

118TH CONGRESS
1ST SESSION

S. 3146

To amend the Agricultural Marketing Act of 1946 to establish a voluntary program to reduce food loss and waste, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 26, 2023

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

A BILL

To amend the Agricultural Marketing Act of 1946 to establish a voluntary program to reduce food loss and waste, 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 “Reduce Food Loss and
5 Waste Act”.

6 **SEC. 2. FOOD LOSS AND WASTE CERTIFICATION PROGRAM.**

7 Subtitle A of the Agricultural Marketing Act of 1946
8 (7 U.S.C. 1621 et seq.) is amended by adding at the end
9 the following:

1 **“SEC. 210B. FOOD LOSS AND WASTE CERTIFICATION PRO-**
2 **GRAM.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) APPARENTLY WHOLESOME FOOD.—The
5 term ‘apparently wholesome food’ has the meaning
6 given the term in subsection (b) of the Bill Emerson
7 Good Samaritan Food Donation Act (42 U.S.C.
8 1791(b)).

9 “(2) CERTIFIED PARTICIPANT.—The term ‘cer-
10 tified participant’ means an eligible participant that
11 has been certified under subsection (d).

12 “(3) ELIGIBLE PARTICIPANT.—The term ‘eligi-
13 ble participant’ means—

14 “(A) a contractor that has entered into a
15 contract with an executive agency, the Senate,
16 or the House of Representatives for the provi-
17 sion, service, or sale of food in the United
18 States;

19 “(B) a State, local, municipal, or Tribal
20 government;

21 “(C) a corporation, partnership, organiza-
22 tion, or association;

23 “(D) a farm or a food producer, manufac-
24 turer, processor, holder, or packer;

25 “(E) a retail grocer;

1 “(F) a restaurant or similar food service
2 establishment;

3 “(G) an institution of higher education or
4 a consortium of those institutions; or

5 “(H) a primary or secondary school or a
6 consortium of those institutions.

7 “(4) EXCESS.—The term ‘excess’, with respect
8 to food, means that the food would otherwise be dis-
9 carded.

10 “(5) FOOD.—The term ‘food’ means food (as
11 defined in section 201 of the Federal Food, Drug,
12 and Cosmetic Act (21 U.S.C. 321)) that is intended
13 for human consumption.

14 “(6) PROGRAM.—The term ‘program’ means
15 the Food Loss and Waste Reduction Certification
16 Program established under subsection (b).

17 “(7) SECRETARY.—The term ‘Secretary’ means
18 the Secretary of Agriculture.

19 “(b) ESTABLISHMENT.—The Secretary shall estab-
20 lish a voluntary program, to be known as the ‘Food Loss
21 and Waste Reduction Certification Program’—

22 “(1) to certify eligible participants in accord-
23 ance with subsection (d); and

24 “(2) to promote certified participants in accord-
25 ance with subsection (e).

1 “(c) PURPOSES.—The purposes of the program are—

2 “(1) to reduce food loss and waste;

3 “(2) to increase donations of excess, apparently
4 wholesome food to nonprofit organizations that pro-
5 vide food assistance to individuals in need; and

6 “(3) to increase the use of alternative disposal
7 methods for food, such as redirection to animal feed,
8 anaerobic digestion, and composting.

9 “(d) CERTIFICATION.—

10 “(1) CRITERIA.—

11 “(A) IN GENERAL.—

12 “(i) ESTABLISHMENT AND PUBLICA-
13 TION.—Not later than 18 months after the
14 date of enactment of the Reduce Food
15 Loss and Waste Act, the Secretary shall
16 establish and publish in the Federal Reg-
17 ister criteria for the certification of an eli-
18 gible participant under the program.

19 “(ii) INCLUSIONS.—Criteria described
20 in clause (i) shall include the submission to
21 a third-party certifier accredited under
22 paragraph (3) of documentation from 12
23 consecutive months on the quantity of food
24 that the eligible participant—

1 “(I) has donated to nonprofit or-
2 ganizations that provide food assist-
3 ance for individuals in need; or

4 “(II) has sent to be disposed of.

5 “(B) STAKEHOLDER INPUT.—The Sec-
6 retary shall solicit comments from interested
7 parties prior to the establishment or revision of
8 the criteria described in subparagraph (A).

9 “(C) REVISIONS.—

10 “(i) IN GENERAL.—The Secretary
11 shall revise the criteria described in sub-
12 paragraph (A) on a periodic basis.

13 “(ii) PUBLICATION.—The Secretary
14 shall publish in the Federal Register cri-
15 teria revised under clause (i) not later than
16 270 days before the effective date of the
17 revised criteria, including an explanation of
18 the revisions.

19 “(2) ACCREDITATION BODIES.—

20 “(A) IN GENERAL.—Not later than 18
21 months after the date of enactment of the Re-
22 duce Food Loss and Waste Act, the Secretary
23 shall establish a process to recognize accredita-
24 tion bodies to accredit third-party certifiers
25 under paragraph (3)(A).

1 “(B) STANDARDS.—The Secretary shall
2 recognize an accreditation body under subpara-
3 graph (A) if the accreditation body meets such
4 standards as the Secretary shall establish.

5 “(3) THIRD-PARTY CERTIFIERS.—

6 “(A) IN GENERAL.—Not later than 18
7 months after the date of enactment of the Re-
8 duce Food Loss and Waste Act, the Secretary
9 shall establish a process for accreditation bodies
10 recognized under paragraph (2) to accredit
11 third-party certifiers to review and certify eligi-
12 ble participants under the program.

13 “(B) STANDARDS.—An accreditation body
14 recognized under paragraph (2) shall accredit a
15 third-party certifier under subparagraph (A) if
16 the third-party certifier meets such standards
17 as the Secretary shall establish.

18 “(C) PREFERENCE.—In accrediting third-
19 party certifiers under subparagraph (A), an ac-
20 creditation body recognized under paragraph
21 (2) shall give preference to institutions of high-
22 er education that have expertise in food loss
23 and waste reduction.

24 “(D) CERTIFICATION.—A third-party cer-
25 tifier accredited under subparagraph (A) shall

1 review and certify an eligible participant under
2 the program if the eligible participant meets the
3 criteria established under paragraph (1).

4 “(4) PUBLICATION.—The Secretary shall main-
5 tain on a publicly available website of the Depart-
6 ment of Agriculture—

7 “(A) a list of accreditation bodies recog-
8 nized under paragraph (2); and

9 “(B) a list of third-party certifiers accred-
10 ited under paragraph (3).

11 “(e) PROMOTION.—

12 “(1) IN GENERAL.—The Secretary shall pro-
13 mote a certified participant under the program, in-
14 cluding through—

15 “(A) voluntary labeling established under
16 paragraph (2); and

17 “(B) such other communications as the
18 Secretary determines to be appropriate relating
19 to the products, buildings, practices, and poli-
20 cies of the certified participant, such as—

21 “(i) publication on the website of the
22 Department of Agriculture of information
23 relating to the certified participant; and

1 “(ii) holding events to promote the
2 certified participant or otherwise relating
3 to the program.

4 “(2) VOLUNTARY LABELING.—The Secretary
5 shall establish 1 or more voluntary labels that indi-
6 cate that a certified participant is certified under the
7 program.

8 “(f) INTERAGENCY COORDINATION.—The Secretary
9 shall carry out this section in coordination with the Com-
10 missioner of Food and Drugs and the Administrator of
11 the Environmental Protection Agency, in accordance with
12 the memorandum of understanding revised under section
13 3 of the Reduce Food Loss and Waste Act.

14 “(g) AUTHORIZATION OF APPROPRIATIONS.—There
15 is authorized to be appropriated to carry out this section,
16 including for the hiring of additional personnel,
17 \$3,000,000 for each of fiscal years 2024 through 2028,
18 to remain available until expended.”.

19 **SEC. 3. MEMORANDUM OF UNDERSTANDING.**

20 The Secretary of Agriculture, the Commissioner of
21 Food and Drugs, and the Administrator of the Environ-
22 mental Protection Agency shall revise, in accordance with
23 section 210B of the Agricultural Marketing Act of 1946
24 (as added by section 2), the agreement signed on Decem-

- 1 ber 17, 2020, relating to cooperation and coordination on
- 2 food loss and waste.

