To reduce sports-related concussions in youth, and for other purposes.

IN THE SENATE OF THE UNITED STATES

February 4, 2016

Mr. Udall (for himself, Mr. Blumenthal, and Ms. Klobuchar) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

December 6, 2016

Reported by Mr. Thune, without amendment

A BILL

To reduce sports-related concussions in youth, 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.

This Act may be cited as the “Youth Sports Concussion Act”.
SEC. 2. FINDINGS AND SENSE OF CONGRESS.

(a) FINDINGS.—Congress makes the following findings:

(1) Scientific advancements and a greater understanding of the issues that affect the health and safety of young athletes are key to reducing sports related concussions in youth.

(2) The National Academies issued a report in 2013 finding limited evidence that current helmet designs reduce the risk of sports-related concussions and no evidence that mouthguards or facial protection reduce concussion risk, and recommending that the National Institutes of Health and the Department of Defense fund research on biomechanical factors that influence injury risk in youth.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Consumer Product Safety Commission should review the National Academies’ report and future research in this area, including research as recommended by the National Academies, for any matter that may impact products under the Commission’s jurisdiction;

(2) if protective equipment manufacturers choose to adopt voluntary consumer product safety standards, the voluntary standards should include
mechanisms to ensure substantial compliance by covered entities; and

(3) the Federal Trade Commission should review the National Academies’ report and future research in this area, including research as recommended by the National Academies, for any matter that may inform efforts to protect consumers from unfair or deceptive practices in or affecting commerce.

SEC. 3. FALSE OR MISLEADING CLAIMS WITH RESPECT TO ATHLETIC SPORTING ACTIVITY EQUIPMENT.

(a) UNLAWFUL ACTIVITY.—It is unlawful for any person to sell, or offer for sale, in interstate commerce, or import into the United States for the purpose of selling or offering for sale, any item or equipment intended, designed, or offered for use by an individual engaged in any athletic sporting activity, whether professional or amateur, for which the seller or importer, or any person acting on behalf of the seller or importer, makes any deceptive claim with respect to the safety benefits of such item.

(b) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

(1) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A violation of subsection (a) shall be treated as a violation of a rule under section 18 of the Fed-
eral Trade Commission Act (15 U.S.C. 57a) regard-
ing unfair or deceptive acts or practices.

(2) POWERS OF FEDERAL TRADE COMMISS-
ION.—

(A) IN GENERAL.—The Federal Trade
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 Fed-
seq.) were incorporated into and made a part of
this section.

(B) REGULATIONS.—Notwithstanding any
other provision of law, the Federal Trade Com-
mission may promulgate under section 553 of
title 5, United States Code, such regulations as
the Commission considers necessary or appro-
priate to carry out this section.

(C) PRIVILEGES AND IMMUNITIES.—Any
person who violates subsection (a) shall be sub-
ject to the penalties and entitled to the privi-
leges and immunities provided in the Federal
Trade Commission Act as though all applicable
terms and provisions of the Federal Trade
Commission Act (15 U.S.C. 41 et seq.) were incorporated and made part of this section.

(D) Authority preserved.—Nothing in this section shall be construed to limit the authority of the Federal Trade Commission under any other provision of law.

(c) Enforcement by States.—

(1) In general.—Except as provided in paragraph (4), in any case in which the attorney general of a State has reason to believe that an interest of the residents of the State has been or is threatened or adversely affected by any person who violates subsection (a), the attorney general of the State, as parens patriae, may bring a civil action on behalf of the residents of the State in an appropriate district court of the United States to obtain appropriate injunctive relief.

(2) Rights of Federal Trade Commission.—

(A) Notice to Federal Trade Commission.—

(i) In general.—Except as provided in clause (iii), the attorney general of a State shall notify the Federal Trade Commission in writing that the attorney gen-
eral intends to bring a civil action under paragraph (1) before initiating the civil action.

(ii) CONTENTS.—The notification required by clause (i) with respect to a civil action shall include a copy of the complaint to be filed to initiate the civil action.

(iii) EXCEPTION.—If it is not feasible for the attorney general of a State to provide the notification required by clause (i) before initiating a civil action under paragraph (1), the attorney general shall notify the Federal Trade Commission immediately upon instituting the civil action.

(B) INTERVENTION BY FEDERAL TRADE COMMISSION.—The Federal Trade Commission may—

(i) intervene in any civil action brought by the attorney general of a State under paragraph (1); and

(ii) upon intervening—

(I) be heard on all matters arising in the civil action; and

(II) file petitions for appeal.
(3) Investigatory powers.—Nothing in this subsection shall be construed to prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of the State to conduct investigations, to administer oaths or affirmations, or to compel the attendance of witnesses or the production of documentary or other evidence.

(4) Preemptive action by Federal Trade Commission.—If the Federal Trade Commission institutes a civil action or an administrative action with respect to a violation of subsection (a) or a rule promulgated under subsection (b)(2)(B) the attorney general of a State may not, during the pendency of that action, bring a civil action under paragraph (1) against any defendant named in the complaint of the Commission for the violation with respect to which the Commission instituted such action.

(5) Venue; service of process.—

(A) Venue.—Any action brought under paragraph (1) may be brought in any district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.
(B) Service of process.—In an action brought under paragraph (1), process may be served in any district in which the defendant—

(i) is an inhabitant; or

(ii) may be found.

(6) Actions by other state officials.—In addition to civil actions brought by attorneys general under paragraph (1), any other consumer protection officer of a State who is authorized by the State to do so may bring a civil action under paragraph (1), subject to the same requirements and limitations that apply under this subsection to civil actions brought by attorneys general.
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A BILL

S. 2508

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