

118TH CONGRESS  
1ST SESSION

# H. R. 3159

To establish requirements for quality and discard dates that are voluntarily declared on the food label.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 9, 2023

Ms. PINGREE (for herself, Mr. NEWHOUSE, Ms. SCHAKOWSKY, Mr. MCGOVERN, Mrs. HAYES, Mr. SOTO, and Mr. GOTTHEIMER) 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 voluntarily declared on the food label.

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 2023”.

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—

5           (i) under the jurisdiction of the Sec-  
6 retary of Agriculture; and

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

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

13           (III) an egg product (as defined in  
14 section 4 of the Egg Products Inspection  
15 Act (21 U.S.C. 1033)); and

16           (B) the Secretary of Health and Human  
17 Services, with respect to any product that is—

18           (i) under the jurisdiction of the Sec-  
19 retary of Health and Human Services; and

20           (ii) a food (as defined in section 201  
21 of the Federal Food, Drug, and Cosmetic  
22 Act (21 U.S.C. 321)).

23           (2) DISCARD DATE.—The term “discard date”  
24 means a date voluntarily printed on a food label that  
25 signifies the end of the estimated period of shelf life

1 under any stated storage conditions, after which the  
2 entity responsible for the food label advises the prod-  
3 uct not be consumed.

4 (3) QUALITY DATE.—The term “quality date”  
5 means a date voluntarily printed on a food label that  
6 is intended to communicate to consumers the date  
7 after which—

8 (A) the quality of the product may begin  
9 to deteriorate; but

10 (B) the product remains apparently whole-  
11 some food (as defined in subsection (b) of the  
12 Bill Emerson Good Samaritan Food Donation  
13 Act (42 U.S.C. 1791(b))).

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

15 (a) QUALITY DATES.—

16 (1) IN GENERAL.—If a quality date is used on  
17 a food label, such quality date shall be immediately  
18 preceded by the uniform quality date label phrase  
19 under paragraph (2).

20 (2) UNIFORM PHRASE.—The uniform quality  
21 date label phrase under this paragraph shall be  
22 “BEST If Used By” or, if permissible under sub-  
23 section (c)(3), the standard abbreviation of “BB”,  
24 unless and until the administering Secretaries, act-  
25 ing in coordination, specify through rulemaking an-

1 other uniform phrase to be used for purposes of  
2 complying with paragraph (1).

3 (3) OPTION OF THE ENTITY RESPONSIBLE FOR  
4 THE FOOD LABEL.—The decisions of whether to in-  
5 clude a quality date on food packaging and which  
6 foods should be so labeled shall be at the discretion  
7 of the entity responsible for the food label.

8 (b) DISCARD DATES.—

9 (1) IN GENERAL.—If a discard date is used on  
10 a food label, such discard date shall be immediately  
11 preceded by the uniform discard date label phrase  
12 under paragraph (2).

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

21 (3) OPTION OF THE ENTITY RESPONSIBLE FOR  
22 THE FOOD LABEL.—The decisions of whether to in-  
23 clude a discard date on food packaging and which  
24 foods should be so labeled shall be at the discretion  
25 of the entity responsible for the food label.

1 (c) QUALITY DATE AND DISCARD DATE LABEL-  
2 ING.—

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

7 (A) in single easy-to-read type style; and

8 (B) located in a conspicuous place on the  
9 food label or elsewhere on the package.

10 (2) DATE FORMAT.—Each quality date and dis-  
11 card date shall be stated in terms of month and year  
12 or, as appropriate, month, day, and year.

13 (3) ABBREVIATIONS.—A standard abbreviation  
14 of “BB” and “UB” for the quality date and discard  
15 date, respectively, may be used only if the food label  
16 is too small to include the uniform phrase described  
17 in subsection (a)(2) or (b)(2), as applicable.

18 (4) FREEZE BY.—A food labeler may add “or  
19 freeze by” following a uniform quality date label  
20 phrase or discard date label phrase.

21 (d) EDUCATION.—Not later than 1 year after the  
22 date of enactment of this Act, the administering Secre-  
23 taries, acting in coordination, shall provide consumer edu-  
24 cation and outreach on the meaning of quality dates and  
25 discard dates on food labels.

1 (e) EFFECT; PREEMPTION.—

2 (1) EFFECT ON SALE OR DONATION OF  
3 FOODS.—Nothing in this Act or an amendment  
4 made by this Act prohibits any State or political  
5 subdivision of a State from establishing or con-  
6 tinuing in effect any requirement that prohibits the  
7 sale or donation of foods based on passage of the  
8 discard date.

9 (2) EFFECT ON INFANT FORMULA.—Nothing in  
10 this Act or an amendment made by this Act—

11 (A) applies with respect to infant formula  
12 (as defined in section 201(z) of the Federal  
13 Food, Drug, and Cosmetic Act (21 U.S.C.  
14 321(z))); or

15 (B) affects the requirements relating to in-  
16 fant formula under section 412 of the Federal  
17 Food, Drug, and Cosmetic Act (21 U.S.C.  
18 350a) or any other applicable provision of law.

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

22 (A) relates to the inclusion in food labeling  
23 of a quality date or a discard date that is dif-  
24 ferent from or in addition to, or that is other-

1 wise not identical with, the requirements of this  
2 Act and the amendments made by this Act; or

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

5 (4) ENFORCEMENT.—The administering Secre-  
6 taries, acting in coordination with the Federal Trade  
7 Commission, shall ensure that the uniform quality  
8 date label phrase and uniform discard date label  
9 phrase are standardized across all food products.

10 (5) SAVINGS.—Notwithstanding paragraph (3),  
11 nothing in this Act, any amendment made by this  
12 Act, or any standard or requirement imposed pursu-  
13 ant to this Act preempts, displaces, or supplants any  
14 State or Federal common law rights or any State or  
15 Federal statute creating a remedy for civil relief, in-  
16 cluding a remedy for civil damage, or a penalty for  
17 criminal conduct.

18 (f) TIME TEMPERATURE INDICATOR LABELS.—  
19 Nothing in this Act or an amendment made by this Act  
20 prohibits or restricts the use of time-temperature indicator  
21 labels or similar technology that is in addition to or in  
22 lieu of any uniform quality date label phrase under sub-  
23 section (a)(2) or uniform discard date label phrase under  
24 subsection (b)(2).

1 **SEC. 4. MISBRANDING.**

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

5 “(z) If the label bears a quality date or discard date  
6 that fails to comply with the requirements as specified in  
7 sections 3(a) and 3(b) of the Food Date Labeling Act of  
8 2023, or that fails to meet the requirements as specified  
9 in section 3(c) of such Act.”.

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

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

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

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

18 “(13) if its labeling is in violation of section 3  
19 of the Food Date Labeling Act of 2023.”.

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

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

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

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



1           “(13) if its labeling is in violation of section 3  
2           of the Food Date Labeling Act of 2023.”.

3           (d) EGG PRODUCTS.—Section 7(b) of the Egg Prod-  
4           ucts Inspection Act (21 U.S.C. 1036(b)) is amended in  
5           the first sentence by inserting “or if its labeling is in viola-  
6           tion of section 3 of the Food Date Labeling Act of 2023”  
7           before the period at the end.

8           **SEC. 5. DELAYED APPLICABILITY.**

9           This Act and the amendments made by this Act shall  
10          apply only with respect to food products that are labeled  
11          on or after the date that is 2 years after the date of enact-  
12          ment of this Act.

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