



Memorandum of SUPPORT

A.1556G/S.1239F (Kelles/Kavanaugh) – The Food Safety and Chemical Disclosure Act

Consumer Reports¹ strongly supports the New York Food Safety and Chemical Disclosure Act² (FSDCA) which will bring long-overdue transparency to the safety of food chemicals consumed by New Yorkers as well as ban three dangerous food chemicals from the supply. **Importantly, the bill ensures safer food without placing any new burden on small businesses.**

The bill is structured to hold large corporations accountable while explicitly exempting small businesses with fewer than 100 employees from compliance requirements. All retailers, food establishments, and food relief organizations are also given up to three years after the effective date to sell through non-compliant stock, ensuring a smooth and flexible transition.

The FSDCA requires companies to publicly disclose safety evidence for food chemicals that have been deemed as “generally recognized as safe” when such safety evidence hasn’t been reviewed by FDA (the so-called “secret GRAS loophole”), which will promote greater transparency and accountability. The FSDCA also prohibits three harmful chemicals—Red 3, potassium bromate, and propylparaben—which have been linked to cancer, reproductive toxicity, and hormone disruption, from food sold in New York.

Why New York Needs to Act Now

The FSDCA is even more needed given the systematic problems of food safety assessment at the Food and Drug Administration (FDA). Chronic underfunding for food safety and internal dysfunction at the FDA was highlighted in the 2022 Reagan-Udall report.³ More recent federal actions cutting FDA staff and the government shutdown have left the agency unable to keep pace with modern food safety challenges. Although U.S. Health and Human Services (HHS) Secretary Robert F. Kennedy Jr. has directed FDA to explore rulemaking to close the secret GRAS-loophole, this exploratory step lacks a definite time, enforceability, or guaranteed follow-up, and could be reversed if political priorities shift.

¹ Founded in 1936, [Consumer Reports](#) (CR) is an independent, nonprofit and nonpartisan organization that works with consumers to create a fair and just marketplace. Known for its rigorous testing and ratings of products, CR advocates for laws and company practices that put consumers first. CR is dedicated to amplifying the voices of consumers to promote safety, digital rights, financial fairness, and sustainability. The organization surveys millions of Americans every year, reports extensively on the challenges and opportunities for today's consumers, and provides ad-free content and tools to 6 million members across the U.S.

² NY Assembly Bill A1556E, www.nysenate.gov/legislation/bills/2025/A1556/amendment/E; NY Senate Bill S1239E, www.nysenate.gov/legislation/bills/2025/S1239/amendment/E.

³ Reagan-Udall Foundation. 2022. *Operational Evaluation of the FDA Human Foods Program*. December 2022. <https://reaganudall.org/projects/operational-evaluation-fdas-human-foods-programs>

Fortunately, states have not been waiting for federal action that may never come. Over 25 states have introduced or passed legislation to limit or ban harmful food chemicals and address the broader regulatory system. In 2023, California passed their own Food Safety Act which banned the three chemicals targeted in the FSDCA.⁴ Arkansas⁵ recently passed legislation prohibiting potassium bromate and propyl paraben, and Pennsylvania⁶ is advancing legislation that mirrors the FSDCA's GRAS disclosure provision. By passing FSDCA, New York can lead in food safety transparency and the growing movement for safer food.

Companies Should Provide Evidence that their Food Chemicals are Safe to Eat

The FSDCA will close the “secret GRAS” loophole, which allows companies to self-determine that a new chemical is safe to eat and then add it to foods without notifying FDA or disclosing the safety evidence.⁷ In April 2022, Daily Harvest began selling a product, French Lentil and Leek Crumbles, which contained tara flour, a protein powder made from seeds of the tara tree, which they had self-determined as GRAS. There was an outbreak of acute gastrointestinal and liver disease that affected 393 people before it was removed from the market in late-June 2022. Later testing of tara flour found the presence of a non-protein amino acid baikiain which caused liver injury when fed to mice, suggesting it was the likely cause of the liver injury seen in people that consumed the product.⁸ Two years after the outbreak, the FDA determined that tara flour was not GRAS since there was not a single toxicological study that demonstrated its safety.⁹

A1556E removes the secret GRAS loophole by requiring companies to notify New York State of their GRAS determinations that have not been submitted or reviewed by the FDA. This summary of safety information (which does not include trade secrets) would then be made publicly available by the state. This bill will expose when food companies use inadequately tested or unsafe food chemicals in New York. The FDA, New York health officials, and the public will have more information to understand which foods pose safety risks.

Carcinogenic and Hormone Disrupting Chemicals Should Not be in Our Food

The FSDCA would protect New Yorkers from three dangerous food chemicals: Red 3, potassium bromate, and propylparaben. The FDA concluded that Red 3 causes cancer in animals almost 40 years ago, as noted in a petition submitted to FDA in 2022 to ban the Red 3 in food

⁴ The California Food Safety Act

https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB418

⁵ Arkansas Senate Bill 9.

<https://arkleg.state.ar.us/Home/FTPDocument?path=%2FBills%2F2025R%2FPublic%2FSB9.pdf>

⁶ Pennsylvania House Bill 1130. <https://www.palegis.us/legislation/bills/text/PDF/2025/0/HB1130/PN1415>

⁷ U.S. Government Accountability Office. 2010. *FDA Should Strengthen Its Oversight of Food Ingredients Determined to Be Generally Recognized as Safe (GRAS)*. <https://www.gao.gov/assets/gao-10-246.pdf>

⁸ LiverTox: Clinical and Research Information on Drug-Induced Liver Injury [Internet]. Bethesda (MD): National Institute of Diabetes and Digestive and Kidney Diseases; 2012-. Tara Flour. [Updated 2024 Jun 20]. https://www.ncbi.nlm.nih.gov/books/NBK604845/pdf/Bookshelf_NBK604845.pdf

⁹ U.S. Food and Drug Administration. Memorandum: Regulatory status and review of available information pertaining to tara protein/flour derived from the seed germ of the plant, *Caesalpinia spinosa*: lack of general recognition of safety for its use in foods. <https://www.fda.gov/media/178582/download?attachment>

and ingested drugs¹⁰, but only announced this January that it will grant the petition to ban Red 3, which will take effect in 2027.¹¹ In 1992, the Joint Food and Agricultural Organization and World Health Organization Expert Committee on Food Additives determined that potassium bromate, a flour-bleaching agent, was a genotoxic carcinogen.¹² The European Food Safety Authority linked propylparaben, a preservative, with reproductive toxicity and hormone disruption.¹³ The European Union has essentially banned these three chemicals, only allowing Red 3 to be used in processed cherries.¹⁴ California's Food Safety Act, passed in 2023, prohibits the sale of Red 3, potassium bromate, and propylparaben by 2027.¹⁵ As manufacturers reformulate their products to comply with the California ban, the FSDCA would push those companies to offer reformulated products in New York as well.

Conclusion

The Senate has already passed this critical legislation, and the Assembly now has a clear opportunity to act. A1556E represents more than a ban on harmful food chemicals; it's a long-overdue step toward rebuilding a food safety system based on transparency, accountability, and public trust.

We urge you to pass this important legislation through the Assembly,

Sincerely,

Michael Hansen, Ph.D
Senior Scientist

[Brian Ronholm](#)
Director, Food Policy

¹⁰ U.S. Food and Drug Administration. Filing of Color Additive Petition From Center for Science in the Public Interest, et al.; Request To Revoke Color Additive Listing for Use of FD&C Red No. 3 in Food and Ingested Drugs. 2023. <https://www.govinfo.gov/content/pkg/FR-2023-02-17/pdf/2023-03391.pdf>

¹¹ Color Additive Petition From Center for Science in the Public Interest, et al.; Request To Revoke Color Additive Listing for Use of FD&C Red No. 3 in Food and Ingested Drugs. <https://www.govinfo.gov/content/pkg/FR-2025-01-16/pdf/2025-00830.pdf>

¹² World Health Organization. EVALUATION OF CERTAIN FOOD ADDITIVES AND CONTAMINANTS. WHO Technical Report Series, 859. 1995. <https://iris.who.int/server/api/core/bitstreams/00892bf0-44c3-480e-91fc-509f3ca1a546/content>

¹³ European Food Safety Authority. Opinion of the Scientific Panel on food additives, flavourings, processing aids and materials in contact with food (AFC) related to para hydroxybenzoates (E 214-219). *EFSA Journal*. 2004; 2(9):83, 1-26. <https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2004.83>

¹⁴ REGULATION (EC) No 1333/2008 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 December 2008 on food additives. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008R1333>

¹⁵ The California Food Safety Act https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB418