

Calendar No. 618

113TH CONGRESS
2D SESSION**S. 1014**

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

IN THE SENATE OF THE UNITED STATES

MAY 22, 2013

Mr. UDALL of New Mexico (for himself, Mr. ROCKEFELLER, Ms. KLOBUCHAR, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

DECEMBER 8, 2014

Reported by Mr. ROCKEFELLER, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To reduce sports-related concussions in youth, 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 “Youth Sports Concus-
5 sion Act”.

1 **SEC. 2. SENSE OF CONGRESS.**

2 It is the sense of Congress that—

3 (1) scientific advancements and a greater un-
4 derstanding of the issues that affect the health and
5 safety of young athletes are key to reducing sports-
6 related concussions in youth;

7 (2) the National Academies should complete,
8 and make available to the public, its report on
9 sports-related concussions in youth not later than
10 January 31, 2014;

11 (3) the Consumer Product Safety Commission
12 should review the National Academies' report for
13 any matter that may impact products under the
14 Commission's jurisdiction;

15 (4) if protective equipment manufacturers
16 choose to adopt voluntary consumer product safety
17 standards based on the National Academies' report
18 and any related Consumer Product Safety Commis-
19 sion recommendations, the voluntary standards
20 should include mechanisms to ensure substantial
21 compliance by covered entities; and

22 (5) the Federal Trade Commission should re-
23 view the National Academies' report for any matter
24 that may inform efforts to protect consumers from
25 unfair or deceptive practices in or affecting com-
26 merce.

1 **SEC. 3. THE NATIONAL ACADEMIES' REPORT ON SPORTS-**
2 **RELATED CONCUSSIONS IN YOUTH.**

3 (a) REVIEW.—The Consumer Product Safety Com-
4 mission—

5 (1) shall review the National Academies' report
6 on sports-related concussion in youth not later than
7 5 months after the completion of such report; and

8 (2) may make recommendations to protective
9 equipment manufacturers regarding whether vol-
10 untary standards should be adopted—

11 (A) to reduce the risk of sports-related in-
12 jury for youth athletes wearing protective
13 equipment;

14 (B) to improve the safety of reconditioned
15 protective equipment; and

16 (C) to modify protective equipment warn-
17 ing labels.

18 (b) SAFETY STANDARDS.—

19 (1) LEAD TIME FOR A VOLUNTARY STAND-
20 ARD.—If, not later than 1 year after the completion
21 of the National Academies' report, no voluntary
22 standard is adopted based on the National Acad-
23 emies' report and any related Consumer Product
24 Safety Commission recommendations, the Consumer
25 Product Safety Commission may initiate a pro-
26 ceeding to promulgate a consumer product safety

1 rule in accordance with section 553 of title 5, United
2 States Code.

3 ~~(2) NET EFFECT.~~—A rule issued under this
4 subsection must have the net effect of improving
5 safety.

6 ~~(3) CONFORMITY WITH EXISTING LAW.~~—A rule
7 issued under this subsection shall be considered a
8 consumer product safety standard issued by the
9 Commission under section 9 of the Consumer Prod-
10 uct Safety Act (15 U.S.C. 2058).

11 **SEC. 4. FALSE OR MISLEADING CLAIMS WITH RESPECT TO**
12 **ATHLETIC SPORTING ACTIVITY EQUIPMENT.**

13 (a) ~~UNLAWFUL ACTIVITY.~~—It is unlawful for any
14 person to sell, or offer for sale, in interstate commerce,
15 or import into the United States for the purpose of selling
16 or offering for sale, any item or equipment intended, de-
17 signed, or offered for use by an individual engaged in any
18 athletic sporting activity, whether professional or amateur,
19 for which the seller or importer, or any person acting on
20 behalf of the seller or importer, makes any false or mis-
21 leading claim with respect to the safety benefits of such
22 item.

23 (b) ~~ENFORCEMENT BY FEDERAL TRADE COMMIS-~~
24 ~~SION.~~—

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

6 (2) POWERS OF FEDERAL TRADE COMMISS-
7 SION.—

8 (A) IN GENERAL.—The Federal Trade
9 Commission shall enforce this section in the
10 same manner, by the same means, and with the
11 same jurisdiction, powers, and duties as though
12 all applicable terms and provisions of the Fed-
13 eral Trade Commission Act (15 U.S.C. 41 et
14 seq.) were incorporated into and made a part of
15 this section.

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

22 (C) PRIVILEGES AND IMMUNITIES.—Any
23 person who violates subsection (a) shall be sub-
24 ject to the penalties and entitled to the privi-
25 leges and immunities provided in the Federal

1 Trade Commission Act as though all applicable
2 terms and provisions of the Federal Trade
3 Commission Act (15 U.S.C. 41 et seq.) were in-
4 corporated and made part of this section.

5 (D) AUTHORITY PRESERVED.—Nothing in
6 this section shall be construed to limit the au-
7 thority of the Federal Trade Commission under
8 any other provision of law.

9 (c) ENFORCEMENT BY STATES.—

10 (1) IN GENERAL.—Except as provided in para-
11 graph (4), in any case in which the attorney general
12 of a State has reason to believe that an interest of
13 the residents of the State has been or is threatened
14 or adversely affected by any person who violates sub-
15 section (a), the attorney general of the State, as
16 parens patriae, may bring a civil action on behalf of
17 the residents of the State in an appropriate district
18 court of the United States to obtain appropriate in-
19 junctive relief.

20 (2) RIGHTS OF FEDERAL TRADE COMMIS-
21 SION.—

22 (A) NOTICE TO FEDERAL TRADE COMMIS-
23 SION.—

24 (i) IN GENERAL.—Except as provided
25 in clause (iii), the attorney general of a

1 State shall notify the Federal Trade Com-
 2 mission in writing that the attorney gen-
 3 eral intends to bring a civil action under
 4 paragraph (1) before initiating the civil ac-
 5 tion.

6 (ii) CONTENTS.—The notification re-
 7 quired by clause (i) with respect to a civil
 8 action shall include a copy of the complaint
 9 to be filed to initiate the civil action.

10 (iii) EXCEPTION.—If it is not feasible
 11 for the attorney general of a State to pro-
 12 vide the notification required by clause (i)
 13 before initiating a civil action under para-
 14 graph (1), the attorney general shall notify
 15 the Federal Trade Commission imme-
 16 diately upon instituting the civil action.

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

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

23 (ii) upon intervening—

24 (I) be heard on all matters aris-
 25 ing in the civil action; and

1 (H) file petitions for appeal.

2 (3) INVESTIGATORY POWERS.—Nothing in this
3 subsection shall be construed to prevent the attorney
4 general of a State from exercising the powers con-
5 ferred on the attorney general by the laws of the
6 State to conduct investigations; to administer oaths
7 or affirmations; or to compel the attendance of wit-
8 nesses or the production of documentary or other
9 evidence.

10 (4) PREEMPTIVE ACTION BY FEDERAL TRADE
11 COMMISSION.—If the Federal Trade Commission in-
12 stitutes a civil action or an administrative action
13 with respect to a violation of subsection (a) or a rule
14 promulgated under subsection (b)(2)(B) the attorney
15 general of a State may not, during the pendency of
16 that action, bring a civil action under paragraph (1)
17 against any defendant named in the complaint of the
18 Commission for the violation with respect to which
19 the Commission instituted such action.

20 (5) VENUE; SERVICE OF PROCESS.—

21 (A) VENUE.—Any action brought under
22 paragraph (1) may be brought in any district
23 court of the United States that meets applicable
24 requirements relating to venue under section
25 1391 of title 28, United States Code.

1 ~~(B) SERVICE OF PROCESS.~~—In an action
 2 brought under paragraph (1), process may be
 3 served in any district in which the defendant—

4 (i) is an inhabitant; or

5 (ii) may be found.

6 ~~(6) ACTIONS BY OTHER STATE OFFICIALS.~~—

7 ~~(A) IN GENERAL.~~—In addition to a civil
 8 actions brought by attorneys general under
 9 paragraph (1), any other officer of a State who
 10 is authorized by the State to do so may bring
 11 a civil action under paragraph (1), subject to
 12 the same requirements and limitations that
 13 apply under this subsection to civil actions
 14 brought by attorneys general.

15 ~~(B) SAVINGS PROVISION.~~—Nothing in this
 16 subsection may be construed to prohibit an au-
 17 thorized official of a State from initiating or
 18 continuing any proceeding in a court of the
 19 State for a violation of any civil or criminal law
 20 of the State.

21 **SECTION 1. SHORT TITLE.**

22 *This Act may be cited as the “Youth Sports Concussion*
 23 *Act”.*

24 **SEC. 2. SENSE OF CONGRESS.**

25 *It is the sense of Congress that—*

1 (1) *scientific advancements and a greater under-*
2 *standing of the issues that affect the health and safety*
3 *of young athletes are key to reducing sports-related*
4 *concussions in youth;*

5 (2) *the National Academies issued a report in*
6 *2013 finding limited evidence that current helmet de-*
7 *signs reduce the risk of sports-related concussions and*
8 *no evidence that mouthguards or facial protection re-*
9 *duce concussion risk, and recommending that the Na-*
10 *tional Institutes of Health and the Department of De-*
11 *fense fund research on biomechanical factors that in-*
12 *fluence injury risk in youth;*

13 (3) *the Consumer Product Safety Commission*
14 *should review the National Academies' report and fu-*
15 *ture research in this area, including research as rec-*
16 *ommended by the National Academies, for any matter*
17 *that may impact products under the Commission's ju-*
18 *risdiction;*

19 (4) *if protective equipment manufacturers choose*
20 *to adopt voluntary consumer product safety stand-*
21 *ards, the voluntary standards should include mecha-*
22 *nisms to ensure substantial compliance by covered en-*
23 *tities; and*

24 (5) *the Federal Trade Commission should review*
25 *the National Academies' report and future research in*

1 *this area, including research as recommended by the*
2 *National Academies, for any matter that may inform*
3 *efforts to protect consumers from unfair or deceptive*
4 *practices in or affecting commerce.*

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

7 *(a) UNLAWFUL ACTIVITY.—It is unlawful for any per-*
8 *son to sell, or offer for sale, in interstate commerce, or im-*
9 *port into the United States for the purpose of selling or*
10 *offering for sale, any item or equipment intended, designed,*
11 *or offered for use by an individual engaged in any athletic*
12 *sporting activity, whether professional or amateur, for*
13 *which the seller or importer, or any person acting on behalf*
14 *of the seller or importer, makes any deceptive claim with*
15 *respect to the safety benefits of such item.*

16 *(b) ENFORCEMENT BY FEDERAL TRADE COMMIS-*
17 *SION.—*

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

23 *(2) POWERS OF FEDERAL TRADE COMMISSION.—*

24 *(A) IN GENERAL.—The Federal Trade Com-*
25 *mission shall enforce this section in the same*

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

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

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

21 (D) *AUTHORITY PRESERVED.*—*Nothing in*
22 *this section shall be construed to limit the au-*
23 *thority of the Federal Trade Commission under*
24 *any other provision of law.*

25 (c) *ENFORCEMENT BY STATES.*—

1 (1) *IN GENERAL.*—*Except as provided in para-*
2 *graph (4), in any case in which the attorney general*
3 *of a State has reason to believe that an interest of the*
4 *residents of the State has been or is threatened or ad-*
5 *versely affected by any person who violates subsection*
6 *(a), the attorney general of the State, as parens*
7 *patriae, may bring a civil action on behalf of the resi-*
8 *dents of the State in an appropriate district court of*
9 *the United States to obtain appropriate injunctive re-*
10 *lief.*

11 (2) *RIGHTS OF FEDERAL TRADE COMMISSION.*—

12 (A) *NOTICE TO FEDERAL TRADE COMMIS-*
13 *SION.*—

14 (i) *IN GENERAL.*—*Except as provided*
15 *in clause (iii), the attorney general of a*
16 *State shall notify the Federal Trade Com-*
17 *mission in writing that the attorney general*
18 *intends to bring a civil action under para-*
19 *graph (1) before initiating the civil action.*

20 (ii) *CONTENTS.*—*The notification re-*
21 *quired by clause (i) with respect to a civil*
22 *action shall include a copy of the complaint*
23 *to be filed to initiate the civil action.*

24 (iii) *EXCEPTION.*—*If it is not feasible*
25 *for the attorney general of a State to pro-*

1 *vide the notification required by clause (i)*
2 *before initiating a civil action under para-*
3 *graph (1), the attorney general shall notify*
4 *the Federal Trade Commission immediately*
5 *upon instituting the civil action.*

6 *(B) INTERVENTION BY FEDERAL TRADE*
7 *COMMISSION.—The Federal Trade Commission*
8 *may—*

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

12 *(ii) upon intervening—*

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

15 *(II) file petitions for appeal.*

16 *(3) INVESTIGATORY POWERS.—Nothing in this*
17 *subsection shall be construed to prevent the attorney*
18 *general of a State from exercising the powers con-*
19 *ferred on the attorney general by the laws of the State*
20 *to conduct investigations, to administer oaths or affir-*
21 *mations, or to compel the attendance of witnesses or*
22 *the production of documentary or other evidence.*

23 *(4) PREEMPTIVE ACTION BY FEDERAL TRADE*
24 *COMMISSION.—If the Federal Trade Commission in-*
25 *stitutes a civil action or an administrative action*

1 *with respect to a violation of subsection (a) or a rule*
2 *promulgated under subsection (b)(2)(B) the attorney*
3 *general of a State may not, during the pendency of*
4 *that action, bring a civil action under paragraph (1)*
5 *against any defendant named in the complaint of the*
6 *Commission for the violation with respect to which*
7 *the Commission instituted such action.*

8 (5) *VENUE; SERVICE OF PROCESS.—*

9 (A) *VENUE.—Any action brought under*
10 *paragraph (1) may be brought in any district*
11 *court of the United States that meets applicable*
12 *requirements relating to venue under section*
13 *1391 of title 28, United States Code.*

14 (B) *SERVICE OF PROCESS.—In an action*
15 *brought under paragraph (1), process may be*
16 *served in any district in which the defendant—*

17 (i) *is an inhabitant; or*

18 (ii) *may be found.*

19 (6) *ACTIONS BY OTHER STATE OFFICIALS.—In*
20 *addition to a civil actions brought by attorneys gen-*
21 *eral under paragraph (1), any other consumer protec-*
22 *tion officer of a State who is authorized by the State*
23 *to do so may bring a civil action under paragraph*
24 *(1), subject to the same requirements and limitations*

- 1 *that apply under this subsection to civil actions*
- 2 *brought by attorneys general.*

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113TH CONGRESS
2^D SESSION

S. 1014

A BILL

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

DECEMBER 8, 2014

Reported with an amendment