

110TH CONGRESS
1ST SESSION

S. 654

To establish the Food Safety Administration to protect the public health by preventing food-borne illness, ensuring the safety of food, improving research on contaminants leading to food-borne illness, and improving security of food from intentional contamination, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2007

Mr. DURBIN (for himself and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To establish the Food Safety Administration to protect the public health by preventing food-borne illness, ensuring the safety of food, improving research on contaminants leading to food-borne illness, and improving security of food from intentional contamination, 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 “Safe Food Act of 2007”.

1 (A) to carry out enforcement activities
2 under food safety law; or

3 (B) to provide assistance to States to in-
4 spect retail commercial food establishments or
5 other food or firms under the jurisdiction of
6 State food safety programs.

7 (f) DISCRETION OF THE ADMINISTRATOR TO PROS-
8 ECUTE.—Nothing in this Act requires the Administrator
9 to report for prosecution, or for the commencement of an
10 action, the violation of the food safety law in a case in
11 which the Administrator finds that the public interest will
12 be adequately served by the assessment of a civil penalty
13 under this section.

14 (g) REMEDIES NOT EXCLUSIVE.—The remedies pro-
15 vided in this section may be in addition to, and not exclu-
16 sive of, other remedies that may be available.

17 **SEC. 406. PRESUMPTION.**

18 In any action to enforce the requirements of the food
19 safety law, the connection with interstate commerce re-
20 quired for jurisdiction shall be presumed to exist.

21 **SEC. 407. WHISTLEBLOWER PROTECTION.**

22 (a) IN GENERAL.—No Federal employee, employee of
23 a Federal contractor or subcontractor, or any individual
24 employed by a company (referred to in this section as a
25 “covered individual”), may be discharged, demoted, sus-

1 pended, threatened, harassed, or in any other manner dis-
2 criminated against, because of any lawful act done by the
3 covered individual to—

4 (1) provide information, cause information to be
5 provided, or otherwise assist in an investigation re-
6 garding any conduct that the covered individual rea-
7 sonably believes constitutes a violation of any law,
8 rule, or regulation, or that the covered individual
9 reasonably believes constitutes a threat to the public
10 health, when the information or assistance is pro-
11 vided to, or the investigation is conducted by—

12 (A) a Federal regulatory or law enforce-
13 ment agency;

14 (B) a Member or committee of Congress;
15 or

16 (C) a person with supervisory authority
17 over the covered individual (or such other indi-
18 vidual who has the authority to investigate, dis-
19 cover, or terminate misconduct);

20 (2) file, cause to be filed, testify, participate in,
21 or otherwise assist in a proceeding or action filed or
22 about to be filed relating to a violation of any law,
23 rule, or regulation; or

24 (3) refused to violate or assist in the violation
25 of any law, rule, or regulation.

1 (b) ENFORCEMENT ACTION.—

2 (1) IN GENERAL.—A covered individual who al-
3 leges discharge or other discrimination by any per-
4 son in violation of subsection (a) may seek relief
5 under subsection (c) by filing a complaint with the
6 Secretary of Labor. If the Secretary of Labor has
7 not issued a final decision within 180 days after the
8 date on which the complaint is filed and there is no
9 showing that such delay is due to the bad faith of
10 the claimant, the claimant may bring an action at
11 law or equity for de novo review in the appropriate
12 district court of the United States, which shall have
13 jurisdiction over such an action without regard to
14 the amount in controversy.

15 (2) PROCEDURE.—

16 (A) IN GENERAL.—An action under para-
17 graph (1) shall be governed under the rules and
18 procedures set forth in section 42121(b) of title
19 49, United States Code.

20 (B) EXCEPTION.—Notification under sec-
21 tion 42121(b)(1) of title 49, United States
22 Code, shall be made to the person named in the
23 complaint and to the person's employer.

24 (C) BURDENS OF PROOF.—An action
25 brought under paragraph (1) shall be governed

1 by the legal burdens of proof set for in section
2 42121(b) of title 49, United States Code.

3 (D) STATUTE OF LIMITATIONS.—An action
4 under paragraph (1) shall be commenced not
5 later than 90 days after the date on which the
6 violation occurs.

7 (c) REMEDIES.—

8 (1) IN GENERAL.—A covered individual pre-
9 vailing in any action under subsection (b)(1) shall be
10 entitled to all relief necessary to make the covered
11 individual whole.

12 (2) COMPENSATORY DAMAGES.—Relief for any
13 action described in paragraph (1) shall include—

14 (A) reinstatement with the same seniority
15 status that the covered individual would have
16 had, but for the discrimination;

17 (B) the amount of any back pay, with in-
18 terest; and

19 (C) compensation for any special damages
20 sustained as a result of the discrimination, in-
21 cluding litigation costs, expert witness fees, and
22 reasonable attorney's fees.

23 (d) RIGHTS RETAINED BY THE COVERED INDI-
24 VIDUAL.—Nothing in this section shall be construed to di-
25 minish the rights, privileges, or remedies of any covered

1 individual under any Federal or State law, or under any
2 collective bargaining agreement.

3 **SEC. 408. ADMINISTRATION AND ENFORCEMENT.**

4 (a) IN GENERAL.—For the efficient administration
5 and enforcement of the food safety law, the provisions (in-
6 cluding provisions relating to penalties) of sections 6, 8,
7 9, and 10 of the Federal Trade Commission Act (15
8 U.S.C. 46, 48, 49, and 50) (except subsections (c) through
9 (h) of section 6 of that Act), relating to the jurisdiction,
10 powers, and duties of the Federal Trade Commission and
11 the Attorney General to administer and enforce that Act,
12 and to the rights and duties of persons with respect to
13 whom the powers are exercised, shall apply to the jurisdic-
14 tion, powers, and duties of the Administrator and the At-
15 torney General in administering and enforcing the provi-
16 sions of the food safety law and to the rights and duties
17 of persons with respect to whom the powers are exercised,
18 respectively.

19 (b) INQUIRIES AND ACTIONS.—

20 (1) IN GENERAL.—The Administrator, in per-
21 son or by such agents as the Administrator may des-
22 ignate, may prosecute any inquiry necessary to carry
23 out the duties of the Administrator under the food
24 safety law in any part of the United States.