

111TH CONGRESS  
1ST SESSION

# H. R. 3851

To direct the Secretary of Health and Human Services to publish physical activity guidelines for the general public, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 2009

Mr. GORDON of Tennessee (for himself, Mr. WAMP, Mrs. BONO MACK, and Mr. KIND) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To direct the Secretary of Health and Human Services to publish physical activity guidelines for the general public, 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 “Physical Activity  
5 Guidelines for Americans Act of 2009”.

6 **SEC. 2. ESTABLISHMENT OF PHYSICAL ACTIVITY GUIDE-**  
7 **LINES.**

8 (a) REPORT.—

1           (1) IN GENERAL.—At least every 5 years, the  
2 Secretary of Health and Human Services (in this  
3 Act referred to as the “Secretary”) shall publish a  
4 report entitled “Physical Activity Guidelines for  
5 Americans”. Each such report shall contain physical  
6 activity information and guidelines for the general  
7 public, and shall be promoted by each Federal agen-  
8 cy in carrying out any Federal health program.

9           (2) BASIS OF GUIDELINES.—The information  
10 and guidelines contained in each report required  
11 under paragraph (1) shall be based on the prepon-  
12 derance of the scientific and medical knowledge  
13 which is current at the time the report is prepared.

14 (b) APPROVAL BY SECRETARY.—

15           (1) REVIEW.—Any Federal agency that pro-  
16 poses to issue any physical activity guidance for the  
17 general population or identified population sub-  
18 groups shall submit the text of such guidance to the  
19 Secretary for a 60-day review period.

20           (2) BASIS OF REVIEW.—

21           (A) IN GENERAL.—During the 60-day re-  
22 view period established in paragraph (1), the  
23 Secretary shall review and approve or dis-  
24 approve such guidance to assure that the guid-  
25 ance either is consistent with the “Physical Ac-

1           tivity Guidelines for Americans” or that the  
2           guidance is based on medical or new scientific  
3           knowledge which is determined to be valid by  
4           the Secretary. If after such 60-day review pe-  
5           riod the Secretary has not notified the pro-  
6           posing agency that such guidance has been dis-  
7           approved, then such guidance may be issued by  
8           the agency. If the Secretary disapproves such  
9           guidance, it shall be returned to the agency. If  
10          the Secretary finds that such guidance is incon-  
11          sistent with the “Physical Activity Guidelines  
12          for Americans” and so notifies the proposing  
13          agency, such agency shall follow the procedures  
14          set forth in this subsection before disseminating  
15          such proposal to the public in final form. If  
16          after such 60-day period, the Secretary dis-  
17          approves such guidance as inconsistent with the  
18          “Physical Activity Guidelines for Americans”  
19          the proposing agency shall—

20                   (i) publish a notice in the Federal  
21                   Register of the availability of the full text  
22                   of the proposal and the preamble of such  
23                   proposal which shall explain the basis and  
24                   purpose for the proposed physical activity  
25                   guidance;

1 (ii) provide in such notice for a public  
2 comment period of 30 days; and

3 (iii) make available for public inspec-  
4 tion and copying during normal business  
5 hours any comment received by the agency  
6 during such comment period.

7 (B) REVIEW OF COMMENTS.—After review  
8 of comments received during the comment pe-  
9 riod, the Secretary may approve for dissemina-  
10 tion by the proposing agency a final version of  
11 such physical activity guidance along with an  
12 explanation of the basis and purpose for the  
13 final guidance which addresses significant and  
14 substantive comments as determined by the  
15 proposing agency.

16 (C) ANNOUNCEMENT.—Any such final  
17 physical activity guidance to be disseminated  
18 under subparagraph (B) shall be announced in  
19 a notice published in the Federal Register, be-  
20 fore public dissemination along with an address  
21 where copies may be obtained.

22 (D) NOTIFICATION OF DISAPPROVAL.—If  
23 after the 30-day period for comment as pro-  
24 vided under subparagraph (A)(ii), the Secretary  
25 disapproves a proposed physical activity guid-

1           ance, the Secretary shall notify the Federal  
2           agency submitting such guidance of such dis-  
3           approval, and such guidance may not be issued,  
4           except as provided in subparagraph (E).

5           (E) REVIEW OF DISAPPROVAL.—If a pro-  
6           posed physical activity guidance is disapproved  
7           by the Secretary under subparagraph (D), the  
8           Federal agency proposing such guidance may,  
9           within 15 days after receiving notification of  
10          such disapproval under subparagraph (D), re-  
11          quest the Secretary to review such disapproval.  
12          Within 15 days after receiving a request for  
13          such a review, the Secretary shall conduct such  
14          review. If, pursuant to such review, the Sec-  
15          retary approves such proposed physical activity  
16          guidance, such guidance may be issued by the  
17          Federal agency.

18          (3) DEFINITIONS.—In this subsection:

19               (A) The term “physical activity guidance  
20               for the general population” does not include  
21               any rule or regulation issued by a Federal agen-  
22               cy.

23               (B) The term “identified population sub-  
24               groups” shall include, but not be limited to,

1 groups based on factors such as age, sex, race,  
2 or physical disability.

3 (c) EXISTING AUTHORITY NOT AFFECTED.—This  
4 section does not place any limitations on—

5 (1) the conduct or support of any scientific or  
6 medical research by any Federal agency; or

7 (2) the presentation of any scientific or medical  
8 findings or the exchange or review of scientific or  
9 medical information by any Federal agency.

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