

118TH CONGRESS
2D SESSION

S. 4195

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

APRIL 18, 2024

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

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.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Childhood Diabetes Reduction Act of 2024”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 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.

3 **TITLE I—DEPARTMENT OF** 4 **HEALTH AND HUMAN SERVICES**

5 **SEC. 101. HEALTH WARNING LABELING OF FOODS; RE-** 6 **STRICTION ON CERTAIN ADVERTISEMENTS** 7 **DIRECTED AT CHILDREN.**

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

11 (1) by adding at the end the following:

12 “(z)(1) If it is a sugar-sweetened beverage intended
 13 for human consumption and is offered for sale, unless its
 14 label includes the following statement: ‘Food and Drug
 15 Administration Warning: Drinking beverages with added
 16 sugar can contribute to obesity, type-2 diabetes, and tooth
 17 decay. Not recommended for children.’, and such state-
 18 ment is—

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

5 “(B) prominently displayed on the front, or the
6 principal display, of the container, using not less
7 than 5 percent of the area of the front, or the prin-
8 cipal display, of the container, and, as applicable, on
9 2 sides of any multi-pack packaging or on the exte-
10 rior of any vending machine or self-service machine
11 from which the beverage is available.

12 “(2) If it is a food, including a beverage, containing
13 any non-sugar sweetener intended for human consumption
14 and is offered for sale, unless its label includes the fol-
15 lowing statement: ‘Food and Drug Administration Warn-
16 ing: Contains non-sugar sweeteners. Not recommended for
17 children.’, and such statement is—

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

22 “(B) prominently displayed on the front, or the
23 principal display, of the container, using not less
24 than 5 percent of the area of the front, or the prin-
25 cipal display, of the container, and, as applicable, on

1 2 sides of any multi-pack packaging or on the exte-
 2 rior of any vending machine or self-service machine
 3 from which the food is available.

4 “(3) If it is an ultra-processed food, including a bev-
 5 erage, intended for human consumption and is offered for
 6 sale, unless its label includes the following statement:
 7 ‘Food and Drug Administration Warning: Consuming
 8 ultra-processed foods and drinks can cause weight gain,
 9 which increases the risk of obesity and type-2 diabetes.’,
 10 and such statement is—

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

15 “(B) prominently displayed on the front, or the
 16 principal display, of the container, using not less
 17 than 5 percent of the area of the front, or the prin-
 18 cipal display, of the container, and, as applicable, on
 19 2 sides of any multi-pack packaging or on the exte-
 20 rior of any vending machine or self-service machine
 21 from which the food is available.

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

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

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

10 “(B) prominently displayed on the front, or the
11 principal display, of the container, using not less
12 than 5 percent of the area of the front, or the prin-
13 cipal display, of the container, and, as applicable, on
14 2 sides of any multi-pack packaging or on the exte-
15 rior of any vending machine or self-service machine
16 from which the food is available.

17 “(5) The Secretary shall promulgate regulations to
18 apply the labeling requirements under subparagraphs (1),
19 (2), (3), and (4) with respect to food offered for sale by
20 online retailers.

21 “(6) For purposes of this paragraph—

22 “(A) the term ‘non-sugar sweetener’—

23 “(i) means any synthetic, naturally-occur-
24 ring, or modified non-nutritive sweetener that is
25 not classified as sugar and is used as an ingre-

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

3 “(ii) includes acesulfame K, aspartame,
4 advantame, cyclamates, monk fruit, neotame,
5 saccharin, sucralose, stevia, and stevia deriva-
6 tives;

7 “(B) the term ‘sugar-sweetened beverage’—

8 “(i) means any beverage intended for
9 human consumption to which one or more ca-
10 loric sweeteners has been added and that con-
11 tains 25 or more calories per 12 fluid ounces of
12 beverage; and

13 “(ii) includes drinks and beverages com-
14 monly referred to as ‘soda’, ‘pop’, ‘cola’, ‘soft
15 drinks’, ‘sports drinks’, ‘energy drinks’,
16 ‘slushies’, ‘sweetened ice tea’, ‘fruit juice’, or
17 any other drinks and beverage; and

18 “(iii) does not include—

19 “(I) infant formula or oral rehydra-
20 tion fluids for children;

21 “(II) any beverage for medical use;

22 “(III) any beverage designed as sup-
23 plemental, meal replacement, or sole-source
24 nutrition that includes proteins, carbo-

1 hydrates, and multiple vitamins and min-
2 erals;

3 “(IV) any milk product;

4 “(V) 100 percent natural fruit or veg-
5 etable juice with no added caloric or non-
6 sugar sweetener; or

7 “(VI) any alcoholic beverage; and

8 “(C) the term ‘ultra-processed food’—

9 “(i) for the period before the effective date
10 of the regulations under subclause (ii), means a
11 food, including a beverage, containing one or
12 more industrial ingredients, including surface-
13 active agents, stabilizers and thickeners, propel-
14 lants, aerating agents and gases, color and
15 coloring adjuncts, emulsifiers and emulsifier
16 salts, flavoring agents and adjuvants, flavor
17 enhancers, surface-finishing, non-sugar sweet-
18 eners, and other ingredients, as the Secretary
19 determines appropriate; and

20 “(ii) has the meaning given such term in
21 regulations promulgated by the Secretary, not
22 later than 1 year after the National Academies
23 of Science, Engineering, and Medicine issues a
24 report pursuant to section 201(c) of the Child-
25 hood Diabetes Reduction Act of 2024, taking

1 into consideration the recommendations in-
 2 cluded in such report, for the period beginning
 3 on the effective date of such regulations.” and
 4 (2) in paragraph (r)—

5 (A) in subparagraph (2)(A)(vi), by insert-
 6 ing “, including if the Secretary determines
 7 that the food is high in added sugar, saturated
 8 fat, sodium, or any other nutrient of concern
 9 (as determined by the Secretary pursuant to
 10 paragraph (z)(4)), or if the food contains non-
 11 sugar sweetener or is an ultra-processed food
 12 (as defined in paragraph (z)(6)(C))” before the
 13 period at the end; and

14 (B) in subparagraph (3)(A)—

15 (i) in subclause (i), by striking “,
 16 and” and inserting a semicolon;

17 (ii) in subclause (ii), by striking the
 18 period and inserting “; and”; and

19 (iii) by adding at the end the fol-
 20 lowing:

21 “(iii) if the food is not required to include a nu-
 22 trition warning label under subparagraph (1), (2),
 23 (3), or (4) of paragraph (z).”.

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

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

7 “(2) In determining whether any marketing or adver-
8 tising reasonably appears to be directed to children for
9 purposes of subparagraph (1), the Secretary shall consider
10 the totality of the circumstances, including whether such
11 marketing or advertising uses themes or promotional
12 strategies for food described in section 403(z) that appeal
13 to children, such as the use of fun or fantasy themes, ath-
14 letes and celebrities, cross-promotions using fictional char-
15 acters, cartoon characters, social media influencers, ani-
16 mation, children’s music, actors, or situations representing
17 children’s daily life, or free gifts or toys, contests, inter-
18 active games, or mobile or computer applications.”.

19 (c) NASEM REVIEW.—The Secretary of Health and
20 Human Services (referred to in this subsection as the
21 “Secretary”) shall seek to enter into a contract with the
22 National Academies of Science, Engineering, and Medicine
23 (referred to in this subsection as the “National Acad-
24 emies”) under which the National Academies—

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

7 (2) develops recommendations for defining the
8 term “ultra-processed food” for purposes of para-
9 graph (z)(6)(C)(ii) of section 403 of the Federal
10 Food, Drug, and Cosmetic Act, as added by sub-
11 section (a); and

12 (3) not later than 1 year after the date of en-
13 actment of this Act, submits to the Secretary a re-
14 port that includes the recommendations developed
15 under paragraph (2).

16 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
17 authorized to be appropriated to the Secretary of Health
18 and Human Services \$5,000,000 for each of fiscal years
19 2025 through 2029 for purposes of promulgating regula-
20 tions and carrying out enforcement activities with respect
21 to the labeling requirements under the amendments made
22 by subsections (a) and (b).

1 **SEC. 102. NATIONAL INSTITUTES OF HEALTH RESEARCH**
2 **ON NUTRITION SCIENCE.**

3 Part A of title IV of the Public Health Service Act
4 (42 U.S.C. 281 et seq.) is amended by adding at the end
5 the following:

6 **“SEC. 404P. RESEARCH AND COLLABORATION ON NUTRI-**
7 **TION SCIENCE.**

8 “(a) IN GENERAL.—The Director of NIH shall ex-
9 pand, intensify, and coordinate programs for the conduct
10 and support of research with respect to nutrition science,
11 including research on—

12 “(1) the health effects of ultra-processed foods
13 on consumers;

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

17 “(3) the safety profile of food and beverage in-
18 gredients, additives, sweeteners, and chemicals that
19 have been self-affirmed by food and beverage manu-
20 facturers as generally recognized as safe without re-
21 view of such status by the Food and Drug Adminis-
22 tration; and

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

26 “(b) MEETINGS ON NUTRITION.—

1 “(1) IN GENERAL.—Not later than 1 year after
2 the date of enactment of the Childhood Diabetes Re-
3 duction Act of 2024, and every 5 years thereafter,
4 the Director of NIH, in coordination with the Com-
5 missioner of Food and Drugs, shall convene a public
6 meeting for the purpose of discussing research ef-
7 forts aimed at improving nutrition and reducing the
8 incidence of diet-related chronic disease, with the
9 goal of informing Federal policy.

10 “(2) PARTICIPANTS.—

11 “(A) IN GENERAL.—Each meeting under
12 paragraph (1) shall involve a diverse group of
13 stakeholders, including food scientists and re-
14 searchers, registered dietitians and nutrition-
15 ists, clinicians specializing in nutrition-related
16 diseases, Federal stakeholders, and nongovern-
17 mental organizations focused on nutrition and
18 health.

19 “(B) CONSIDERATION.—In selecting stake-
20 holders described in subparagraph (A) for par-
21 ticipation for each meeting under paragraph
22 (1), the Director of NIH, in coordination with
23 the Commissioner of Food and Drugs, shall en-
24 sure that stakeholders who have no financial af-

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

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

5 “(A) current research findings related to
6 nutrition and chronic disease, including the im-
7 pact of food labeling requirements under section
8 403(z) of the Federal Food, Drug, and Cos-
9 metic Act;

10 “(B) any gaps in such research and prior-
11 ities for future research;

12 “(C) evidenced-based practices for improv-
13 ing nutrition and innovative approaches to pre-
14 vent and manage chronic conditions through di-
15 etary innovations; and

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

19 “(4) REPORT TO CONGRESS.—The Director
20 NIH, in coordination with the Commissioner of
21 Food and Drugs, shall submit a report on each
22 meeting under paragraph (1) to the Committee on
23 Health, Education, Labor, and Pensions of the Sen-
24 ate and the Committee on Energy and Commerce of
25 the House of Representatives, and shall make each

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

3 “(c) DEFINITION.—In this section, the term ‘ultra-
4 processed food’ has the meaning given such term in sec-
5 tion 403(z)(6) of the Federal Food, Drug, and Cosmetic
6 Act.

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

11 **SEC. 103. NUTRITION AND PHYSICAL ACTIVITY PUBLIC**
12 **EDUCATION CAMPAIGN.**

13 Title III of the Public Health Service Act (42 U.S.C.
14 241 et seq.) is amended by striking section 399Y and in-
15 serting the following:

16 **“SEC. 399Y. NUTRITION AND PHYSICAL ACTIVITY PUBLIC**
17 **EDUCATION CAMPAIGN.**

18 “(a) IN GENERAL.—The Secretary, acting through
19 the Director of the Centers for Disease Control and Pre-
20 vention, and in collaboration with national, State, Tribal,
21 and local partners, physical activity organizations, nutri-
22 tion experts, physical activity experts, health professional
23 organizations, and other organizations, as appropriate,
24 shall develop a national public campaign to educate chil-
25 dren and their caregivers concerning—

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

5 “(2) the health risks associated with obesity, in-
6 activity, and poor nutrition, including consumption
7 of foods described in subparagraphs (1) through (4)
8 of section 403(z) of the Federal Food, Drug, and
9 Cosmetic Act;

10 “(3) ways to incorporate physical activity into
11 daily living;

12 “(4) ways to support a healthy lifestyle and re-
13 duce the risk of chronic illness, including obesity;

14 “(5) the benefits of good nutrition; and

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

19 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated to carry out this section
21 \$10,000,000 for each of the fiscal years 2025 through
22 2029.”.

1 **TITLE II—FEDERAL TRADE**
2 **COMMISSION**

3 **SEC. 201. DEFINITIONS.**

4 In this title:

5 (1) CHILD.—The term “child” means an indi-
6 vidual who is under the age of 13.

7 (2) CHILD-DIRECTED ADVERTISING.—The term
8 “child-directed advertising” means any advertise-
9 ment—

10 (A) that uses themes or promotional strat-
11 egies that appeal to children, which may include
12 the use of—

13 (i) fun or fantasy themes, cartoon
14 characters, social media influencers, ani-
15 mation, endorsements by celebrities and
16 athletes, cross-promotions using fictional
17 characters, children’s music, actors, or sit-
18 uations representing children’s daily life; or

19 (ii) free gifts or toys, contests, inter-
20 active games, or mobile or computer appli-
21 cations; or

22 (B) in media for which children comprise
23 at least 30 percent of the audience, as deter-
24 mined by the Commission, that is displayed
25 using—

- 1 (i) traditional measured media, such
 2 as television, radio, and printed media; or
 3 (ii) electronic media, content created
 4 by influencers, online videos, company-
 5 sponsored websites, social media, movies,
 6 and video games.

7 (3) COMMISSION.—The term “Commission”
 8 means the Federal Trade Commission.

9 (4) JUNK FOOD.—The term “junk food” means
 10 products with labeling requirements described in
 11 subparagraph (1), (2), (3), or (4) of paragraph (z)
 12 of section 403 of the Federal Food, Drug, and Cos-
 13 metic Act (21 U.S.C. 343), as added by section
 14 101(a) of this Act.

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

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

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

1 (2) CONSIDERATIONS.—In determining whether
 2 any marketing or advertising uses child-directed ad-
 3 vertising for purposes of subparagraph (A), the
 4 Commission shall consider the totality of the cir-
 5 cumstances.

6 (b) REQUIRED DISCLOSURE.—It shall be unlawful
 7 for any person to market or advertise, or produce or dis-
 8 tribute any advertisement or marketing material for, junk
 9 food without including in such advertisement or marketing
 10 material the relevant mandatory health or nutrient warn-
 11 ing label or notice described in section 403(z) of the Fed-
 12 eral Food, Drug, and Cosmetic Act (21 U.S.C. 343(z)).

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

16 (d) ENFORCEMENT BY THE COMMISSION.—

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

23 (2) POWERS OF THE COMMISSION.—

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

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

7 (B) PRIVILEGES AND IMMUNITIES.—Ex-
8 cept as provided in subparagraph (C), any per-
9 son who violates this section or a regulation
10 promulgated under this section shall be subject
11 to the penalties and entitled to the privileges
12 and immunities provided in the Federal Trade
13 Commission Act (15 U.S.C. 41 et seq.).

14 (C) COMMON CARRIERS.—Notwithstanding
15 section 4, 5(a)(2), or 6 of the Federal Trade
16 Commission Act (15 U.S.C. 44, 45(a)(2), 46)
17 or any jurisdictional limitation of the Commis-
18 sion, the Commission shall also enforce this
19 Act, in the same manner provided in subpara-
20 graphs (A) and (B), with respect to common
21 carriers subject to the Communications Act of
22 1934 (47 U.S.C. 151 et seq.) and Acts amend-
23 atory thereof and supplementary thereto.

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

1 thority of the Commission under any other pro-
2 vision of law.

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

7 **SEC. 203. RESTORING THE FEDERAL TRADE COMMISSION’S**
8 **ABILITY TO PROMULGATE RULES ON CHIL-**
9 **DREN’S ADVERTISING.**

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

12 (b) CONFORMING AMENDMENT.—Section 18(a)(1) of
13 such Act is amended in the matter preceding subpara-
14 graph (A), by striking “Except as provided in subsection
15 (h), the Commission” and inserting “The Commission”.

○