
THE CONGRESS PROJECT

Assignment Prompt Sheet

The Pure Food and Drug Act of 1906

Overview

Act Title: The Pure Food and Drug Act of 1906

Congress: 59th Congress (1905-1906)

Session/Sessions: 1

Statute No: 34 Stat. 768-72

Public Law No: 59 PL 384-2

Eid: 590384

Gid: 231-002

Bill: S 88

Sponsor: Sen. [Weldon Heyburn \(R-ID\)](#)

House Committees: Interstate and Foreign Commerce

Senate Committees: Manufacturers

Companion Bill: HR 3044

Related Bills: HR 4527; HR 7018; HR 13859

House Rules: Hres 562

Past Bills: 55 S 4144; 56 HR 7667; 57 HR 3109; 57 S 3342; 58 S 220; 58 HR 6295

Introduced Date- Law Date: December 6, 1905-June 30, 1906

House Floor Days: 5

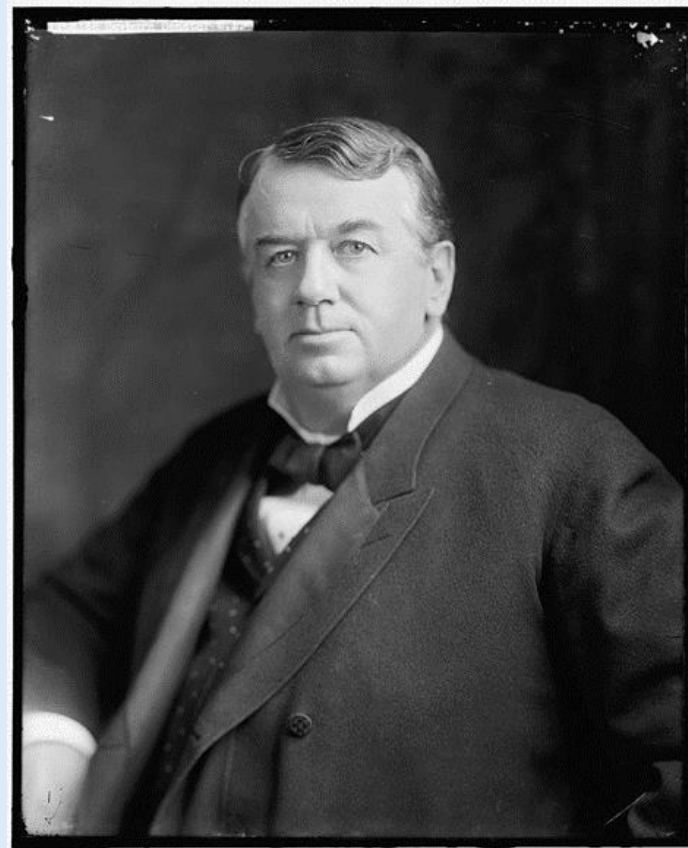
Senate Floor Days: 7

Roll Call Votes: 5 (1 in the House on Hres 562, 1 in the House on S 88; 3 in the Senate on S 88)

Issues: alcohol/drugs; health care; social welfare

Procedures: floor amendments; open rule; conference

Last Updated: 2/11/23



(Above) Sen. Weldon Heyburn (R-ID), the sponsor of the Pure Food and Drug Act. Heyburn was known for his “uncompromising hatred for anything connect with the confederacy,” as well as his opposition to Theodore Roosevelt’s conservation efforts in the West. He died of heart disease shortly after undertaking an all-night filibuster in the Senate in October of 1912. See “Senate Heyburn Dies,” New York Times, October 18, 1912.

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Legislative History Comments

The Pure Food and Drug Act of 1906, also known as The Wiley Act, established regulations on the purity and cleanliness of food and drugs sold in interstate commerce. The act's text describes when a drug "shall be deemed to be adulterated," and these conditions include "being 'filthy, putrid or decomposed'" or being produced in a facility with unsanitary conditions or that could allow "injurious contamination." The bill also empowered the Food and Drug Administration ("FDA"), prohibited the misbranding of drugs and required ingredients to be labeled ([CRS 2018](#)).

The Congressional Research Service notes that the act was one of the federal government's first forays into regulating the drug trade. Others concur on this point, frequently asserting that the Pure Food and Drug Act is the first federal law that regulated drugs (see e.g. [Lopez 2016](#)). The measure also came at a time when the American public had a heightened awareness about the safety and purity of their food, as Upton Sinclair's novel *The Jungle* had been published in 1905. The act was signed into law alongside the Federal Meat Inspection Act of 1906, which regulated the meat industry in a similar vein.

The Pure Food and Drug Act paved the way for the establishment of modern-day food and drug ingredient and labeling regulations and the establishment of the U.S. Food and Drug Administration. Subsequent laws have built on the act's regulations, including the Federal Food, Drug and Cosmetic Act of 1938, which [CRS \(2018\)](#) notes required that drugs be proven safe before they may be sold in interstate commerce. Clinton and Lapinski rated it the most important law passed by the 59th Congress.

For more on contemporary issues with regulating drugs via the FDA, see this Last Week Tonight episode:

- <https://www.youtube.com/watch?v=WA0wKeokWUU>

From a process standpoint, this measure is fairly straight-forward. Senate consideration bounces around across several days but the bill ultimately received strong support in both chambers. It originally passed the Senate [63-4](#). It's considered in the House via an open rule and eventually adopted [241-17](#). Conferees were criticized for weakening the bill and "omitting some important provisions."¹ The conference report did pass both chambers via voice vote without too much debate. The House website does note though that "The New York Times called the debate over the Pure Food bill "one of the wildest times that has been seen this session."²

Don't hesitate to e-mail me with questions! CQ (1970) is also worth consulting.

¹ "Food Bill Slurred," *The Washington Post*. June 28, 1906.

² House of Representatives. "Historical Highlights: The Pure Food and Drug Act." <https://history.house.gov/Historical-Highlights/1901-1950/Pure-Food-and-Drug-Act/>

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Assignments

For the sections below, you're going to want to answer the questions and write-up the process sections that correspond to your assigned number. Here they are:

#1.

#2.

#3.

Background Questions

1. Discuss the broader political context this bill was considered in. Who controlled the House? The Senate? By how many? Who was President? Was this part of the President's agenda? What other pieces of legislation were being considered/passed in this Congress?

What were the two parties' attitudes on this issue?

The Stathis (2014) piece might worth a citation here.

2. What does this act actually do? Who was pushing for it? Was it significantly altered during consideration? What were the problems it was trying to rectify? Who was Harvey Washington Wiley? Why is this called "The Wiley Act"?

With this question, discuss the role played by Upton Sinclair's "The Jungle." Many credit the measure's passage to public outcry from that book.³

3. What motivated consideration of this legislation in this specific Congress? Was it in response to a specific event? Or was this a slower build over time? What happened in previous congresses regarding this? Had Congress considered comparable legislation? You might want to contextualize this bill by discussing some of the other landmark laws relating to this issue.

What did existing federal policy look like in this specific issue area? Why did reformers feel it needed to be changed? See e.g. Barkan (1985); Meier (2016) and [CRS \(2022\)](#) for more on this.

³ See e.g., "Not Forgotten," *The New York Times*. June 30, 2016.
<https://www.nytimes.com/interactive/projects/cp/obituaries/archives/upton-sinclair-meat-industry>

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Process Sections

Please write-up the sections that correspond to your number. Feel free to incorporate any notes I might have dumped in the margins. The index for S 88 is available below.

S. 88—

For preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes.

Mr. Heyburn; Committee on Manufactures 140.—Reported back with amendments (S. REPORT 8) 382.—Debated in Senate 894-898, 1129, 1173, 1216, 1414, 1754, 1923, 2054, 2643, 2719, 2747.—Amended and passed Senate 2773.—Referred to House Committee on Interstate and Foreign Commerce 2853.—Reported back with amendments (H. R. REPORT 2118) 3489, 3494.—Motion for special order agreed to 4454, 4456.—Bill made privileged 6464, 6469.—Committee on Rules submits a privileged report 8836.—House debates and agrees to resolution 8836-8837.—Debated 8889, 8955, 8971, 8980, 9003.—Consent to print minority report granted and report (H. R. REPORT 2118, part 2) printed 8910.—Consent to print opinion of attorney-general of State of New York on pure food legislation granted and letter printed 9005.—Taken up under special order, debated, amended, and passed House 9048, 9053, 9068, 9076.—Senate disagrees to House amendments 9111.—House insists upon its amendments 9172.—Conference appointed 9111, 9172.—Conference report (H. R. REPORT 5056) made and submitted in Senate 9379-9381; House 9417.—Conference report withdrawn in Senate 9459.—Second conference report (H. R. REPORT 5096) made, debated, and agreed to 9472, 9495, 9635, 9735-9740.—Examined and signed 9790, 9816.—Approved by President 9801.

#1. Senate Consideration of S 88 (January 10, 15, 30, February 19-21, 1906)

Sen. Weldon Heyburn (R-ID) introduced S 88 on December 6, 1905. It was referred to the Committee on Manufacturers shortly afterwards.

On February 21, 1906, Heyburn presented a letter to the Senate from Charles Reed, chairman of the American Medical Association, requesting the Senate approve the bill. The American Medical Association's legislative council signaled their approval of the bill in January, and also wrote a letter noting that it felt nothing in the bill "would injuriously affect any legitimate business concerned in the manufacture and sale of foods, liquors, or drugs," and that the bill "would afford adequate protection to honest manufacturers of and dealers in such products and security against imposition, fraud, or danger to the buyer (*Congressional Record*, 59th Congress, February 21, 1906, 2748)."

[Sen. Joseph Foraker](#) (R-OH) proposed an amendment changing some language regarding the bill's prohibition of alcohol containing fusel oil, a byproduct of alcoholic fermentation. [Sen. Ben Tillman](#) (R-SC) argued against Foraker's amendment, stating it would open the door to allowing more contaminants in alcohol. Debate ensued about the bill's wording and what it would and would not allow for. Foraker's amendment was [rejected 24-46](#).

S 88 itself passed the Senate [63-4](#).

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#2. House Consideration of S 88 (June 20-23, 1906)

Prior to considering S 88, the House debated Hres 572. Introduced by Rep. John Dalzell (R-PA), Hres 572 provided for consideration of the S 88 under an open rule. He was immediately opposed by Rep. John Sharp Williams (D-MS). The House adopted the previous question on the [rule 143-72](#) on June 20, 1906.

Debate over the measure began the following day. The House website notes that the first speech by “Representative James Mann of Illinois captivated the chamber with a speech about fruit that had been colored with poisonous red dye, and liquor that had been distilled with chemical fillers.”⁴

On June 23, 1906, [Rep. Edwin Webb](#) (D-NC) monologued to the House regarding the S 88’s necessity, focusing on the medical side of the bill. He spoke on manufacturers selling useless medicines and cures to unsuspecting patients, even focusing briefly on Black Americans:

“The credulity of the colored population of America has been appealed to by speciously advertised medicines promising to straighten their hair and whiten their faces, and the poor negro, who needs his money, has been duped into buying these worthless lotions and salves (*Congressional Record*, 59th Congress, June 23, 1906, 9073).”

[Rep. Julius Kahn](#) (R-CA) offered an amendment to the bill that would allow for borax and boric acid to be used as a food preservative, so long as it is noted on the food’s label. The amendment failed 44-118.

S 88 would pass by a margin of [241-17](#).

#3. Senate Consideration of the Conference Report on S 88 (June 27-29, 1906)

On June 28, 1906, Heyburn requested to withdraw the conference report on S 88, stating the withdrawal was only to adjust language in the bill’s first two paragraphs.

Press accounts note that conferees struck many of the more important provisions that Dr. Wiley had fought for.⁵

The Senate adopted S 88 by voice vote on June 29, 1906.

⁴ House of Representatives. “Historical Highlights: The Pure Food and Drug Act.” <https://history.house.gov/Historical-Highlights/1901-1950/Pure-Food-and-Drug-Act/>

⁵ On this point, see Johnson (1982); “Agree on Pure Food Bill,” *New York Times*. June 28, 1906; “Food Bill Slurred,” *Washington Post*. June 28, 1906.

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#3. House Consideration of the Conference Report on S 88 (June 29, 1906)

The conference report manager, [Rep. James Mann](#) (R-IL) noted that “I may say to the House that the bill as reported by the conferees is substantially the bill as passed by the House with a few exceptions (*Congressional Record*, 59th Congress, June 29, 1906, 9737).”

The House adopted S 88 by voice vote on June 29, 1906. President Theodore Roosevelt signed the Pure Food and Drug Act into law the next day.

Member Spotlight

Choose one of the following for your member spotlight:

#1. Sen. Weldon Heyburn (R-ID); Sen. Shelby Cullom (R-IL); Sen. Henry Lodge (R-MA); [Sen. Joseph Foraker](#) (R-OH); Sen. Augustus Bacon (D-GA); Sen. Russell Alger (R-MI)

#2. Rep. Edwin Webb (D-NC); [Rep. Julius Kahn](#) (R-CA); Rep. John Dalzell (R-PA); Rep. John Sharp Williams (D-MS); Rep. William Hepburn (R-OH); Rep. William Adamson (D-GA)

#3. Rep. James Mann (R-IL); Sen. “Pitchfork” Ben Tillman (R-SC); Rep. John Lacey (R-IA)⁶; Sen. Porter McCumber (R-ND); Vice President Charles Fairbanks (R-IN); Sen. Jacob Gallinger (R-NH)

⁶ Lacey was the driving force behind the Antiquities Act in Congress and is a pretty well regarded figure in the American conservation moment. See also the Lacey Act of 1900 and 1894.

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Aftermath Questions

1. How was this act viewed upon passage? What did the newspapers say? How did the final measure differ from the one reformers were pushing?

How has this law evolved with respect to federal drug laws? How has it been viewed by scholars? What happened with the Opium Exclusion Act in 1909? What about the War on Drugs?

2. How has this law evolved over time? Has it been featured in any major Supreme Court cases? Significantly altered by subsequent legislation?

Additionally, how has the issue of government regulation changed over time? Did this measure help fix the problems Sinclair was highlighting? What about the Meat Protection Act? Any other major laws in this area?

3. How relevant is this law currently? Are there additional issues related to it that reformers have been pushing to change?

How has this act been viewed by scholars? Did it achieve its stated goals? Do scholars highlight any major limitations? Are there aspects of the bill that are viewed more favorably than others? Discuss the relevance of this act as it pertains to contemporary policy.

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Suggested Sources

Scholarly Articles

CRS 2018. "How FDA Approves Drugs and Regulates Their Safety and Effectiveness". Congressional Research Service. <https://crsreports.congress.gov/product/pdf/R/R41983>

Denham, Bryan. "Magazine journalism in the golden age of muckraking: Patent-medicine exposures before and after the Pure Food and drug Act of 1906." *Journalism & Communication Monographs* 22.2 (2020): 100-159.

Young, James Harvey. "Food and drug enforcers in the 1920s: Restraining and educating business." *Business and Economic History* (1992): 119-128.

Young, James Harvey. *Pure food: securing the Federal Food and Drugs Act of 1906*. Vol. 1004. Princeton University Press, 2014.

Johnson, Dennis R. "Introduction-The History of the 1906 Pure Food and Drugs Act and the Meat Inspection Act." *Food Drug Cosm. LJ* 37 (1982): 5.

Wu, Felicia, and Joseph V. Rodricks. "Forty years of food safety risk assessment: a history and analysis." *Risk Analysis* 40.S1 (2020): 2218-2230.

Haydu, Jeffrey. "Frame brokerage in the pure food movement, 1879–1906." *Social Movement Studies* 11.1 (2012): 97-112.

Pickavance, Jason. "Gastronomic realism: Upton Sinclair's *The Jungle*, the fight for pure food, and the magic of mastication." *Food and Foodways* 11.2-3 (2003): 87-112.

Labuza, Theodore P. "Food laws and regulation: The impact on food research." *Food, Drug, Cosmetic Law Journal* 36.6 (1981): 293-302.

Korr, Mary. "From MDs to Muckrakers: Fighting for Passage of Pure Food and Drug Act." *Rhode Island Medical Journal* 103.9 (2020): 64-66.

Wood, Donna J. "The strategic use of public policy: business support for the 1906 Food and Drug Act." *Business History Review* 59.3 (1985): 403-432.

Wood, Donna J. "The strategic use of public policy: business support for the 1906 Food and Drug Act." *Business History Review* 59.3 (1985): 403-432.

Barkan, Ilyse D. "Industry invites regulation: the passage of the Pure Food and Drug Act of 1906." *American Journal of Public Health* 75.1 (1985): 18-26.

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Newspaper Pieces

- <https://www.npr.org/2011/06/07/136889407/how-uncle-sam-helps-define-americas-diet>
- <https://crsreports.congress.gov/product/pdf/R/R41983>
- <https://www.npr.org/2019/04/26/717389563/a-brief-history-of-the-war-on-drugs>
- <https://www.npr.org/sections/codeswitch/2013/08/26/215761377/a-history-of-snake-oil-salesmen>
- <https://www.vox.com/2016/5/8/18089368/war-on-drugs-marijuana-cocaine-heroin-meth>
- <https://www.vox.com/the-goods/2019/2/15/18211007/medical-sponcon-instagram-influencer-pharmaceutical>
- <https://www.nytimes.com/2018/10/16/books/review/poison-squad-deborah-blum.html>
- <https://www.nytimes.com/2007/12/22/business/22interview.html>
- <https://www.nytimes.com/2014/07/30/opinion/high-time-federal-marijuana-ban-is-rooted-in-myth.html>
- <https://www.nytimes.com/2006/12/11/opinion/11schlosser.html>
- https://www.washingtonpost.com/blogs/all-we-can-eat/post/exhibit-explains-when-us-food-was-really-scary/2011/06/17/AGuqnWZH_blog.html
- <https://www.washingtonpost.com/archive/lifestyle/2002/10/01/whats-inside-all-processed/68cc8617-9b1a-45b5-9362-f27f667bce8b/>
- <https://www.washingtonpost.com/news/made-by-history/wp/2017/10/30/while-government-cracked-down-on-illegal-drugs-big-pharma-hooked-millions-on-opioids/>
- <https://slate.com/culture/2021/02/john-oliver-last-week-tonight-meatpacking-jbs-tyson.html>
- <https://slate.com/technology/2011/03/to-fix-food-safety-bring-back-wiley-s-poison-squads.html>
- <https://slate.com/culture/2014/09/ken-burns-roosevelt-documentary-what-teddy-and-franklin-roosevelt-would-make-of-politics-in-2014.html>
- <https://www.theatlantic.com/science/archive/2018/08/the-poison-squad-that-shook-americas-faith-in-preservatives/568753/>
- <https://www.theatlantic.com/business/archive/2017/09/opioid-crisis-responsibility-profits/538938/>
- <https://www.forbes.com/sites/lizzysaxe/2022/05/18/in-the-g-word-adam-conover-explains-what-we-take-for-granted-in-government/?sh=4d1842b3376f>
- <https://www.fda.gov/about-fda/changes-science-law-and-regulatory-authorities/part-i-1906-food-and-drugs-act-and-its-enforcement>