Bill as Introduced

HCR 35 – AS INTRODUCED

2000 SESSION

00-2821
08/09

HOUSE CONCURRENT RESOLUTION ***35***

A RESOLUTION urging the United States Food and Drug Administration to defer its proposed rules requiring pasteurization for apple cider and consider adoption of alternative processing standards.

SPONSORS: Rep. L. Pratt, Coos 4; Rep. K. Marshall, Merr 4; Rep. Melcher, Hills 11; Rep. P. Davis, Coos 1; Rep. P. Dowling, Rock. 13; Sen. F. King, Dist 1

COMMITTEE: Environment and Agriculture

ANALYSIS

This house concurrent resolution urges the United States Food and Drug Administration to defer its proposed rules requiring pasteurization for apple cider and instead consider adoption of processing standards which can achieve the same level of public protection at reasonable cost to small cider makers.

HCR 35 – AS INTRODUCED

00-2821
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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand

A RESOLUTION urging the United States Food and Drug Administration to defer its proposed rules requiring pasteurization for apple cider and consider adoption of alternative processing standards.

Whereas, New Hampshire has over 60 small family run cider mills which will likely be forced to close if the United States Food and Drug Administration (USFDA) proceeds with new rules requiring pasteurization of apple cider offered for sale to the consuming public; and

Whereas, the costs for installing pasteurization equipment are prohibitive and are beyond the means of all but the very largest commercial apple cider makers; and

Whereas, alternative technologies using either ultraviolet rays or a strict process of washing and rinsing of the raw apples can accomplish the USFDA's goal of a 100,000-fold bacteria reduction; now, therefore, be it

Resolved by the House of Representatives, the Senate concurring:

That in order to preserve our tradition of making fine apple cider at local mills based at New Hampshire orchards, we urge the USFDA to defer its proposed rules requiring pasteurization for apple cider and instead consider adoption of processing standards which can achieve the same level of public protection at reasonable cost to our small cider makers;

That copies of this resolution be sent by the house clerk to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Administrator of the United States Food and Drug Administration, and each member of the New Hampshire congressional delegation.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HCR 35 Date 4/6/00 11am

Committee E+A

** Please Print All Information **

Name	Address	Phone	Representing	(check one) Pro	Con
REP Leighton Pratt		788-4330	Coos 4	✓	
Paul Franklin	141 River Rd Plainfield NH.				
Richard Uncles	NH Dept Agriculture.			✓	

Hearing Minutes

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON HCR 35

BILL TITLE: urging the United States Food and Drug Administration to defer its proposed rules requiring pasteurization for apple cider and consider adoption of alternative processing standards.

DATE: April 6, 2000

LOB ROOM: 303 **Time Public Hearing Called to Order:** 11:10 am

Time Adjourned: 11:30 am

(please circle if present)

Committee Members: Reps. Musler, Leishman, Messier, L. Pratt, McRae, Philbrick, Babson, Phinney, Marshall, Dunlap, Franks, Scanlan, Cobb, Harmon, B. Hall, Owen, Melcher, Meader, Phinizy, Shelton, Tuthill and Vaillancourt.

Bill Sponsors: Reps. Pratt, Marshall, Melcher, Davis, Dowling and Sen. King

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Pratt: sponsor, gave a history of the problems, factors which require un-pasteurized cider, sent this to Washington "to but out" asking for State control.

Paul Franklin: producer, direct marketing orchard, 2500-3000 gallons per year, each farm has a unique blend of cider with a following, fruit growers have worked with the Agriculture Department and have purchased washing equipment, safe guards have occurred in the last 4 or 5 years.

***Richard Uncles**: Department of Agriculture, no report EVER of any illness from cider in New Hampshire. NONE EVER! 65 cider producers in this State. Maybe 3 or 4 could bear the expense of pasteurization system.

Rep. Babson: Labeling?

Answer: Producers choice of wording but must have either pasteurized or not on container.

Rep. Hall: FDA has authority, only applies to interstate.problem.

Respectfully submitted:

Karen K. McRae

Rep. Karen McRae, Clerk

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

PUBLIC HEARING ON HCR 35

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DATE: 6 April

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(please circle if present)

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Bill Sponsors: Reps. Pratt, Marshall, Melcher, Davis, Dowling and Sen. King

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Pratt, sponsor, history of problem, factors which require un pasturized cider, sent this to Washington" to but out" asking for State control

? by committee

Babson — labeling

Melcher -

Owen -

[redacted]

Paul Franklin, producer, direct marketing orchard, 2500 - 3000 gal. per year, each farm has unique blend of cider with a following — Fruit growers have worked with dg dept, have purchased washing equip Safe guards have occured in the last 4 or 5 yrs

? by the committee - Babson

* Richard Uncles - Dept of Ag, M & F,
no report ever of any illness from cider in NH - NONE EVER - 65 cider producers in state - maybe 3 or 4 could bear the expense of pasturization system

? by the committee

Babson - labeling? - ans. producers choice of wording but must have either pasturized or not on container

Hall - ans. FDA authority only apply To interstate/problem

Sub-Committee Minutes

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

SUBCOMMITTEE WORK SESSION ON HCR 35

BILL TITLE: urging the United States Food and Drug Administration to defer its proposed rules requiring pasteurization for apple cider and consider adoption of alternative processing standards.

DATE: April

Subcommittee Members: Reps. {Type NAMES}

Comments and Recommendations:

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. {Type NAME}
Subcommittee Chairman/Clerk

Testimony

May 22, 1998

Dockets Management Branch (HFA-305)
Food and Drug Administration
12420 Parklawn Dr., Rm. 1-23
Rockville, MD 20857

Re: Docket No. 97N-0524

To Whom It May Concern:

The purpose of this letter is to offer comment on FDA's proposed regulations concerning "Food Labeling: Warning and Notice Statements; Labeling of Juice Products" from the perspective of the New Hampshire Apple Cider Task Force. The Task Force was assembled early in 1997 at the direction of the New Hampshire Commissioner of Agriculture, Markets and Food to assess and address the issue of food safety relative to apple cider.

Members of the Task Force include representatives of the NH Department of Agriculture, Markets & Food, the University of New Hampshire Cooperative Extension, the NH Department of Health and Human Services, including the State Epidemiologist, and the NH Fruit Grower's Association and it's Apple Cider Committee. The group has implemented several initiatives aimed at assuring the safety of apple cider produced in New Hampshire that we feel FDA should be aware of. They include the following:

- The development of new rules administered by the Department of Agriculture, Markets & Food that are mandated for all cider producers in the state. New Hampshire has had specific statutory authority over apple cider manufacturing for several years and first developed rules for labeling and production standards in 1995. The amendments to those rules that took effect on September 26, 1997

Submitted by R. Uhrles 4-6-2000 HCR 35

provide a number of requirements to further assure the safety of apple cider including:

1. Prohibiting the use of animal manure and the grazing of livestock in orchards from which drop apples are collected for use in cider.

2. Requiring that drop apples be washed and brushed with potable or sanitized water and that all apples used in cider be clean, sound and carefully sorted.

3. Specifying the types of equipment that are permitted in the processing, storage and bottling of cider and requiring that equipment to be cleaned and sanitized each day of use; and

4. Requiring that containers of cider be clearly and conspicuously labeled with either the terms "pasteurized" or "unpasteurized."

The Department has undertaken an aggressive inspection program for cider mills visiting nearly all of the mills in the state at least once this season. Results to date indicate a high level of compliance with state rule requirements. A copy of the New Hampshire rules are enclosed.

- The publication and dissemination to the industry of a set of Fresh Apple Cider - Good Manufacturing Practices (GMP's) by the University of New Hampshire Cooperative Extension. The GMP's provide practical and specific information to apple producers in orchard and harvest management directed toward safe cider production. In addition, the GMP's offer recommendations on worker and production equipment sanitation. This information has been well received by

cider producers in this state and provides guidance in the production of safe, high quality apple cider. A copy is included with these comments.

- The creation of a draft HAACCP plan for apple cider by the University of New Hampshire Cooperative Extension. Meetings have been planned at which cider producers will receive training on HAACP planning. HAACP planning is a priority educational effort of New Hampshire Cooperative Extension.

- The NH Department of Health and Human Services, in conjunction with the Cider Task Force, has completed the first phase of a laboratory testing program for apple cider. The first phase was designed as a research effort to gather background data on indicator organisms, pathogens and certain chemical characteristics of cider. Copies of the research project results are enclosed. The second phase of the testing is expected to involve a market survey with a regulatory action component that is intended to further assure the safety of cider in the marketplace.

In regard to FDA's proposed warning label statement regulation for juice products that have not been processed in a manner to provide a 5-log reduction in the pertinent microorganism, the New Hampshire Apple Cider Task Force believes that while it is appropriate that consumers be made aware of the potential of food-borne illness resulting from the consumption of non-pasteurized apple cider, we request that the proposed warning statement be changed. The Task Force does not object to the text of the proposed warning statement , but to the use of the term **"WARNING"** to alert the consumer. The New Hampshire Cider Task Force requests that the agency change the statement heading to **"CONSUMER ADVISORY"**.

It is our opinion that the term "consumer advisory" provides a more reasonable indication to the consumer of the relatively slight risk of the presence of harmful microorganisms in unpasteurized apple cider. Many consumers in our state have indicated their desire to be able to choose an unpasteurized product. The term "consumer advisory", in our view, indicates more appropriately the real risk from the consumption of fresh cider than the more ominous term "danger". To our knowledge, there has never been a documented illness connected with the consumption of fresh, unpasteurized apple cider in the state of New Hampshire. We believe, that the measures taken to date in this state, and the ongoing efforts of the Task Force render the likelihood of an occurrence of serious illness extremely remote.

Sincerely,



Richard B. Uncles
NH Dept. of Agriculture, Markets & Food
for the New Hampshire Apple Cider Task Force

enclosures: NH Dept. of Agriculture, Markets & Food, Cider law and rules, 1997.
NH Dept. of Health and Human Services, Apple Cider Project, 1997.
Univ. of NH Cooperative Extension, "Fresh Apple Cider - Good Manufacturing Practices," 1997.

SUMMARY REQUIREMENTS FOR CIDER SOLD IN NH

Selected Definitions from rules:

- *Cider* - the unfermented juice of apples, less than ½ of 1 percent alcohol.
- *Cider Apple* - any clean, sound and mature apple used to make cider.
- *Clean* - free from foreign material.
- *Drop* - an apple that has been in contact with the ground.
- *Fresh* - raw food that has never been frozen or heated and contains no preservatives.
- *Off-premises* - not at the site where cider is manufactured. It does not include farm stands owned by the cider manufacturer.
- *Serious Damage* - a defect that materially detracts from the edibility or market value of the cider. Includes fermented, bad flavor or odor.
- *Sanitize* - to adequately treat food contact surfaces by a process that is effective in destroying cells of E. Coli bacteria, and in substantially reducing numbers of other undesirable organisms, but without adversely affecting the product or its safety for the consumer.
- *Sound* - free of decay

Cider:

Cider shall be: - pressed, squeezed or extracted from "cider apples" that have been carefully inspected & sorted to remove defects.

Cider shall not be: - adulterated with sweeteners, flavorings or additives, (exceptions: approved preservatives and natural fruit juices used to make blends.)

- diluted by adding water
- made from concentrate
- "seriously damaged" (see definition)

Use of drops:

- Dropped apples must be washed and brushed with potable water or water so treated to make it safe for cleaning fruit.

- No animal manure or livestock pasturing is allowed in orchards where drops are collected.

Submitted by R. Lucier 4-6-2000 HCR35

Cider Manufacturing:

- Press racks and tubing must be cleaned and sanitized each day of use.

- Tubing for pomace or cider must be made of food grade material.

- Storage tanks must be of stainless steel or food grade plastic

Labeling:

Any container sold in NH shall be labeled clearly & legibly in no less than 10 point type with the following information:

- Name of producer
- Volume of contents
- Name of preservative
- The term "Pasteurized" if it has been, or
- The term "Not Pasteurized" or "Unpasteurized" if it has not been (mandatory 9-1-98, but strongly recommended now)

Required Now

If represented as a NH product - must be entirely produced in NH

May be labeled "FRESH" only if it:
- Is Raw
- Has never been frozen or heated
- Contains no preservatives

Cider Sold Off-Premises shall be:

- Marked with the date of packing, **or** a date code if method on file with NHDAM&F
- Refrigerated at 45°F or less, **or** set in ice

For a complete copy of the administrative rules, PART Agr 907 Cider, or for more information, contact the NH Department of Agriculture, Markets & Food, Bureau of Markets at (603) 271-3685 or 271-2753.

note date

Voting Sheets

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

EXECUTIVE SESSION on HCR 35

BILL TITLE: **urging the United States Food and Drug Administration to defer its proposed rules requiring pasteurization for apple cider and consider adoption of alternative processing standards.**

DATE: April 6, 2000

LOB ROOM: 303

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: (OTP), OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. Pratt

Seconded by Rep. Owen

Vote: 16-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: {Type VOTE}

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Karen K. McRae

Rep. Karen K. McRae, Clerk

HOUSE COMMITTEE ON ENVIRONMENT AND AGRICULTURE

EXECUTIVE SESSION on HCR 35

BILL TITLE: **urging the United States Food and Drug Administration to defer its proposed rules requiring pasteurization for apple cider and consider adoption of alternative processing standards.**

DATE: April

LOB ROOM: 303

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep. Pratt

Seconded by Rep. Owen

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Re-Refer, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: {Type VOTE}

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Karen K. McRae, Clerk

OFFICE OF THE HOUSE CLERK

2000 SESSION

ENVIRONMENT AND AGRICULTURE

Bill #: HCR 35 Title: _____

PH Date: ___/___/___ Exec Session Date: 4/6/200

Motion: OTP Amendment #: _____

MEMBER	YEAS	NAYS
Musler, George T, Chairman		
Leishman, Peter R, V Chairman	✓	
Messier, Irene M		
Pratt, Leighton C	✓	
McRae, Karen K, Clerk	✓	
Philbrick, Donald R		
Babson, David L	✓	
Phinney, William R	✓	
Marshall, Kenneth R	✓	
Dunlap, Patricia C	✓	
Franks, Suzan L R	✓	
Scanlan, David M	✓	
Cobb, John S	✓	
Harmon, Hobart M	✓	
Hall, Betty B	✓	
Owen, Derek	✓	
Melcher, Harold P	✓	
Meader, David R	✓	
Phinizy, James	✓	
Shelton, Richard C	✓	
Tuthill, John G		
Vaillancourt, Steve		
	16	0

TOTAL VOTE:

Printed: 2/15/2000

Committee Report

COMMITTEE REPORT

COMMITTEE: **Environment and Agriculture**

BILL NUMBER: **HCR 35**

TITLE: urging the United States Food and Drug Administration to defer its proposed rules requiring pasteurization for apple cider and consider adoption of alternative processing standards.

DATE: April 6, 2000 CONSENT CALENDAR YES ☒ NO ☐

☒ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

The New Hampshire Apple Producers of cider has a safe product and are following the Department of Agriculture Markets and Foods guidelines. Thus, this requests the USFDA to defer its proposed rules requiring pasteurization. There has NEVER been an incidence of illness from non-pasteurized New Hampshire cider in 200 years of cider production.

Vote 16-0.

Rep. Leighton C. Pratt
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Environment and Agriculture

HCR 35, urging the United States Food and Drug Administration to defer its proposed rules requiring pasteurization for apple cider and consider adoption of alternative processing standards. OUGHT TO PASS

Rep. Leighton C. Pratt for Environment and Agriculture: The New Hampshire Apple Producers of cider has a safe product and are following the Department of Agriculture Markets and Foods guidelines. Thus, this requests the USFDA to defer its proposed rules requiring pasteurization. There has NEVER been an incidence of illness from non-pasteurized New Hampshire cider in 200 years of cider production. Vote 16-0.

HCR 35

The New Hampshire Apple Producers of cider ~~have~~ has a safe product and are following The Department of Agriculture Markets and Foods guidelines. Thus, this requests the USFDA to defer its proposed rules requiring pasturization. There has NEVER been an incidence of illness from non-pasturized ~~cider~~ New Hampshire ciders in ~~the~~ 200 years of cider production.

Rep. Pratt

4/6

COMMITTEE REPORT

COMMITTEE: **Environment and Agriculture**

BILL NUMBER: **HCR 35**

TITLE: urging the United States Food and Drug Administration to defer its proposed rules requiring pasteurization for apple cider and consider adoption of alternative processing standards.

DATE: April 6 CONSENT CALENDAR YES ☒ NO ☐

☒ OUGHT TO PASS

☐ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ RE-REFER

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

Vote {Type VOTE}.

Rep. {Type NAME}
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT