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118TH CONGRESS
2D SESSION

H. R. 10370

To amend the Federal Food, Drug, and Cosmetic Act to establish certain labeling requirements for caffeine, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 11, 2024

Mr. MENENDEZ (for himself and Mr. SMITH of New Jersey) introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To amend the Federal Food, Drug, and Cosmetic Act to establish certain labeling requirements for caffeine, 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 ''Sarah Katz Caffeine Safety Act''.

SEC. 2. CAFFEINE LABELING REQUIREMENTS.

(a) INFORMATION REQUIRED TO BE DISCLOSED BY RESTAURANTS AND RETAIL FOOD ESTABLISHMENTS.—

(1) IN GENERAL.—Section 403(q)(5)(H) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(5)(H)) is amended—

(A) by amending subclause (i) to read as follows:

"(i) GENERAL REQUIREMENTS FOR RESTAURANTS AND SIMILAR RETAIL FOOD ESTABLISHMENTS.—

"(I) STANDARD MENU ITEMS.—Except for food described in subclause (vii), in the case of food that is a standard menu item that is offered for sale in a restaurant or similar retail food establishment that is part of a chain with 20 or more locations doing business under the same name (regardless of the type of ownership of the locations) and offering for sale substantially the same menu items, the restaurant or similar retail food establishment shall disclose the information described in subclauses (ii) and (iii).

"(II) TEMPORARY MENU ITEMS.—

"(aa) IN GENERAL.—In the case of food that is a temporary menu item that is offered for sale in a restaurant or similar retail food establishment that is part of a

chain with 20 or more locations doing business under the same name (regardless of the type of ownership of the locations) and offering for sale substantially the same menu items, the restaurant or similar retail food establishment shall disclose the information described in subclause (ii)(III).

''(bb) TEMPORARY MENU ITEM DEFINED.—In this item, the term 'temporary menu item' means a food that appears on a menu or menu board for less than a total of 60 days per calendar year. The 60 days includes the total of consecutive and non-consecutive days the item appears on the menu.'';

(B) in subclause (ii)—

(i) by redesignating items (III) and (IV) as items (IV) and (V), respectively, and moving the margins of such items 2 ems to the right;

(ii) by inserting after item (II) the following:

''(III) in the case of a standard menu item or temporary menu item that contains any added caffeine (as the Secretary shall by regu-

lation define) and at least 150 milligrams of total caffeine per serving, the statement 'High caffeine', or such other similar statement or symbol as the Secretary determines appropriate, adjacent to the name of the standard menu item or temporary menu item, so as to be clearly associated with such menu item, on the menu listing the item for sale and on the menu board, including a drive through menu board;''; and

(iii) in item (IV) (as so redesignated), by inserting before the semicolon the following: ''and the number of milligrams of caffeine in the item''; and

(C) in subclause (vii)(I), by striking ''Subclauses (i) through (vi)'' and inserting ''Subject to subclause (i)(II), subclauses (i) through (vi)''.

(2) CONFORMING AMENDMENTS.—Section 403(q)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(q)(5)) is amended—

(A) in clause (A)—

(i) in subclause (i), by striking ''clause (H)(ii)(III)'' and inserting ''clause (H)(ii)(IV)''; and

(ii) in subclause (ii), by striking ''clause (H)(ii)(III)'' and inserting ''clause (H)(ii)(IV)''; and

(B) in clause (H)—

(i) in subclause (ii)(V) (as redesignated by subsection (a)(1)(B)(i) of this section), by striking ''item (III)'' and inserting ''item (IV)'';

(ii) in subclause (vi), by striking ''subclause (ii)(III)'' each place it appears and inserting ''subclause (ii)(IV)''; and

(iii) in subclause (vii)(II), by striking ''subclauses (ii)(III) and (vi)'' and inserting ''subclauses (ii)(IV) and (vi)''.

(b) CAFFEINE LABELING REQUIREMENTS FOR FOOD AND DIETARY SUPPLEMENTS.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

''(z) If it is a food (including a dietary supplement) that contains more than 10 milligrams of caffeine, unless the label of such food includes—

''(1) the number of milligrams of caffeine in the food;

''(2) a statement of whether the caffeine in the food is naturally occurring or an additive; and

''(3) an advisory statement indicating that the daily recommended limit of caffeine for healthy adults is 400 milligrams (or such other limit as the Secretary determines appropriate).''.

SEC. 3. NASEM REPORT ON CAFFEINE CONSUMPTION.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, (in this section referred to as the ''Secretary'') shall seek to enter into an agreement with the National Academies of Sciences, Engineering, and Medicine (in this section referred to as the ''National Academies''), under which the National Academies shall conduct a study on the effect of caffeine consumption on vulnerable populations, including—

(1) children and adolescents;

(2) individuals with underlying heart conditions;

(3) pregnant and breast-feeding women;

(4) individuals with seizure disorders;

(5) individuals with mental health conditions that may be worsened by stimulants; and

(6) caffeine-sensitive individuals.

(b) ELEMENTS.—In conducting the study under subsection (a), the National Academies shall—

(1) synthesize existing evidence regarding the effect of caffeine consumption on the vulnerable populations described in such subsection;

(2) develop recommendations for the maximum daily limit of caffeine for—

(A) healthy adults;

(B) children;

(C) pregnant and lactating individuals; and

(D) such vulnerable populations; and

(3) develop recommendations for legislative or administrative action to prevent or mitigate harmful exposure to excess caffeine for children and other vulnerable populations.

(c) REPORT.—The agreement under subsection (a) shall direct the National Academies to submit to the Secretary and Congress, at the conclusion of the study described in such subsection, a report that contains the results of the study, including—

(1) the synthesis of existing evidence described in paragraph (1) of subsection (b); and

(2) the recommendations described in paragraphs (2) and (3) of subsection (b).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 to carry out this section.

SEC. 4. SAFETY REVIEW OF CAFFEINE IN FOOD.

(a) IN GENERAL.—Following the conclusion of the study under section 3(a), the Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, (in this section referred to as the ''Secretary'') shall conduct a review of the safety of caffeine and other stimulants, as the Secretary determines appropriate, in food (including beverages) and dietary supplements.

(b) ELEMENTS.—In conducting the review under subsection (a), the Secretary shall review or consider, as appropriate—

(1) the safety of added caffeine in food and dietary supplements;

(2) the safety of guarana, taurine, and similar substances in food and dietary supplements with added caffeine;

(3) whether caffeine should continue to be generally recognized as safe;

(4) thresholds for the amount of caffeine that should be generally recognized as safe when included in food or dietary supplements; and

(5) whether any regulations relating to caffeine in food and dietary supplements should be issued or updated.

(c) REPORT.—Not later than 1 year after the date of the conclusion of the study under section 3(a), the Secretary shall submit to Congress and make publicly available a report detailing the results of the review under subsection (a).

(d) CONSIDERATION OF RESULTS.—The Secretary may consider the results of the review under subsection (a) in making a determination pursuant to paragraph (q)(5)(H)(ii)(III) or (z)(3) of section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) (as inserted by subsection (a)(1)(B)(ii), and added by subsection (b), of section 2 of this Act).

SEC. 5. PUBLIC EDUCATION CAMPAIGN ON CAFFEINE SAFETY.

The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, in consultation with the Director of the Centers for Disease Control and Prevention, and working with consumer advocacy and patient groups, shall conduct a public education campaign on the safe consumption of caffeine and caffeinated food (including beverages) and dietary supplements. Such campaign shall pay special attention to the following:

(1) The dangers of the overconsumption of caffeine.

(2) The health impacts caffeine can have on certain vulnerable populations, including—

(A) children and adolescents;

(B) individuals with underlying heart conditions;

(C) pregnant and breast-feeding women;

(D) individuals with seizure disorders;

(E) individuals with mental health conditions that may be worsened by stimulants; and

(F) caffeine-sensitive individuals.

(3) How caffeine is marketed to children and adolescents.

(4) How guarana, taurine, and similar substances impact safety.

(5) How to safely consume caffeine.

SEC. 6. GAO STUDY AND REPORT ON MARKETING OF CAFFEINATED BEVERAGES.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the marketing of caffeinated beverages in restaurants, in stores, and online (including on social media and by social media influencers). In conducting such study, the Comptroller General shall focus on—

(1) ways in which the marketing of caffeinated beverages (including to children and adults) may be misleading; and

(2) how the marketing of such caffeinated beverages is targeted at children and teens.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report describing the results of the study conducted under subsection (a), including any recommendations for legislative or administrative action to address the misleading marketing of caffeinated beverages or the targeted marketing of such beverages to children and teens.

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