

AGRICULTURE AND CONSUMER PROTECTION ACT OF 1973

[As Amended Through P.L. 108–7, February 20, 2003]

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COMMODITY DISTRIBUTION PROGRAM

SEC. 4.⁴⁻¹ **[7 U.S.C. 612c note]** (a) Notwithstanding any other provision of law, the Secretary may, during fiscal years 1991 through 2007,⁴⁻² purchase and distribute sufficient agricultural commodities with funds appropriated from the general fund of the Treasury to maintain the traditional level of assistance for food assistance programs as are authorized by law, including but not limited to distribution to institutions (including hospitals and facilities caring for needy infants and children),⁴⁻³ supplemental feeding programs serving women, infants, and children or elderly persons, or both,⁴⁻⁴ wherever located, disaster areas, summer camps for children, the United States Trust Territory of the Pacific Islands, and Indians, whenever a tribal organization requests distribution of federally donated foods pursuant to section 4(b) of the Food Stamp Act of 1977 (section 2013(b) of this title). In providing for commodity distribution to Indians, the Secretary shall improve the variety and quantity of commodities supplied to Indians in order to provide them an opportunity to obtain a more nutritious diet.

(b) The Secretary may furnish commodities to summer camps for children in which the number of adults participating in camp activities as compared with the number of children 18 years of age and under⁴⁻⁵ so participating is not unreasonable in light of the na-

⁴⁻¹ P.L. 93–86, 87 Stat. 249, August 10, 1973. The first sec. of P.L. 93–346, 88 Stat. 340, July 12, 1974, amended sec. 4 in its entirety. Sec. 2(1) of P.L. 94–273, 90 Stat. 375, April 21, 1976, amended sec. 4(a) by striking “June” each place it appears and inserting “September”. Sec. 1304(a) of P.L. 95–113, 91 Stat. 980, Sept. 29, 1977, amended subsecs. (a) and (b) in their entirety.

⁴⁻² Sec. 1334(1) of P.L. 97–98, 95 Stat. 1292, Dec. 22, 1981, amended subsec. (a) by striking “1978, 1979, 1980, and 1981” and inserting “1982, 1983, 1984, and 1985”. Sec. 1562(a)(1) of P.L. 99–198, 99 Stat. 1591, Dec. 23, 1981, amended subsec. (a) by striking “1982, 1983, 1984, and 1985” and inserting “1986, 1987, 1989, and 1990”. Sec. 1771(a) of P.L. 101–624, 104 Stat. 3806, Nov. 28, 1990, amended subsec. (a) by striking “1986, 1987, 1988, 1989, and 1990” and inserting “1991 through 1995”. Sec. 402(a) of P.L. 104–127 of P.L. 104–127, 110 Stat. 1028, Apr. 4, 1996, amended subsec. (a) by striking “1995” and inserting “2002”. Sec. 4201(a) of P.L. 107–171, 116 Stat. 328, May 13, 2002, amended subsec. (a) by striking “2002” and inserting “2007”.

⁴⁻³ Sec. 1771(b)(1) of P.L. 101–624, 104 Stat. 3807, Nov. 28, 1990, amended subsec. (a) by inserting after “distribution to institutions” the following: “(including hospitals and facilities caring for needy infants and children)”.

⁴⁻⁴ Sec. 1771(c)(1) of P.L. 101–624, 104 Stat. 3807, Nov. 28, 1990, amended subsec. (a) by striking “supplemental feeding programs” and inserting “supplemental feeding programs serving women, infants, and children or elderly persons, or both,”.

⁴⁻⁵ Sec. 1562(a)(2) of P.L. 99–198, 99 Stat. 1591, Dec. 23, 1981, amended subsec. (b) by striking “under 18 years of age” and inserting “18 years of age and under”.

ture of such camp and the characteristics of the children in attendance.

(c)⁴⁻⁶ Whoever embezzles, willfully misapplies, steals or obtains by fraud any agricultural commodity or its products (or any funds, assets, or property deriving from donation of such commodities) provided under this section, or under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), section 709⁴⁻⁷ of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1), or the Emergency Food Assistance Act of 1983,⁴⁻⁸ whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such commodities, products, funds, assets, or property for personal use or gain, knowing such commodities, products, funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such commodities, products, funds, assets, or property are of a value of \$100 or more, be fined not more than \$10,000 or imprisoned not more than five years, or both, or if such commodities, products, funds, assets, or property are of value of less than \$100, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

SEC. 5.⁵⁻¹ [7 U.S.C. 612c note] (a)⁵⁻² GRANTS PER ASSIGNED CASELOAD SLOT.—

(1) IN GENERAL.—In carrying out the program under section 4 (referred to in this section as the “commodity supplemental food program”), for each of fiscal years 2003 through 2007, the Secretary shall provide to each State agency from funds made available to carry out that section (including any such funds remaining available from the preceding fiscal year), a grant per assigned caseload slot for administrative costs incurred by the State agency and local agencies in the State in operating the commodity supplemental food program.

(2) AMOUNT OF GRANTS.—

(A) FISCAL YEAR 2003.—For fiscal year 2003, the amount of each grant per assigned caseload slot shall be equal to the amount of the grant per assigned caseload slot for administrative costs in 2001, adjusted by the percentage change between—

(i) the value of the State and local government price index, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30, 2001; and

⁴⁻⁶ Subsec. (c) added by sec. 1334(2) of P.L. 97-98, 95 Stat. 1292, Dec. 22, 1981. Sec. 1302(a)(1) of P.L. 95-113, 91 Stat. 979, Sept. 29, 1977, repealed a previous version of subsec. (c).

⁴⁻⁷ Sec. 207(1) of P.L. 98-8, 97 Stat. 36, Mar. 24, 1983, amended subsec. (c) by striking “or section 709” and inserting “section 709”.

⁴⁻⁸ Sec. 207(2) of P.L. 98-8, 97 Stat. 36, Mar. 24, 1983, amended subsec. (c) by inserting after “(7 U.S.C. 1446a-1)” the phrase “or the Emergency Food Assistance Act of 1983”. Sec. 3 of P.L. 98-92, 97 Stat. 612, Sept. 2, 1983, amended subsec. (c) by inserting “Temporary” before “Emergency Food Assistance Act of 1983”. Sec. 1772(h)(2) of P.L. 101-624, 104 Stat. 3809, Nov. 28, 1990, amended subsec. (c) by striking “(7 U.S.C. 1446a-1) Temporary or the” and inserting “(7 U.S.C. 1446a-1), or the”.

⁵⁻¹ Sec. 5 added by sec. 1304(b)(2) of P.L. 95-113, 91 Stat. 980, Sept. 29, 1977.

⁵⁻² Sec. 4201(b)(1) of P.L. 107-171, 116 Stat. 328, May 13, 2002, amended subsec. (a) in its entirety. Previously, subsec. (a) amended by sec. 1335 of P.L. 97-98, 95 Stat. 1293, Dec. 22, 1981; sec. 2(8) of P.L. 98-92, 97 Stat. 611, Sept. 2, 1983; sec. 1562 of P.L. 99-198, 99 Stat. 1590, Dec. 23, 1985; sec. 1771 of P.L. 101-624, 104 Stat. 3806, Nov. 28, 1990; and sec. 402(b)(2) of P.L. 104-127, 110 Stat. 1028, Apr. 4, 1996.

(ii) the value of that index for the 12-month period ending June 30, 2002.

(B) FISCAL YEARS 2004 THROUGH 2007.—For each of fiscal years 2004 through 2007, the amount of each grant per assigned caseload slot shall be equal to the amount of the grant per assigned caseload slot for the preceding fiscal year, adjusted by the percentage change between—

(i) the value of the State and local government price index, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30 of the second preceding fiscal year; and

(ii) the value of that index for the 12-month period ending June 30 of the preceding fiscal year.

(b) During the first three months of any commodity supplemental food program, or until such program reaches its projected caseload level, whichever comes first, the Secretary shall pay those administrative costs necessary to commence the program successfully: *Provided*, That in no event shall administrative costs paid by the Secretary for any fiscal year exceed the limitation established in subsection (a) of this section.

(c) Administrative costs for the purposes of the commodity supplemental food program shall include, but not be limited to, expenses for information and referral, operation, monitoring, nutrition education, start-up costs, and general administration, including staff, warehouse and transportation personnel, insurance, and administration of the State or local office.

(d)(1)⁵⁻³ During each fiscal year the commodity supplemental food program is in operation, the types and varieties of commodities and their proportional amounts shall be determined by the Secretary, but, if the Secretary proposes to make any significant changes in the types, varieties, or proportional amounts from those that were available or were planned at the beginning of the fiscal year (or as were available during the fiscal year ending June 30, 1976, whichever is greater) the Secretary shall report such changes before implementation to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2)⁵⁻⁴ Notwithstanding any other provision of law, the Commodity Credit Corporation shall, to the extent that the Commodity Credit Corporation inventory levels permit, provide not less than 9,000,000 pounds of cheese and not less than 4,000,000 pounds of nonfat dry milk in each of the fiscal years 1991 through 2007⁵⁻⁵ to the Secretary of Agriculture. The Secretary shall use such amounts of cheese and nonfat dry milk to carry out the commodity supplemental food program before the end of each fiscal year.

(e) The Secretary of Agriculture is authorized to issue such regulations as may be necessary to carry out the commodity supplemental food program.

⁵⁻³ Sec. 1774(c)(1) of P.L. 101-624, 104 Stat. 3813, Nov. 28, 1990, amended subsec. (d) by inserting "(1)" after the subsec. designation.

⁵⁻⁴ Sec. 1774(c)(2) of P.L. 101-624, 104 Stat. 3813, Nov. 28, 1990, transferred sec. 130 of the Hunger Prevention Act of 1988 to para. (2) of subsec. (d) and amended para. (2) in its entirety.

⁵⁻⁵ Sec. 402(b)(2) of P.L. 104-127, 110 Stat. 1028, Apr. 4, 1996, amended para. (2) by striking "1995" and inserting "2002". Sec. 4201(b)(2) of P.L. 107-171, 116 Stat. 328, May 13, 2002, amended para. (2) by striking "2002" and inserting "2007".

(f)⁵⁻⁶ The Secretary shall, in any fiscal year, approve applications of additional sites for the program, including sites that serve only elderly persons,⁵⁻⁷ in areas in which the program currently does not operate to the full extent that this can be done within the appropriations available for the program for the fiscal year and without reducing actual participation levels (including participation of elderly persons under subsection (g)) in areas in which the program is in effect.

(g)⁵⁻⁸ If a local agency that administers the commodity supplemental food program determines that the amount of funds made available to the agency to carry out this section exceeds the amount of funds necessary to provide assistance under such program to women, infants, and children, the agency, with the approval of the Secretary, may permit low-income elderly persons (as defined by the Secretary) to participate in and be served by such program.

(h)⁵⁻⁹ Each State agency administering a commodity supplemental food program serving women, infants, and children shall—

(1) ensure that written information concerning food stamps, the State program funded⁵⁻¹⁰ under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and the child support enforcement program under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) is provided on at least one occasion to each adult who applies for or participates in the commodity supplemental food program;

(2) provide each local agency with materials showing the maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 6 under the medical assistance program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (hereinafter referred to in this section as the “medicaid program”) which materials may be identical to those provided under section 17(e)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(e)(3)); and

(3) ensure that local agencies provide to pregnant, breast feeding and post partum women, and adults applying on behalf of infants or children, who apply to the commodity supplemental food program, or who reapply to such program, written information about the medicaid program and referral to the program or to agencies authorized to determine presumptive eligibility for the medicaid program, if the individuals are not participating in the medicaid program.

(i)⁵⁻¹¹ Each State agency administering a commodity supplemental food program serving elderly persons shall ensure that written information is provided on at least one occasion to each elderly participant in or applicant for the commodity supplemental food program for the elderly concerning—

(1) food stamps provided under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

⁵⁻⁶ Subsec. (f) added by sec. 1562 of P.L. 99-198, 99 Stat. 1590, Dec. 23, 1985.

⁵⁻⁷ Sec. 1771(c)(2) of P.L. 101-624, 104 Stat. 3807, Nov. 28, 1990, amended subsec. (f) by inserting after “additional sites for the program” the following: “, including sites that serve only elderly persons.”

⁵⁻⁸ Subsec. (g) added by sec. 1562 of P.L. 99-198, 99 Stat. 1590, Dec. 23, 1985.

⁵⁻⁹ Subsec. (h) added by sec. 1771(e) of P.L. 101-624, 104 Stat. 3807, Nov. 28, 1990.

⁵⁻¹⁰ Sec. 109(f) of P.L. 104-193, 110 Stat. 2170, Aug. 22, 1996, amended para. (1) by striking “the program for aid to families with dependent children” and inserting “the State program funded”. Sec. 5514(b) of P.L. 105-33, 111 Stat. 620, Aug. 5, 1997, corrected a citation in amendatory language of sec. 109(f) of P.L. 104-193.

⁵⁻¹¹ Subsec. (i) added by sec. 1771(e) of P.L. 101-624, 104 Stat. 3807, Nov. 28, 1990.

(2) the supplemental security income benefits provided under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.); and

(3) medical assistance provided under title XIX of such Act (42 U.S.C. 1396 et seq.) (including medical assistance provided to a qualified medicare beneficiary (as defined in section 1905(p) of such Act (42 U.S.C. 1396d(5))))).⁵⁻¹²

(j)⁵⁻¹³(1) If the Secretary must pay a significantly higher than expected price for one or more types of commodities purchased under the commodity supplemental food program, the Secretary shall promptly determine whether the price is likely to cause the number of persons that can be served in the program in a fiscal year to decline.

(2) If the Secretary determines that such a decline would occur, the Secretary shall promptly notify the State agencies charged with operating the program of the decline and shall ensure that a State agency notify all local agencies operating the program in the State of the decline.

(k)⁵⁻¹⁴(1) The Secretary or a designee of the Secretary shall have the authority to—

(A) determine the amount of, settle, and adjust any claim arising under the commodity supplemental food program; and

(B) waive such a claim if the Secretary determines that to do so will serve the purposes of the program.

(2) Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.

(l)⁵⁻¹⁵ USE OF APPROVED FOOD SAFETY TECHNOLOGY.—

(1) IN GENERAL.—In acquiring commodities for distribution through a program specified in paragraph (2), the Secretary shall not prohibit the use of any technology to improve food safety that—

(A) has been approved by the Secretary; or

(B) has been approved or is otherwise allowed by the Secretary of Health and Human Services.

(2) PROGRAMS.—A program referred to in paragraph (1) is a program authorized under—

(A) this Act;

(B) the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(C) the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.);

(D) the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); or

(E) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

⁵⁻¹² Sec. 118(a) of P.L. 102-237, 105 Stat. 1841, Dec. 13, 1991, amended para. (3) by striking “(42 U.S.C. 1396d(5))” and inserting “(42 U.S.C. 1396d(5))”.

⁵⁻¹³ Subsec. (j) added by sec. 1771(f) of P.L. 101-624, 104 Stat. 3808, Nov. 28, 1990.

⁵⁻¹⁴ Subsec. (k) added by sec. 922(c) of P.L. 102-237, 105 Stat. 1889, Dec. 13, 1991.

⁵⁻¹⁵ Subsec. (l) originally added by sec. 402(b)(3) of P.L. 104-127, 110 Stat. 1028, Apr. 4, 1996. Sec. 4201(b)(3) of P.L. 107-171, 116 Stat. 328, May 13, 2002, amended subsec. (l) in its entirety.