

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HM 581 Prohibit Use of SNAP Benefits to Purchase Soft Drinks

**SPONSOR(S):** Massullo

**TIED BILLS:** IDEN./SIM. BILLS: SM 814

| REFERENCE                                    | ACTION    | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|-----------|---------|---------------------------------------|
| 1) Children, Families & Seniors Subcommittee | 12 Y, 6 N | Osborne | Brazzell                              |
| 2) Health & Human Services Committee         | 20 Y, 1 N | Osborne | Calamas                               |

**SUMMARY ANALYSIS**

The Supplemental Nutrition Assistance Program (SNAP) offers nutrition assistance to eligible, low-income individuals and families in the form of funds to purchase eligible food. The Food and Nutrition Service (FNS), under the U.S. Department of Agriculture (USDA), administers SNAP, and the Florida Department of Children and Families (DCF) distributes the benefits.

Eligible foods for SNAP are any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods, and hot food products prepared for immediate consumption, with some exceptions. Eligible foods also include junk foods such as soft drinks and candy.

Soft drinks are flavored, non-alcoholic beverages that are sweetened with sugar or artificial sweeteners. Soft drinks are typically nutrient-poor and high in calories. Soft drink consumption may be associated with a variety of adverse health outcomes and nutritional deficiencies due to excess calories and large amounts of rapidly absorbable sugars. Research has tied soft drink consumption to an increased likelihood of stroke, heart disease, high blood pressure, and diabetes.

HM 581 urges Congress to prohibit the use of SNAP benefits to purchase soft drinks.

Legislative memorials are not subject to the Governor’s veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

This memorial has no fiscal impact on state or local governments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Supplemental Nutrition Assistance Program (SNAP)

The Food and Nutrition Service (FNS), under the U.S. Department of Agriculture (USDA), administers the Supplemental Nutrition Assistance Program (SNAP).<sup>1</sup> SNAP is the nation's largest domestic food and nutrition program for low-income Americans, offering nutritional assistance to millions of individuals and families each year through the provision of funds that can be used to purchase "eligible foods."<sup>2</sup> In fiscal year 2020, SNAP provided assistance to approximately 39.9 million people living in 20.5 million households across the US.<sup>3</sup> SNAP benefits support individual households by reducing the effects of poverty and increasing food security while supporting economic activity across communities as SNAP benefits directly benefit farmers, retailers, food processors and distributors, and their employees.<sup>4</sup>

SNAP is a federal program administered at the state level in Florida by the Department of Children and Families (DCF). DCF determines and monitors eligibility and disperses benefits to SNAP participants. The state and federal governments share the administrative costs of the program, while the federal government funds 100% of the benefit amount received by participants.<sup>5</sup> Federal laws, regulations, and waivers provide states with various policy options to better target benefits to those most in need, streamline program administration and field operations, and coordinate SNAP activities with those of other programs.<sup>6</sup>

#### *SNAP Eligibility and Benefits*

To be eligible for SNAP, households must meet the following criteria: (1) gross monthly income must be at or below 130 percent of the poverty level; (2) net income must be equal to or less than the poverty level; and (3) assets must be below the limits set based on household composition.<sup>7</sup> As of January 2023, 3,220,757 individuals, including 1,262,174 children and 1,017,860 elderly or disabled individuals, were receiving SNAP benefits in Florida.<sup>8</sup>

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<sup>1</sup> The Food Stamp Program (FSP) originated in 1939 as a pilot program for certain individuals to buy stamps equal to their normal food expenditures: for every \$1 of orange stamps purchased, people received 50 cents worth of blue stamps, which could be used to buy surplus food. The FSP expanded nationwide in 1974. Under the federal welfare reform legislation of 1996, Congress enacted major changes to the FSP, including limiting eligibility for certain adults who did not meet work requirements. The Food and Nutrition Act of 2008 renamed the FSP the Supplemental Nutrition Assistance Program (SNAP) and implemented priorities to strengthen program integrity; simplify program administration; maintain states' flexibility in how they administer their programs; and improve access to SNAP. See a *Short History of SNAP*, US Department of Agriculture, Food and Nutrition Service, available at <https://www.fns.usda.gov/snap/short-history-snap> (last visited February 24, 2023).

<sup>2</sup> US Department of Agriculture, Economic Research Service, *Supplemental Nutrition Assistance Program (SNAP) Overview*. Available at <https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/> (last visited February 24, 2023).

<sup>3</sup> US Department of Agriculture, Food and Nutrition Service, *Characteristics of SNAP Households: FY2020 and Early Months of the COVID-19 Pandemic: Characteristics of SNAP Households*, available at <https://www.fns.usda.gov/snap/characteristics-snap-households-fy-2020-and-early-months-covid-19-pandemic-characteristics> (last visited February 24, 2023).

<sup>4</sup> US Department of Agriculture, Economic Research Service, *Supplemental Nutrition Assistance Program (SNAP) Economic Linkages*. Available at <https://www.ers.usda.gov/topics/food-nutrition-assistance/supplemental-nutrition-assistance-program-snap/economic-linkages/> (last visited February 24, 2023).

<sup>5</sup> Center on Budget and Policy Priorities, *Policy Basics: The Supplemental Nutrition Assistance Program (SNAP)*. Available at <https://www.cbpp.org/research/food-assistance/the-supplemental-nutrition-assistance-program-snap#:~:text=The%20federal%20government%20pays%20the,the%20states%2C%20which%20operate%20it.> (last visited February 24, 2023).

<sup>6</sup> US Department of Agriculture, Food and Nutrition Service, *State Options Report*. Available at <https://www.fns.usda.gov/snap/waivers/state-options-report> (last visited February 24, 2023).

<sup>7</sup> US Department of Agriculture, Indicators of Diet Quality, Nutrition, and Health for Americans by Program Participation Status, 2011-2016: SNAP Report. Final Report (2021). Available at <https://fns-prod.azureedge.us/sites/default/files/resource-files/Indicators-Diet-QualitySNAP.pdf> (last visited March 1, 2023).

<sup>8</sup> Email from Chad Corcoran, Deputy Director of Legislative Affairs, Department of Children and Families, *Re: SNAP Participants* (March 2, 2023). On file with the Children, Families, and Seniors Subcommittee.

The Thrifty Food Plan, a minimal cost food plan reflecting current nutrition standards and guidance, the nutrient content and cost of food, and consumption patterns of low-income households, was developed by the USDA to serve as the basis for the determination of SNAP benefits. SNAP benefits are intended to supplement food purchases made with a household's own income; as such, the formula used to determine SNAP benefits assumes that a household will spend 30 percent of their net income on food purchases. The benefit allotted to SNAP households is equal to the difference between the maximum allotment for their household size and 30 percent of their net income. The structure of this formula ensures that the lowest income households receive the most benefits.<sup>9</sup>

### *Eligible Foods*

The Food and Nutrition Act of 2008 defines eligible food under SNAP as any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods, and hot food products prepared for immediate consumption, with some exceptions.<sup>10</sup>

Nonfood items such as pet foods, soaps, paper products, medicines and vitamins, household supplies, grooming items, and cosmetics are ineligible for purchase with SNAP benefits.<sup>11</sup>

When considering the eligibility of vitamins and supplements, power bars, energy drinks and other branded products, the primary determinant is the type of product label chosen by the manufacturer to conform to Food and Drug Administration (FDA) guidelines:

- Items that carry a nutrition facts label are eligible foods.
- Items that carry a supplement facts label are classified by the FDA as supplements and are therefore not eligible.<sup>12</sup>

### *Foods Purchased by SNAP Households*

In 2016, the USDA published a report assessing the types of foods SNAP households purchased as compared to non-SNAP households. The report analyzed purchases made in 2011, a year in which SNAP recipients redeemed over \$71 billion in SNAP benefits across 230,000 SNAP-authorized stores. An analysis of similar scale has not been conducted on more recent purchasing data.<sup>13</sup>

With respect to SNAP households, the data represents all food purchases made rather than only the foods purchased specifically with SNAP benefits. The data could not differentiate between items purchased with SNAP benefits and those purchased with other funds; most SNAP households use a combination of SNAP benefits and their own funds when making their food purchases.

The study found that the expenditure patterns of SNAP and non-SNAP households were similar:

- Approximately 40 cents of every dollar of food expenditures were spent on basic items such as meat, fruits, vegetables, milk, eggs, and bread.
  - 41 cents of every dollar for SNAP households.
  - 44 cents of every dollar for non-SNAP households.
- Approximately 20 cents out of every dollar were spent on sweetened beverages, desserts, salty snacks, candy and sugar.
  - 23 cents of every dollar for SNAP households.

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<sup>9</sup> US Department of Agriculture, Food and Nutrition Service, Nutrition Assistance Program Report: Barriers That Constrain the Adequacy of Supplemental Nutrition Assistance Program Allotments: Survey Findings, p. 9. Available at <https://fns-prod.azureedge.us/sites/default/files/resource-files/SNAP-Barriers-SurveyFindings.pdf> (last visited March 1, 2023).

<sup>10</sup> 7 USC § 2012(k); see also 7 CFR § 271.2.

<sup>11</sup> Id.

<sup>12</sup> US Department of Agriculture, Food and Nutrition Service, *Food Determinations – Eligible Food (Excluding Meal Services)*. Available at <https://www.fns.usda.gov/snap/food-determinations-eligible-foods> (last visited February 27, 2023).

<sup>13</sup> US Department of Agriculture, Food and Nutrition Service, *Foods Typically Purchased by Supplemental Nutrition Program (SNAP) Households* (2016). Available at <https://www.fns.usda.gov/sites/default/files/ops/SNAPFoodsTypicallyPurchased.pdf> (last visited February 27, 2023).

- 20 cents of every dollar for non-SNAP households.
- Approximately 40 cents of every dollar were spent on a variety of items such as cereal, prepared foods, dairy products, rice, and beans.<sup>14</sup>

SNAP households spent almost ten percent of their food expenditures on sweetened beverages, which was almost double what those households spent on fruit.<sup>15</sup>

### Health Effects of Soft Drinks

Soft drinks are flavored, non-alcoholic beverages that are sweetened with sugar or artificial sweeteners. Soft drinks are typically nutrient poor and high in calories. Soft drink consumption has been associated with a variety of adverse health outcomes and nutritional deficiencies due to excess calories and large amounts of rapidly absorbable sugars. Increased soft drink intake is directly associated with increased caloric intake. Some nutritional deficiencies may be tied to increased soft drink consumption; calcium intake, in particular, has been shown to decrease with increased soft drink consumption.<sup>16</sup>

Soft drink consumption has been associated with increased body weight and risk for developing diabetes in some studies. The relationship between body weight and soft drink consumption is tenuous, with study outcomes varying significantly based on methodology. Overall, soft drink intake may be linked with an increase in body weight over time.<sup>17</sup> At a national level, a high rate of soft drink consumption is significantly linked to obesity and diabetes.<sup>18</sup> Soft drink consumption has also been directly tied to an increased risk of developing type 2 diabetes in women.<sup>19</sup>

High intake of soft drinks, sweetened artificially or with sugar, is associated with metabolic syndrome, a cluster of conditions that increase the risk of heart disease, stroke, and diabetes.<sup>20</sup> Research also suggests that soft drink intake directly contributes to a greater risk of stroke. It is unclear, however, whether the relationship between the consumption of soft drinks and adverse health outcomes is direct and independent, or if soft drink consumption acts as a surrogate for other adverse health behaviors.<sup>21</sup>

Among adolescents, consumption of sugar- or artificially-sweetened soft drinks is associated with increased blood pressure.<sup>22</sup> The increase in blood pressure associated with soft drink consumption among adolescents is tied to the high amount of sodium, sweeteners, and caffeine that is found in soft drinks.<sup>23</sup> Some studies have shown that consumption of diet soda in particular can be associated with increased blood pressure among adolescents.<sup>24</sup>

### Restricting SNAP Eligible Foods

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<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> Vartanian, L., Schwartz, M., Brownell, K. *Effects of Soft Drink Consumption on Nutrition and Health: A Systematic Review and Meta-Analysis*. American Journal of Public Health. (2011). Available at <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2005.083782> (last visited February 27, 2023).

<sup>17</sup> Id.

<sup>18</sup> Basu, S., McKee, M., Galea, G., Stuckler, D. *Relationship of Soft Drink Consumption to Global Overweight, Obesity, and Diabetes: A Cross-National Analysis of 75 Countries*. American Journal of Public Health. (2013). Available at <https://ajph.aphapublications.org/doi/abs/10.2105/ajph.2012.300974> (last visited February 27, 2023).

<sup>19</sup> Schulze, M., et al. *Sugar-sweetened Beverages, Weight Gain, and Incidence of Type 2 Diabetes in Young and Middle-Aged Women*. JAMA. (2004). Available at <https://jamanetwork.com/journals/jama/article-abstract/199317> (last visited February 27, 2023).

<sup>20</sup> Narain, A., Kwok, C., Mamas, M. *Soft drink intake and the risk of metabolic syndrome: A systematic review and meta-analysis*. The International Journal of Clinical Practice. (2017). Available at <https://onlinelibrary.wiley.com/doi/10.1111/ijcp.12927> (last visited February 27, 2023).

<sup>21</sup> Narain, A., Kwok, C., Mamas, M. *Soft drinks and sweetened beverages and the risk of cardiovascular disease and mortality: a systematic review and meta-analysis*. The International Journal of Clinical Practice. (2016). Available at <https://onlinelibrary.wiley.com/doi/full/10.1111/ijcp.12841> (last visited February 27, 2023).

<sup>22</sup> Souza, B., Cunha, D., Pereira, R., Sichieri, R. *Soft drink consumption, mainly diet ones, is associated with increased blood pressure in adolescents*. Journal of Hypertension. Available at <https://pubmed.ncbi.nlm.nih.gov/26682780/> (last visited February 27, 2023).

<sup>23</sup> Savoca, M., Evans, C., Wilson, M. *The Association of Caffeinated Beverages with Blood Pressure in Adolescents*. JAMA Pediatrics. (2004). Available at <https://jamanetwork.com/journals/jamapediatrics/article-abstract/485708> (last visited February 27, 2023).

<sup>24</sup> Supra, note 222.

States and local governments have proposed prohibiting SNAP participants from purchasing foods with limited nutritional values with their benefits as a mechanism to promote healthy choices; however, the USDA has identified four key problems with the rationale, feasibility, and potential effectiveness of these proposals:

- No clear standards exist for defining foods as good or bad, or healthy or not healthy;
- Implementation of food restrictions would increase program complexity and costs;
- Restrictions may be ineffective in changing the purchases of food stamp participants; and
- No evidence exists that food stamp participation contributes to poor diet quality or obesity.<sup>25</sup>

The USDA has denied every request from states and local governments to implement waivers that would allow them to adopt their own standards for allowable foods under SNAP.<sup>26</sup> In rejecting them, the USDA has noted that state options are problematic because there is no scientific basis for allowing nutrition standards to vary from place to place and that variation in state requirements would complicate industry compliance and increase the cost of doing business.<sup>27</sup>

### Legislative Memorials

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

### **Effect of the Memorial**

HM 581 urges Congress to prohibit the use of SNAP benefits to purchase flavored carbonated beverages sweetened with natural or artificial sweeteners, also known as "soft drinks."

HM 581 requires the Secretary of State to distribute the memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

## **B. SECTION DIRECTORY:**

Not applicable.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

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<sup>25</sup> US Department of Agriculture, Food and Nutrition Service, *Implications of Restricting the Use of Food Stamp Benefits* (2007). Available at <https://fns-prod.azureedge.us/sites/default/files/FSPFoodRestrictions.pdf> (last visited February 27, 2023).

<sup>26</sup> In 2004, and several times since, Minnesota sought a waiver to prevent the purchase of junk food with SNAP benefits. The USDA denied the waiver, which focused on candy and soda, among other foods, stating that it was based on questionable merits. In 2010, New York City sought a federal waiver to prohibit the purchase of soda and other sweetened beverages with SNAP benefits for two years. The waiver was ultimately denied by the USDA due to the logistical difficulty associated with implementing the plan. Anemona Hartocollis, *The New York Times* (2010). *New York Asks to Bar Use of Food Stamps to Buy Sodas*. Available at <https://www.nytimes.com/2010/10/07/nyregion/07stamps.html#:~:text=Bloomberg%20sought%20federal%20permission%20on,soda%20or%20other%20sugared%20drinks>. (last visited February 27, 2023). See also Patrick McGeehan, *New York Times* (2011). *U.S. Rejects Mayor's Plan to Ban Use of Food Stamps to Buy Soda*. Available at <https://www.nytimes.com/2011/08/20/nyregion/ban-on-using-food-stamps-to-buy-soda-rejected-by-usda.html#:~:text=Federal%20officials%20on%20Friday%20rejected,Mr>. (last visited March 1, 2023). Since 2013, the USDA has denied Maine's repeated requests to ban the purchase of junk foods with SNAP benefits. In 2016, Maine's Governor threatened to implement reform unilaterally or cease the state's administration of the program if the USDA did not allow it to restrict purchases. *Portland Press Herald* (2016). *Gov. LePage's threat risks suspension of food stamp assistance*. Available at <https://www.pressherald.com/2016/06/21/spokesperson-says-gov-lepage-has-threatened-to-end-food-stamp-program/> (last visited February 27, 2023). The USDA again denied Maine's request to ban the use of SNAP benefits to purchase junk food in 2018 under the Trump Administration. *The Washington Post* (2018). *Why the Trump Administration Won't let Maine Ban Soda and Candy from Food Stamps*. Available at <https://www.washingtonpost.com/news/wonk/wp/2018/01/20/why-the-trump-administration-wont-let-maine-ban-soda-and-candy-from-food-stamps/> (last visited February 27, 2023).

<sup>27</sup> *Supra*, note 25.

1. Revenues:  
None.

2. Expenditures:  
None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:  
None.

2. Expenditures:  
None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This memorial does not appear to affect county or municipal governments.

2. Other:  
None.

**B. RULE-MAKING AUTHORITY:**

No rulemaking is necessary to implement the memorial.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**