

Coburn/Harkin Amendment 1152 – Requires U.S. Department of Agriculture (USDA) to carry out two demonstration projects to restrict the purchase of junk food in the Supplemental Nutrition Assistance Program (SNAP)

Almost \$80 billion will be spent this year to provide over 46 million Americans with federal financial assistances in the Supplemental Nutrition Assistance Program (SNAP; previously known as “Food Stamps”).¹ With so many families struggling financially, this support can ensure many children who otherwise might go to bed hungry have healthy meals.

While the name of the program purports otherwise, the Supplemental Nutrition Assistance Program (SNAP) is anything but nutritious for America.

Amendment Summary

This amendment would require the USDA to carry out two pilot projects testing the restriction of unhealthful food purchases with SNAP benefits in states willing to design, carry out, and pay for the projects (including evaluation).

To limit unhealthful purchases, demonstration states must use nutritional standards that apply to foods, beverages or food components identified as “excessively consumed” in the Dietary Guidelines for Americans (i.e., sodium, added sugars, solid fats, and refined grains) and that may increase risk of chronic diseases.

In applying for a demonstration project, a state must identify:

- Estimated cost of the project
- Number of households affected
- Procedure for information educating retailers and participants about product eligibility

¹ Randy Alison Aussenberg, “Supplemental Nutrition Assistance Program (SNAP): A Primer on Eligibility and Benefits,” *Congressional Research Service*, January 9, 2013; R42505.

- Procedure to work with retailers on best practices for implementing new standards
- Procedure to monitor and evaluate program operations, including impact on small businesses
- Statement that the project does not intend to reduce or limit SNAP benefits

After two years, demonstration states must submit evaluations of the pilot projects.

All costs for the project and evaluation must be borne by the demonstration states.

Amendment Background

Many Americans have criticized the lack of nutrition they see in the program.

Energy drinks, candy bars, sodas, ice cream, potato chips, fancy bakery cakes and cookies are all eligible foods under the program, as defined by statute. Gift baskets can also be purchased with SNAP dollars (assuming the value of non-food items does not exceed 50 percent of the basket's cost). Few people would qualify these goods as "nutritional assistance."

In fact, more than \$2 billion of beverages sweetened with sugar are purchased with food stamps ever year, according to a study by the Yale Rudd Center for Food Policy & Obesity.² "Fifty-eight percent of all refreshment beverages purchased by SNAP participants were for sugar-sweetened beverages," including soda and sports drinks.³

While Americans support the value of SNAP in providing crucial assistance to families, many do not wish to contribute to purchases of questionable nutritional

² "Federal food program pays billions for sugar-sweetened beverages," Yale University website, September 17, 2012, <http://news.yale.edu/2012/09/17/federal-food-program-pays-billions-sugar-sweetened-beverages>, accessed September 25, 2012.

³ "Federal food program pays billions for sugar-sweetened beverages," Yale University website, September 17, 2012, <http://news.yale.edu/2012/09/17/federal-food-program-pays-billions-sugar-sweetened-beverages>, accessed September 25, 2012.

value. One Republican lawmaker in Wisconsin recently summarized his critique of junk food purchases, which the state is now trying to restrict: “These food stamps are supposed to go toward making sure there’s nutritious food in the cupboards for families that are struggling. That was the original intent.”⁴

USDA has touted the benefit of initiatives to incentivize purchase of healthier foods, such as fruits and vegetables.⁵ Incentives may be unlikely on their own to change SNAP purchases.

Demonstration projects needed to test efficacy and cost of restricting junk food purchases, but the U.S. Department of Agriculture (USDA) has repeatedly denied them.

Several states have considered restricting the items that can be purchased with SNAP benefits.⁶ Of those that have applied to the USDA, all have been denied.

Minnesota applied in 2004 to bar candy bars and soda from the SNAP program. In 2010, New York City (via the state government) sought the authority to restrict the types of beverages eligible in its SNAP program. New York City (NYC) sought to limit eligible beverages to sweetened drinks with less than 10 calories per cup (with some exceptions, including milk). According to NYC Mayor Michael Bloomberg, “We think [the NYC] innovative pilot would have done more to protect people from the crippling effects of preventable illnesses...and at little or no cost to taxpayers.”⁷

⁴ Scott, Dylan. “Wisconsin, South Carolina Hope to Make Food-Stamp Purchases Healthier,” *Governing* blog, May 7, 2013, <http://www.governing.com/blogs/view/gov-should-states-limit-what-foods-are-purchased-with-food-stamps.html>, accessed May 20, 2013.

⁵ Letter from USDA to Ms. Elizabeth R. Berlin, Executive Deputy Commissioner, New York State Office of Temporary and Disability Assistance, August 19, 2011. Available at <http://www.foodpolitics.com/wp-content/uploads/SNAP-Waiver-Request-Decision.pdf>, accessed May 20, 2013.

⁶ Holleman, Joey. “Haley pushed to limit food stamp purchases to healthy items,” *Charlotte Observer*, February 22, 2013. Available at <http://www.charlotteobserver.com/2013/02/22/3872058/haley-pushes-to-limit-food-stamp.html>, accessed May 20, 2013.

⁷ Nestle, Marion. “SNAP soda ban? USDA says no!” *Food Politics* blog, August 24, 2011, <http://www.foodpolitics.com/2011/08/snap-soda-ban-usda-says-no/>, accessed May 20, 2013.

While both anti-hunger groups and industry have long opposed restrictions to SNAP purchases, representatives from these groups and academia recently agreed “incorporating a planned evaluation into the New York City proposal would have been useful in assessing the feasibility of a food-specific restriction, and its subsequent impact on participants’ dietary behaviors.”⁸

States should be allowed to experiment with product eligibility.

The hesitation of career USDA bureaucrats to consider innovation in restricting SNAP purchases prompts congressional action.

States should have the flexibility to implement solutions that benefit their citizenry. Without granting waivers, the federal government may never know if restrictions on junk food may improve the health benefits of SNAP.

Under this amendment, several states would be able to implement demonstration projects to change product eligibility. The USDA would no longer be able to push off several states’ desire to experiment with product eligibility to improve the nutrition of their SNAP programs.

Retailers already navigate detailed SNAP product eligibility information.

Critics of proposals to restrict unhealthy food purchases often say food restrictions would be too difficult to handle. They ignore evidence that manufacturers and retailers are already equipped to handle more detailed eligibility rules.

With over 300,000 food items available to consumers, eligibility for SNAP already presents a challenge to retailers.⁹ Under current program procedures, retailers

⁸ Leung, Cindy, et al.(2013) “A Qualitative Study of Diverse Experts’ Views about Barriers and Strategies to Improve the Diets and Health of Supplemental Nutrition Assistance Program (SNAP) Beneficiaries,” *Journal of the Academy of Nutrition and Dietetics*, 113:70-76.

⁹ “Implications of Restricting the Use of Food Stamp Benefits – Summary,” US Department of Agriculture, March 1, 2007. Available online at

have to program their systems to comply with federal rules for each product. Retailers have to follow SNAP guidelines for the 12,000-plus new products introduced into stores every year.¹⁰ While most food items with a “Nutrition Facts” label are accepted, some are not and program rules can get quite detailed in these cases.

For example, gift baskets can be purchased with SNAP dollars as long as non-edible items do not account for over 50 percent of the basket’s value. Additionally, none of the non-edible items can be tobacco, pet food, or pet toys.

Most pumpkins can also be purchased with SNAP dollars, but those considered merely ornamental cannot.

Detailed restrictions also apply to how sales tax can be charged to SNAP purchases:

“SNAP licensed retailers may not charge state or local sales tax on SNAP purchases...Eligible items that are subject to sales tax may still be purchased with SNAP benefits. Sales tax, however, cannot be charged when SNAP is used to make the purchase. Sales tax can, however, be charged on the portion of eligible items paid for with manufacturers or other discount coupons. Such tax cannot be paid with SNAP benefits.”¹¹

Fortunately, retailers’ point-of-sale systems – the computers that handle check-outs in most grocery stores – are already equipped to process item eligibility and sales tax. This process is similar to flags and differing taxes raised for products containing pseudoephedrine, alcohol, or tobacco. Items are checked against the retailer’s database and treated appropriately.

<http://www.fns.usda.gov/ora/menu/Published/snap/FILES/ProgramOperations/FSPFoodRestrictions.pdf>, accessed May 21, 2013.

¹⁰ “Implications of Restricting the Use of Food Stamp Benefits – Summary,” US Department of Agriculture, March 1, 2007. Available online at

<http://www.fns.usda.gov/ora/menu/Published/snap/FILES/ProgramOperations/FSPFoodRestrictions.pdf>, accessed May 21, 2013.

¹¹ “IMPORTANT SNAP INFORMATION,” US Department of Agriculture. Available at http://www.fns.usda.gov/snap/retailers/pdfs/Retailer_Notice_111412.pdf, accessed May 21, 2013.

In a single transaction, the computer can sort through which items can be paid with SNAP benefits and which cannot.

USDA has acknowledged the ease of monitoring restrictions through these point-of-sale systems. In a 2007 report, the agency wrote, “[New restrictions on the use of food stamps] may be feasible in stores with modern scanning and inventory control systems.”¹² The agency did raise concern about how restrictions would affect smaller retailers, however.

SNAP Healthy Incentives Pilot program has detailed eligibility rules, but has been supported by USDA, retailers, and manufacturers.

Retailers and USDA have also proven their ability to manage new, complicated eligibility rules in the Healthy Incentives Pilot, a program that rewards SNAP beneficiaries for purchasing specific types of fruits and vegetables.¹³ The pilot uses detailed rules to determine which foods are to be rewarded. For example, eligible items include any “type of dried fruit or dried vegetable (except dried mature legumes) without added sugars, fats, oils, or salt (i.e., sodium).”¹⁴

To participate in the program, retailers had to determine and specially code eligibility of specific produce products in their checkout systems. A similar process would occur for purchase restrictions on specific products.

Ironically, some of most prominent opponents of food restrictions who have argued against complexity posed by food restrictions have supported the Healthy Incentives Pilot (including the American Beverage Association, Food Marketing Institute, and National Grocers Association).

¹² “Implications of Restricting the Use of Food Stamp Benefits – Summary,” US Department of Agriculture, March 1, 2007. Available online at <http://www.fns.usda.gov/ora/menu/Published/snap/FILES/ProgramOperations/FSPFoodRestrictions.pdf>, accessed May 21, 2013.

¹³ “2012 Report to Congress,” US Department of Agriculture, Letter to Honorable Debbie Stabenow, December 20, 2012. Available at http://www.fns.usda.gov/snap/hip/docs/2012_HIP_report.pdf, accessed May 21, 2013.

¹⁴ “Requirements and Specifications for SNAP HIP Fruit and Vegetable Purchases,” US Department of Agriculture, http://www.fns.usda.gov/snap/hip/docs/purchase_list.pdf, accessed May 21, 2013.

Yet, a food restriction program would operate in a similar manner.

Demonstration projects could model the eligibility procedure for this USDA-championed program.

Manufacturers and nutritional databases could help retailers and governments determine product eligibility.

Opponents of purchase restrictions have raised concerns that determining nutritional information for all grocery products would be impossible.

Demonstration projects would certainly need to take into account any administrative complexity they may place on retailers. However, manufacturers and retailers already have tools at their disposal to sort through the nutritional information on products. With recent initiatives in the grocery sector, these technologies will continue to improve.

Retailers and manufacturers have already demonstrated their ability to access and utilize nutritional data on hundreds of thousands of products. These efforts will continue in the next few years as grocery industry data management evolves.

For example, users of Giant's PeaPod grocery delivery service have access to nutritional details of nearly every product in its database. Shoppers can sort by sugar, protein, fat, and fiber content, among other attributes. Fortunately, the same database that powers PeaPod, itemMaster.com, is available for free to all retailers.

While not as searchable as Giant's PeaPod service, Walmart – the nation's largest supermarket – also has a vast nutritional facts database so that users can view the content of specific food products online.

Not surprisingly, manufacturers have very detailed databases on the nutritional content of their products.

Coca-Cola, for example, makes its nutritional information database available to consumers online. Purchasers of a 13.5 fluid ounce bottle of Simply Apple juice

can see the product contains 41mg of sugar and 180 calories. With this information, Coca-Cola could readily identify products like these that may not qualify for SNAP in a demonstration project.

Kellogg, maker of foods like Frosted Flakes and Pop-Tarts, maintains a minimum of 340 pieces of information for some, if not all, of its products. These data include ingredient lists and nutrition information. This company could also identify any foods not eligible for SNAP.

Fortunately, manufacturers and retailers can now synchronize their product information efficiently and in real-time through widely used global product database containing information on nearly every item with a SKU. This technology is quickly improving.

For example, itemMaster.com, the source of nutritional information for the PeaPod delivery, will be synchronizing with the global database, making its data available to thousands of retailers worldwide. Gladson, another major source of nutritional information, will also be synchronizing with the global database.

Retailers are able pick and choose which information they download from the global database. In many cases, they also require manufacturers to add extra information for their chains. Safeway, for instance, requires manufacturers to submit information about whether their products are eligible for the WIC program or for use with Flexible Spending Accounts. Kroger – the nation’s second largest supermarket – requires manufacturers to identify the percentage of iron per ounce in cold cereal, enabling the store to understand the product’s WIC eligibility.

With these technologies, dozens of avenues for product analysis and information dissemination exist among manufacturers and retailers.

Even with these technologies, demonstration products will need to experiment with how to implement restrictions with minimal administrative costs and retailer burden.

Learn from the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) administration and implementation.

Critics of SNAP restrictions often point to the complexity of implementing such a policy. Yet, for years, the WIC program has operated with intricacies that likely exceed any restrictions proposed by states.

USDA maintains a detailed database on which types of items are eligible for WIC subsidies.¹⁵ For example, just as NYC proposed limiting eligible sugar beverages based on calories, WIC restricts many items based on nutritional and other content:

- Eligible infant cereal includes those with 45 milligrams of iron per 100 grams of dry cereal
- No infant food meats that contain added sugars or sodium are eligible
- Juice must be 100% unsweetened pasteurized fruit and/or vegetable juice, with 30 milligrams of vitamin C per 100 milliliters of juice
- Eligible canned mackerel must be N. Atlantic Scoumber scombrus, or Chub Pacific Scomber japonicas
- Eligible whole wheat bread must contain less than or equal to 6.5 grams total fat per “Reference Amount Customarily Consumed” (RACC)

The federal Food and Nutrition Service has begun to maintain a detailed UPC-specific database called the National UPC Database to track all eligible food items. This database is fairly new, but will likely improve over the next few years. State agencies use these detailed federal guidelines to certify foods as eligible in their WIC programs, and communicate these rules to both WIC participants and retailers.

For instance, New York State provides a detailed “Acceptable Foods Card” to its WIC clients.¹⁶ Increasingly, these rules are computerized and monitored by point-

¹⁵ “WIC Food Packages – Regulatory Requirements for WIC-eligible foods,” USDA Food and Nutrition Service, <http://www.fns.usda.gov/wic/benefitsandservices/foodpkgregs.htm>, accessed May 30, 2013.

¹⁶ See http://www.health.ny.gov/prevention/nutrition/wic/docs/acceptable_foods_card.pdf, accessed May 20, 2013.

of-sale systems. California maintains lists of item eligibility by UPC that allow checkout computers to determine which foods are paid for with WIC funds.¹⁷

This program provides a potential model or case study for potential SNAP demonstration projects limiting eligible items.

Cost: All cost for projects will be borne by states willing to have a demonstration project.

¹⁷ "California WIC Food List Database," California Department of Public Health, <http://www.cdph.ca.gov/programs/wicworks/Pages/WIC-CAFoodListsDatabase.aspx>, accessed May 21, 2013.