

116TH CONGRESS  
1ST SESSION

# H. R. 3981

To establish requirements for quality and discard dates that are, at the option of food labelers, included in food packaging, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2019

Ms. PINGREE (for herself and Mr. NEWHOUSE) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To establish requirements for quality and discard dates that are, at the option of food labelers, included in food packaging, 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 “Food Date Labeling  
5 Act of 2019”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) ADMINISTERING SECRETARIES.—The term  
2 “administering Secretaries” means—

3 (A) the Secretary of Agriculture with re-  
4 spect to any product that is under the Sec-  
5 retary of Agriculture’s jurisdiction and is—

6 (i) a poultry product, as defined in  
7 section 4 of the Poultry Products Inspec-  
8 tion Act (21 U.S.C. 453);

9 (ii) a meat food product, as defined in  
10 section 1 of the Federal Meat Inspection  
11 Act (21 U.S.C. 601); or

12 (iii) an egg product, as defined in sec-  
13 tion 4 of the Egg Products Inspection Act  
14 (21 U.S.C. 1033); and

15 (B) the Secretary of Health and Human  
16 Services with respect to any product that is  
17 under the Secretary of Health and Human  
18 Services’ jurisdiction and is a food (as defined  
19 in section 201 of the Federal Food, Drug, and  
20 Cosmetic Act (21 U.S.C. 321)).

21 (2) DISCARD DATE.—The term “discard date”  
22 means a date voluntarily printed on food packaging,  
23 which signifies the end of the estimated period of  
24 shelf life under any stated storage conditions, after

1 which the food labeler advises the product not be  
2 consumed.

3 (3) FOOD LABELER.—The term “food labeler”  
4 means the producer, manufacturer, distributor, or  
5 retailer that places a date label on food packaging  
6 of a product.

7 (4) QUALITY DATE.—The term “quality date”  
8 means a date voluntarily printed on food packaging  
9 that is intended to communicate to consumers the  
10 date after which—

11 (A) the quality of the product may begin  
12 to deteriorate; but

13 (B) the product remains apparently whole-  
14 some food (as defined in subsection (b)(2) of  
15 section 22 of the Child Nutrition Act of 1966  
16 (42 U.S.C. 1791(b)(2)); also known as the Bill  
17 Emerson Good Samaritan Food Donation Act).

18 **SEC. 3. QUALITY DATES AND DISCARD DATES.**

19 (a) QUALITY DATES.—

20 (1) IN GENERAL.—If a food labeler includes a  
21 quality date on food packaging, the label shall use  
22 the uniform quality date label phrase under para-  
23 graph (2).

24 (2) UNIFORM PHRASE.—The uniform quality  
25 date label phrase under this paragraph shall be

1 “BEST If Used By” or, if permissible under sub-  
2 section (c)(3), the standard abbreviation of “BB”,  
3 unless and until the administering Secretaries, act-  
4 ing jointly, specify through rulemaking another uni-  
5 form phrase to be used for purposes of complying  
6 with paragraph (1).

7 (3) OPTION OF THE LABELER.—The decisions  
8 on whether to include a quality date on food pack-  
9 aging and which foods should be so labeled shall be  
10 at the discretion of the food labeler.

11 (b) DISCARD DATES.—

12 (1) IN GENERAL.—If a food labeler includes a  
13 discard date on food packaging, the label shall use  
14 the uniform discard date label phrase under para-  
15 graph (2).

16 (2) UNIFORM PHRASE.—The uniform discard  
17 date label phrase under this paragraph shall be  
18 “USE By” or, if permissible under subsection  
19 (c)(3), the standard abbreviation of “UB”, unless  
20 and until the administering Secretaries, acting joint-  
21 ly, specify through rulemaking another uniform  
22 phrase to be used for purposes of complying with  
23 paragraph (1).

24 (3) OPTION OF THE LABELER.—The decisions  
25 on whether to include a discard date on food pack-

1       aging and which foods should be so labeled shall be  
2       at the discretion of the food labeler.

3       (c) QUALITY DATE AND DISCARD DATE LABEL-  
4       ING.—

5               (1) IN GENERAL.—The quality date or discard  
6       date, as applicable, and immediately adjacent uni-  
7       form quality date label phrase or discard date label  
8       phrase—

9               (A) shall be—

10               (i) in single easy-to-read type style;

11               and

12               (ii) located in a conspicuous place on  
13       the package of the food; and

14               (B) may be on the label or, at the discre-  
15       tion of the food labeler, elsewhere on the pack-  
16       age.

17       (2) DATE FORMAT.—Each quality date and dis-  
18       card date shall be stated in terms of day and month  
19       and, as appropriate, year.

20       (3) ABBREVIATIONS.—A food labeler may use a  
21       standard abbreviation of “BB” and “UB” for the  
22       quality date and discard date, respectively, only if  
23       the food packaging is too small to include the uni-  
24       form phrase described in subsection (a)(2) or (b)(2),  
25       as applicable.

1           (4) FREEZE BY.—A food labeler may add “or  
2       Freeze By” following a quality date or discard date  
3       uniform phrase.

4           (d) INFANT FORMULA.—This Act and the amend-  
5       ments made by this Act—

6           (1) do not apply with respect to infant formula  
7       (as defined in section 201(z) of the Federal Food,  
8       Drug, and Cosmetic Act (21 U.S.C. 321(z))); and

9           (2) shall not be construed to affect the require-  
10      ments pertaining to infant formula under section  
11      412 of the Federal Food, Drug, and Cosmetic Act  
12      (21 U.S.C. 350a) and other applicable provisions of  
13      law.

14          (e) EDUCATION.—Not later than 1 year after the  
15      date of enactment of this Act, the administering Secre-  
16      taries, acting jointly, shall provide consumer education  
17      and outreach on the meaning of quality date and discard  
18      date food labels.

19          (f) RULE OF CONSTRUCTION; PREEMPTION.—

20           (1) RULE OF CONSTRUCTION.—Nothing in this  
21      Act or the amendments made by this Act shall be  
22      construed to prohibit any State or political subdivi-  
23      sion of a State from establishing or continuing in ef-  
24      fect any requirement that prohibits the sale or dona-  
25      tion of foods based on passage of the discard date.

1           (2) PREEMPTION.—No State or political sub-  
2           division of a State may establish or continue in ef-  
3           fect any requirement that—

4                   (A) relates to the inclusion in food labeling  
5                   of a quality date or a discard date that is dif-  
6                   ferent from or in addition to, or that is other-  
7                   wise not identical with, the requirements of this  
8                   Act and the amendments made by this Act; or

9                   (B) prohibits the sale or donation of foods  
10                  based on passage of the quality date.

11          (3) ENFORCEMENT.—The administering Secre-  
12          taries, acting jointly and in coordination with the  
13          Federal Trade Commission, shall ensure that the  
14          uniform quality date label phrase and uniform dis-  
15          card date label phrase are standardized across all  
16          food products.

17          (4) SAVINGS.—Notwithstanding paragraph (2),  
18          nothing in this Act, nor any amendment made by  
19          this Act, nor any standard or requirement imposed  
20          pursuant to this Act, shall be construed to preempt,  
21          displace, or supplant any State or Federal common  
22          law rights or any State or Federal statute creating  
23          a remedy for civil relief, including those for civil  
24          damage, or a penalty for criminal conduct.

1 (g) TIME TEMPERATURE INDICATOR LABELS.—  
2 Nothing in this Act or the amendments made by this Act  
3 shall be construed to prohibit or restrict the use of time-  
4 temperature indicator labels or similar technology that is  
5 in addition to or in lieu of any uniform quality date label  
6 phrase under subsection (a)(2) or uniform discard date  
7 label phrase under subsection (b)(2).

8 **SEC. 4. MISBRANDING.**

9 (a) FDA VIOLATIONS.—Section 403 of the Federal  
10 Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amend-  
11 ed by adding at the end the following:

12 “(z) If it is food and its labeling is in violation of  
13 section 3 of the Food Date Labeling Act of 2019.”.

14 (b) POULTRY PRODUCTS.—Section 4(h) of the Poul-  
15 try Products Inspection Act (21 U.S.C. 453(h)) is amend-  
16 ed—

17 (1) in paragraph (11), by striking “or” at the  
18 end;

19 (2) in paragraph (12), by striking the period at  
20 the end and inserting “; or”; and

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

22 “(13) if its labeling is in violation of section 3  
23 of the Food Date Labeling Act of 2019.”.

24 (c) MEAT PRODUCTS.—Section 1(n) of the Federal  
25 Meat Inspection Act (21 U.S.C. 601(n)) is amended—



1           (1) in paragraph (11), by striking “or” at the  
2       end;

3           (2) in paragraph (12), by striking the period at  
4       the end and inserting “; or”; and

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

6           “(13) if its labeling is in violation of section 3  
7       of the Food Date Labeling Act of 2019.”.

8       (d) EGG PRODUCTS.—Section 7(b) of the Egg Prod-  
9       ucts Inspection Act (21 U.S.C. 1036(b)) is amended in  
10      the first sentence by adding before the period at the end  
11      “or if its labeling is in violation of section 3 of the Food  
12      Date Labeling Act of 2019”.

13   **SEC. 5. REGULATIONS.**

14       Not later than 2 years after the date of enactment  
15      of this Act, the Secretaries, acting jointly, shall promul-  
16      gate final regulations for carrying out the provisions of  
17      this Act and the amendments made by this Act.

18   **SEC. 6. DELAYED APPLICABILITY.**

19       This Act and the amendments made by this Act shall  
20      apply only with respect to food products that are labeled  
21      on or after the date that is 2 years after the date of pro-  
22      mulgation of final regulations under section 5.

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