

Congress of the United States

Washington, DC 20515

February 8, 2006

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol Building
Sacramento, CA 95814

Dear Governor Schwarzenegger

We are writing to draw your attention to a bill about which we have serious concerns, H.R. 4167, the "National Uniformity for Food Act of 2005." This bill poses a direct threat to California's public health and food safety protections. Recently reported by the House Committee on Energy and Commerce, without any hearings and with no factual record, H.R. 4167 would preempt scores of state food safety laws, preventing states from continuing or implementing food safety programs that are not identical to federal law.

Unlike drugs and medical devices, which are primarily regulated by the federal government, states are the primary guardians of food safety. H.R. 4167 would alter this long-standing system and would severely hamper states' ability to pass and implement laws that address local and regional food safety needs, requiring them to go through a burdensome process to petition the federal government for continuation of these laws.

In addition to eliminating many of California's programs necessary for day-to-day food safety, H.R. 4167 would also invalidate Proposition 65. As you know, California's Proposition 65, which requires warnings on foods containing chemicals known to cause cancer or birth defects at levels which cause significant risk, was enacted as a ballot initiative in 1986. Although Proposition 65 has resulted in some warnings, it has more importantly created a market incentive to remove dangerous chemicals from foods and to bring safe foods to market. California's Attorney General Bill Lockyer recently expressed his opposition to H.R. 4167 in a letter to its sponsor, Representative Mike Rogers. Attorney General Lockyer confirms that Proposition 65 has been a useful supplement to federal food safety standards and that it has served as an important tool in protecting the health and safety of California's citizens. Yet, today, without any evidence as to why invalidating this law is a good idea, Congress is poised to pass H.R. 4167, undoing 17 years of consumer protection by Proposition 65.

H.R. 4167 could also preempt a variety of other significant California food safety laws. For example, H.R. 4167 threatens two pieces of legislation you recently signed into law: SB 37, prohibiting the use of certain dietary supplements by high school athletes, and AB 21, banning the sale of candies with high lead levels. Additionally, this legislation jeopardizes California's laws governing the safety of our milk, shellfish, and wine.

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Page 2 of 2

We owe it to California's families to ensure that they continue to benefit from our very successful food safety programs. We hope after you have a chance to review this matter you will join us in our opposition to this legislation and make your views known to Congress.

Sincerely,



HENRY A. WAXMAN
Member of Congress



MARY BONO
Member of Congress