II

117TH CONGRESS
1ST SESSION

S. 2546

To require the Commissioner of Food and Drugs to develop standards for ''Reef Safe'' and ''Ocean Safe'' labels for sunscreen.

IN THE SENATE OF THE UNITED STATES

JULY 29, 2021

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

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A BILL

To require the Commissioner of Food and Drugs to develop standards for ''Reef Safe'' and ''Ocean Safe'' labels for sunscreen.

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 ''Reef Safe Act of 2021''.

SEC. 2. LABELING CRITERIA FOR "REEF SAFE" AND "OCEAN SAFE" SUNSCREEN.

(a) IN GENERAL.—As soon as practicable, but not later than 2 years after the date of enactment of this Act,

the Secretary, acting through the Commissioner, shall develop labeling criteria for ''Reef Safe'' and ''Ocean Safe'' designations for nonprescription sunscreen, in consultation with the Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration.

(b) REEF SAFE LABEL.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary, acting through the Commissioner, shall develop standards for use of the term ''Reef Safe'' on the labeling of nonprescription sunscreen, which shall conform with the requirements of section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352).

(2) CRITERIA AND CONSULTATION.—In developing the standards described in paragraph (1), the Secretary shall—

(A) consider the impacts of active sunscreen ingredients on the mortality of, and developmental or reproductive disruptions to, ecologically- or economically-valuable marine species, including fish, fish larvae, sea urchins, coral, crustaceans, sea grasses, and macroalgae;

(B) consult with appropriate heads of Federal agencies, including the Administrator of

the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration, with respect to studies on the impacts of active sunscreen ingredients on living components of coral reef ecosystems; and

(C) consider the findings of the National Academies of Sciences, Engineering, and Medicine report titled ''Environmental Impact of Currently Marketed Sunscreens and Potential Human Impacts of Changes in Sunscreen Usage''.

(c) OCEAN SAFE LABEL.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary, acting through the Commissioner, shall develop standards for use of the term ''Ocean Safe'' on the labeling of nonprescription sunscreen, which shall conform with the requirements of section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352).

(2) CRITERIA AND CONSULTATION.—In developing the standards described in paragraph (1), the Secretary shall—

(A) consider the impacts of active sunscreen ingredients on the mortality of, and developmental or reproductive disruptions to, ecologically- or economically-valuable marine species, including fish, fish larvae, sea urchins, coral, crustaceans, sea grasses, and macroalgae, and ecologically- or economically-valuable marine and coastal ecosystems including estuaries, wetlands, tidal marshes, mangroves, kelp forests, seagrass meadows, lagoons, salt marshes, and intertidal zones;

(B) consult with appropriate heads of Federal agencies, including the Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration, with respect to studies on the impacts of active sunscreen ingredients on living components of marine and coastal ecosystems; and

(C) consider the findings of the National Academies of Sciences, Engineering, and Medicine report, titled ''Environmental Impacts of Currently Marketed Sunscreens and Potential Human Impact of Changes in Sunscreen Usage''.

(d) REVIEW AND REVISION.—Not less frequently than once every 10 years, the Secretary, acting through the Commissioner and in consultation with the Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration, and taking into consideration scientific studies of the Food and Drug Administration, the Environmental Protection Agency, and the National Oceanic and Atmospheric Administration, shall—

(1) review the labeling standards in effect under subsections (b)(1) and (c)(1);

(2) if appropriate, revise the criteria under subsections (b)(2) and (c)(2); and

(3) in accordance with such criteria, as revised under paragraph (2) as applicable, update the labeling standards under subsections (b)(1) and (c)(1).

(e) NON-PREEMPTION.—Nothing in this section shall be construed to prevent a State from establishing, enforcing, or maintaining a requirement with respect to labeling criteria for a ''Reef Safe'' or ''Ocean Safe'' designation for nonprescription sunscreen, provided that any such State law is at least as restrictive as the requirements established under this section.

(f) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed as prohibiting or limiting the sale of any sunscreen product.

(g) DEFINITIONS.—In this section—

(1) the terms ''active sunscreen ingredient'', ''nonprescription'', and ''sunscreen'' have the meanings given such terms in section 586 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360fff);

(2) the terms ''coral'' and ''coral reef ecosystem'' have the meanings given such terms in section 210 of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6409);

(3) the term ''Commissioner'' means the Commissioner of Food and Drugs; and

(4) the term ''Secretary'', unless specified otherwise, means the Secretary of Health and Human Services.

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