



# National Organic Coalition

## House Farm Bill: Opposition to Chairman's Mark, Title I. Section 123

Section 123 of the House Subcommittee on Livestock, Dairy and Poultry's Farm Bill (Chairman's Mark) would preempt state and local measures enacted to address food safety concerns. The Chairman's Mark includes the following language that should be removed:

**SEC. 123. EFFECT OF USDA INSPECTION AND DETERMINATION OF NON-REGULATED STATUS.** Notwithstanding any other provision of law, no State or locality shall make any law prohibiting the use in commerce of an article that the Secretary of Agriculture has—(1) inspected and passed; or (2) determined to be of non-regulated status.

As written, section 123 would prevent local and state governments from stopping the sale of meat or poultry products once they have been marked as inspected and passed by USDA. This is a very broad restriction that could tie the hands of local and state health inspectors who need to prevent outdated or contaminated meat products from being sold or served to consumers. Many things can go wrong with meat and poultry products after the products pass USDA inspection. Products can be contaminated through mishandling, be inadequately refrigerated, or be sold or used in restaurants past their "use by" date. In many cases, it is not the USDA that would act to remove this product from commerce, but rather a state or local official. Yet under section 123, their authority to prohibit the sale of product that is adulterated or out of date, but passed by USDA, would be restricted.

In addition, section 123 would prevent local or state governments from taking proactive steps on food issues on which the federal government lags behind. One example is the use of carbon monoxide to enhance the color of packaged meat products. This practice, which is objectionable to the vast majority of consumers, is deceptive and potentially dangerous because it masks normal signs of spoilage and age in packaged meat. Yet the Food and Drug Administration and USDA continue to allow the use of carbon monoxide. Some local jurisdictions have been considering legislation to prohibit the use of this deceptive practice, but under section 123, would no longer have the authority to act to protect their constituents from this practice.

In the past, state and local governments have enacted moratoriums on the sale of irradiated meat products, and there are other products, such as meat from cloned animals, that local or state governments could conceivably act on in response to consumer concerns. We feel that it is

appropriate for state and local governments to have the authority to do so, since citizens can often express their concern about a particular product to these governments more effectively than the federal government. Limiting the authority of local and state governments to keep dangerous, deceptive, or unwholesome products off the market does a disservice to consumers, and leaves them with the lowest common denominator standards offered by federal rules.

Finally, we are concerned that section 123 would impact state consumer protection laws that allow consumers to take legal action against companies that sell misbranded (or out of date) products. If these products have been passed by USDA, section 123 could limit the use of these state laws to punish retailers who sell out of date meat to consumers.

**For more information:**

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