ALERTS AND UPDATES

FDA Food Safety Modernization Act Passes U.S. Senate

December 2, 2010

On November 30, 2010, the U.S. Senate passed the FDA Food Safety Modernization Act, the goal of which is to keep unsafe foods from reaching American consumers. The bill will significantly expand the regulatory powers of the U.S. Food and Drug Administration (FDA).

In 2009, the U.S. House of Representatives passed a more stringent version of the legislation. The Senate's version, for example, includes an amendment exempting small farmers and those who sell food at farm stands and farmers' markets.

As the "lame duck" 111th Congress nears its end on January 3, 2011, President Obama has appealed to the House to act quickly to reconcile the two bills. House Democratic leaders have indicated they are considering avoiding the time-consuming conference process by trying to pass the Senate's version through the House.

Both versions of the legislation will:

- Give the FDA the power to demand immediate food recalls;
- Require the FDA to regularly inspect food-processing plants and farms, particularly for foods considered at high risk for contamination;
- Grant the FDA access to internal records at farms and food-production facilities;
- Require food processors to have written plans for safely manufacturing foods and to conduct routine testing;
- Allow the FDA to set standards for how imported fruits and vegetables are grown abroad and to inspect foreign processing plants; and
- Require importers to verify that foods grown or processed abroad meet safety standards.

For Further Information

If you have any questions about this *Alert*, please contact Sharon L. Caffrey, any member of the Products Liability and Toxic Torts Practice Group or the attorney in the firm with whom you are regularly in contact.

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