

103^D CONGRESS
2^D SESSION

S. 1816

To amend the Child Nutrition Act of 1966 to protect against trafficking in food instruments and other frauds in connection with the special supplemental food program for women, infants, and children (WIC), and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 1 (legislative day, JANUARY 25), 1994

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

A BILL

To amend the Child Nutrition Act of 1966 to protect against trafficking in food instruments and other frauds in connection with the special supplemental food program for women, infants, and children (WIC), 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 “WIC Fraud Prosecu-
5 tion Act of 1994”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) the special supplemental food program for
2 women, infants, and children (WIC) established
3 under section 17 of the Child Nutrition Act of 1966
4 (42 U.S.C. 1786) provides vital and nutritious foods
5 to vulnerable Americans;

6 (2) the improper diversion of WIC benefits by
7 stores and other food vendors authorized to accept
8 WIC food instruments harms the entire WIC pro-
9 gram; and

10 (3) severe penalties should be imposed on store
11 owners and managers and WIC clinic employees en-
12 gaged in trafficking in WIC food instruments.

13 **SEC. 3. DISQUALIFICATION AND CIVIL MONEY PENALTIES**
14 **FOR WIC FOOD VENDORS; CRIMINAL PEN-**
15 **ALTIES.**

16 Section 17 of the Child Nutrition Act of 1966 (42
17 U.S.C. 1786) is amended by adding at the end the follow-
18 ing new subsection:

19 “(q)(1) Except as provided in paragraph (2), any
20 food vendor authorized to participate in the program au-
21 thorized under subsection (c)(1) (referred to in this sub-
22 section as the ‘program’) shall be permanently disqualified
23 from further participation in the program, on a finding,
24 made in accordance with regulations issued by the Sec-

1 retary, that any owner, officer, supervisor, or manager of
2 the vendor intentionally—

3 “(A) trafficked in program food instruments or
4 otherwise obtained program food instruments by
5 buying the instruments at a discount in an unlawful
6 manner;

7 “(B) obtained benefits purchased at a discount
8 through the improper use of a program access de-
9 vice; or

10 “(C) sold or purchased firearms, ammunition,
11 explosives, or controlled substances (as defined in
12 section 102(6) of the Controlled Substances Act (21
13 U.S.C. 802(6))) in exchange for, or with, program
14 food instruments.

15 “(2) If the Secretary determines that disqualification
16 of a food vendor would cause hardship to persons partici-
17 pating in the program, in lieu of disqualification under
18 paragraph (1), the Secretary may impose on the vendor
19 a civil money penalty of up to \$20,000 for each violation
20 described in paragraph (1).

21 “(3) Any owner, officer, supervisor, or manager of
22 a program food vendor or any employee of a program clin-
23 ic who intentionally traffics in program food instruments
24 or otherwise obtains program food instruments by buying
25 the instruments at a discount in a manner not permitted

1 by law shall be guilty of a felony and shall be fined not
2 more than \$100,000 or imprisoned not more than 10
3 years, or both.

4 “(4)(A) At any time after imposing a money penalty
5 under this subsection, the Secretary may request the At-
6 torney General to institute a civil action to collect the pen-
7 alty against a person subject to the penalty in a district
8 court of the United States for any district in which the
9 person is found, resides, or transacts business.

10 “(B) The court shall have jurisdiction to hear and
11 decide the action.

12 “(C) In the action, the validity and amount of the
13 penalty shall not be subject to review.

14 “(5)(A) The Secretary may impose a fine against any
15 person not approved by the Secretary to accept program
16 food instruments who violates this subsection or a regula-
17 tion issued under this subsection, including a violation
18 concerning the acceptance of program food instruments
19 and including such violations by employees of program
20 clinics.

21 “(B) The amount of the fine shall be established by
22 the Secretary and may be assessed and collected in accord-
23 ance with regulations issued under this subsection sepa-
24 rately or in combination with any fiscal claim established
25 by the Secretary.

1 “(C) The Attorney General may institute judicial ac-
2 tion in any court of competent jurisdiction against the per-
3 son to collect the fine.

4 “(6) Whoever presents, or causes to be presented, a
5 program food instrument, or who uses a program access
6 device, knowing that the instrument or device to have been
7 received, transferred, or used in violation of this sub-
8 section or the regulations issued under this subsection
9 shall be guilty of a felony and—

10 “(A) on the first conviction of the felony, shall
11 be fined not more than \$20,000 or imprisoned for
12 not more than 5 years, or both; and

13 “(B) on the second and any subsequent convic-
14 tion of the felony, shall be imprisoned for not less
15 than 1 year and not more than 5 years and may also
16 be fined not more than \$30,000.

17 “(7) In addition to other penalties imposed under this
18 subsection, any person convicted of a violation of this sub-
19 section may be suspended by a court from participation
20 in the program for a period of up to 2 years.

21 “(8)(A) The Secretary may subject to forfeiture and
22 denial of property rights any nonfood item, money, nego-
23 tiable instrument, security, vendor property (including a
24 building), or other item of value that is furnished or in-
25 tended to be furnished by any person in exchange for a

1 program food instrument or program access device, or
2 anything of value obtained by use of an access device or
3 program food instruments, or which item or property is
4 used in facilitating such trafficking, in any manner that
5 violates this subsection or a regulation issued under this
6 subsection.

7 “(B) Any forfeiture and disposal of property forfeited
8 under this subsection for a violation described in subpara-
9 graph (A) shall be conducted in accordance with proce-
10 dures specified in regulations issued by the Secretary.”.

11 **SEC. 4. DETECTION OF TRAFFICKING IN WIC FOOD INSTRU-**
12 **MENTS OR ACCESS DEVICES.**

13 Section 17(f)(1) of the Child Nutrition Act of 1966
14 (42 U.S.C. 1786(f)(1)) is amended—

15 (1) in subparagraph (C)—

16 (A) by striking “and” at the end of clause
17 (xii);

18 (B) by redesignating clause (xiii) as clause
19 (xiv); and

20 (C) by inserting after clause (xii) the fol-
21 lowing new clause:

22 “(xiii) a detailed plan for the detection and
23 punishment of store owners or program food vendors
24 for trafficking in food instruments or access devices
25 used in connection with the program authorized sub-

1 section (c)(1), subject to subparagraph (F); and”;
2 and

3 (2) by adding at the end the following new sub-
4 paragraph:

5 “(F)(i) The plan described in subparagraph (C)(xiii)
6 shall target higher risk stores or vendors.

7 “(ii) The State agency shall set aside funds for carry-
8 ing out subparagraph (C)(xiii).

9 “(iii) The State agency shall fully cooperate with the
10 attorney general of a State, county attorneys, law enforce-
11 ment officers, and Federal prosecutors or law enforcement
12 personnel in any investigation of trafficking in food instru-
13 ments or access devices used in connection with the pro-
14 gram authorized under subsection (c)(1).”.

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