

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Agriculture

BILL: SM 814

INTRODUCER: Senator Gruters

SUBJECT: Supplemental Nutrition Assistance Program/Soft Drinks

DATE: March 10, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Becker</u>	<u>Becker</u>	<u>AG</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>RC</u>	_____

I. Summary:

SM 814 requests that Congress prohibit recipients of SNAP benefits from using such benefits to purchase carbonated beverages sweetened with natural or artificial sweeteners, also known as “soft drinks.”

The bill requires the Secretary of State to dispatch copies of the memorial to the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

II. Present Situation:

The Supplemental Nutrition Assistance Program (SNAP) offers nutrition assistance to eligible, low-income individuals and families in the form of funds to purchase eligible food. The Food and Nutrition Service (FNS), under the U.S. Department of Agriculture (USDA), administers SNAP, and the Florida Department of Children and Families (DCF) distributes the benefits. In Florida, SNAP and other economic assistance benefits are placed on Electronic Benefits Transfer (EBT) cards.

Eligible foods for SNAP are any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods, and hot food products prepared for immediate consumption, with some exceptions. Eligible foods also include junk foods such as soft drinks and candy.

Junk food is food that is nutrient poor but rich in calories, salt, and fats. Excess consumption of junk foods may lead to nutritional deficiencies and health disorders including obesity, heart disease, high blood pressure, and diabetes. States and local governments have requested permission from the USDA for waivers to prohibit SNAP participants from purchasing junk

foods with limited nutritional values with their benefits as a way to promote healthy choices. However, the USDA has denied every such request.

Background

Supplemental Nutrition Assistance Program (SNAP)

The Food and Nutrition Service (FNS), under the U.S. Department of Agriculture (USDA), administers the Supplemental Nutrition Assistance Program (SNAP).¹ SNAP, formerly the Food Stamp Program, is the nation's largest domestic food and nutrition assistance program for low-income Americans.² For low-income households, increased spending on food is consistently and positively associated with diet quality and is associated with higher use and intake of both fruits and vegetables.³

In fiscal year 2020, SNAP provided assistance to approximately 39.9 million people living in 20.5 million households across the US, in an average month.⁴ SNAP benefits support individual households by reducing the effects of poverty and increasing food security while supporting economic activity across communities as SNAP benefits directly benefit farmers, retailers, food processors and distributors, and their employees.⁵

To be eligible for SNAP, households must have a gross monthly income at or below 130 percent of the poverty line, have a net income at or below the poverty line, and have assets below certain limits based on whether or not the household has a member aged 60 or older who has a disability.⁶

¹ The Food Stamp Program (FSP) originated in 1939 as a pilot program for certain individuals to buy stamps equal to their normal food expenditures: for every \$1 of orange stamps purchased, people received 50 cents worth of blue stamps, which could be used to buy surplus food. The FSP expanded nationwide in 1974. Under the federal welfare reform legislation of 1996, Congress enacted major changes to the FSP, including limiting eligibility for certain adults who did not meet work requirements. The Food and Nutrition Act of 2008 renamed the FSP the Supplemental Nutrition Assistance Program (SNAP) and implemented priorities to strengthen program integrity; simplify program administration; maintain states' flexibility in how they administer their programs; and improve access to SNAP. See *A Short History of SNAP*, UNITED STATES DEPARTMENT OF AGRICULTURE, FOOD AND NUTRITION SERVICE, available at <https://www.fns.usda.gov/snap/short-history-snap> (last visited March 10, 2023).

² US Department of Agriculture, Economic Research Service, Supplemental Nutrition Assistance Program (SNAP) Overview. Available at <https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/> (last visited March 10, 2023).

³ Food Expenditures and Diet Quality Among Low-Income Households and Individuals, UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, July 2010, available at https://www.fns.usda.gov/sites/default/files/FoodExpendDietQuality_Summary.pdf (last visited March 10, 2023).

⁴ US Department of Agriculture, Food and Nutrition Service, Characteristics of SNAP Households: FY 2020 and Early Months of the COVID-19 Pandemic: Characteristics of SNAP Households, available at <https://www.fns.usda.gov/snap/characteristics-snap-households-fy-2020-and-early-months-covid-19-pandemic-characteristics> (last visited March 10, 2023).

⁵ US Department of Agriculture, Economic Research Service, Supplemental Nutrition Assistance Program (SNAP) Economic Linkages. Available at <https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/economic-linkages/> (last visited March 10, 2023).

⁶ Canter on Budget Policy and Priorities, *A Quick Guide to SNAP Eligibility and Benefits*, available at https://www.cbpp.org/research/food-assistance/a-quick-guide-to-snap-eligibility-and-benefits#_ftn5 (last visited March 10, 2023).

As of January 2023, 3,220,757 individuals, including 1,262,174 children and 1,017,860 elderly or disabled individuals, were receiving SNAP benefits in Florida.⁷

Eligible Foods

The Food and Nutrition Act of 2008 defines eligible food under SNAP as any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods, and hot food products prepared for immediate consumption, with some exceptions.⁸ Nonfood items such as pet foods, soaps, paper products, medicines and vitamins, household supplies, grooming items, and cosmetics are ineligible for purchase with SNAP benefits.⁹ Eligible foods include junk foods such as soft drinks and candy.¹⁰

When considering the eligibility of vitamins and supplements, power bars, energy drinks and other branded products, the primary determinant is the type of product label chosen by the manufacturer to conform to Food and Drug Administration (FDA) guidelines:

- Items that carry a nutrition facts label are eligible foods.
- Items that carry a supplement facts label are classified by the FDA as supplements and are therefore not eligible.¹¹

Foods Purchased By SNAP Households

In 2011, SNAP participants redeemed over \$71 billion in SNAP benefits in more than 230,000 SNAP-authorized stores.¹² Based on data from these purchases, the USDA published a study on the types of foods SNAP households typically purchase as compared to non-SNAP households.¹³

With respect to SNAP households, the data represents all food purchases made rather than only the foods purchased specifically with SNAP benefits.¹⁴ The data could not differentiate between items purchased with SNAP benefits and those purchased with other funds; most SNAP households use a combination of SNAP benefits and their own funds when making their food purchases.

The study found that the expenditure patterns of SNAP and non-SNAP households were similar:

⁷ Email from Chad Corcoran, Deputy Director of Legislative Affairs, Department of Children and Families, Re: SNAP Participants (March 2, 2023). On file with the Florida House Children, Families, and Seniors Subcommittee.

⁸ 7 USC § 2012(k); see also 7 CFR § 271.2.

⁹ Id.

¹⁰ For an explanation of the inclusion of “junk food” and luxury items as eligible foods, see UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, Supplemental Nutrition Assistance Program (SNAP) Eligible Food Items, <https://www.fns.usda.gov/snap/eligible-food-items> (last visited March 30, 2017).

¹¹ Determining Product Eligibility for Purchase with SNAP Benefits, UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, Jan. 26, 2017, available at <https://www.fns.usda.gov/sites/default/files/eligibility.pdf> (last visited March 30, 2017).

¹² Supplemental Nutrition Assistance Program 2011 Annual Report, UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, 2011, available at <https://www.fns.usda.gov/sites/default/files/snap/2011-annual-report.pdf> (last visited March 10, 2023).

¹³ Foods Typically Purchased by Supplemental Nutrition Assistance Program (SNAP) Households, UNITED STATES DEPARTMENT OF AGRICULTURE FOOD AND NUTRITION SERVICE, Nov. 2016, available at <https://www.fns.usda.gov/sites/default/files/ops/SNAPFoodsTypicallyPurchased.pdf> (last visited March 10, 2023).

¹⁴ Id.

- Approximately 40 cents of every dollar of food expenditures were spent on basic items such as meat, fruits, vegetable, milk, eggs, and bread.
 - 41 cents of every dollar for SNAP households.
 - 44 cents of every dollar for non-SNAP households.
- Approximately 20 cents out of every dollar were spent on sweetened beverages, desserts, salty snacks, candy and sugar.
 - 23 cents of every dollar for SNAP households
 - 20 cents of every dollar for non-SNAP households.
 - Approximately 40 cents of every dollar were spent on a variety of items such as cereal, prepared foods, dairy products, rice, and beans.¹⁵

SNAP households spent almost ten percent of their food expenditures on sweetened beverages, which was almost double what those households spent on fruit.¹⁶ As a percentage of total expenditures on foods, SNAP households spent the same on sweetened beverages as non-SNAP households spent on vegetables.¹⁷

Restricting SNAP Eligible Foods

States and local governments have proposed prohibiting SNAP participants from purchasing foods with limited nutritional values with their benefits as a mechanism to promote healthy choices; however, the USDA has identified four key problems with the rationale, feasibility, and potential effectiveness of these proposals:

- No clear standards exist for defining foods as good or bad, or healthy or not healthy;
- Implementation of food restrictions would increase program complexity and costs;
- Restrictions may be ineffective in changing the purchases of food stamp participants; and
- No evidence exists that food stamp participation contributes to poor diet quality or obesity.¹⁸

The USDA notes that it is difficult to draw a bright line between foods that contribute to a healthy diet and those that do not; the Dietary Guidelines for Americans, MyPyramid, the American Dietetic Association, and most nutritionists take a total diet approach to communicate healthful eating advice, placing emphasis on the overall pattern of food eaten, rather than any one food or meal. The USDA also asserts that it is unclear whether “healthy” foods should be characterized by the absence of nutrients to be avoided, the presence of desirable nutrients, or a combination of both. It goes on to note that diet sodas, for example, may pass a test based only on the absence of undesirable nutrients – they have no fat or sugars, are low in calories, and contain little sodium – and based on those criteria alone, they would appear preferable to orange juice.¹⁹

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ US Department of Agriculture, Food and Nutrition Service, Implications of Restricting the Use of Food Stamp Benefits (2007). Available at <https://fns-prod.azureedge.us/sites/default/files/FSPFoodRestrictions.pdf> (last visited March 10, 2023).

¹⁹ Id.

The USDA argues that even if decisions could be made that distinguish allowable foods from restricted foods, there are still difficult implementation challenges, stemming from the enormous variety and scale of the American food sector; a typical supermarket carries about 40,000 products on its shelves and there are more than 300,000 food products available in the marketplace nationwide.²⁰ This creates three types of administrative and implementation problems:

- Identifying, evaluating, and tracking the nutritional profile of every food product or category available for purchase would be a significant expansion of government responsibility and associated bureaucracy, at a significant cost.
- New restrictions on the use of food stamps place the burden of enforcing compliance on the retailers and participants, who would need to be informed about what foods are no longer allowable.
- Expanding the pool of ineligible items increases opportunities for non-compliance, expands the need for oversight, and may increase the number of retailers or participants found in violation of program rules.²¹

Additionally, the USDA argues that it is not clear that a limit on the acceptable uses of food stamp benefits would actually change the nutrition profile of food purchases because SNAP participants could continue to purchase any food they want using their own money. The USDA also states that the body of research on SNAP does not support the view that restricting food choices will result in more healthful food purchases and consumption or improved dietary outcomes.²² Instead, it notes that research clearly indicates that participation in the program increases household spending on food.²³

Finally, the USDA asserts that achieving dietary improvement among SNAP participants is a complex challenge that is not likely to be met by prohibiting use of benefits for a group of foods perceived as having limited nutritional value.²⁴

USDA has denied every request from states and local governments to implement waivers that would allow them to adopt their own standards for allowable foods under SNAP.²⁵ In rejecting

²⁰ Id.

²¹ Id.

²² Id.

²³ Id.

²⁴ Supra, note 18.

²⁵ In 2004, and several times since, Minnesota sought a waiver to prevent the purchase of junk food with SNAP benefits. The USDA denied the waiver, which focused on candy and soda, among other foods, stating that it was based on questionable merits. In 2010, New York City sought a federal waiver to prohibit the purchase of soda and other sweetened beverages with SNAP benefits for two years. The waiver was ultimately denied by the USDA due to the logistical difficulty associated with implementing the plan. Anemona Hartocollis, *The New York Times* (2010). *New York Asks to Bar Use of Food Stamps to Buy Sodas*. Available at <https://www.nytimes.com/2010/10/07/nyregion/07stamps.html> (last visited February 27, 2023). See also Patrick McGeehan, *New York Times* (2011). *U.S. Rejects Mayor's Plan to Ban Use of Food Stamps to Buy Soda*. Available at <https://www.nytimes.com/2011/08/20/nyregion/ban-on-using-food-stamps-to-buy-soda-rejected-by-usda.html> (last visited March 10, 2023). Since 2013, the USDA has denied Maine's repeated requests to ban the purchase of junk foods with SNAP benefits. In 2016, Maine's Governor threatened to implement reform unilaterally or cease the state's administration of the program if the USDA did not allow it to restrict purchases. *Portland Press Herald* (2016). *Gov. LePage's threat risks suspension of food stamp assistance*. Available at <https://www.pressherald.com/2016/06/21/spokesperson-says-gov-lepage-has-threatened-to-end-food-stamp-program/> (last visited March 10, 2023). The USDA again denied Maine's request to ban the use of SNAP benefits to purchase junk food in 2018 under the Trump Administration. *The Washington*

them, the USDA has noted that state options are problematic because there is no scientific basis for allowing nutrition standards to vary from place to place and that variation in state requirements would complicate industry compliance and increase the cost of doing business.²⁶

III. Effect of Proposed Changes:

SM 814 requests that Congress prohibit recipients of SNAP benefits from using such benefits to purchase carbonated beverages sweetened with natural or artificial sweeteners, also known as “soft drinks.”

The bill requires the Secretary of State to dispatch copies of the memorial to the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

Post (2018). Why the Trump Administration Won't let Maine Ban Soda and Candy from Food Stamps. Available at <https://www.washingtonpost.com/news/wonk/wp/2018/01/20/why-the-trump-administration-wont-let-maine-ban-soda-and-candy-from-food-stamps/> (last visited March 10, 2023).

²⁶ Supra, note 18.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.