



# NATIONAL HEALTH FREEDOM ACTION

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## FEDERAL ACTION UPDATE Protecting Access to Health Care Choices July 2010

**Access to Dietary Supplements and Therapeutic Devices is being challenged on a national and international level by restrictive laws and trade agreements that block access.**

**NHFA affirms that all individuals have the right of self-determination** to make their own health care choices and to have access to all health care information, services, treatments and products that the people deem beneficial to secure their own health and survival. **The United States Constitution provides protection** of these precious rights and liberties.

**Yet these rights become meaningless** when restrictive laws and regulations eliminate the very options that we desire to choose. NHFA is committed to restoring maximum options in health care, and preserving what health freedom is all about, empowering citizens to make health care decisions with the information they need.

► **The following is a table of bills NHFA has opposed or supported** to protect health freedoms. **NHFA develops active website links** so that citizens can write directly to their legislators to express their support or concerns. In addition, NHFA sends out Action Alert emails to all of its members and subscribers to alert them to bills that call for citizen action. The table includes the url addresses for bills with live action sites. The NHFA website includes archived copies of Action Alerts sent to subscribers.

### Bill Activity as of July 5, 2010

Bill Number/Title	Sponsor/Intro Date	Purpose	NHFA Action Alerts (Detail below)
<b>S.510</b> <b>Title:</b> FDA Food Safety Modernization Act	<b>Sponsor:</b> <a href="#">Sen Durbin, Richard</a> [IL] (introduced 3/3/2009)	To amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.	<b><u>OPPOSED</u></b> <b><u>NHFA Action Alert</u></b> with web live site for writing legislators: <a href="http://salsa.democracyninaction.org/o/850/p/dia/action/public/?action_KEY=3926">http://salsa.democracyninaction.org/o/850/p/dia/action/public/?action_KEY=3926</a>

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**Reasons to Oppose S.510:** S. 510 would drastically burden and squelch small-scale local food producers and their ability to service millions of eager consumers.

S. 510 does not address the real causes of food safety issues stemming from the industrialization of the food supply chain and the problems associated with large industry.

S. 510 attempts to impose expansive and burdensome regulations on not only large industry food facilities, but all food facilities, including manufacturers, processors, packers and storage facilities.

NHFA has joined 152 organizations of consumers, farmers and ranchers, local food producers, and co-op organizations that support the Tester-Hagen amendments to delete burdens on small-scale, local food producers.

NHFA also discussed amendment language with colleagues regarding reference to Codex in the bill. Amendments were developed to delete, or at minimum to clarify, the meaning of the section referring to Codex where, in the bill, technical support to international countries looked to Codex as a standard for preparation for exportation. Committee Chair Harkin made open comments at the Committee hearing assuring consumers that DSHEA would not be impacted, and that the reference to Codex would be clarified so as not to suggest any type of harmonization with US domestic law.

<p><b>H.R.2749</b> <b>Title:</b> Food Safety Enhancement Act of 2009</p>	<p><b>Sponsor:</b> <a href="#">Rep Costa, Jim</a> [CA-20] (introduced 3/5/2009)</p>	<p>To amend the Federal Food, Drug, and Cosmetic Act with respect to the safety of the food supply.</p>	<p><b><u>OPPOSED</u></b> Action covered under S.510 alert</p>
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**Reasons to Oppose H.R.2749:** See rationale for opposition of S.510

<p><b>H.R.3200</b> <b>Title:</b> America's Affordable Health Choices Act of 2009</p>	<p><a href="#">Rep Dingell, John D.</a> [MI-15] (introduced 7/14/2009)</p>	<p>To provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes.</p>	<p><b><u>OPPOSED</u></b> <b>10/14/2009 4:17pm:</b> Committee on The Budget discharged. <b>10/14/2009 4:18pm:</b> Placed on the Union Calendar, Calendar No. 168.</p>
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**Reasons to Oppose H.R. 3200:** There are a number of bills having to do with President Obama’s work to provide affordable health care, including but not limited to, **H.R. 3200, H.R.3962, H.R.3590, H.R.4872.**

Some of the concerns are:

That a bill would unconstitutionally force, by coercion, Americans to obtain only government-endorsed health insurance.

That a bill would give major authority for decisions relating to the provision of health care to government employees, as opposed to health care providers, and that health care would be limited based upon conventional “best practices” standards agreed upon by these agency employees, and based on population statistics instead of the wisdom of care providers and practitioners.

There is a question as to who will pay for the start-up funds of 2 trillion dollars. There are concerns about the massive debt we leave for our children for this purchase.

Health seekers that use complementary and alternative medicine will have a hard time finding their preferred practitioner providing their preferred services in a government-run system. Many consumers use a broad array of health care practitioners, and it is states that regulate occupations. Eight states have safe harbor laws to protect consumer access to independent practitioners such as herbalists, homeopaths, traditional naturopaths and more. But

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the federal bills mentions licensed complementary and alternative health care practitioners”. It is not to the prerogative of the federal government to tell a state which practitioners are allowed on health care teams, as it does in these bills. Some say it is good that integrative practitioners were included in the bill at all. But NHFA believes that the bill should have deferred to state governments to decide who can practice a health care occupation.

The bill caters throughout to big drug businesses, ensuring markets for large drug companies, including vaccines and prescription drug approaches.

The bill reduces privacy with our personal health information and medical records.

The bill puts the federal government in charge of health care decisions, compromising the independent judgment of doctors and health care practitioners. It jeopardizes the practitioner/client relationship and stifles innovation. It threatens consumer access to favorite health care providers and protocols that is the bedrock of patient choice.

<p><b>S.3002</b>  <b>Title:</b> Dietary Supplement Safety Act of 2010</p>	<p><b>Sponsor:</b> <a href="#">Sen McCain, John</a> [AZ] (introduced 2/4/2010)</p>	<p>To amend the Federal Food, Drug, and Cosmetic Act to more effectively regulate dietary supplements that may pose safety risks unknown to consumers.</p>	<p><b>OPPOSED</b>  <b>NHFA Action Alert</b> with web live site for writing legislators:  <a href="http://salsa.democracyinaction.org/o/850/p/dia/action/public/?action_KEY=2230">http://salsa.democracyinaction.org/o/850/p/dia/action/public/?action_KEY=2230</a></p>
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**Reasons to Oppose S.3002:** S. 3002 bill calls for additional pre-market registration requirements for "any business or operation engaged in manufacturing, packaging, holding, distributing, labeling, or licensing a dietary supplement for consumption in the United States".

S.3002 proposes mandating reporting of “non-serious” adverse events even when there is no proof or verification of causation. This would be in addition to the current serious adverse event reporting requirements passed within the past three years into existing law.

S.3002 supports the dangerous European approach of “permission please”, “positive list” concept that is drug based and already harming Europeans’ access to supplements: The bill language states: “is not included on the list of ‘Accepted Dietary Ingredients’, to be prepared, published, and maintained by the Secretary”.

<p><b>H.R.4173</b>  <b>Title:</b> Restoring American Financial Stability Act of 2010</p>	<p><b>Sponsor:</b> <a href="#">Rep Frank, Barney</a> [MA-4] (introduced 12/2/2009)</p>	<p><b>H.R.4173 -- Restoring American Financial Stability Act of 2010 (Public Print - PP)</b></p>	<p><b>OPPOSED</b>  <b>NHFA Action Alert</b> with web live site for writing legislators:  <a href="http://salsa.democracyinaction.org/o/850/p/dia/action/public/?action_KEY=3727">http://salsa.democracyinaction.org/o/850/p/dia/action/public/?action_KEY=3727</a></p>
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**Reasons to Oppose H.R. 4173:** Previously The U.S. House of Representatives accepted a hostile and un-germane amendment section into their “Wall Street Consumer Protection Act” H.R. 4173. This amendment, Section 4901, has nothing to do with finance reform, but it would hugely expand the Federal Trade Commission’s (FTC) rulemaking authority, giving them unbridled power to act against many businesses, including supplement manufacturers. H.R. 4173, now being used as a political vehicle to carry the FTC amendment expanding the general powers of the FTC, passed the full House and was sent to the Senate in late January 2010 where it was referred to Senator Dodd’s committee on Banking, Housing, and Urban Affairs.

FTC’s history of abuse of power was noted in the late 1970’s and curbed by passing laws (Magnuson-Moss procedure) to put restrictions on the FTC’s activities. H.R. 4173 was attempting to wipe these restrictions out and to reinstate broad powers for the FTC, making businesses, including dietary supplement manufacturers, once again vulnerable to the biased activities of this huge agency.

NHFA’s goal was to make sure the Conference Committee on the finance reform bills S 3217 and H.R. 4173 would oppose any expansion of FTC broad rulemaking power which could harm free speech about dietary supplements.

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Our understanding is that the conference committee did not accept Sect. 4901 and that our efforts were helpful.			
<b>S.3217</b> <b>Title:</b> Restoring American Financial Stability Act of 2010	<b>Sponsor:</b> <a href="#">Sen Dodd, Christopher J.</a> [CT] (introduced 4/15/2010)	<b>S.3217 -- Restoring American Financial Stability Act of 2010 (Amendment in Senate - AS)</b>	<b><u>OPPOSED</u></b> <b><u>NHFA Action Alert</u></b> with web live site for writing legislators: <a href="http://salsa.democracyinaction.org/o/850/p/dia/action/public/?action_KEY=3727">http://salsa.democracyinaction.org/o/850/p/dia/action/public/?action_KEY=3727</a>
<b>Reasons to Oppose S.3217:</b> See rationale for opposition of H.R. 4173			
<b>H.R.4173/S.3217</b>	Conference Committee H.R.4173/S.3217	Conference Report H.R.4173/S.3217	<b><u>OPPOSED</u></b> <b><u>NHFA Action Alert</u></b> with web live site for writing legislators: <a href="http://salsa.democracyinaction.org/o/850/p/dia/action/public/?action_KEY=3727">http://salsa.democracyinaction.org/o/850/p/dia/action/public/?action_KEY=3727</a> <b>6/29/2010:</b> Conferees agreed to file conference report. <b>6/29/2010 8:30pm:</b> Conference report H. Rept. <a href="#">111-517</a> filed. (text of conference report: CR <a href="#">H4977-5202</a> )
<b>Reasons to Monitor Conference Committee for H.R. 4173/S.3217:</b> See rationale for opposition of H.R. 4173			
<b>H.R.3395</b> <b>Title:</b> Health Freedom Act	<b>Sponsor:</b> <a href="#">Rep Paul, Ron</a> [TX-14] (introduced 7/29/2009)	To amend the Federal Food, Drug, and Cosmetic Act concerning claims about the effects of foods and dietary supplements on health-related conditions and disease, and for other purposes.	<b><u>SUPPORTED</u></b> <b>7/29/2009:</b> Referred to the House Committee on Energy and Commerce.
<b>Reasons to Support H.R. 3395:</b> H.R. 3395 “The Health Freedom Act”, removes FDA's power of prior restraint over all nutrient-disease relationship claims. Under the bill, FDA may not prohibit any statement concerning a nutrient affecting a disease (including treatment effects) from being made in the market, and may only act against a statement once made if it possesses clear and convincing evidence that the statement is false.” (Quote Accessed online July 2010 from Emord and Associates website at: <a href="http://www.emord.com/legislation.html">http://www.emord.com/legislation.html</a> ).			
<b>H.R.3394</b> <b>Title:</b> Freedom of Health Speech Act	<b>Sponsor:</b> <a href="#">Rep Paul, Ron</a> [TX-14] (introduced 7/29/2009)	To amend the Federal Trade Commission Act concerning the burden of proof in false advertising cases involving dietary supplements and dietary ingredients.	<b><u>SUPPORTED</u></b> <b>7/29/2009:</b> Referred to the House Committee on Energy and Commerce.
<b>Reasons to Support H.R. 3394:</b> “H.R. 3394; Freedom of Health Speech Act: The Freedom of Health Speech Act prevents the Federal Trade Commission from taking action against any advertiser that communicates a health benefit for a product unless the FTC first establishes based on clear and convincing evidence that the statement made is false and that its communication causes harm to the public.” (Quote Accessed online July 2010 from Emord and Associates website at: <a href="http://www.emord.com/legislation.html">http://www.emord.com/legislation.html</a> ).			

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<b>H.R. 4913</b> <b>Title:</b> Free Speech About Science Act of 2010	<b>Sponsor:</b> <a href="#">Rep Chaffetz, Jason</a> [UT-3] (introduced 3/23/2010)	To amend the Federal Food, Drug, and Cosmetic Act concerning the distribution of information on legitimate scientific research in connection with foods and dietary supplements, and for other purposes.	<b>OPPOSED</b> <b>3/23/2010:</b> Referred to the House Committee on Energy and Commerce.
<p><b>Reasons to Oppose H.R. 4913:</b> NHFA opposes this bill because it continually uses the term "legitimate scientific research" as the threshold for "permission to speak". The better solution is to support HR 3394 which protects speech in the marketplace, as long as it is truthful and not misleading. "Legitimate scientific research" can be an extremely arguable term and will be abused and will be interpreted under conventional scientific rubrics. The bill will work to further entrench our freedom of speech prohibitions into the existing conventional science paradigm. It will once more insist that if you don't have "legitimate scientific research" (as interpreted by the FDA), then you will not be able to speak the truth about dietary supplements. Dietary supplements will continue to be construed to be legally considered "drugs" if a person says what they can do. This is a bill that could even more entrench the "evidenced based medicine model" that international forums are promoting.</p>			
<b>H.R.3962</b> <b>Title:</b> Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010	<b>Sponsor:</b> <a href="#">Rep Dingell, John D.</a> [MI-15] (introduced 10/29/2009)	H.R. 3962 -- Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010.	<b>OPPOSED</b> <b>NHFA Action Alert</b> with web live site for writing legislators: <a href="http://salsa.democracynaction.org/o/850/p/dia/action/public/?action_KEY=1934">http://salsa.democracynaction.org/o/850/p/dia/action/public/?action_KEY=1934</a> <b>6/25/2010:</b> Became Public Law No: 111-192.
<p><b>Reasons to Oppose H.R. 3962:</b> See rationale for H.R. 3200</p>			
<b>H.R.3590</b> <b>Title:</b> Patient Protection and Affordable Care Act	<b>Sponsor:</b> <a href="#">Rep Rangel, Charles B.</a> [NY-15] (introduced 9/17/2009)	<b>H.R.3590 -- Patient Protection and Affordable Care Act (Enrolled Bill [Final as Passed Both House and Senate] - ENR)</b>	<b>OPPOSED</b> <b>3/23/2010:</b> Became Public Law No: 111-148.
<p><b>Reasons to Oppose H.R. 3590:</b> See rationale for H.R. 3200</p>			
<b>H.R.4872</b> <b>Title:</b> Health Care and Education Reconciliation Act of 2010	<b>Sponsor:</b> <a href="#">Rep Spratt, John M., Jr.</a> [SC-5] (introduced 3/17/2010)	<b>H.R.4872 -- Health Care and Education Reconciliation Act of 2010 (Enrolled Bill [Final as Passed Both House and Senate] - ENR)</b>	<b>OPPOSED</b> <b>3/30/2010:</b> Became Public Law No: 111-152.
<p><b>Reasons to Oppose H.R. 4872:</b> See rationale for H.R. 3200</p>			
<b>S.3414</b> <b>Title:</b> Dietary Supplement Full Implementation and Enforcement Act of	<b>Sponsor:</b> <a href="#">Sen Harkin, Tom</a> [IA] (introduced 5/25/2010)	To ensure that the Dietary Supplement Health and Education Act of 1994 and other requirements for dietary supplements under	<b>OPPOSED</b> <b>5/25/2010:</b> Read twice and referred to the Committee on Health, Education, Labor, and Pensions.

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2010		the jurisdiction of the Food and Drug Administration are fully implemented and enforced, and for other purposes.	
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**Reason to Oppose S.3414:** S. 3414 is onerous and unnecessary because it presumes that FDA does not have the capability of enforcing existing laws regarding sports abuse of dietary supplements that are adulterated. We already have strong laws that disallow adulteration of dietary supplements. The new bill commands FDA to enforce existing law. However health freedom leaders understand that FDA has been enforcing existing law under their own interpretations, with bias against dietary supplement use and freedom of speech. Health freedom leaders and organizations agree with NHFA that this bill will give FDA more opportunities and more funds to do the very bad interpretations that they are doing now to supplement companies. NHFA and other leaders believe HF3394 and HF3395 must be passed in order to protect freedom of speech in the marketplace.

In addition many negative comments have been given about the jurisdiction language of the bill including the use of the broad phrase 'analogue of an anabolic steroid'. One comment we received from a well-known herbalist included the following: "We can't deny the fact that these compounds exist in nature. For example, in 1942, researchers determined the wild yam contained a steroid called diosgenin, which imitated the effect of progesterone in the body. DHEA contains wild yam as well as other combinations we offer. Yucca has been traditionally used by the natives for centuries as a food, medicine and for soap. It contains steroidal saponins. Licorice root has been used by ancient cultures, the Chinese call it the "great detoxifier." It contains a saponin called glycyrrhizin and research confirms that this substance provides similar action as hydrocortisone and other corticosteroid hormones. Analogous means resembling or comparable in certain aspects. A similarity in function and appearance but not in origin. Chemicals are patterned from nature, not the other way around. Nature protects and nurtures, isolated man made chemicals can be dangerous." NHFA believes consumers could lose access to many valuable herbs if this language were to pass.

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