

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 399 Food Recovery
SPONSOR(S): Roth
TIED BILLS: IDEN./SIM. BILLS: SB 674

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture, Conservation & Resiliency Subcommittee	17 Y, 0 N	Mamontoff	Moore
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) Infrastructure Strategies Committee			

SUMMARY ANALYSIS

It is estimated that forty percent of the food produced in the United States goes uneaten, and approximately one-fifth of Floridians are food insecure, including one million children. Each year, millions of pounds of surplus and slightly blemished fresh fruits and vegetables are destroyed while many residents of the state go each day without food.

Food recovery programs are beneficial to residents who otherwise lack the means to purchase fresh fruit and vegetables by providing surplus goods for distribution to those in need rather than destroying it. It is the responsibility of the Commissioner of Agriculture to assist these programs, and when needed, to aid in their establishment and support their continued and efficient operation.

The Food Recovery Program, enacted by the Legislature in 1994 and administered by the Department of Agriculture and Consumer Services (DACS), gathers leftover farm-fresh produce after harvests, collects unsold food products from wholesale and retail sources, and distributes recovered foods to local food banks and emergency food programs. Through this program, DACS connects farmers with non-profit organizations and volunteers.

The bill directs DACS to implement a pilot program, subject to legislative appropriation, that provides incentives to agricultural companies to sell fresh food products to food recovery entities. The goal of the pilot program is for agricultural companies to sell 100 million pounds of fresh food products to food recovery entities annually.

The bill authorizes a food recovery entity to negotiate the price for products with an agricultural company and reimburse the company for costs related to harvesting, precooling, packaging, and delivering the products. The bill directs DACS to reimburse food recovery entities for such costs on a dollar-for-dollar basis plus a 10 cents per box distribution reimbursement. Eligible fresh food products must meet United States Department of Agriculture (USDA) grade 1 standard and be shipped within the harvest ship window.

The bill directs DACS to submit a report on the pilot program, including recommendations for legislation, to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2024.

The bill may have an indeterminate negative fiscal impact on state government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

It is estimated that forty percent of the food produced in the United States goes uneaten, and approximately one-fifth of Floridians are food insecure, including one million children.¹ Each year, millions of pounds of surplus and slightly blemished fresh fruits and vegetables are destroyed while many residents of the state go each day without food.²

It is the responsibility of the Commissioner of Agriculture to assist in food recovery programs, and when needed, to aid in their establishment and support their continued and efficient operation.³ Food recovery programs are beneficial to residents who otherwise lack the means to purchase fresh fruit and vegetables by providing surplus goods for distribution to those in need rather than destroying them.⁴ In order to help coordinate the establishment of food recovery programs, the Department of Agriculture and Consumer Services (DACS) may:

- Identify suppliers, volunteers, and nonprofit organizations in the community to ascertain the level of interest in establishing a food recovery program;
- Provide facilities and other resources for initial organizational meetings; and
- Provide direct or indirect support for the fledgling program, upon demonstration of serious interest at the local level.⁵

Enacted by the Legislature in 1994, and administered by the Division of Food, Nutrition, and Wellness within DACS, the Food Recovery Program (program) gathers leftover farm-fresh produce after harvests, collects unsold food products from wholesale and retail sources, and distributes recovered foods to local food banks and emergency food programs. Through the program, DACS connects farmers with non-profit organizations and volunteers and holds workshops and trainings on the program.⁶ The program works to recover food in two ways:

- By working with farmers: Volunteers visit farms and collect surplus produce in a process known as gleaning.
- By working with schools: DACS provides schools with guidance on food waste audits, share tables, food donations, and composting.⁷

The primary goal of the program is to reduce food waste through field gleaning (i.e. gathering leftover crops from fields after they have been commercially harvested) while increasing farmer profit margins through tax incentives. Trained volunteers conduct the field gleaning, post-harvest produce pick-up, as well as transportation of the produce. DACS ensures that donors are provided with proper documentation for a potential tax deduction based on the number of pounds donated.⁸

Food distribution programs are funded by the Legislature through the program. Partnerships for the 2021-2022 fiscal year include:

¹ Florida Department of Agriculture and Consumer Services (DACS), *Food Recovery Program*, <https://www.fdacs.gov/Food-Nutrition/Nutrition-Programs/Food-Recovery-Program> (last visited Feb. 14, 2023).

² Section 595.420(1), F.S.

³ Section 595.420(2), F.S. A food recovery program is a local, volunteer-based organization near an agricultural production area of the state that is established for the exclusive purpose of soliciting, collecting, packaging, and delivering surplus fresh fruit and vegetables for distribution in communities throughout the state. Distribution of the food to the needy is accomplished by DACS and volunteer and nonprofit organizations.

⁴ Section 595.420(1), F.S.

⁵ Section 595.420(3), F.S.

⁶ DACS, *Food Recovery Program*, <https://www.fdacs.gov/Food-Nutrition/Nutrition-Programs/Food-Recovery-Program> (last visited Feb. 14, 2023).

⁷ *Id.*

⁸ *Id.*

- The Farmers Feeding Florida Program, which is run by the Feeding Florida organization and purchases cosmetically blemished produce from local agricultural producers and provides it to households in need through Feeding Florida's member food banks.
- The Farm Share Program, which provides food free of charge to local community partner agencies as well as directly to families, children, senior citizens, and individuals in need to address food insecurity throughout the state.
- Feeding South Florida's Senior Grocery Delivery Program, which provides a grocery delivery service for low-income, homebound seniors in Palm Beach, Miami-Dade, and Broward Counties.
- Second Harvest of the Big Bend's Feeding Rural Florida program, which purchases and distributes fresh, nutritious food to rural North Florida counties.

Effect of the Bill

The bill directs DACS to, subject to legislative appropriation, implement a pilot program to provide incentives to agricultural companies⁹ to sell fresh food products¹⁰ (products) to food recovery entities (entity/entities).¹¹ The goal of the pilot program is to incentivize agricultural companies to sell 100 million pounds of products to entities each year.

To encourage agricultural companies to sell products to entities at a discounted price, the bill authorizes an entity to directly negotiate the price for products with an agricultural company and reimburse the company for costs related to harvesting, precooling, packaging, and delivering the products. The bill then directs DACS to reimburse entities for such costs on a dollar-for-dollar basis plus a 10 cents per box distribution reimbursement. The products must meet the United States Department of Agriculture (USDA) grade 1 standard¹² and be shipped within the harvest ship window.¹³

The bill specifies that the harvest ship window is 7 days unless the entity chooses to extend the window for a specific product on a case-by-case basis. The harvest ship window may only be extended if the product's expected shelf life does not affect the product's USDA grade 1 standard for shipping, and the entity must provide notice of an approved extended harvest ship window to the agricultural company in writing.¹⁴

The bill requires an agricultural company or a licensed shipping facility to provide an invoice to the entity that includes all of the following information:

- A signed statement that the products shipped to the entity meet the harvest ship window;
- Any written approval by the entity to extend the harvest ship window;
- The shipment order number; and
- The harvest and shipment dates for each product.

The bill requires the agricultural company or licensed shipping facility to maintain records of product shipments to entities under this program for two years after the shipment date. In addition, the bill allows products to be shipped to an entity in packaged food boxes or bulk shipments and distributed by the entity in boxes or in bulk as deemed most practical for food safety and packaging.

⁹ The bill defines "agricultural company" as a fresh food products producer in the state that uses a licensed shipping facility.

¹⁰ The bill defines "fresh food products" as high-quality, United States Department of Agriculture grade 1 standard fresh fruits, vegetables, proteins, and dairy produced by an agricultural company.

¹¹ The bill defines "food recovery entity" as a nonprofit association engaged in food recovery and distribution that has been in operation in the state for at least 10 years and has received a minimum of 10 million pounds of perishable fresh food products annually for at least 3 years.

¹² The USDA has commodity standards and grades that provide a means for measuring levels of quality and value of a product. U.S. No. 1 means good quality and is the chief grade for fresh fruits and vegetables. Grades are based on the product's color, shape, maturity, and freedom from defects. The lower grades are just as nutritious and differ mainly in appearance, waste, and preference.

¹³ The bill defines "harvest ship window" as the number of days within which a fresh food product can be shipped after harvest and meet the USDA grade 1 standard. The harvest ship window for fresh food products is seven days.

¹⁴ This may be accomplished by e-mail.

To receive reimbursements from DACS for products purchased from an agricultural company, an entity must submit an invoice as prescribed by DACS, which must include:

- Name and city of the agricultural company;
- Name and city of the licensed shipping facility;
- Shipment date;
- Date the shipment was received;
- Harvest date for each product;
- Packaging type and size for each product;
- Total units or pounds for each product;
- Total price per box or pound for each product; and
- The total invoice price paid by the entity.

The bill directs DACS to submit a report on the pilot program, including recommendations for legislation, to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2024. The bill also directs DACS to adopt rules necessary to implement the program.

B. SECTION DIRECTORY:

Section 1. Amends s. 595.420, F.S., relating to food recovery.

Section 2. Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminate negative fiscal impact on DACS associated with developing the pilot program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive economic impact on agricultural producers in the state that receive funds through the pilot program to sell fresh produce to food recovery entities.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes DACS to adopt rules to implement the pilot program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.