

116TH CONGRESS
2D SESSION

S. 3736

To increase access to food delivery under the supplemental nutrition assistance program to address the Coronavirus Disease 2019, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 14, 2020

Mr. CASEY (for himself, Ms. BALDWIN, and Ms. SMITH) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To increase access to food delivery under the supplemental nutrition assistance program to address the Coronavirus Disease 2019, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Increasing Access to
5 SNAP Delivery During COVID–19 Act of 2020”.

6 **SEC. 2. FOOD DELIVERY UNDER SUPPLEMENTAL NUTRI-**
7 **TION ASSISTANCE PROGRAM.**

8 (a) DEFINITIONS.—In this section:

1 (1) EMPLOYEE.—The term “employee” has the
2 meaning given the term in section 3 of the Fair
3 Labor Standards Act of 1938 (29 U.S.C. 203).

4 (2) PROGRAM.—The term “program” means
5 the supplemental nutrition assistance program es-
6 tablished under the Food and Nutrition Act of 2008
7 (7 U.S.C. 2011 et seq.).

8 (3) SECRETARY.—The term “Secretary” means
9 the Secretary of Agriculture.

10 (b) PROGRAM MODIFICATIONS.—

11 (1) IN GENERAL.—In carrying out the program,
12 the Secretary shall—

13 (A) notify authorized program retailers of
14 existing opportunities through which retailers
15 can deliver food to program participants, in-
16 cluding by—

17 (i) allowing an EBT card (as defined
18 in section 3 of the Food and Nutrition Act
19 of 2008 (7 U.S.C. 2012)) to be swiped on
20 delivery of food to the home (with a mobile
21 device); and

22 (ii) preparing food for pick-up;

23 (B) authorize public-private partnerships
24 between the Department of Agriculture, author-
25 ized program retailers, and community-based

1 organizations to support food delivery, including
2 through the use of private funds;

3 (C) in the case of an authorized program
4 retailer that is unable to cover the cost of food
5 delivery for program participants, use funds
6 made available under paragraph (3)(B) to sup-
7 port food delivery for program participants who
8 are seniors, immunocompromised individuals, or
9 other individuals who are unable to travel safely
10 to an authorized program retailer, in accord-
11 ance with paragraph (3)(A); and

12 (D) require each State to submit to the
13 Secretary a State plan that describes how the
14 State will—

15 (i) work with authorized program re-
16 tailers and other community-based part-
17 ners to establish a process for food delivery
18 for program participants;

19 (ii) administer the reimbursements de-
20 scribed in paragraph (3)(A)(i), including
21 timing, eligibility, and distribution proc-
22 esses; and

23 (iii) ensure that authorized program
24 retailers that are reimbursed for delivery
25 costs under paragraph (3)(A)(i) adhere to

1 the requirements described in paragraph
2 (3)(A)(ii).

3 (2) STATE PLANS.—Not later than 10 days
4 after the date on which the Secretary receives a
5 State plan under paragraph (1)(D), the Secretary
6 shall—

7 (A) approve or deny the State plan; and

8 (B) make publicly available on the website
9 of the Department of Agriculture—

10 (i) the State plan;

11 (ii) the determination made under
12 subparagraph (A) with respect to that
13 plan; and

14 (iii) any guidance issued to the State
15 with respect to that plan.

16 (3) FOOD DELIVERY.—

17 (A) REIMBURSEMENT OF RETAILERS.—

18 (i) IN GENERAL.—Notwithstanding
19 any other provision of law, a State agency
20 shall reimburse an authorized program re-
21 tailer described in paragraph (1)(C) for the
22 cost of food delivery to program partici-
23 pants described in that paragraph if—

1 (I) the authorized program re-
2 tailer is eligible for reimbursement
3 under clause (ii); and

4 (II) the majority of the food
5 items delivered by the retailer are eli-
6 gible for redemption using benefits
7 under the program.

8 (ii) ELIGIBILITY.—An authorized pro-
9 gram retailer described in paragraph
10 (1)(C) is eligible for reimbursement for the
11 cost of food delivery to program partici-
12 pants described in that paragraph if—

13 (I) that food delivery is per-
14 formed by employees of the retailer or
15 employees of an entity contracted by
16 the retailer to perform deliveries;

17 (II) before any employee de-
18 scribed in subclause (I) begins making
19 that food delivery, that employee re-
20 ceives employer-provided health and
21 safety training that reflects the most
22 recent guidelines of the Centers for
23 Disease Control and Prevention and
24 the Occupational Safety and Health
25 Administration relating to worker

1 safety and health during the
2 Coronavirus Disease 2019 (COVID-
3 19) pandemic;

4 (III) the retailer remains neutral
5 in any union organizing effort that oc-
6 curs during the period in which deliv-
7 eries described in paragraph (1)(C)
8 are made; and

9 (IV) all employees described in
10 subclause (I) performing deliveries are
11 paid at a rate that is not less than the
12 greater of—

13 (aa) the minimum wage rate
14 established under section 6(a)(1)
15 of the Fair Labor Standards Act
16 of 1938 (29 U.S.C. 206(a)(1));
17 and

18 (bb) the minimum wage rate
19 established by the applicable
20 State or locality in which the em-
21 ployee works.

22 (iii) COVERED COSTS.—

23 (I) IN GENERAL.—Reimbursable
24 costs under clause (i) include costs as-
25 sociated with—

1 (aa) purchasing point-of-sale
2 devices or receiving technical as-
3 sistance relating to point-of-sale
4 devices; and

5 (bb) purchasing or reimburs-
6 ing employees for personal pro-
7 tective equipment used during
8 food delivery.

9 (II) PPE COSTS.—An authorized
10 program retailer shall use not more
11 than 10 percent of amounts received
12 under clause (i) to pay for the costs
13 described in subclause (I)(bb).

14 (iv) MAXIMUM REIMBURSEMENT PER
15 DELIVERY.—The maximum amount of re-
16 imbursement under clause (i) for a food
17 delivery fee shall be \$10 per delivery.

18 (B) FUNDING.—

19 (i) IN GENERAL.—There is appro-
20 priated to the Secretary, out of funds of
21 the Treasury not otherwise appropriated,
22 \$500,000,000 to cover the cost of food de-
23 livery described in paragraph (1)(C), to be
24 distributed among the States to fund reim-

1 bursements by States under subparagraph
2 (A)(i).

3 (ii) EMERGENCY REQUIREMENT.—The
4 amount made available under clause (i) is
5 designated by the Congress as being for an
6 emergency requirement pursuant to section
7 251(b)(2)(A)(i) of the Balanced Budget
8 and Emergency Deficit Control Act of
9 1985 (2 U.S.C. 901(b)(2)(A)(i)).

10 (iii) AUTHORIZATION OF APPROPRIA-
11 TIONS.—In addition to the amount appro-
12 priated under clause (i), there are author-
13 ized to be appropriated to the Secretary
14 such sums as are necessary to cover the
15 cost of food delivery under paragraph
16 (1)(C).

17 (4) TERMINATION OF AUTHORITY.—

18 (A) IN GENERAL.—The authority of the
19 Secretary to carry out paragraphs (1) through
20 (3) with respect to each State shall terminate
21 on the later of—

22 (i) the date on which the national
23 emergency declared by the President under
24 the National Emergencies Act (50 U.S.C.
25 1601 et seq.) with respect to the

1 Coronavirus Disease 2019 (COVID–19) is
2 terminated; and

3 (ii) the date on which the State emer-
4 gency declared in that State with respect
5 to the Coronavirus Disease 2019 (COVID–
6 19) is terminated.

7 (B) RETURN OF FUNDS.—The Secretary
8 shall return to the Treasury any funds appro-
9 priated under paragraph (3)(B)(i) that have not
10 been used or obligated by the date described in
11 subparagraph (A).

12 (5) REPORT.—Not later than 3 months after
13 the date on which the authority of the Secretary is
14 terminated under paragraph (4), the Secretary shall
15 submit to the Committee on Agriculture, Nutrition,
16 and Forestry of the Senate and the Committee on
17 Agriculture of the House of Representatives a report
18 that describes—

19 (A) the use of that authority to address
20 food security needs of affected populations dur-
21 ing the national emergency described in sub-
22 paragraph (A)(i) of that paragraph;

23 (B) the authorized program retailers that
24 were reimbursed under paragraph (3)(A);

1 (C) any complications or difficulties experi-
2 enced by States in administering reimburse-
3 ments under paragraph (3)(A); and

4 (D) recommendations for changes to the
5 authority of the Secretary under the Food and
6 Nutrition Act of 2008 (7 U.S.C. 2011 et seq.)
7 to assist the Secretary, States, and units of
8 local government to prepare plans for food de-
9 livery to program recipients in future health
10 emergencies.

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