

December 2014 National Legislative Update

(Extracted from FMI Updates & Other Rescores)

As of this writing prior to the upcoming holiday recess the House of Representatives is currently debating the Omnibus Appropriations legislation that will continue to fund the government after the existing continuing resolution expires tonight. All agencies would be funded through September except for the Department of Homeland Security which would be funded through February. The President announced that he supports the legislation.

Although it is very disappointing that the Congress did not allow the inclusion of a year delay of the restaurant menu labeling provisions to give supermarkets at least as much time as the 2 year time frame the vending machine operators were given to comply with the newly released FDA final rule, there are other highlights of this legislation that are worthy of review.

Menu Labeling:

There is language in the Joint Explanatory Statement: "On December 1, 2014, FDA published a final regulation, "Food Labeling: Nutrition Labeling of Standard Menu Items In Restaurants." Prior to implementation or enforcement of this regulation, FDA shall work with industry and other stakeholders to identify questions and concerns, and provide any clarification necessary, including publication of any necessary guidance, not later than March 1, 2015." At least this language shows there is interest by the Congress in monitoring this closely and hopefully fixing some of the problems early in 2015.

FMI along with other organizations plan on meeting with FDA to get greater clarity and walk them through a store to show specific areas that present the greatest concerns for our industry. FMI plans on drafting a sample advocacy letter that can be sent to the Hill that will highlight the very significant effort that will be required of grocery stores. RIFDA Members should consider signing onto this letter and forwarding along to Washington. By the time this newsletter is distributed the link to this letter should be available on the FMI website.

While more information is always good, having a government system designed for chain restaurants with a minimum number of standard items purchased via the same supplier apply to grocery stores who are cutting up a ripe cantaloupe for the salad bar makes no sense and threatens to cause a vast reduction in fresh offerings. Our motto over the last few days has been one we stole from Yogi Berra, "It ain't over 'til it's over."

Food Safety:

Two **food safety** highlights in the appropriations omnibus are:

\$1.016 billion is provided to the Food Safety Inspection Service (FSIS), \$5.8 million above FY14 levels.

\$903.4 million is provided to FDA's Center for Food Safety and Applied Nutrition (CFSAN) including a \$27.5 million increase from FY14 levels for food safety activities.

Country of Origin Labeling:

The legislation requires a report from USDA/USTR on how to create a WTO-compliant COOL system – it sets a deadline of May or 15 days after the WTO appeal is handed down.

Hours of Service (Transportation):

Bi-partisan language authored by Senator Susan Collins (R-ME) is included in the Omnibus Appropriations Agreement which addresses shortcomings in the Hours-of-Service (HOS) regulations that were promulgated in 2013 by the Federal Motor Carrier Safety Administration (FMCSA). The Collins language temporarily suspends two controversial HOS provisions until FMCSA conducts a study to assess driver safety, fatigue, benefits and issues relating to increased traffic congestion of large trucks during peak driving time. The stayed HOS provisions are the 34-hour restart requiring two consecutive overnight periods of off-duty from 1:00 am to 5:00 am and limiting the restart rule to only once every 168 hours (once a week). Following completion of the study which must be vetted by the Department of Transportation's (DOT) Inspector General, DOT's Secretary is required to submit a report on the study's findings and recommendations on whether these provisions in effect on July 1, 2013 provide a greater net benefit than the previous HOS restart rule.

Pensions:

This bill also addresses the ongoing crisis in the multiemployer pension system and the long-term instability of the PBGC's finances by advancing carefully thought out reforms supported by employers and unions. FMI has long argued that Congress cannot continue to "kick the can" down the road in the hopes that the issue of underfunding in the multiemployer pension sector will resolve itself and today's legislation reflects these very concerns. The bipartisan reforms included in the bill will help to stabilize the funding status of the most troubled plans while allowing participants in these plans to have a voice in its future direction and protecting the pensions of the most vulnerable retirees.

WIC:

The CROmnibus provides \$6.6 billion for WIC. While it is \$93 million below FY 2014's enacted level, it is expected that all eligible participants will be served. Additionally, the bill includes \$25 million to help states with E-WIC migration. On a policy note, the CROmnibus removes the ban and makes white potatoes eligible for purchase in grocery stores with WIC benefits.

The bill provides \$16 million to continue **Summer Electronic Benefit Demonstration Grants**, which provide the families of low-income children with benefits similar to Supplemental Nutrition Assistance Program (SNAP) and WIC in an effort to provide alternative access to food for these children during the summer months, when school is not in session. Preliminary results of the demonstration grants have shown a decrease in food insecurity among participating children by 19 percent, and a decrease in very low food security, the most severe category, by 33 percent.

SNAP:

Unlike WIC, **SNAP** is mandatory spending, so the Appropriations committee does not have the same flexibility in funding levels. The bill includes \$81.8 billion for SNAP. While this is a \$332 million reduction from FY 2014, those savings are expected from fewer participants and will not be reflected in a reduction of benefits.