

STATE OF VERMONT  
HOUSE OF REPRESENTATIVES  
115 STATE STREET  
MONTPELIER, VT  
05633-5201

January 18 , 2006

Dear Senator Leahy, Senator Jeffords and Congress Member Sanders:

It has recently been brought to our attention that passed and pending legislation in the U.S. Congress would preempt states like Vermont from providing fundamental consumer information and reducing exposure risks to mercury. We are writing to urge you to oppose and repeal such legislation since Vermont's Advisory Committee on Mercury Pollution, which was established by the Vermont Legislature and on which we serve, is presenting an upcoming annual report to the Governor and the Legislature that includes legislative recommendations for reducing Vermonters' exposure to mercury from fish, vaccines and dental filling that could be preempted by Federal laws.

Legislation signed into law by President Bush on December 30, 2005 contains unprecedented liability protections for companies manufacturing or selling vaccines containing mercury, called thimerosal, and would also allow federal preemption of state laws banning mercury in vaccines. This language offers more special interest immunity than any bill ever considered by either body of Congress. While there isn't an automatic state preemption in the new federal law, it is very nearly one. For example, if the Secretary of the U.S. Health and Human Services designates that a vaccine is a "covered countermeasure," thimerosal could still be used in the vaccine—even if a state has banned thimerosal use. California, Iowa, Illinois, Delaware and New York have this ban in place, and our legislation would ban the use of thimerosal for children in Vermont.

Further, under the guise of "improved interstate commerce," the food industry is pushing a bill in Congress that would preempt all state food safety warnings that are stronger than federal safety warnings. The National Food Uniformity Act (HR 4167) would eliminate 80 labeling right-to-know laws in 37 states, according to Rep. Henry Waxman (D-CA). The bill would prevent states from imposing stricter warnings about food and other health risks than FDA, such as in the case of California which requires mercury warnings for commercial fish at point of sale.

While the legislation would allow states to petition FDA within 180 days to exempt their safety laws from elimination (if for example they had scientific proof that some food was dangerous) we are not comforted by this provision, given the ongoing controversies over exposure risks from mercury. HR 4167 passed out of the House Energy and Commerce Committee on December 14, 2005 and is now headed for a vote in the House.

These federal preemptions fly in the face of basic consumer right-to-know information about exposure risks to mercury and will impede Vermonters' abilities to make informed choices. As you are no doubt aware, mercury is a persistent and toxic pollutant that bioaccumulates in the environment and poses a serious threat to humans, particularly young children and the developing fetus, and fish and wildlife. Recent EPA research has concluded that 16 percent of American women of childbearing age have unsafe mercury blood levels, and that the annual number of newborn infants at risk in the United States is 630,000.

The Advisory Committee on Mercury Pollution's recommendations in this year's report and our legislation are aimed at allowing Vermonters to better educate themselves and reduce exposure risks to this neurotoxin, both for themselves and their children. Therefore, we strongly urge you do everything possible to reinstate and preserve the State of Vermont's right to convey important information to consumers and assist in reducing human exposure risks to mercury.

Thank you for your attention to this important issue!

Sincerely,

Sen. Virginia Lyons

Rep. Carol Hosford

cc Michael Bender, Co-Chair, Advisory Committee on Mercury Pollution  
Ruma Kohli, Co-Chair, Advisory Committee on Mercury Pollution

Attachment

cc Governor Jim Douglas  
Vermont Legislators