occurrence, and quantities of contaminants
11 in food available to consumers; and

12 (B) at the request of the Secretary, such
13 other information, including analysis of moni-
14 toring and verification samples, as the Sec-
15 retary determines may be useful and appro-
16 priate in assessing the occurrence of contami-
17 nants in food.

18 (c) ASSESSMENT OF HEALTH HAZARDS.—

19 (1) IN GENERAL.—Through the surveillance
20 system referred to in subsection (a) and the sam-
21 pling system described in subsection (b), the Sec-
22 retary shall work in collaboration with the Director
23 of the Centers for Disease Control and Prevention,
24 the Commissioner of Food and Drugs, and other ap-
25 propriate Federal, State, local, and tribal agencies—

1 (A) to rank food categories under the ju-
2 risdiction of the Secretary based on the hazard
3 to human health presented by the food cat-
4 egory;

5 (B) to identify appropriate industry and
6 regulatory approaches to minimize hazards in
7 the food supply; and

8 (C) to assess the public health environment
9 for emerging diseases, including zoonosis, for
10 their risk of appearance in the United States
11 food supply.

12 (2) COMPONENTS OF ANALYSIS.—The analysis
13 under subsection (b)(1) may include—

14 (A) a comparison of the safety of commer-
15 cial processing with the health hazards associ-
16 ated with food that is harvested for recreational
17 or subsistence purposes and prepared non-
18 commercially;

19 (B) a comparison of the safety of food that
20 is domestically processed with the health haz-
21 ards associated with food that is processed out-
22 side the United States;

23 (C) a description of contamination origi-
24 nating from handling practices that occur prior
25 to or after the sale of food to consumers; and

1 (D) use of comparative risk assessments.

2 **SEC. 215. PUBLIC EDUCATION AND ADVISORY SYSTEM.**

3 (a) PUBLIC EDUCATION.—

4 (1) IN GENERAL.—The Secretary, in collabora-
5 tion with the Director of the Centers for Disease
6 Control and Prevention and the Commissioner of
7 Food and Drugs and in cooperation with private and
8 public organizations, including the cooperative exten-
9 sion services and building on the efforts of appro-
10 priate State and local entities, shall establish a na-
11 tional public education program on food safety.

12 (2) REQUIREMENTS.—The program shall pro-
13 vide—

14 (A) information to the public regarding
15 Federal standards and best practices and pro-
16 motion of public awareness, understanding, and
17 acceptance of those standards and practices;

18 (B) information for health professionals—

19 (i) to improve diagnosis and treatment
20 of food-related illness; and

21 (ii) to advise individuals at special
22 risk for food-related illnesses; and

23 (C) such other information or advice to
24 consumers and other persons as the Secretary

1 determines will promote the purposes of this
2 subtitle.

3 (b) **HEALTH ADVISORIES.**—The Secretary, in con-
4 sultation with other Federal departments and agencies as
5 the Secretary determines necessary, shall work with the
6 States and other appropriate entities—

7 (1) to develop and distribute regional and na-
8 tional advisories concerning food safety;

9 (2) to develop standardized formats for written
10 and broadcast advisories;

11 (3) to incorporate State and local advisories
12 into the national public education program estab-
13 lished under subsection (a); and

14 (4) to present prompt, specific information re-
15 garding foods found to pose a threat to the public
16 health.

17 **SEC. 216. RESEARCH.**

18 (a) **IN GENERAL.**—The Secretary shall conduct re-
19 search to carry out this title, including studies—

20 (1) to improve sanitation and food safety prac-
21 tices in the processing of food;

22 (2) to develop improved techniques to monitor
23 and inspect food;

24 (3) to develop efficient, rapid, and sensitive
25 methods to detect contaminants in food;

- 1 (4) to determine the sources of contamination
- 2 of contaminated food;
- 3 (5) to develop food consumption data;
- 4 (6) to identify ways that animal production
- 5 techniques could improve the safety of the food sup-
- 6 ply;
- 7 (7) to draw upon research and educational pro-
- 8 grams that exist at the State and local level;
- 9 (8) to use the DNA matching system and other
- 10 processes to identify and control pathogens;
- 11 (9) to address common and emerging zoonotic
- 12 diseases;
- 13 (10) to develop methods to reduce or destroy
- 14 harmful pathogens before, during, and after proc-
- 15 essing;
- 16 (11) to analyze the incidence of antibiotic
- 17 resistance as the resistance pertains to the food sup-
- 18 ply and develop new methods to reduce the transfer
- 19 of antibiotic resistance to humans;
- 20 (12) to conduct research to inform risk commu-
- 21 nications, including—
- 22 (A) conducting studies regarding the
- 23 knowledge and behavior of industry, health pro-
- 24 fessionals, consumers, and other appropriate
- 25 stakeholders towards food safety; and

1 (B) developing a protocol that will balance
 2 public welfare needs associated with the food
 3 safety research of the Department of Agri-
 4 culture and the requirements of chapter 35 of
 5 title 44, United States Code (commonly known
 6 as the “Paperwork Reduction Act”) to account
 7 for the time-sensitive nature of communicating
 8 with the public about food safety programs; and
 9 (13) to conduct other research that supports
 10 the purposes of this subtitle.

11 (b) CONTRACT AUTHORITY.—The Secretary may
 12 enter into contracts and agreements with any State, insti-
 13 tution of higher education, Federal Government agency,
 14 or person to carry out this section.

15 **TITLE IV—CRIMINAL PENALTY** 16 **AND OTHER PROVISIONS**

17 **SEC. 221. CRIMINAL PENALTIES.**

18 (a) POULTRY PRODUCTS INSPECTION ACT.—Section
 19 12 of the Poultry Products Inspection Act (21 U.S.C.
 20 461) is amended by adding at the end the following:

21 “(d) KNOWING INTRODUCTION INTO COMMERCE OF
 22 UNSAFE FOOD.—

23 “(1) CRIMINAL SANCTIONS.—

24 “(A) IN GENERAL.—Except as provided in
 25 subparagraph (B), a person that knowingly pro-

1 duces or introduces into commerce poultry or a
2 poultry product that is unsafe or otherwise
3 adulterated or misbranded shall be imprisoned
4 for not more than 10 years or fined not more
5 than \$25,000, or both.

6 “(B) SEVERE VIOLATIONS.—A person that
7 commits a violation described in subparagraph
8 (A) after a conviction of that person under this
9 subsection has become final, or commits such a
10 violation with the intent to defraud or mislead,
11 shall be imprisoned for not more than 20 years
12 or fined not more than \$100,000, or both.

13 “(2) PENALTIES PAID INTO ACCOUNT.—The
14 Secretary shall deposit penalties collected under this
15 subsection in the account described in section
16 270(a)(4) of the Department of Agriculture Reorga-
17 nization Act of 1994.

18 “(3) DISCRETION OF THE SECRETARY TO PROS-
19 ECUTE.—Nothing in this subsection requires the
20 Secretary to report for prosecution, or for the com-
21 mencement of an action, a violation described in
22 paragraph (1) in a case in which the Secretary finds
23 that the public interest will be adequately served by
24 the assessment of a civil penalty.

1 “(4) REMEDIES NOT EXCLUSIVE.—The rem-
2 edies provided in this subsection are in addition to,
3 and not exclusive of, other remedies that may be
4 available under this or any other Act.”.

5 (b) FEDERAL MEAT INSPECTION ACT.—Section 406
6 of the Federal Meat Inspection Act (21 U.S.C. 676) is
7 amended by adding at the end the following:

8 “(d) KNOWING INTRODUCTION INTO COMMERCE OF
9 UNSAFE FOOD.—

10 “(1) CRIMINAL SANCTIONS.—

11 “(A) IN GENERAL.—Except as provided in
12 subparagraph (B), a person that knowingly pro-
13 duces or introduces into commerce meat or a
14 meat food product that is unsafe or otherwise
15 adulterated or misbranded shall be imprisoned
16 for not more than 10 years or fined not more
17 than \$25,000, or both.

18 “(B) SEVERE VIOLATIONS.—A person that
19 commits a violation described in subparagraph
20 (A) after a conviction of that person under this
21 subsection has become final, or commits such a
22 violation with the intent to defraud or mislead,
23 shall be imprisoned for not more than 20 years
24 or fined not more than \$100,000, or both.

1 “(2) PENALTIES PAID INTO ACCOUNT.—The
2 Secretary shall deposit penalties collected under this
3 subsection in the account described in section
4 270(a)(4) of the Department of Agriculture Reorga-
5 nization Act of 1994.

6 “(3) DISCRETION OF THE SECRETARY TO PROS-
7 ECUTE.—Nothing in this subsection requires the
8 Secretary to report for prosecution, or for the com-
9 mencement of an action, a violation described in
10 paragraph (1) in a case in which the Secretary finds
11 that the public interest will be adequately served by
12 the assessment of a civil penalty.

13 “(4) REMEDIES NOT EXCLUSIVE.—The rem-
14 edies provided in this subsection are in addition to,
15 and not exclusive of, other remedies that may be
16 available under this or any other Act.”.

17 (c) EGG PRODUCTS INSPECTION ACT.—Section 12 of
18 the Egg Products Inspection Act (21 U.S.C. 1041) is
19 amended by adding at the end the following:

20 “(f) KNOWING INTRODUCTION INTO COMMERCE OF
21 UNSAFE FOOD.—

22 “(1) CRIMINAL SANCTIONS.—

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (B), a person that knowingly pro-
25 duces or introduces into commerce eggs or egg

1 products that are unsafe or otherwise adulter-
2 ated or misbranded shall be imprisoned for not
3 more than 10 years or fined not more than
4 \$25,000, or both.

5 “(B) SEVERE VIOLATIONS.—A person that
6 commits a violation described in subparagraph
7 (A) after a conviction of that person under this
8 subsection has become final, or commits such a
9 violation with the intent to defraud or mislead,
10 shall be imprisoned for not more than 20 years
11 or fined not more than \$100,000, or both.

12 “(2) PENALTIES PAID INTO ACCOUNT.—The
13 Secretary shall deposit penalties collected under this
14 subsection in the account described in section
15 270(a)(4) of the Department of Agriculture Reorga-
16 nization Act of 1994.

17 “(3) DISCRETION OF THE SECRETARY TO PROS-
18 ECUTE.—Nothing in this subsection requires the
19 Secretary to report for prosecution, or for the com-
20 mencement of an action, a violation described in
21 paragraph (1) in a case in which the Secretary finds
22 that the public interest will be adequately served by
23 the assessment of a civil penalty.

24 “(4) REMEDIES NOT EXCLUSIVE.—The rem-
25 edies provided in this subsection are in addition to,

1 and not exclusive of, other remedies that may be
2 available under this or any other Act.”.

3 **SEC. 222. STUDY ON HACCP-BASED INSPECTION MODELS**
4 **PROJECT.**

5 (a) IN GENERAL.—The Comptroller General of the
6 United States shall conduct a study of the Hazard Anal-
7 ysis and Critical Control Point (HACCP)-based Inspection
8 Models Project (HIMP) for all plants enrolled in the
9 Project before the Secretary of Agriculture expands the
10 number of plants that are enrolled in the Project.

11 (b) REPORT.—Not later than 180 days after the date
12 of enactment of this Act, the Comptroller General shall
13 submit to the Committee on Agriculture of the House of
14 Representatives and the Committee on Agriculture, Nutri-
15 tion, and Forestry of the Senate a report on the results
16 of the study conducted under subsection (a), including any
17 recommendations.

18 **SEC. 223. STUDY ON THE EFFECT OF WORKER SAFETY ON**
19 **FOOD SAFETY.**

20 (a) IN GENERAL.—The Secretary of Agriculture, act-
21 ing through the Administrator of the Food Safety and In-
22 spection Service and in cooperation with the Director of
23 the National Institute for Occupational Safety and Health,
24 shall conduct a study on worker safety in the meat packing

1 and poultry processing industry, including the relationship
2 between line speed and worker safety.

3 (b) PURPOSE.—The purpose of the study conducted
4 under subsection (a) shall be to determine the effect that
5 workplace safety has on the safety of the food being pro-
6 duced.

7 (c) REPORT.—Not later than 180 days after the date
8 of enactment of this Act, the Administrator of the Food
9 Safety and Inspection Service and the Director of the Na-
10 tional Institute for Occupational Safety and Health shall
11 jointly submit to the Committee on Agriculture of the
12 House of Representatives and the Committee on Agri-
13 culture, Nutrition, and Forestry of the Senate a report
14 on the results of the study conducted under subsection (a),
15 including any recommendations.

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