



440 1st St. NW, Ste. 520, Washington, D.C. 20001
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May 2, 2022

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

The Honorable Alejandro Mayorkas
Secretary of Homeland Security
U.S. Department of Homeland Security
301 7th St, SW
Washington, DC 20528

The Honorable Xavier Becerra
Secretary
U.S. Department of Health & Human Services
200 Independence Avenue, S.W. Washington, DC
20201

Dear Attorney General Garland, Secretary Mayorkas, and Secretary Becerra,

Founded in 1936, NPA is the nation's oldest and largest nonprofit organization dedicated to the natural products industry representing over 700 diverse member organizations united in providing consumers with access to safe products that will maintain and improve their health.

I am writing to draw your attention to S. 4090, the Dietary Supplement Listing Act of 2022, a bill that would endanger the safety and security of our nation's food supply.

In the wake of attacks on our homeland, Congress in 2002 passed the Public Health Security and Bioterrorism Preparedness and Response Act, Pub.L. 107-188 ("Bioterrorism Act"). Section 305 of the Bioterrorism Act requires domestic and foreign facilities that manufacture, process, pack, or hold dietary supplements and other foods for consumption in the United States to register with the Food and Drug Administration (FDA).

Section 305 was intended to enhance the security of the food supply as a critical element of the infrastructure of the United States. It gave FDA important information it would need to respond quickly to a threatened or actual bioterrorist attack on the food supply or to other food-related emergencies.

However, to shield this information from individuals or groups with malicious intent, the Bioterrorism Act required FDA to "maintain an up-to-date list of facilities" but prohibited disclosure under the Freedom of Information Act of the "list and any registration documents submitted pursuant" to the law [21 USC 350d(a)(5)].

The Natural Products Association is gravely concerned that the Dietary Supplement Listing Act of 2022 would undermine these carefully crafted protections.

The bill would create a new Section 403D of the Federal Food, Drug, and Cosmetic Act that would require a so-called "mandatory product listing" of all dietary supplements. The bill would



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require FDA to “maintain an electronic database” that is “publicly accessible,” is “populated with information that is provided” under the bill, and “enables the public to search the database.”

The information that would be provided under the bill would include:

- Any “proprietary name” of the dietary supplement;
- The “full business name and address of all locations” at which a company “manufactures, packages, labels, or holds” the dietary supplement;
- An “electronic copy of the label for the dietary supplement, and an electronic copy of the package insert,” if any;
- A list of “all ingredients” in the dietary supplement; and
- The “dosage form,” such as pill, capsule, liquid, or powder.

This is precisely the type of information that bioterrorists would need to introduce contaminants or poisons into the food supply, and it would all be available to them in a publicly accessible database maintained by the federal government at taxpayer expense.

As you can see, enactment of the Dietary Supplement Listing Act of 2022 would pierce the Bioterrorism Act’s shield that protects dietary supplements and other food products from being the vector for an attack on Americans.

I hope the Administration will join us in opposing this legislation in the best interests of national security.

Thank you,

A handwritten signature in black ink, appearing to read "DF", is written over a light blue horizontal line.

Daniel Fabricant, Ph.D.
President and CEO
Natural Products Association