118TH CONGRESS
2D SESSION

S. _____

To require warning labels on sugar-sweetened foods and beverages, foods and beverages containing non-sugar sweeteners, ultra-processed foods, and foods high in nutrients of concern, such as added sugar, saturated fat, or sodium, to restrict junk food advertising to children, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. SANDERS (for himself, Mr. BOOKER, and Mr. WELCH) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To require warning labels on sugar-sweetened foods and beverages, foods and beverages containing non-sugar sweeteners, ultra-processed foods, and foods high in nutrients of concern, such as added sugar, saturated fat, or sodium, to restrict junk food advertising to children, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Childhood Diabetes Reduction Act of 2024''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sec. 101. Health warning labeling of foods; restriction on certain advertisements directed at children.
Sec. 102. National Institutes of Health research on nutrition science.
Sec. 103. Nutrition and physical activity public education campaign.

TITLE II—FEDERAL TRADE COMMISSION

Sec. 201. Definitions.
Sec. 202. Restrictions on advertisements for junk food directed at children; required disclosure of any health and nutrient warning label in advertisements.
Sec. 203. Restoring the Federal Trade Commission's ability to promulgate rules on children's advertising.

TITLE I—DEPARTMENT OF HEALTH AND HUMAN SERVICES

SEC. 101. HEALTH WARNING LABELING OF FOODS; RESTRICTION ON CERTAIN ADVERTISEMENTS DIRECTED AT CHILDREN.

(a) HEALTH WARNING LABELING.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended—

(1) by adding at the end the following:

''(z)(1) If it is a sugar-sweetened beverage intended for human consumption and is offered for sale, unless its label includes the following statement: 'Food and Drug Administration Warning: Drinking beverages with added sugar can contribute to obesity, type-2 diabetes, and tooth decay. Not recommended for children.', and such statement is—

''(A) enclosed by a rectangular border in bold type and readily legible under ordinary conditions alongside an icon comprised of an exclamation point contained within a triangle; and

''(B) prominently displayed on the front, or the principal display, of the container, using not less than 5 percent of the area of the front, or the principal display, of the container, and, as applicable, on 2 sides of any multi-pack packaging or on the exterior of any vending machine or self-service machine from which the beverage is available.

''(2) If it is a food, including a beverage, containing any non-sugar sweetener intended for human consumption and is offered for sale, unless its label includes the following statement: 'Food and Drug Administration Warning: Contains non-sugar sweeteners. Not recommended for children.', and such statement is—

''(A) enclosed by a rectangular border in bold type and readily legible under ordinary conditions alongside an icon comprised of an exclamation point contained within a triangle; and

''(B) prominently displayed on the front, or the principal display, of the container, using not less than 5 percent of the area of the front, or the principal display, of the container, and, as applicable, on

2 sides of any multi-pack packaging or on the exterior of any vending machine or self-service machine from which the food is available.

''(3) If it is an ultra-processed food, including a beverage, intended for human consumption and is offered for sale, unless its label includes the following statement: 'Food and Drug Administration Warning: Consuming ultra-processed foods and drinks can cause weight gain, which increases the risk of obesity and type-2 diabetes.', and such statement is—

''(A) enclosed by a rectangular border in bold type and readily legible under ordinary conditions alongside an icon comprised of an exclamation point contained within a triangle; and

''(B) prominently displayed on the front, or the principal display, of the container, using not less than 5 percent of the area of the front, or the principal display, of the container, and, as applicable, on 2 sides of any multi-pack packaging or on the exterior of any vending machine or self-service machine from which the food is available.

''(4) If it is a food, including a beverage, intended for human consumption and is offered for sale, and such food contains a nutrient of concern, such as added sugar, saturated fat, or sodium, or any other nutrient of concern,

as the Secretary determines appropriate, at a level that increases, for individuals in the general population, the risk of disease or a health-related condition, as defined by the Secretary, unless its label includes the following statement for each nutrient of concern: 'High in', followed by the specific nutrient of concern, and such statement is—

''(A) enclosed by an octagon border in bold type and readily legible under ordinary conditions; and

''(B) prominently displayed on the front, or the principal display, of the container, using not less than 5 percent of the area of the front, or the principal display, of the container, and, as applicable, on 2 sides of any multi-pack packaging or on the exterior of any vending machine or self-service machine from which the food is available.

''(5) The Secretary shall promulgate regulations to apply the labeling requirements under subparagraphs (1), (2), (3), and (4) with respect to food offered for sale by online retailers.

''(6) For purposes of this paragraph—

''(A) the term 'non-sugar sweetener'—

''(i) means any synthetic, naturally-occurring, or modified non-nutritive sweetener that is not classified as sugar and is used as an ingre-

dient in manufactured food, or sold on its own to be added to food; and

"(ii) includes acesulfame K, aspartame, advantame, cyclamates, monk fruit, neotame, saccharin, sucralose, stevia, and stevia derivatives;

"(B) the term 'sugar-sweetened beverage'—

"(i) means any beverage intended for human consumption to which one or more caloric sweeteners has been added and that contains 25 or more calories per 12 fluid ounces of beverage; and

"(ii) includes drinks and beverages commonly referred to as 'soda', 'pop', 'cola', 'soft drinks', 'sports drinks', 'energy drinks', 'slushies', 'sweetened ice tea', 'fruit juice', or any other drinks and beverage; and

"(iii) does not include—

"(I) infant formula or oral rehydration fluids for children;

"(II) any beverage for medical use;

"(III) any beverage designed as supplemental, meal replacement, or sole-source nutrition that includes proteins, carbo-

hydrates, and multiple vitamins and minerals;

"(IV) any milk product;

"(V) 100 percent natural fruit or vegetable juice with no added caloric or non-sugar sweetener; or

"(VI) any alcoholic beverage; and

"(C) the term 'ultra-processed food'—

"(i) for the period before the effective date of the regulations under subclause (ii), means a food, including a beverage, containing one or more industrial ingredients, including surface-active agents, stabilizers and thickeners, propellants, aerating agents and gases, color and coloring adjuncts, emulsifiers and emulsifier salts, flavoring agents and adjuvants, flavor enhancers, surface-finishing, non-sugar sweeteners, and other ingredients, as the Secretary determines appropriate; and

"(ii) has the meaning given such term in regulations promulgated by the Secretary, not later than 1 year after the National Academies of Science, Engineering, and Medicine issues a report pursuant to section 201(c) of the Childhood Diabetes Reduction Act of 2024, taking

into consideration the recommendations included in such report, for the period beginning on the effective date of such regulations.'' and

(2) in paragraph (r)—

(A) in subparagraph (2)(A)(vi), by inserting '', including if the Secretary determines that the food is high in added sugar, saturated fat, sodium, or any other nutrient of concern (as determined by the Secretary pursuant to paragraph (z)(4)), or if the food contains non-sugar sweetener or is an ultra-processed food (as defined in paragraph (z)(6)(C))'' before the period at the end; and

(B) in subparagraph (3)(A)—

(i) in subclause (i), by striking '', and'' and inserting a semicolon;

(ii) in subclause (ii), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(iii) if the food is not required to include a nutrition warning label under subparagraph (1), (2), (3), or (4) of paragraph (z).''.

(b) ADVERTISING.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

''(jjj)(1) Marketing or advertising a food for which labeling is required under section 403(z), in a manner that reasonably appears to be directed at children.

''(2) In determining whether any marketing or advertising reasonably appears to be directed to children for purposes of subparagraph (1), the Secretary shall consider the totality of the circumstances, including whether such marketing or advertising uses themes or promotional strategies for food described in section 403(z) that appeal to children, such as the use of fun or fantasy themes, athletes and celebrities, cross-promotions using fictional characters, cartoon characters, social media influencers, animation, children's music, actors, or situations representing children's daily life, or free gifts or toys, contests, interactive games, or mobile or computer applications.''.

(c) NASEM REVIEW.—The Secretary of Health and Human Services (referred to in this subsection as the ''Secretary'') shall seek to enter into a contract with the National Academies of Science, Engineering, and Medicine (referred to in this subsection as the ''National Academies'') under which the National Academies—

(1) convenes a committee of experts in the field of nutrition science to review the science of ultra-processed food (as defined in paragraph (z)(6)(C) of section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343)), as added by subsection (a);

(2) develops recommendations for defining the term ''ultra-processed food'' for purposes of paragraph (z)(6)(C)(ii) of section 403 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a); and

(3) not later than 1 year after the date of enactment of this Act, submits to the Secretary a report that includes the recommendations developed under paragraph (2).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Health and Human Services $5,000,000 for each of fiscal years 2025 through 2029 for purposes of promulgating regulations and carrying out enforcement activities with respect to the labeling requirements under the amendments made by subsections (a) and (b).

SEC. 102. NATIONAL INSTITUTES OF HEALTH RESEARCH ON NUTRITION SCIENCE.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following:

"SEC. 404P. RESEARCH AND COLLABORATION ON NUTRITION SCIENCE.

''(a) IN GENERAL.—The Director of NIH shall expand, intensify, and coordinate programs for the conduct and support of research with respect to nutrition science, including research on—

''(1) the health effects of ultra-processed foods on consumers;

''(2) the specific food and beverage ingredients, additives, sweeteners, and chemicals within ultra-processed foods that may be harmful to health;

''(3) the safety profile of food and beverage ingredients, additives, sweeteners, and chemicals that have been self-affirmed by food and beverage manufacturers as generally recognized as safe without review of such status by the Food and Drug Administration; and

''(4) the formulation of ultra-processed foods to have hyper-palatable qualities and association with addiction.

''(b) MEETINGS ON NUTRITION.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Childhood Diabetes Reduction Act of 2024, and every 5 years thereafter, the Director of NIH, in coordination with the Commissioner of Food and Drugs, shall convene a public meeting for the purpose of discussing research efforts aimed at improving nutrition and reducing the incidence of diet-related chronic disease, with the goal of informing Federal policy.

''(2) PARTICIPANTS.—

''(A) IN GENERAL.—Each meeting under paragraph (1) shall involve a diverse group of stakeholders, including food scientists and researchers, registered dietitians and nutritionists, clinicians specializing in nutrition-related diseases, Federal stakeholders, and nongovernmental organizations focused on nutrition and health.

''(B) CONSIDERATION.—In selecting stakeholders described in subparagraph (A) for participation for each meeting under paragraph (1), the Director of NIH, in coordination with the Commissioner of Food and Drugs, shall ensure that stakeholders who have no financial af-

filiation with manufacturers of ultra-processed food make up the majority of participants.

''(3) TOPICS.—Each meeting under paragraph (1) shall include discussion of—

''(A) current research findings related to nutrition and chronic disease, including the impact of food labeling requirements under section 403(z) of the Federal Food, Drug, and Cosmetic Act;

''(B) any gaps in such research and priorities for future research;

''(C) evidenced-based practices for improving nutrition and innovative approaches to prevent and manage chronic conditions through dietary innovations; and

''(D) such other topics as the Director of NIH, in coordination with the Commissioner of Food and Drugs, determines appropriate.

''(4) REPORT TO CONGRESS.—The Director NIH, in coordination with the Commissioner of Food and Drugs, shall submit a report on each meeting under paragraph (1) to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives, and shall make each

such report publicly available on the website of the National Institutes of Health.

''(c) DEFINITION.—In this section, the term 'ultra-processed food' has the meaning given such term in section 403(z)(6) of the Federal Food, Drug, and Cosmetic Act.

''(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $60,000,000 for each fiscal years 2025 through 2029.''.

SEC. 103. NUTRITION AND PHYSICAL ACTIVITY PUBLIC EDUCATION CAMPAIGN.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by striking section 399Y and inserting the following:

''SEC. 399Y. NUTRITION AND PHYSICAL ACTIVITY PUBLIC EDUCATION CAMPAIGN.

''(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, and in collaboration with national, State, Tribal, and local partners, physical activity organizations, nutrition experts, physical activity experts, health professional organizations, and other organizations, as appropriate, shall develop a national public campaign to educate children and their caregivers concerning—

''(1) how to read and understand the nutrient warning labels required under subparagraphs (1) through (4) of section 403(z) of the Federal Food, Drug, and Cosmetic Act;

''(2) the health risks associated with obesity, inactivity, and poor nutrition, including consumption of foods described in subparagraphs (1) through (4) of section 403(z) of the Federal Food, Drug, and Cosmetic Act;

''(3) ways to incorporate physical activity into daily living;

''(4) ways to support a healthy lifestyle and reduce the risk of chronic illness, including obesity;

''(5) the benefits of good nutrition; and

''(6) strategies to improve eating and drinking habits, such as identifying and selecting healthier food choices and reducing consumption of added sugars, saturated fat, and sodium.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 2025 through 2029.''.

TITLE II—FEDERAL TRADE COMMISSION

SEC. 201. DEFINITIONS.

In this title:

(1) CHILD.—The term ''child'' means an individual who is under the age of 13.

(2) CHILD-DIRECTED ADVERTISING.—The term ''child-directed advertising'' means any advertisement—

(A) that uses themes or promotional strategies that appeal to children, which may include the use of—

(i) fun or fantasy themes, cartoon characters, social media influencers, animation, endorsements by celebrities and athletes, cross-promotions using fictional characters, children's music, actors, or situations representing children's daily life; or

(ii) free gifts or toys, contests, interactive games, or mobile or computer applications; or

(B) in media for which children comprise at least 30 percent of the audience, as determined by the Commission, that is displayed using—

(i) traditional measured media, such as television, radio, and printed media; or

(ii) electronic media, content created by influencers, online videos, company-sponsored websites, social media, movies, and video games.

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) JUNK FOOD.—The term ''junk food'' means products with labeling requirements described in subparagraph (1), (2), (3), or (4) of paragraph (z) of section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343), as added by section 101(a) of this Act.

SEC. 202. RESTRICTIONS ON ADVERTISEMENTS FOR JUNK FOOD DIRECTED AT CHILDREN; REQUIRED DISCLOSURE OF ANY HEALTH AND NUTRIENT WARNING LABEL IN ADVERTISEMENTS.

(a) MARKETING OR ADVERTISING JUNK FOOD TO CHILDREN.—

(1) IN GENERAL.—It shall be unlawful for any person to market or advertise, or produce or distribute any advertisement or marketing material for, junk food by using child-directed advertising.

(2) CONSIDERATIONS.—In determining whether any marketing or advertising uses child-directed advertising for purposes of subparagraph (A), the Commission shall consider the totality of the circumstances.

(b) REQUIRED DISCLOSURE.—It shall be unlawful for any person to market or advertise, or produce or distribute any advertisement or marketing material for, junk food without including in such advertisement or marketing material the relevant mandatory health or nutrient warning label or notice described in section 403(z) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(z)).

(c) EFFECTIVE DATE.—The prohibitions established in this section shall take effect on the date that is 1 year after the date of enactment of this Act.

(d) ENFORCEMENT BY THE COMMISSION.—

(1) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of this section or a regulation promulgated under this section shall be treated as a violation of a rule defining an unfair or deceptive act or practice under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) POWERS OF THE COMMISSION.—

(A) IN GENERAL.—Except as provided in subparagraph (C), the Commission shall enforce

this section in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section.

(B) PRIVILEGES AND IMMUNITIES.—Except as provided in subparagraph (C), any person who violates this section or a regulation promulgated under this section shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(C) COMMON CARRIERS.—Notwithstanding section 4, 5(a)(2), or 6 of the Federal Trade Commission Act (15 U.S.C. 44, 45(a)(2), 46) or any jurisdictional limitation of the Commission, the Commission shall also enforce this Act, in the same manner provided in subparagraphs (A) and (B), with respect to common carriers subject to the Communications Act of 1934 (47 U.S.C. 151 et seq.) and Acts amendatory thereof and supplementary thereto.

(D) AUTHORITY PRESERVED.—Nothing in this section shall be construed to limit the au-

thority of the Commission under any other provision of law.

(E) RULEMAKING.—The Commission shall promulgate in accordance with section 553 of title 5, United States Code, such rules as may be necessary to carry out this section.

SEC. 203. RESTORING THE FEDERAL TRADE COMMISSION'S ABILITY TO PROMULGATE RULES ON CHILDREN'S ADVERTISING.

(a) IN GENERAL.—Section 18(h) of the Federal Trade Commission Act (15 U.S.C. 57a(h)) is repealed.

(b) CONFORMING AMENDMENT.—Section 18(a)(1) of such Act is amended in the matter preceding subparagraph (A), by striking ''Except as provided in subsection (h), the Commission'' and inserting ''The Commission''.