

112TH CONGRESS
1ST SESSION

S. 1593

To amend the Food and Nutrition Act of 2008 to require State electronic benefit transfer contracts to treat wireless program retail food stores in the same manner as wired program retail food stores.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2011

Mrs. GILLIBRAND introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To amend the Food and Nutrition Act of 2008 to require State electronic benefit transfer contracts to treat wireless program retail food stores in the same manner as wired program retail food stores.

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. ELECTRONIC BENEFIT TRANSFERS.**

4 (a) IN GENERAL.—Section 7(h) of the Food and Nu-
5 trition Act of 2008 (7 U.S.C. 2016(h)) is amended—

6 (1) in paragraph (1)—

1 (A) by redesignating subparagraphs (A)
2 through (D) as subparagraphs (B) through (E),
3 respectively;

4 (B) by inserting before subparagraph (B)
5 (as so redesignated) the following:

6 “(A) DEFINITIONS.—In this subsection:

7 “(i) COMMUNITY-SUPPORTED AGRICULTURE PROGRAM.—The term ‘commu-
8 nity-supported agriculture program’ or
9 ‘CSA’ means a farm business or a group of
10 agricultural producers that form a partner-
11 ship with consumers through which con-
12 sumers buy a subscription for farm prod-
13 ucts in advance and the farm business or
14 group of agricultural producers commits to
15 supplying and delivering the products to a
16 common distribution point or directly to
17 the consumers.
18

19 “(ii) FARMERS MARKET.—The term
20 ‘farmers market’ means a regularly sched-
21 uled assembly of 2 or more agricultural
22 producers for the direct sale of locally
23 grown fresh fruits and vegetables and
24 other staple foods to consumers.

1 “(iii) FARM STAND; ROADSIDE
2 STAND.—

3 “(I) IN GENERAL.—The terms
4 ‘farm stand’ and ‘roadside stand’
5 mean a retail outlet for the direct sale
6 of locally grown fresh fruits and vege-
7 tables and other staple foods in rural
8 or urban areas.

9 “(II) INCLUSION.—The terms
10 ‘farm stand’ and ‘roadside stand’ may
11 include a single stall in a farmers
12 market.

13 “(iv) GREEN CART.—The term ‘green
14 cart’ means a mobile retail food vendor
15 who sells fresh fruits and vegetables on a
16 regular basis from an unmotorized cart.

17 “(v) ROUTE VENDOR.—

18 “(I) IN GENERAL.—The term
19 ‘route vendor’ means a mobile retail
20 food vendor who sells unprepared food
21 from a vehicle directly to consumers
22 along a scheduled route or by ar-
23 ranged delivery.

24 “(II) INCLUSION.—The term
25 ‘route vendor’ includes vendors who

1 provide food services in disaster or
2 other emergency situations.

3 “(vi) WIRELESS RETAILER.—The
4 term ‘wireless retailer’ includes—

5 “(I) a farmers market;

6 “(II) a farm stand;

7 “(III) a green cart;

8 “(IV) a route vendor;

9 “(V) an entity operating a com-
10 munity-supported agriculture pro-
11 gram; and

12 “(VI) an individual farmer affili-
13 ated with an entity described in sub-
14 clauses (I) through (V).”;

15 (C) in subparagraph (C) (as so redesign-
16 ated) by striking “subparagraph (A)” and in-
17 serting “subparagraph (B)”;

18 (D) in clause (i) of subparagraph (E) (as
19 so redesignated), by inserting “, including wire-
20 less technology” before the semicolon at the
21 end; and

22 (E) by adding at the end the following:

23 “(F) STATE FLEXIBILITY FOR WIRELESS
24 EBT SYSTEMS.—Subject to paragraph (2), a
25 State agency may—

1 “(i) procure and implement any wire-
2 less electronic benefit transfer system that
3 the State agency considers to be appro-
4 priate and that meets all industry security
5 standards; and

6 “(ii) use appropriate wireless tech-
7 nology available to the State agency in im-
8 plementing the wireless electronic benefit
9 transfer system, including smart phone
10 technology and other technologies, so long
11 as the technologies meet all industry secu-
12 rity standards.”;

13 (2) in paragraph (2)—

14 (A) in subparagraph (G), by striking
15 “and” at the end;

16 (B) in subparagraph (H), by striking the
17 period at the end and inserting a semicolon;
18 and

19 (C) by adding at the end the following:

20 “(I) a requirement that, for purposes of
21 program participation, State agencies and the
22 Food and Nutrition Service treat wireless retail-
23 ers in the same manner as retail food stores
24 that use wired electronic benefit transfer equip-
25 ment by providing the retail food stores with

1 wireless electronic benefit transfer equipment
2 that ensures immediate benefit account
3 verification;

4 “(J) a system for wireless retail food
5 stores to receive funds in an amount not ex-
6 ceeding the cost of a wireless point-of-sale ter-
7 minal if alternative wireless technology is used;
8 and

9 “(K) the potential for entering into a con-
10 tract or memoranda of understanding with a
11 statewide nonprofit organization, such as a
12 statewide farmers market association, to assist
13 the State agency by providing outreach, train-
14 ing, and administration in wireless electronic
15 benefit transfer equipment deployment at mul-
16 tiple-vendor farmers markets, particularly in
17 cases in which scrip (such as farmers market
18 tokens) is used to simplify program participa-
19 tion by agricultural producers and vendors.”;

20 (3) in paragraph (3)(B)—

21 (A) in clause (i), by striking “and” at the
22 end;

23 (B) in clause (ii), by striking the period at
24 the end and inserting “; and”; and

25 (C) by adding at the end the following:

1 “(iii) in the case of wireless retailers,
2 wireless electronic benefit and wireless
3 EBT connection services are available.”;

4 (4) in paragraph (5), by inserting before the pe-
5 riod at the end “, including wireless electronic ben-
6 efit systems that enable all wireless retailers to pro-
7 vide for improved access to nutritious foods in areas
8 lacking such access, and in disaster-recovery situa-
9 tions”;

10 (5) by redesignating the second paragraph (12)
11 (relating to interchange fees) as paragraph (13); and

12 (6) by adding at the end the following:

13 “(14) NON-EBT TRANSACTIONS.—Wireless
14 EBT equipment provided to an authorized retailer
15 may be used for non-EBT transactions (such as
16 credit and debit card transactions) only if the re-
17 tailer bears all costs associated with those non-EBT
18 transactions.”.

19 (b) CONFORMING AMENDMENTS.—Section 16(a) of
20 the Food and Nutrition Act of 2008 (7 U.S.C. 2025(a))
21 is amended—

22 (1) in paragraph (2), by inserting “, including
23 wireless access fees” after “the State”;

24 (2) in paragraph (7), by striking “and” at the
25 end; and

1 (3) by striking “: *Provided*, That the” and in-
2 serting “, and (9) outreach and training for farmers
3 markets and other vendors defined in section
4 7(h)(1)(A) in wireless electronic benefit transfer
5 equipment deployment and operations, particularly
6 in cases in which scrip (such as farmers market to-
7 kens) is used to facilitate and simplify program par-
8 ticipation by agricultural producers and vendors.
9 The”.

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