

Destroying America's Family Farm: HR 2749. A Stealth Agribusiness Empowering Act

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America is the truest example of what George Bernard Shaw meant when he said "Democracy is a form of government that substitutes election by the incompetent many for the appointment by the corrupt few." Obama is upholding the tradition and then some.

In fact, in less than six months, he's done the impossible. With congressional Democrats, he's compiled a worse record than even his fiercest critics feared, worse than George Bush, straight across the board on both domestic and foreign policies that include:

- looting the nation's wealth, wrecking the economy, and consigning growing millions to impoverishment without jobs, homes, savings, social services, or futures;
- proposing greater Fed empowerment and global monetary control, disguised as financial reform;
- expanding unbridled militarism through continued foreign wars, occupations, and stepped up aggression on new fronts with the largest defense budget in history – greater than the rest of the world combined at a time America has no enemies;
- its first coup d'état in Honduras against its democratically elected president, an attempted regime change in Iran, and perhaps others ahead against independent leaders called national security threats while continuing to support the world's most ruthless and corrupt tyrants;
- presiding over a bogus democracy under a homeland police state apparatus;
- continuing the worst of the Bush administration's torture policies and practice of lawlessness;
- targeting whistleblowers, dissenters, Muslims, and environmental and animal rights activists called terrorists;
- illegally spying on Americans as aggressively as under George Bush;
- destroying decades of hard won labor rights;
- eroding Social Security, Medicare, Medicaid and other New Deal and Great Society social gains;
- trying to control the media more aggressively than Richard Nixon, according to veteran

White House correspondent Helen Thomas;

- refusing help for budget-stricken states like California; forcing them to impose austerity by gutting welfare programs, education, health care for the poor, and other vital services at a time they're most needed; to be followed by bailout-rich banks, real estate developers, and other profiteers using "shock doctrine" tactics to buy state and other troubled assets on the cheap;
- continuing to commodify education, end government responsibility for it, and make it another business profit center;
- proposing health care reform that will tax more, provide less, place profits above human need, disdain vital change, and leave a broken system in place;
- readying Americans for dangerous, mandatory vaccinations that jeopardize human health, well-being, and may even cause death;
- the (June 26) House-passed American Clean Energy and Security Act to let corporate polluters reap huge windfall profits by charging consumers more for energy and fuel, create a new bubble through carbon trading derivatives speculation, yet do nothing to address environmental issues;
- trying to revive the Real ID Act of 2005 with S. 1261: Pass ID Act, introduced on June 15 and referred to the Homeland Security and Governmental Affairs Committee; if enacted, it will erode personal freedoms by requiring all US citizens and legal residents to have a national identity card that will be needed to open a bank account, board an airplane, be able to vote, or conduct virtually all types of essential business; if embedded with an RFID chip, universal monitoring will be possible everywhere, all the time; and
- the proposed HR 2749: Food Safety Enhancement Act (FSEA) of 2009 discussed below.

HR 2749 – the Agribusiness Empowerment Act

Introduced on June 8, it "amend(s) the Federal Food, Drug, and Cosmetic Act (FFDCA) to improve safety in the global market, and for other purposes."

Passed in 1938 to ensure public safety, FFDCA gives the FDA regulatory power over food, drugs, and cosmetics, later updated to include other biological products, medical devices, and products that emit radiation.

On June 10, FSEA was fast-tracked from the House Health Subcommittee to the Energy and Commerce Committee where on June 17 it cleared and was referred to the full House "for later consideration."

Like legislation introduced earlier this year but so far not passed, food safety is the presumed issue, but it's merely for cover. Current laws and regulations work well but they're not enforced, an issue this writer addressed in a previous article. It explained that the USDA is woefully understaffed, under-budgeted, and only perfunctorily carries out inspections.

A March 3, 2008 OMB Watch report highlighted the problem. Headlined, "Federal Meat Inspectors Spread Thin as Recalls Rise," it explained that USDA's Food Safety and Inspection Service (FSIS) is charged with ensuring safe meat, poultry and eggs, but its budget and staff

haven't kept pace with its mandate.

In FY 1981, it had about 190 workers per billion pounds of meat and poultry inspected. By FY 2007, it was fewer than 88 or less than half as many. Yet under federal law, FSIS must inspect all meat, poultry, and egg products intended for commercial use. Its web site states: "Slaughter facilities cannot operate if FSIS inspection personnel are not present (and) Only Federally inspected establishments can produce products that are destined to enter commerce."

For these and other agribusiness products, reality belies the mandate as processors, manufacturers, and other corporate operators circumvent procedures, and according to inspectors interviewed, understaffing and lax policies contribute to the problem. An unsafe food supply results. Government policy is to blame, and FSEA and earlier proposed legislation aren't designed to help. They're vehicles to empower food giants, destroy small farmers, and harm the consuming public.

The Farm-to-Consumer Legal Defense Fund (FTCLDF) Reacts

FTCLDF is an NGO representing farmers and consumers to:

- "Protect the constitutional right of the nation's family farms to provide processed and unprocessed farm foods directly to consumers through any legal means.
- Protect the constitutional right of consumers to obtain unprocessed and processed farm foods directly from family farms, (and)
- Protect the nation's family farms from harassment by federal, state, and local government interference with food production and on-farm food processing."

Run by industry officials, the FDA is a front group for agribusiness, Big Pharma, and other related industries it "regulates." If enacted, FSEA will greatly increase its power and limit judicial restraints on its actions. Although some provisions address improving the "mainstream food system," the potential for "inappropriate application and enforcement" is worrisome because the bill's language is vague and deceptive. It also doesn't define greater FDA authority or explain how it will empower agribusiness giants at the expense of small farms, "local artisanal producers" and consumers.

As a result, FTCLDF opposes HR 2749 because it will "adversely impact small farms and food producers, without providing significant reforms in the industrial food system." It also fails to address underlying food safety problems, including "agricultural practices" and industry consolidation. FTCLDT denounces FSEA for enhancing abusive powers at the expense of long-standing family farm freedoms and consumer choice.

Its specific concerns are as follows:

Current law requires "food facilities" to register one time at no charge with the Health and Human Services (HHS) Secretary. Under FSEA, annual registration and a yearly \$500 fee is required except for farms that do the following:

- ones in a single physical location that grow and harvest crops, raise animals or seafood;

- “that pack or hold food, provided that all food used in such activities is grown, raised, or consumed on that farm or another under the same ownership; and
- facilities that manufacture/process food, provided that all food used in such activities is consumed on that farm or another farm under the same ownership.”

Farm processing doesn't qualify unless it complies with the above provisions. If foods are produced elsewhere, farmers buying them lose their “farm” designation and become subject to annual registration procedures, henceforth done electronically in violation of Amish and other Mennonite customs that consider this practice a violation of their faith.

Extensive registration paperwork will also have to include:

- certification of a hazard analysis;
- identifying, implementing, and validating effective preventive controls and monitoring;
- instituting and verifying corrective measures to address problems; and
- maintaining records of all of the above and re-analyzing for hazards.

These requirements apply to local as well as others engaged in interstate commerce.

A detailed food safety plan is required as well that includes effective controls, monitoring, corrective action, verification, extensive record keeping, and other procedures that will be time consuming and expensive enough to put many small producers out of business.

All registered facilities will be subject to federal inspection in contrast to current law that applies only to ones engaged in interstate commerce. FSEA also requires all food producers to make their records available to FDA inspectors on demand. It applies to “production, manufacture, processing, packing, transporting, distribution, receipt, (and) holding of (food) in any format and at any location.”

According to FTCLDF, the “FDA would now be empowered to go on a ‘fishing expedition’ and search records without any evidence whatsoever” of a violation. Further, “farmers selling direct to consumers would have to provide the (FDA) with records on where they buy supplies, how they raise their crops, and a list of customers.”

Currently, examination only applies if there is “a reasonable belief that an article of food is adulterated and presents a threat of serious adverse health consequences or death to humans and animals.”

FSEA also imposes “traceability” provisions that require producers, processors, packers, transporters, and other food handlers to:

- “maintain the full pedigree of the origin and previous distribution history of the food;
- link that history with the subsequent history of the food;
- establish and maintain a system for tracing the food (and)
- use a unique identifier for each facility for such person for such purpose.”

The above requirements leave many questions unanswered and may empower the FDA to enforce them onerously against small farmers, but loosely, if at all, for agribusiness because corporate officials run the agency and decide policy.

FSEA also empowers the FDA to impose growing standards called “science-based (ones) for the safe growing, harvesting, packing, sorting, transporting, and holding of raw agricultural commodities that – (1) are from a plant or a fungus; and (2) for which the Secretary has determined that such standards minimize the risk of serious adverse health consequences or death to humans or animals.”

This and other bill provisions mask FDA’s dubious track record of serving corporate interests to the detriment of small farmers and consumers. By imposing costly and burdensome regulations, it will be easier to claim independent producers don’t comply, ban their output as adulterated, and put them out of business.

Under current law, the FDA can prohibit food sales based on “credible evidence or information indicating (it) presents a threat of serious adverse health consequences or death to human or animals.” FSEA’s standard is based on only a “reason to believe that (the food) is adulterated, misbranded or otherwise in violation of this act.” In other words, suspicion alone without proof can prohibit food sales and put small producers out of business.

FSEA also greatly increases the FDA’s recall powers. It currently can request a voluntary recall, administratively detain food, or file a court order to seize and prohibit its distribution. FSEA goes further by empowering the FDA to recall food based on “reason to believe that the use or consumption of, or exposure to, (it) may cause adverse health consequences to human or animals.” No proof is needed, just the word of corporate officials running these agencies for the companies they represent and will return to in high-paying jobs.

Based on “credible evidence or information,” FSEA empowers the FDA to quarantine a geographic area to prevent “adverse health consequences or death to humans or animals....” Without court order and solely by notifying an “appropriate official of the State affected,” food distribution and sales can be halted even by producers unrelated to the problem’s source.

Currently, anyone violating FFDCA provisions can be imprisoned for up to three years if there’s proof of “intent to defraud or mislead.” Under FSEA, it’s 10 years and fines of up to \$100,000 for individuals and \$7.5 million for corporations for offenses like the following – failing to register a facility, “misbranding,” or not conducting a “hazard analysis” or filling out required paperwork.

Further, each day a violation continues constitutes a separate offense so, in theory, perpetrators might get millions of dollars in fines and life sentences for failing to comply with burdensome regulations that never should be imposed in the first place. Currently, producers are only at risk if they’ve “introduced or delivered for introduction into interstate commerce adulterated food.”

FTCLDF concludes the following:

“While higher penalties may....deter industrial food companies from repeated dangerous violations, the (FDA) has a track record of pursuing small farmers and producers; these

penalties could be imposed to ruin people for actions that pose no threat to human health.”

The FDA notoriously serves the interests of industries it represents and betrays the public’s well-being. Jeopardizing safer alternative sources to industrialized food is a frightening prospect to consider.

In 1970, Henry Kissinger said: “Control oil and you control nations; control food and you control people.” Concentrating control in the hands of a few Ag giants places everyone at risk. They plan world domination by patenting all life forms to force-feed GMO foods on everyone – even though eating them risks harm to human health. It’s why FTCLDF supports small family farms, too vital to lose. It’s why FSEA must be stopped. “Any food safety bill should target industrial food processors and imports while leaving (the nation’s safe) local food system alone.” Obama’s plan does the opposite.

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