

117TH CONGRESS
2^D SESSION

H. R. 9196

To protect and expand access to donor milk, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 2022

Ms. HOULAHAN (for herself, Ms. SALAZAR, and Mrs. BICE of Oklahoma) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Education and Labor, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect and expand access to donor milk, 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 “Access to Donor Milk
5 Act of 2022”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) The term “donor milk” means human milk
2 that is processed without additives by a nonprofit
3 milk bank.

4 (2) The term “nonprofit milk bank” means a
5 milk bank that—

6 (A) is accredited by an accrediting body
7 that is recognized by, or meets standards estab-
8 lished by, the Food and Drug Administration
9 for purposes of accrediting milk banks;

10 (B) collects, tests, processes, pasteurizes,
11 and distributes donor milk; and

12 (C) is described in section 501(c)(3) of the
13 Internal Revenue Code of 1986 (26 U.S.C.
14 501(c)(3)) and exempt from tax under section
15 501(a) of such Code (26 U.S.C. 501(a)).

16 **SEC. 3. FINDINGS.**

17 Congress finds the following:

18 (1) Human milk is the optimal first food for in-
19 fants.

20 (2) Medically vulnerable infants, including those
21 born prematurely and those with congenital or ac-
22 quired conditions, derive significant health benefits
23 from human milk.

24 (3) Mothers of medically vulnerable infants
25 often face unique obstacles to producing enough

1 milk. When a parent’s milk is not available, the pro-
2 vision of donor milk improves health outcomes.

3 (4) Nonprofit milk banks provide an essential
4 medical service.

5 (5) The nonprofit milk banking model of donor
6 non-remuneration and standardized processing of
7 single ingredient pools ensures a safe and high-qual-
8 ity product for the Nation’s most vulnerable infants.

9 **SEC. 4. SUPPORT FOR DONOR MILK ACTIVITIES.**

10 Section 17 of the Child Nutrition Act of 1966 (42
11 U.S.C. 1786) is amended—

12 (1) in subsection (b)(4), by inserting “(includ-
13 ing support for donor milk activities)” after “pro-
14 motion”; and

15 (2) in subsection (h)(1)(C), by adding at the
16 end the following:

17 “(iii) DONOR MILK.—A State agency
18 may use amounts made available under
19 clause (i) for the collection and storage of
20 unprocessed donations of human milk, the
21 transfer of such milk to a nonprofit milk
22 bank, and to make donor milk available to
23 program participants.”.

1 **SEC. 5. EMERGENCY CAPACITY FUNDING FOR MILK BANKS.**

2 (a) IN GENERAL.—The Secretary shall award com-
3 petitive grants to eligible entities for expanding emergency
4 capacity with respect to banking donor milk.

5 (b) APPLICATION.—An eligible entity seeking a grant
6 under this section shall submit an application to the Sec-
7 retary at such time, in such manner, and containing such
8 information as the Secretary may require.

9 (c) USE OF FUNDS.—Expanding emergency capacity
10 pursuant to a grant under this section may include—

11 (1) publicizing the need for donor milk;

12 (2) providing resources to patients, making pa-
13 tients aware of donor milk, and providing informa-
14 tion to clinicians about donor milk;

15 (3) covering donor milk processing fees;

16 (4) increasing staffing and supplies needed at
17 nonprofit milk banks; and

18 (5) purchasing consumable products needed for
19 donor milk processing.

20 (d) DEFINITIONS.—In this section:

21 (1) ELIGIBLE ENTITY.—The term “eligible enti-
22 ty” means an entity that—

23 (A) is recognized by the Food and Drug
24 Administration as an accrediting body for non-
25 profit milk banks; and

1 (B) in the application submitted under
2 subsection (b), demonstrates, with respect to
3 such entity—

4 (i) a rapid increase in demand for
5 donor milk; or

6 (ii) a shortage of supplies needed to
7 operate a nonprofit milk bank.

8 (2) SECRETARY.—The term “Secretary” means
9 the Secretary of Health and Humans Services, act-
10 ing through the Commissioner of Food and Drugs.

11 (e) AUTHORIZATION OF APPROPRIATIONS.—For the
12 purposes of carrying out this section, there are authorized
13 to be appropriated \$3,000,000 for fiscal year 2023, and
14 such sums as may be necessary for each fiscal year there-
15 after.

16 **SEC. 6. DONOR MILK AWARENESS PROGRAM.**

17 The Child Nutrition Act of 1966 (42 U.S.C. 1771
18 et seq.) is amended by adding at the end the following:

19 **“SEC. 24. DONOR MILK AWARENESS PROGRAM.**

20 “(a) IN GENERAL.—The Secretary, in coordination
21 with the Secretary of Health and Human Services, shall
22 establish a donor milk awareness program to—

23 “(1) educate the public on donor milk and non-
24 profit milk banks; and

1 “(2) publicize the need for donor milk at non-
2 profit milk banks.

3 “(b) CONDUCT OF PROGRAM.—In carrying out the
4 program described in subsection (a), the Secretary may—

5 “(1) develop or assist others to develop appro-
6 priate educational materials, including public service
7 announcements, promotional publications, and press
8 kits for the program described in subsection (a);

9 “(2) publish information about the program de-
10 scribed in subsection (a) on the Department’s
11 website; and

12 “(3) distribute or assist other to distribute such
13 materials appropriate for public and private individ-
14 uals and entities.

15 “(c) COOPERATIVE AGREEMENTS.—The Secretary is
16 authorized to enter into cooperative agreements with Fed-
17 eral agencies, State and local governments, and other enti-
18 ties to carry out the program described in subsection (a).

19 “(d) DEFINITION OF DONOR MILK.—In this section,
20 the term ‘donor milk’ has the meaning given the term in
21 section 2 of the Access to Donor Milk Act of 2022.

22 “(e) AUTHORIZATION OF APPROPRIATIONS.—For
23 purposes of carrying out this section, there are authorized
24 to be appropriated \$1,000,000 for fiscal year 2023, and

1 such sums as may be necessary for each fiscal year there-
2 after.”.

3 **SEC. 7. CDC PUBLIC AWARENESS CAMPAIGN WITH RE-**
4 **SPECT TO DONOR MILK FROM NONPROFIT**
5 **MILK BANKS.**

6 (a) IN GENERAL.—The Secretary of Health and
7 Human Services, acting through the Director of the Cen-
8 ters for Disease Control and Prevention, shall expand and
9 intensify the activities of the Centers to include a public
10 awareness campaign with respect to donor milk from non-
11 profit milk banks.

12 (b) DISTRIBUTION OF EDUCATIONAL MATERIALS.—
13 The public awareness campaign under subsection (a) shall
14 include the distribution of educational materials to—

15 (1) clinicians, such as pediatric specialists, pedi-
16 atricians, obstetricians, pediatric nutritionists, mid-
17 wives, and lactation specialists; and

18 (2) expecting and new parents.

19 **SEC. 8. CLARIFYING THE REGULATORY STATUS OF DONOR**
20 **MILK.**

21 (a) IN GENERAL.—Not later than 1 year after the
22 date of the enactment of this Act, the Secretary of Health
23 and Human Services, acting through the Commissioner of
24 Food and Drugs, shall issue a rule to clarify the regulatory

1 status (and any associated categorization) of donor milk
2 provided by a nonprofit milk bank.

3 (b) REPORT.—Not later than 180 days after the date
4 of the enactment of this Act, the Secretary of Health and
5 Human Services, acting through the Commissioner of
6 Food and Drugs, shall submit to Congress a report speci-
7 fying the regulatory categorization of donor milk provided
8 by a nonprofit milk bank under the rule issued under sub-
9 section (a).

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