

119TH CONGRESS
1ST SESSION

S. 3252

To make technical corrections to amendments made by the FDA Food Safety Modernization Act to allow the Food and Drug Administration to assess and collect food-related reinspection fees and recall fees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 20, 2025

Mr. DURBIN (for himself, Mr. BLUMENTHAL, and Mr. MARKEY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To make technical corrections to amendments made by the FDA Food Safety Modernization Act to allow the Food and Drug Administration to assess and collect food-related reinspection fees and recall fees, 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 “FSMA Fee Technical
5 Corrections Act”.

1 **SEC. 2. FOOD-RELATED FEES.**

2 (a) IN GENERAL.—Paragraph (2) of section 743(b)
 3 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.
 4 379j–31(b)) is amended to read as follows:

5 “(2) FEE METHODOLOGY; FEE AMOUNTS.—

6 “(A) IN GENERAL.—Subject to adjust-
 7 ments made by the Secretary in accordance
 8 with subparagraph (B), fees established for a
 9 fiscal year—

10 “(i) under subsection (a)(1)(A) shall
 11 be in the amount equal to \$15,000, multi-
 12 plied, for fiscal year 2026 and each subse-
 13 quent fiscal year, by the adjustment factor
 14 described in subsection (c)(3);

15 “(ii) under subsection (a)(1)(B) shall
 16 be in the amount equal to \$15,000, multi-
 17 plied, for fiscal year 2026 and each subse-
 18 quent fiscal year, by the adjustment factor
 19 described in subsection (c)(3);

20 “(iii) under subsection (a)(1)(C) shall
 21 be based on the Secretary’s estimate of
 22 100 percent of the costs of the activities
 23 described in such subsection for such fiscal
 24 year; and

25 “(iv) under subsection (a)(1)(D) shall
 26 be in the amount equal to \$15,000, multi-

1 plied, for fiscal year 2026 and each subse-
2 quent fiscal year, by the adjustment factor
3 described in subsection (c)(3).

4 “(B) OTHER CONSIDERATIONS.—

5 “(i) FEE ADJUSTMENT FOR SMALL
6 BUSINESSES.—

7 “(I) IN GENERAL.—In the case
8 of a facility or importer that, at the
9 time of the reinspection or recall
10 order, is a small business as defined
11 in subsection (a)(2)(E), the amount of
12 the fee under subparagraph (A), (B),
13 or (D) of subsection (a)(1), for a fis-
14 cal year, shall be adjusted to be equal
15 to $\frac{1}{3}$ of the amount of the fee cal-
16 culated under clause (i), (ii), or (iv) of
17 subparagraph (A), as applicable, for
18 such fiscal year.

19 “(II) PUBLICATION OF SCHED-
20 ULE.—The schedule of such adjusted
21 fee amounts shall be published annu-
22 ally with the user fee notice under
23 subsection (e).

24 “(III) GUIDANCE.—Not later
25 than 270 days after the date of enact-

1 ment of the FSMA Fee Technical
2 Corrections Act, the Secretary shall
3 publish guidance to describe how a
4 food facility or importer may request
5 a fee reduction under this clause,
6 which shall be issued for immediate
7 implementation to facilitate timely fee
8 reductions, as applicable.

9 “(ii) VOLUNTARY QUALIFIED IM-
10 PORTER PROGRAM.—In establishing the fee
11 amounts under subparagraph (A)(iii) for a
12 fiscal year, the Secretary shall provide for
13 the number of importers who have sub-
14 mitted to the Secretary a notice under sec-
15 tion 806(c) informing the Secretary of the
16 intent of such importer to participate in
17 the program under section 806 in such fis-
18 cal year.

19 “(iii) CREDITING OF CARRYOVER
20 FEES.—In establishing the fee amounts
21 under subparagraph (A) for a fiscal year,
22 the Secretary shall provide for the cred-
23 iting toward fee revenue of estimated car-
24 ryover fee collections from the previous fis-
25 cal year if the Secretary overestimated the

1 amount of fees needed to carry out activi-
 2 ties described in paragraph (3) for such
 3 previous year, and shall account for any
 4 adjustment of fees under clause (i).”.

5 (b) USE OF FEES.—Paragraph (3) of section 743(b)
 6 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.
 7 379j–31(b)) is amended to read as follows:

8 “(3) USE OF FEES.—

9 “(A) OVERSIGHT OF FACILITIES AND IM-
 10 PORTERS.—Fees collected pursuant to subpara-
 11 graphs (A), (B), and (D) of subsection (a)(1)
 12 shall be available solely for the costs of over-
 13 sight of foreign and domestic facilities and im-
 14 porters.

15 “(B) VOLUNTARY QUALIFIED IMPORTER
 16 PROGRAM.—Fees collected pursuant to subpara-
 17 graph (C) of subsection (a)(1) shall be available
 18 solely for the costs of the voluntary qualified
 19 importer program under section 806.”.

20 (c) LIMITATION ON AMOUNT.—Section 743(c)(4)(A)
 21 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.
 22 379j–31(c)(4)(A)) is amended—

23 (1) in clause (i), by striking “\$20,000,000” and
 24 inserting “\$25,000,000”; and

1 (2) in clause (ii), by striking “\$25,000,000”
2 and inserting “\$30,000,000”.

3 (d) DEFINITION OF REINSPECTION.—Section
4 743(a)(2) of the Federal Food, Drug, and Cosmetic Act
5 (21 U.S.C. 379j–31(a)(2)) is amended—

6 (1) by amending subparagraph (A) to read as
7 follows:

8 “(A) the term ‘reinspection’ means—

9 “(i) with respect to domestic and for-
10 eign facilities, 1 or more inspections con-
11 ducted under section 704 subsequent to an
12 inspection conducted under such provision
13 which identified noncompliance resulting in
14 a classification of ‘official action indicated’,
15 specifically to determine whether compli-
16 ance has been achieved to the Secretary’s
17 satisfaction; and

18 “(ii) with respect to importers, 1 or
19 more inspections conducted under the for-
20 eign supplier verification program under
21 section 805 subsequent to an inspection
22 conducted under such provision which
23 identified noncompliance resulting in a
24 classification of ‘official action indicated’,
25 specifically to determine whether compli-

1 ance has been achieved to the Secretary’s
2 satisfaction;”;

3 (2) in subparagraph (B)(ii), by striking “; and”
4 and inserting a semicolon;

5 (3) in subparagraph (C), by striking the period
6 and inserting a semicolon; and

7 (4) by adding at the end the following:

8 “(D) the term ‘importer’ means an im-
9 porter of human or animal food that is subject
10 to the foreign supplier verification program re-
11 quirements under section 805; and

12 “(E) the term ‘small business’ means—

13 “(i) with respect to a domestic or for-
14 eign facility, a business (including any sub-
15 sidiaries or affiliates) employing fewer than
16 500 full-time equivalent employees;

17 “(ii) with respect to an importer of
18 human food, an importer (including any
19 subsidiaries and affiliates) averaging less
20 than \$1,000,000 per year, adjusted for in-
21 flation, during the 3-year period preceding
22 the applicable calendar year, in sales of
23 human food combined with the United
24 States market value of human food im-
25 ported, manufactured, processed, packed,

1 or held without sale (such as food imported
2 for a fee); and

3 “(iii) with respect to an importer of
4 animal food, an importer (including any
5 subsidiaries and affiliates) averaging less
6 than \$2,500,000 per year, adjusted for in-
7 flation, during the 3-year period preceding
8 the applicable calendar year, in sales of
9 animal food combined with the United
10 States market value of animal food im-
11 ported, manufactured, processed, packed,
12 or held without sale (such as food imported
13 for a fee).”.

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