

118TH CONGRESS
2D SESSION

S. 3893

To amend the Food and Nutrition Act of 2008 to require the promulgation of cybersecurity and digital service regulations relating to the use of EBT cards under the supplemental nutrition assistance program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2024

Mr. WYDEN (for himself, Mr. FETTERMAN, and Mr. CASSIDY) 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 the promulgation of cybersecurity and digital service regulations relating to the use of EBT cards under the supplemental nutrition assistance program, 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 “Enhanced Cybersecu-
5 rity for SNAP Act of 2024”.

1 **SEC. 2. ENHANCED CYBERSECURITY FOR EBT CARDS.**

2 Section 7(h) of the Food and Nutrition Act of 2008
 3 (7 U.S.C. 2016(h)) is amended by adding at the end the
 4 following:

5 “(15) CYBERSECURITY OF EBT CARDS.—

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

7 “(i) CHIP-ENABLED.—

8 “(I) IN GENERAL.—The term
 9 ‘chip-enabled’, with respect to a pay-
 10 ment card, means a payment card
 11 that uses industry standard secure
 12 payment technology, as identified by
 13 the Administrator of the Food and
 14 Nutrition Service in consultation with
 15 the Secretary of the Treasury and the
 16 Director of the National Institute of
 17 Standards and Technology, that—

18 “(aa) provides for secure
 19 card-based payment; and

20 “(bb) is resistant to cloning.

21 “(II) EMV CHIP.—The Adminis-
 22 trator of the Food and Nutrition
 23 Service, in consultation with the Sec-
 24 retary of the Treasury and the Direc-
 25 tor of the National Institute of Stand-
 26 ards and Technology, shall consider

1 whether the secure payment tech-
 2 nology described in subclause (I)
 3 should meet the standards published
 4 by EMVCo for contact and contactless
 5 payments.

6 “(ii) MOBILE FRIENDLY.—The term
 7 ‘mobile friendly’ has the meaning given the
 8 term in section 3559(b) of title 44, United
 9 States Code.

10 “(iii) NIST PIN AND PASSWORD
 11 STANDARDS.—The term ‘NIST PIN and
 12 password standards’ means the PIN and
 13 password standards described in Special
 14 Publication 800–63B entitled ‘Digital
 15 Identity Guidelines’ (or a successor docu-
 16 ment) of the National Institute of Stand-
 17 ards and Technology.

18 “(iv) PIN.—The term ‘PIN’ has the
 19 meaning given the term ‘personal identi-
 20 fication number (PIN)’ in section 271.2 of
 21 title 7, Code of Federal Regulations (or
 22 successor regulations).

23 “(B) REGULATIONS.—

24 “(i) IN GENERAL.—Not later than 2
 25 years after the date of enactment of this

1 paragraph, the Secretary shall promulgate,
2 and every 5 years thereafter, the Secretary
3 shall review and update as necessary, cy-
4 bersecurity and digital service regulations
5 relating to EBT cards and mobile pay-
6 ments under the supplemental nutrition as-
7 sistance program, including, at a min-
8 imum, to ensure that cybersecurity meas-
9 ures for EBT cards and mobile payments
10 keep pace with security safeguards used by
11 the private sector and required by Federal
12 agencies for credit, debit, and other pay-
13 ment cards and mobile payments.

14 “(ii) REQUIREMENTS.—The Secretary
15 shall ensure that the cybersecurity and dig-
16 ital service regulations described in clause
17 (i) require the following:

18 “(I)(aa) Each State shall operate
19 the user interfaces listed on the list of
20 required user interfaces maintained by
21 the Secretary under item (dd)(AA), in
22 accordance with this subclause, 1 or
23 more user interfaces of which house-
24 holds in the State may, at the election
25 of the applicable household, use to

1 manage the EBT account of the ap-
2 plicable household.

3 “(bb)(AA) A State may operate
4 other user interfaces under item (aa)
5 in addition to the required user inter-
6 faces on the list maintained by the
7 Secretary under item (dd)(AA).

8 “(BB) Any web-based online por-
9 tal operated by a State as a user
10 interface shall be mobile friendly.

11 “(cc) Each user interface offered
12 by a State under items (aa) and (bb),
13 as applicable, shall—

14 “(AA) provide information
15 in each language in which the
16 State agency is required to make
17 material available pursuant to
18 section 272.4(b) of title 7, Code
19 of Federal Regulations (or suc-
20 cessor regulations);

21 “(BB) be available to house-
22 holds at least 99 percent of the
23 time; and

24 “(CC) include any other fea-
25 tures required by the Secretary.

1 “(dd)(AA) The Secretary shall
2 maintain a list of required user inter-
3 faces for purposes of item (aa), which
4 may include a web-based online portal
5 and a mobile application.

6 “(BB) The list under subitem
7 (AA) shall include an application pro-
8 gramming interface through which at
9 least 1 user interface offered by a
10 State under item (aa) allows house-
11 holds to delegate access to some or all
12 account features identified by the Sec-
13 retary to third-party provided soft-
14 ware. No fee shall be charged to any
15 party for the use of that application
16 programming interface.

17 “(CC) During the 10-year period
18 following the date on which the regu-
19 lations promulgated pursuant to
20 clause (i) become final, unless the
21 Secretary extends that period, the
22 Secretary shall maintain on the list
23 under subitem (AA) the following user
24 interfaces: text message, voice tele-
25 phone service, and a nondigital user

1 interface that does not require the use
2 of a phone or computer by the house-
3 hold.

4 “(II)(aa) Each State shall pro-
5 vide households on an opt-in basis—

6 “(AA) through each digital
7 user interface offered under sub-
8 clause (I), timely electronic notice
9 of transactions using the EBT
10 account of the household; and

11 “(BB) through each user
12 interface offered under subclause
13 (I), access to, including the abil-
14 ity to search, historical trans-
15 actions for not less than the pre-
16 ceding 12 months.

17 “(bb) Transaction information
18 under subitems (AA) and (BB) of
19 item (aa) shall include the amount of
20 the transaction, the merchant for the
21 transaction, the city and State of the
22 merchant for an in-person trans-
23 action, and the delivery address or
24 collection address for an online trans-
25 action.

1 “(cc) Each State shall offer
2 households the ability, through each
3 user interface offered under subclause
4 (I), to report a fraudulent transaction
5 to the State.

6 “(dd) A State shall not require a
7 household to respond to or acknowl-
8 edge a notice of transaction delivered
9 pursuant to item (aa)(AA).

10 “(ee) A State shall notify a
11 household that has received reim-
12 bursement for EBT card fraud pursu-
13 ant to section 501(b)(2) of division
14 HH of the Consolidated Appropria-
15 tions Act, 2023 (7 U.S.C.
16 2016a(b)(2)), of the ability of the
17 household to opt in to restricting the
18 use of the EBT card as described in
19 subclause (III) and of the remaining
20 funds that may be reimbursed if the
21 household experiences fraud again.

22 “(III) Each State shall provide
23 households issued an EBT card the
24 ability, through each user interface of-
25 fered under subclause (I)—

1 “(aa) to make the use of
2 that EBT card for online trans-
3 actions workable only through
4 virtual card numbers or other
5 tokenization technology, such as
6 through a mobile payment serv-
7 ice, which shall require a dif-
8 ferent virtual card number for
9 each individual online merchant;

10 “(bb) to freeze and unfreeze
11 the EBT account of the house-
12 hold for transactions in which the
13 card number printed on the EBT
14 card is manually entered, either
15 for an in-person transaction or
16 an online transaction; and

17 “(cc) to check the enroll-
18 ment status of the household, in-
19 cluding the date on which the
20 household is required to apply for
21 recertification.

22 “(IV) The requirements de-
23 scribed in items (aa) and (bb) of sub-
24 clause (III) shall terminate 5 years
25 after the date on which the regulation

1 promulgated pursuant to that sub-
2 clause becomes final, unless the Sec-
3 retary extends that period.

4 “(V) A State may opt to make
5 ineffective the use of the card number
6 printed on the EBT card to complete
7 an online transaction, and require on-
8 line transactions to occur only in ac-
9 cordance with subclause (III)(aa).

10 “(VI) Not later than 2 years
11 after the date on which the regula-
12 tions promulgated pursuant to clause
13 (i) become final, States shall begin
14 issuing chip-enabled EBT cards.

15 “(VII) Not later than 4 years
16 after the date on which the regula-
17 tions promulgated pursuant to clause
18 (i) become final, States may not issue
19 new EBT cards with magnetic stripes.

20 “(VIII) Not later than 5 years
21 after the date on which the regula-
22 tions promulgated pursuant to clause
23 (i) become final, States shall be re-
24 quired to reissue any existing valid
25 EBT cards with magnetic stripes as

1 chip-enabled EBT cards without mag-
2 netic stripes.

3 “(IX) In the case of a chip-en-
4 abled EBT card reissued pursuant to
5 any of subclauses (VI) through (VIII),
6 absent suspicion of fraud, as applica-
7 ble, a State shall—

8 “(aa) reissue a new chip-en-
9 abled EBT card; and

10 “(bb) deactivate the current
11 chip-enabled EBT card on the
12 date that is the earlier of—

13 “(AA) the date on
14 which the new chip-enabled
15 EBT card is activated; and

16 “(BB) 30 days after
17 the date on which the new
18 chip-enabled EBT card is
19 sent to the household.

20 “(iii) SUNSET FOR REQUIREMENT TO
21 USE CHIP TECHNOLOGY.—Under the cy-
22 bersecurity regulations described in clause
23 (i), all EBT cards issued during the 5-year
24 period following the deadline for carrying

1 out clause (ii)(VIII) shall be chip-enabled,
 2 unless the Secretary extends that period.

3 “(C) REIMBURSEMENTS.—Each State up-
 4 grading EBT cards to comply with the regula-
 5 tions promulgated under subparagraph (B)(i)
 6 shall receive reimbursement from the Secretary
 7 in an amount determined by the Secretary to
 8 cover all reasonable costs incurred by the State,
 9 including—

10 “(i) the 1-time up-front costs paid by
 11 the State to card vendors;

12 “(ii) the additional annual fees associ-
 13 ated with chip-enabled cards paid by
 14 States to card vendors; and

15 “(iii) postage or other delivery-related
 16 costs.

17 “(D) PROHIBITION ON PASSWORD AND PIN
 18 REQUIREMENTS INCONSISTENT WITH FEDERAL
 19 CYBERSECURITY STANDARDS.—Beginning 60
 20 days after the date of enactment of this para-
 21 graph, a State agency may not require, with re-
 22 spect to a PIN for use of an EBT card or a
 23 password for access to an online account or mo-
 24 bile application managing the EBT card—

“(i) that the PIN or password be periodically changed in circumstances that are prohibited by the NIST PIN and password standards; or

“(ii) that the password meet complexity requirements that are prohibited by the NIST PIN and password standards.

“(E) GRANT PROGRAM FOR CHIP-ENABLED EBT CARDS.—

“(i) DEFINITIONS.—In this subparagraph:

“(I) ADMINISTERING ENTITY.—

The term ‘administering entity’ means an entity awarded a grant under clause (ii) to provide subgrants to eligible entities.

“(II) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—

“(aa) an entity described in paragraph (1) or (3) of section 3(o) that—

“(AA) is authorized to participate in the supplemental nutrition assistance program under section 9;

1 “(BB) does not have
 2 payment terminals that ac-
 3 cept chip-enabled EBT
 4 cards; and

5 “(CC) is located in an
 6 area with limited grocery ac-
 7 cess, as determined by the
 8 Secretary; and

9 “(bb) an entity described in
 10 paragraph (2), (4), or (5) of sec-
 11 tion 3(o) that meets the require-
 12 ments described in subitems
 13 (AA) and (BB) of item (aa).

14 “(ii) GRANTS.—The Secretary shall
 15 establish a grant program to award a
 16 grant to an administering entity to provide
 17 subgrants to eligible entities to upgrade to
 18 chip-compatible payment terminals that
 19 support contact and contactless payment
 20 card technology.

21 “(F) DATA COLLECTION.—The Secretary
 22 shall—

23 “(i) collect, and publish on the website
 24 of the Department of Agriculture, data
 25 on—

1 “(I) the length of time each user
2 interface offered by each State pursu-
3 ant to subparagraph (B)(ii)(I) was
4 unavailable for use, including due to
5 technical problems or maintenance
6 needs; and

7 “(II) cybersecurity measures
8 adopted for EBT cards in each State;
9 and

10 “(ii) maintain and annually update
11 the data collected under clause (i) to sup-
12 port States in implementing any regula-
13 tions promulgated pursuant to subpara-
14 graph (B)(i).

15 “(G) PUBLIC REPORT.—

16 “(i) IN GENERAL.—Not later than 1
17 year after the date of enactment of this
18 paragraph, and every 2 years thereafter,
19 the Secretary shall submit to the Commit-
20 tees on Appropriations and Agriculture,
21 Nutrition, and Forestry of the Senate and
22 the Committees on Appropriations and Ag-
23 riculture of the House of Representatives,
24 and make publicly available on the website

1 of the Department of Agriculture, a report
2 that—

3 “(I) identifies trends relating to
4 the theft of benefits, including the fre-
5 quency of theft of benefits and the lo-
6 cation of those thefts;

7 “(II) evaluates the effectiveness
8 of existing cybersecurity regulations
9 for the supplemental nutrition assist-
10 ance program, including identifying
11 ineffective measures and the compli-
12 ance burden borne by individual ben-
13 efit recipients;

14 “(III) describes the efforts of
15 States—

16 “(aa) to update cybersecu-
17 rity measures for EBT cards;
18 and

19 “(bb) to reimburse stolen
20 benefits; and

21 “(IV) examines usability issues of
22 EBT cards, including issues that
23 present barriers to households using
24 benefits or affect fraud prevention
25 goals.

1 “(ii) RESTRICTED ANNEX.—The re-
 2 port under clause (i) may include a non-
 3 publicly available annex containing classi-
 4 fied or law enforcement-sensitive informa-
 5 tion.”.

6 **SEC. 3. ENSURING NO LOSS OF ACCESS TO BENEFITS DUE**
 7 **TO EBT CARD DAMAGE, LOSS, OR FRAUD.**

8 Section 7(h)(7) of the Food and Nutrition Act of
 9 2008 (7 U.S.C. 2016(h)(7)) is amended—

10 (1) by striking “Regulations” and inserting the
 11 following:

12 “(A) IN GENERAL.—Regulations”; and

13 (2) by adding at the end the following:

14 “(B) ENSURING NO LOSS OF ACCESS TO
 15 BENEFITS DUE TO EBT CARD DAMAGE, LOSS,
 16 OR FRAUD.—Not later than 180 days after the
 17 date of enactment of the Enhanced Cybersecu-
 18 rity for SNAP Act of 2024, the Secretary shall
 19 promulgate regulations requiring the following:

20 “(i) If an EBT card is damaged, no
 21 longer functions properly, is stolen, or is
 22 frozen due to fraud, the applicable State
 23 shall take the necessary steps to ensure
 24 that the household receives a replacement
 25 card, either by mail or in person, as se-

1 lected by the household, not later than 3
 2 business days after the household submits
 3 to the State a request for a replacement
 4 EBT card.

5 “(ii) A State shall not require, but
 6 shall offer as an option, in-person collec-
 7 tion of a new or replacement EBT card.”.

8 **SEC. 4. NO REPLACEMENT FEES FOR CERTAIN EBT CARDS.**

9 Section 7(h)(8)(A) of the Food and Nutrition Act of
 10 2008 (7 U.S.C. 2016(h)(8)(A)) is amended—

11 (1) by striking “A State agency” and inserting
 12 the following:

13 “(i) IN GENERAL.—Except as pro-
 14 vided in clause (ii), a State agency”; and

15 (2) by adding at the end the following:

16 “(ii) EXCEPTIONS.—Beginning 60
 17 days after the date of enactment of the
 18 Enhanced Cybersecurity for SNAP Act of
 19 2024, a State agency may not collect a
 20 charge under clause (i) if the replacement
 21 of the EBT card is due to—

22 “(I) the EBT card malfunc-
 23 tioning;

24 “(II) suspected or reported fraud
 25 relating to that EBT card by an indi-

1 vidual outside of the household to
2 which the EBT card belongs;

3 “(III) the expiration of the EBT
4 card; or

5 “(IV) required replacement of the
6 EBT card in compliance with regula-
7 tions promulgated pursuant to para-
8 graph (15)(B).”.

9 **SEC. 5. REQUIREMENT FOR RETAILER USE OF CHIP-EN-**
10 **ABLED PAYMENT TERMINALS AS A CONDI-**
11 **TION OF SNAP PARTICIPATION.**

12 Section 9(a) of the Food and Nutrition Act of 2008
13 (7 U.S.C. 2018(a)) is amended—

14 (1) in paragraph (2)—

15 (A) by striking “(2) The Secretary” and
16 inserting the following:

17 “(2) REGULATIONS.—The Secretary”; and

18 (B) by indenting the margins of subpara-
19 graphs (A) and (B) appropriately;

20 (2) by indenting the margin of paragraph (3)
21 appropriately; and

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

23 “(5) CHIP-ENABLED PAYMENT TERMINALS.—

24 Beginning not later than 180 days after the date on
25 which the regulations promulgated pursuant to sec-

1 tion 7(h)(15)(B)(i) become final, the Secretary shall
 2 require retail food stores and wholesale food con-
 3 cerns seeking authorization or reauthorization to ac-
 4 cept and redeem benefits under the supplemental
 5 nutrition assistance program to have a chip-enabled
 6 (as defined in section 7(h)(15)(A)) payment terminal
 7 at each retail location of the retail food store or
 8 wholesale food concern.”.

9 **SEC. 6. REPORT.**

10 (a) IN GENERAL.—Not later than 1 year after the
 11 date of enactment of this Act, the Secretary of Agriculture
 12 shall submit to the Committees on Appropriations and Ag-
 13 riculture, Nutrition, and Forestry of the Senate and the
 14 Committees on Appropriations and Agriculture of the
 15 House of Representatives, and make publicly available on
 16 the website of the Department of Agriculture, a report on
 17 the security of EBT cards (as defined in section 3 of the
 18 Food and Nutrition Act of 2008 (7 U.S.C. 2012)) issued
 19 in the Commonwealth of Puerto Rico, including—

20 (1) the resistance of those EBT cards to
 21 cloning; and

22 (2) if appropriate, recommendations for improv-
 23 ing the security of the electronic benefit transfer sys-
 24 tem against EBT card cloning-based fraud.

1 (b) RESTRICTED ANNEX.—The report under sub-
 2 section (a) may include a nonpublicly available annex con-
 3 taining classified or law enforcement-sensitive informa-
 4 tion.

5 **SEC. 7. CONFORMING AMENDMENTS.**

6 Section 501 of division HH of the Consolidated Ap-
 7 propriations Act, 2023 (7 U.S.C. 2016a), is amended—

8 (1) in subsection (a)—

9 (A) by striking paragraphs (1) and (2);

10 (B) by redesignating paragraphs (3)
 11 through (5) as paragraphs (1) through (3), re-
 12 spectively; and

13 (C) in paragraph (3) (as so redesign-
 14 nated)—

15 (i) in subparagraph (B), by adding
 16 “and” at the end;

17 (ii) by striking subparagraph (C); and

18 (iii) by redesignating subparagraph

19 (D) as subparagraph (C); and

20 (2) in subsection (b)—

21 (A) in paragraph (1)—

22 (i) in subparagraph (A)(vi), by strik-
 23 ing “measures” and all that follows
 24 through “(a)(1)” and inserting “meas-
 25 ures”;

- 1 (ii) in subparagraph (B), by adding
2 “and” at the end;
3 (iii) in subparagraph (C), by striking
4 “and” at the end; and
5 (iv) by striking subparagraph (D);
6 and
7 (B) in paragraph (3), by striking “sub-
8 section (a)(3)” and inserting “subsection
9 (a)(1)”.

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